Court of Appeal File No. COA26-OM-0325
Superior Court File No. CV-23-00710795-00CL

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant (Respondent)

-and-

2011836 ONTARIO CORP., JEFFERSON PROPERTIES LIMITED PARTNERSHIP, 1000162801 ONTARIO CORP., AMERCAN CORPORATION and 1000199992 ONTARIO CORP.

Respondents (Respondents)

<u>AMENDED</u> FACTUM OF THE RECEIVER (MOTION FOR EXTENSION OF TIME)

August 5, 2026

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TO: **Service List**

PART I. OVERVIEW

1. On December 21, 2023, Albert Gelman Inc. was appointed receiver (in this capacity, the "**Receiver**") of Jefferson Properties Limited Partnership and 2011836 Ontario Corp. (together, the "**Debtors**"), which own a real estate development called Richmond Hill Grace (the "**Project**"). The Project consists of 96 residential units (the "**Units**").

2. The primary objective of the receivership proceedings has been to complete the construction of the Project and to sell the Units, all in an effort to maximize the recovery to the Debtors' stakeholders.

3. In this motion, Fanseay Wang ("**Fanseay**"), the principal of the Debtors, seeks an extension of time to file an application for leave to appeal the order of Justice Myers dated May 21, 2026 under section 193(3) of the *Bankruptcy and Insolvency Act* ("***BIA***"). This order, among other things, approved the terms of sale of one of the Units and awarded the Receiver $1,500 in costs against Fanseay.

4. Fanseay's current motion, and opposition to the Receiver's motion below, are part of a lengthy history in which Fanseay has repeatedly and unsuccessfully sought to re-litigate finally decided matters in the receivership proceeding. This has resulted in a number of cost orders against Fanseay and in favour of the Receiver – all of which remain unpaid in their entirety and which, collectively, represent Fanseay's continued abuse of the Court's processes.

5. Given his continued abuse of process, Fanseay's motion should be dismissed. Fanseay should not be permitted an extension of time to file repetitive, unmeritorious

proceedings, especially in the face of his deliberate and brazen breach of the multiple outstanding cost orders against him.

6. In the alternative, if the Court does find that it is appropriate to make an order extending the time for Fanseay to file his motion for leave to appeal, the Court should require that Fanseay satisfy the outstanding cost orders against him and in favour of the Receiver within 30 days of such order, failing which Fanseay's motion for leave to appeal should be automatically dismissed.

PART II. FACTS

A. Order and proposed appeal

7. The underlying motion in this proceeding was brought by the Receiver.

8. The Receiver sought an amendment to an approval and vesting order granted in January 2026 for one of the Units as well as an amendment to the Permitted Transaction Authorization Order (as defined below), which order authorized the Receiver to sell Units without further court approval where those Unit sales incorporated an approved set of terms and meet a certain "Target Price" for each Unit.[1]

9. The requested amendment to the Permitted Transaction Authorization Order clarified that HST was not to be taken into account in assessing whether a Unit sale satisfied the Unit's minimum Target Price.

[1] Endorsement of Justice Myers dated May 21, 2026 at paras. 1-7, Appendix E to the Second Supplement, Receiver's Motion Record ("**RMR**"), Tab 3, p. 546-547.

10. The motion was heard by Justice Myers on May 21, 2026. Fanseay appeared on the motion, where he made submissions attacking the basis of the order appointing the Receiver, among other things.

11. On May 21, 2026, Justice Myers released his endorsement granting the relief sought by the Receiver in its entirety. Justice Myers denied Fanseay standing on the motion, finding that Fanseay had engaged in an abuse of process by seeking to re-litigate the prior findings of the Court in connection with a number of issues related to the receivership that have already been finally decided, including the Receiver's decision to temporarily shut down construction of the Project and the propriety of the Permitted Transaction Authorization Order.[2]

12. Justice Myers also found that Fanseay's failure to pay the outstanding cost awards against him was "deliberate and contumelious", having regard to the fact that Fanseay represented to the Court that "he has assets here and abroad which will sustain him".[3]

13. The appeal period for Justice Myers' order expired on June 1, 2026,[4] being ten days after the order was made. Fanseay did not file any materials in connection with an appeal of this order and did not advise the parties of an intention to do the same until June 5, 2026, after this period ended.

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[2] Endorsement of Justice Myers dated May 21, 2026 at para. 34, Appendix E to the Second Supplement, RMR, Tab 3, p. 552.

[3] Endorsement of Justice Myers dated May 21, 2026 at para. 36, Appendix E to the Second Supplement, RMR, Tab 3, pp. 552-553.

[4] *Bankruptcy and Insolvency General Rules*, CRC, c 368 at s. 31(1).

14. Fanseay now seeks an extension of time to file for leave to appeal Justice Myers' May 21, 2026 order. In particular, Fanseay objects to the costs award made against him and seeks to vary the terms of the orders granted by Justice Myers to provide that they are without prejudice to efforts by Fanseay to further litigate the Receiver's conduct in carrying out its sale process for the Units (which sale process was already approved through the Permitted Transaction Authorization Order and the earlier Sale Process Approval Order of Justice Kimmel dated November 28, 2025)[5], among other things.[6]

B. Fanseay's involvement in litigation against the Receiver

15. Fanseay's involvement in the within proceedings is summarized in detail in the Tenth Report, as well as the First Supplement and Second Supplement to the Tenth Report, dated April 17 and June 10, 2026, respectively (the "**First Supplement**" and the "**Second Supplement**" and, together, the "**Supplements**").

16. Fanseay has repeatedly objected to and sought relief in respect of the Receiver's management decisions in relation to the construction of the Project, including the Receiver's decision to halt construction for safety reasons in January 2024 and the Receiver's decision to replace the Project's previous construction manager. The Court first ratified these decisions on June 18, 2024.[7] Nevertheless, Fanseay has sought to re-litigate these issues in:

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[5] Endorsement of Justice Kimmel dated November 28, 2025, Appendix Q to the Tenth Report, RMR, Tab 1, p. 170.

[6] Fanseay's Notice of Motion dated June 5, 2026 at paras. 1-5, Appendix F to the Second Supplement, RMR, Tab 3, pp. 578-579.

[7] Endorsement of Justice Steele dated June 18, 2024, at paras. 49-56, Appendix C to the Tenth Report, RMR, Tab 1, pp. 56-57.

(a) The Receiver's motion for an increase in its authorized borrowing limit dated May 2, 2025;[8]

(b) Fanseay's motion for a court-appointed investigation into the construction of the Project;[9]

(c) Fanseay's motion seeking, *inter alia*, the appointment of an independent Sales Monitor/Inspector to oversee the sale of Units, which was dismissed;[10]

(d) Fanseay's proposed appeal of Justice Dietrich's order approving the template for agreements of purchase and sale for future sales of the Units, which was dismissed (the "**Permitted Transaction Authorization Order**");[11]

(e) The Receiver's motion for court approval for the terms of sale of certain of the Units;[12] and

(f) A proposed action by Fanseay against the Receiver, personally.[13]

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8 Endorsement of Justice Steele dated May 2, 2025, at para. 3, Appendix F to the Tenth Report, RMR, Tab 1, p. 80: "Mr. Wang objects to the Receiver's management of the Project (defined below). Certain of the decisions objected to by Mr. Wang are *res judicata*…".

9 Notice of Motion of Fanseay Wang dated May 9, 2025, at paras. 7-15, Appendix G to the Tenth Report, RMR, Tab 1, pp. 89-91.

10 Notice of Motion of Fanseay Wang dated October 16, 2025 at para. 4, Appendix P to the Tenth Report, RMR, Tab 1, p. 165; Endorsement of Justice Kimmel, dated November 28, 2025 at paras. 9-11, 56-57, Appendix Q to the Tenth Report, RMR, Tab 1, pp. 172-173, 180.

11 *Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp.*, 2026 ONCA 77 at para. 30(b).

12 Factum of Fanseay Wang dated January 26, 2026 at paras. 3-6, Appendix W to the Tenth Report, RMR, Tab 1, pp. 222-223.

13 See, generally, Factum of Fanseay Wang, dated February 24, 2026, Appendix DD to the Tenth Report, RMR, Tab 1, p. 305.

17. That Fanseay has repeatedly and improperly sought to re-litigate finally decided matters has been explicitly recognized by the Ontario Superior Court of Justice in a number of decisions.

18. On April 7, 2026, Justice Conway identified the need for the Court to deter Fanseay's conduct in the receivership proceedings:

> [7] It appears to me that Mr. Wang brings or contests motions, increases costs for the Respondents' stakeholders, fails to engage in the cost process, and then challenges and/or fails to pay the resulting cost award. Further, I have already observed (as has the Court of Appeal) that he has a history of relitigating matters.
>
> [8] This conduct must be deterred. Mr. Wang cannot litigate without regard to the consequences of his actions and their effect on stakeholders. This is particularly so in this case where the Respondent companies are in receivership and stakeholders' recoveries are being eroded by his litigation conduct. A substantial indemnity award is warranted.[14]

19. On May 15, 2026, Justice Black described Fanseay's attempts to schedule various motions seeking relief against the Receiver despite there being outstanding cost orders against him and despite the Court previously refusing to schedule such motions. Justice Black described Fanseay as refusing to "take no for an answer".[15]

C. Fanseay's failure to pay cost orders

20. Fanseay has been subject to six cost orders in favour of the Receiver. This includes two awards granted on a substantial indemnity basis. These cost orders are outstanding in their entirety and are listed below:[16]

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[14] Endorsement of Justice Conway dated April 7, 2026, at paras. 7-8, Appendix D to the First Supplement, RMR, Tab 3, p. 435.

[15] Endorsement of Justice Black dated May 15, 2026, at para. 11, Appendix C to the Second Supplement, RMR, Tab 3, p. 527.

[16] Fanseay has filed appeals in respect of almost all of the cost orders made by the Superior Court of Justice as well as an application for leave to appeal the order of Justice Favreau of the Court of Appeal for Ontario to the Supreme Court of Canada. However, these orders are not stayed pending Fanseay's purported appeals because Fanseay has no automatic right of appeal: *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, ss. 193, 195-196 and *Royal Bank of Canada v. 1434399 Ontario Inc.*, 2025 ONCA 878 at para. 17.

Date	Court/Judge	Amount	Indemnity Scale
04-Feb-26	Court of Appeal for Ontario/Justice Favreau	$ 13,500.00	Partial
09-Mar-26	Ontario Superior Court of Justice (Commercial List)/Justice Coway	$ 4,978.22	Partial
07-Apr-26	Ontario Superior Court of Justice (Commercial List)/Justice Conway	$ 3,745.95	Substantial
15-May-26	Ontario Superior Court of Justice (Commercial List)/Justice Black	$ 600.00	Substantial
21-May-26	Ontario Superior Court of Justice (Commercial List)/Justice Myers[17]	$ 1,500.00	Partial
24-July-26	Ontario Court of Appeal/Justice Rahman	$ 8,000.00	Unspecified
	Total	**$ 32,324.17**	

PART III. RESPONSE TO ISSUES

21. The sole issue on this motion is whether this Court should grant Fanseay an extension of time to file his notice of appeal pursuant to rule 3.02(1) of the *Rules*.[18]

22. Fanseay's motion must fail for two reasons:

(a) **Rules 57.03 and 60.12:** Fanseay should be denied standing to bring this motion. He continues to defy court orders against him, including six outstanding costs orders for a total of $32,324.17.

(b) **Rule 3.02(1):** There is no merit to Fanseay's proposed appeal, which is Fanseay's latest attempt to re-litigate matters that have been finally decided.

[17] This Order is the subject of the proposed appeal by Fanseay.

[18] *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (the "***Rules***").

23. Additionally, and in the alternative, if the Court determines that Fanseay's motion for an extension of time to file his motion for leave to appeal should be granted, the Court should order that Fanseay must pay all outstanding cost orders against him and in favour of the Receiver within 30 days, failing which his motion for leave to appeal should be automatically dismissed.

PART IV. LAW AND ARGUMENT

A. Fanseay should be denied standing pursuant to rules 57.03(2) and 60.12

24. Under rules 57.03(2) and 60.12, the Court has discretion to prevent a litigant who is subject to unpaid costs awards from continuing proceedings:

> 57.03(2) Where a party fails to pay the costs of a motion as required under subrule (1), the court may dismiss or stay the party's proceeding, strike out the party's defence or make such other order as is just.
>
> [...]
>
> 60.12 Where a party fails to comply with an interlocutory order, the court may, in addition to any other sanction provided by these rules,
>
> (a) stay the party's proceeding;
> (b) dismiss the party's proceeding or strike out the party's defence; or
> (c) make such other order as is just.

25. The exercise of that discretion is appropriate here. Fanseay is subject to several outstanding cost orders against him, including adverse awards on a substantial indemnity scale, for the total amount of $32,324.17. Fanseay should not be permitted further use of this Court's processes while simultaneously being in breach of Court orders requiring him to pay for the costs of his ill-founded litigation.

26. As noted by Justice Dunphy in *Rana v. Unifund Assurance Company*:

> The right of access to the courts must be accompanied by the responsibility to abide by the rules of civil procedure and to comply with orders of the court – to exempt impecunious parties from the enforcement of costs orders when made would amount to granting "carte blanche to continue to ignore the rules and orders of the court and take unsupportable steps in the action without fear of consequences."[19]

27. Fanseay's course of conduct in this matter has shown blatant disregard for the orders of this Court and this Court's processes. As noted above, not only does Fanseay have a history of seeking to re-litigate final orders, refusing to "take no for an answer,"[20] but he has failed to pay any amounts owing under a number of cost orders against him, including an order of $8,000 recently made by Justice Rahman of this Court in connection with the dismissal of a separate motion for leave to appeal by Fanseay.

28. The Court ought to exercise its discretion to deny Fanseay standing to proceed with his motion to prevent Fanseay from further abusing the Court's processes by forcing the Receiver to incur further legal fees in response, which legal fees the Receiver has no hope of recovering.

B. Fanseay should be denied an extension of time under rule 3.02

29. If this Court does not deny Fanseay standing, it should decline to exercise its discretion under rule 3.02(1) to grant Fanseay an extension of time to file his appeal.[21]

30. In exercising this discretion, courts have looked at the following factors:

(a) whether the person formed an intention to appeal within the relevant period;

(b) the length of the delay and the explanation for the delay;

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[19] *Rana v. Unifund Assurance Company*, 2016 ONSC 2502 at para. 50(b).

[20] Endorsement of Justice Black dated May 15, 2026 at para. 11, Appendix C to the Second Supplement, RMR, Tab 3, p. 529.

[21] *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, r. 3.02(1).

(c) any prejudice to the respondent;

(d) the merits of the appeal; and

(e) whether the justice of the case requires it.[22]

31. On balance, these factors weigh in favour of denying Fanseay an extension of time.

32. **Merits of appeal and justice of the case:** Fanseay's proposed appeal has no merit whatsoever. Fanseay's proposed appeal attacks two aspects of Justice Myers' order:

(a) The $1,500 cost order made against Fanseay; and

(b) Justice Myers' approval of the Receiver's conduct set out in its Eleventh Report.

33. Neither of these grounds of the proposed appeal have any prospect of success.

34. When considering whether to grant leave to appeal in a proceeding under the *Bankruptcy and Insolvency Act*,[23] the Court will consider whether the appeal: (1) raises an issue that is of general importance to the practice in bankruptcy/insolvency matters or to the administration of justice as a whole, and is one that this Court should therefore consider and address, (2) is *prima facie* meritorious and (3) would unduly hinder the progress of the bankruptcy/insolvency proceedings.[24]

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[22] *Ontario (Superintendent of Bankruptcy) v. 407 ETR Concession Co.*, 2012 ONCA 569 at para. 39.
[23] *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, s. 193(e).
[24] *Business Development Bank of Canada v. Pine Tree Resorts Inc.*, 2013 ONCA 282 at para. 29.

35. First, none of Fanseay's materials make a genuine attempt to identify an issue of general importance in his appeal. Instead, Fanseay's appeal is based on a highly fact-specific objection to the Court-approved sales process for the Units, which was not at issue in the motion below and which process has already been fully and finally adjudicated by the Court through the Permitted Transaction Authorization Order and the Sale Process Order.

36. Second, Fanseay's proposed appeal has no merit. Fanseay's objection to the approval of the Receiver's conduct is, in substance, an objection to the Permitted Transaction Authorization Order granted by Justice Dietrich in December 2025, which order enables the Receiver to sell the Units without a Court attendance so long as they are sold for a minimum price, among other requirements. Fanseay's objections to this order have already been adjudicated by this Court, which dismissed Fanseay's motion for leave to appeal in connection with the same in February 2026.[25]

37. With respect to Fanseay's objection to the cost order against him, the case law also recognizes that leave to appeal an order as to costs only will not be granted except in obvious cases where the party seeking leave convinces the court there are "strong grounds upon which the appellate court could find that the judge erred in exercising his discretion."[26] In any event, Justice Myers' decision to award costs against Fanseay was based on his finding that Fanseay had attended at the motion and "provide[d] no value coming to court and repeating things that have already been heard and considered",

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[25] *Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp.*, 2026 ONCA 77.
[26] *Beaumont v. Beaumont*, 2025 ONCA 94 at para. 20 citing *Baker v. Blue Cross Life Insurance Company of Canada*, 2023 ONCA 842 at para. 40.

requiring Receiver's counsel "to expend far more time than ought to have been required preparing for and arguing an unopposed motion"[27] – a fact-sensitive finding that is consistent with several other past decisions of the Court, including this Court.[28] Fanseay has not identified any error in Justice Myers' decision in this respect.

38. Third, Fanseay's proposed appeal unduly hinders the underlying insolvency proceedings because, if allowed to proceed, it would force the Receiver to incur further legal fees, which would only further deteriorate an already insolvent estate. This is unfair to the Debtors' stakeholders, in particular where, as here, Fanseay is already in breach of several existing cost orders in favour of the Receiver.

39. **Prejudice to the Receiver and the Debtors' stakeholders:** An extension of time would allow Fanseay to continue creating ongoing prejudice to the Receiver and the Debtors' stakeholders, by forcing the Receiver to incur further unnecessary costs in responding to a patently frivolous proceeding.[29] Further costs orders cannot compensate the Receiver and the Debtors' stakeholders for that prejudice[30] given that Fanseay has:

(a) Represented that he does not have sufficient funds to pay for his own legal fees (and therefore clearly does not have sufficient funds to pay for the Receiver's legal fees);[31]

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[27] Endorsement of Justice Myers dated May 21, 2026 at paras. 52-53, Appendix E to the Second Supplement, RMR, Tab 3, p. 555.

[28] *Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp.*, 2026 ONCA 77 at para. 30(b).

[29] See the Endorsement of Justice Black dated May 15, 2026 at para. 5, Appendix C to the Second Supplement, RMR, Tab 3, p. 528.

[30] *Schwilgin v. Szivy*, 2015 ONCA 816 at para. 23.

[31] See Supplemental Factum of Fanseay Wang dated March 18, 2026 at para. 11, Appendix JJ to the Tenth Report, RMR, Tab 1, p. 394.

(b) been adjudged bankrupt (though this order is under appeal);[32] and

(c) Represented to the Court that he possesses assets in other jurisdictions, which Justice Myers found meant that Fanseay's failure to pay costs was a “deliberate and contumelious” breach of court orders.[33]

40. **Whether the person formed an intention to appeal within the relevant period:** The appeal period for Justice Myers’ order expired on June 1, 2026,[34] being ten days after the order was made. Fanseay did not file any materials in connection with an appeal of this order and did not advise the parties of an intention to do the same until June 5, 2026, after this period ended.

C. In the alternative, Fanseay should be required to pay all outstanding cost orders within 30 days, failing which his motion for leave to appeal should be dismissed

41. The Court’s power to extend the time for serving and filing materials under the *Rules* empowers the Court to make such an order “on such terms as are just.”[35]

42. If the Court does find it appropriate to grant an order extending the time for Fanseay to file his motion for leave to appeal, such order should be subject to the terms that Fanseay pay all outstanding cost orders against him and in favour of the Receiver within 30 days, failing which his motion for leave to appeal should be automatically dismissed.

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[32] Endorsement of Justice Kimmel dated December 1, 2025, Appendix II to the Tenth Report, RMR, Tab 1, p. 367.
[33] Endorsement of Justice Myers dated May 21, 2026, at para. 36, Appendix E to the Second Supplement, RMR, Tab 3, pp. 552-553.
[34] *Bankruptcy and Insolvency General Rules*, C.R.C., c. 368 at s. 31(1).
[35] *Rules*, r. 3.02(1).

43. Fanseay should be required to comply with the court orders already made in this proceeding as a condition for this Court to hear his motion for leave to appeal.

44. This Court has made a similar order where a party was subject to outstanding cost orders yet still persisted in commencing proceedings before this Court.[36] As Associate Chief Justice Fairburn noted in *Rathod v. Chijindu*, where such an order was made:

> [15] […] when a costs order is made, it is a valid from the time it is made and must be paid, not at a future date convenient to the debtor, but right away and not later than 30 days from the date of the order. […]
>
> [18] I have no hesitation in saying that the responding parties must now pay the outstanding costs orders, which are overdue — payments which must be made and orders complied with before they have another audience in this court for purposes of their appeal.

45. This reasoning is applicable to this case. To allow Fanseay to continue to use this Court's processes while in active breach of its orders undermines the finality of those orders. If this Court finds that it is appropriate to grant Fanseay an extension of time to file his notice of motion for leave to appeal, Fanseay should be required to comply with the cost orders made against him in 30 days, failing which Fanseay's motion for leave to appeal should be automatically dismissed.

PART V. ORDER REQUESTED

46. Fanseay's motion for an extension of time to file his motion for leave to appeal should be dismissed.

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[36] *Rathod v. Chijindu*, 2024 ONCA 625 at paras. 17-18.

47. Alternatively, if the Court does grant Fanseay's motion for an extension of time to file his motion for leave to appeal, the Court should order that Fanseay can only proceed with his motion for leave to appeal if he pays all outstanding cost orders

48. The Receiver also requests its costs for this motion, on a substantial indemnity basis, in the amount of $11,990.43 in accordance with Receiver's Costs Outline.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 5th day of August, 2026.

Sanghyun Park

SCHEDULE A – AUTHORITIES CITED

1. *Baker v. Blue Cross Life Insurance Company of Canada*, 2023 ONCA 842.

2. *Beaumont v. Beaumont*, 2025 ONCA 94.

3. *Cameron Stephens Mortgage Capital Ltd. v. 2011836 Ontario Corp.*, 2026 ONCA 77.

4. *Ontario (Superintendent of Bankruptcy) v. 407 ETR Concession Co.*, 2012 ONCA 569.

5. *Rana v Unifund Assurance Company*, 2016 ONSC 2502.

6. *Re Proex Logistics*, 2025 ONSC 51, affirmed in *Proex Logistics Inc. (Re)*, 2025 ONCA 832.

7. *Rathod v. Chijindu*, 2024 ONCA 625

8. *Royal Bank of Canada v. 1434399 Ontario Inc.*, 2025 ONCA 878.

9. *Schwilgin v. Szivy*, 2015 ONCA 816.

I, Sanghyun Park, counsel to the Receiver, hereby certify that I am satisfied as to the authenticity of the authorities cited above, on this 5th day of August, 2026:

SCHEDULE B – RELEVANT LEGISLATIVE PROVISIONS

1. *Bankruptcy and Insolvency General Rules*, C.R.C., c. 368, s. 31(1).

31 (1) An appeal to a court of appeal referred to in subsection 183(2) of the Act must be made by filing a notice of appeal at the office of the registrar of the court appealed from, within 10 days after the day of the order or decision appealed from, or within such further time as a judge of the court of appeal stipulates.

2. *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, ss. 193, 195-196.

Court of Appeal

193 Unless otherwise expressly provided, an appeal lies to the Court of Appeal from any order or decision of a judge of the court in the following cases:

(a) if the point at issue involves future rights;

(b) if the order or decision is likely to affect other cases of a similar nature in the bankruptcy proceedings;

(c) if the property involved in the appeal exceeds in value ten thousand dollars;

(d) from the grant of or refusal to grant a discharge if the aggregate unpaid claims of creditors exceed five hundred dollars; and

(e) in any other case by leave of a judge of the Court of Appeal.

Stay of proceedings on filing of appeal

195 Except to the extent that an order or judgment appealed from is subject to provisional execution notwithstanding any appeal therefrom, all proceedings under an order or judgment appealed from shall be stayed until the appeal is disposed of, but the Court of Appeal or a judge thereof may vary or cancel the stay or the order for provisional execution if it appears that the appeal is not being prosecuted diligently, or for such other reason as the Court of Appeal or a judge thereof may deem proper.

No stay of proceedings unless ordered

196 An appeal to the Supreme Court of Canada does not operate as a stay of proceedings, except to the extent ordered by that Court.

3. *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, rr. 3.02(1)-(3), 57.03, 60.12.

General Powers of Court

3.02 (1) Subject to subrule (3), the court may by order extend or abridge any time prescribed by these rules or an order, on such terms as are just. R.R.O. 1990, Reg. 194, r. 3.02 (1).

(2) A motion for an order extending time may be made before or after the expiration of the time prescribed. R.R.O. 1990, Reg. 194, r. 3.02 (2).

Times in Appeals

(3) An order under subrule (1) extending or abridging a time prescribed by these rules and relating to an appeal to an appellate court may be made only by a judge of the appellate court.

[…]

Contested Motion

57.03 (1) On the hearing of a contested motion, unless the court is satisfied that a different order would be more just, the court shall,

(a) fix the costs of the motion and order them to be paid within 30 days; or

(b) in an exceptional case, refer the costs of the motion for assessment under Rule 58 and order them to be paid within 30 days after assessment. O. Reg. 284/01, s. 16.

57.03(2) Where a party fails to pay the costs of a motion as required under subrule (1), the court may dismiss or stay the party's proceeding, strike out the party's defence or make such other order as is just.

[…]

Failure to Comply with Interlocutory Order

60.12 Where a party fails to comply with an interlocutory order, the court may, in addition to any other sanction provided by these rules,

(a) stay the party's proceeding;
(b) dismiss the party's proceeding or strike out the party's defence; or
(c) make such other order as is just.

CAMERON STEPHENS MORTGAGE CAPITAL LTD.
Applicant (Respondent)

and

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Respondents (Respondents)

Court of Appeal File No. COA-26-OM-0325
Superior Court File No. CV-23-00710795-00CL

COURT OF APPEAL FOR ONTARIO

PROCEEDING COMMENCED AT TORONTO

FACTUM OF THE RECEIVER

(Motion for Extension of Time)

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