

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL  
CORPORATION

Plaintiffs

and

WEST FACE CAPITAL INC., GREGORY BOLAND, M5V ADVISORS INC.,  
c.o.b. as ANSON GROUP CANADA, ADMIRALTY ADVISORS LLC,  
FRIGATE VENTURES LP, ANSON CAPITAL LP, ANSON INVESTMENTS  
MASTER FUND LP, AIMF GP, ANSON CATALYST MASTER FUND LP,  
ACF GP, MOEZ KASSAM, ADAM SPEARS, SUNNY PURI, BRUCE  
LANGSTAFF, ROB COPELAND, NATHAN ANDERSON, KEVIN  
BAUMANN, RICHARD MOLYNEUX, JEFFREY MCFARLANE, DARRYL  
LEVITT and JOHN DOES #1-10

Defendants

**MOTION RECORD**

June 29, 2018

**SOLMON ROTHBART GOODMAN LLP**  
Barristers  
375 University Avenue  
Suite 701  
Toronto, Ontario  
M5G 2J5

Melvyn L. Solmon (LSUC# 16156J)  
*msolmon@srglegal.com*  
Tel: 416-947-1093 (Ext. 333)  
Fax: 416-947-0079

Lawyers for the defendant,  
Richard Molyneux

TO: **MOORE BARRISTERS**  
Barristers & Solicitors  
393 University Avenue, Suite 1600  
Toronto, Ontario  
M5G 1E6

David C. Moore (LSUC# 16996)  
*david@moorebarristers.ca*  
Tel: 416-581-1818 ext. 222  
Fax: 416-581-1279

Lawyers for the plaintiffs

AND TO: **DAVIES WARD PHILLIPS & VINEBERG LLP**  
Barristers and Solicitors  
40th Floor - 155 Wellington Street West  
Toronto, Ontario  
M5V 3J7

Matthew Milne-Smith  
*mmilne-smith@dwpv.com*  
Tel: 416-863-5595  
Fax: 416-863-0871

Lawyers for the defendants,  
West Face Capital Inc. and Gregory Boland

AND TO: **TORYS LLP**  
Barristers and Solicitors  
79 Wellington Street West  
Suite 3000  
Box 270, TD South Tower  
Toronto, Ontario  
M5K 1N2

Andrew Bernstein  
Tel: 416-865-7678  
Fax: 416-865-7380  
*abernstein@torys.com*  
Linda M. Plumpton  
Tel: 416-865-8193  
Fax: 416-865-7380  
*lplumpton@torys.com*

Lawyers for the defendants,  
M5V Advisors Inc., c.o.b. as ANSON GROUP CANADA, Admiralty Advisors LLC,  
Frigate Ventures LP, Anson Capital LP, Anson Investments Master Fund LP, AIMF  
GP, Anson Catalyst Master Fund LP, ACF GP, Moez Kassam, Adam Spears and  
Sunny Puri

AND TO: **MILBURN & ASSOCIATES**  
Barristers & Solicitors  
20 Toronto Street  
Suite 860  
Toronto, Ontario  
M5C 2B8

A. Jane Milburn  
Tel: 647-728-8081  
Fax: 647-689-2983  
*jmilburn@milburnlaw.ca*

Lawyers for the defendant,  
Bruce Langstaff

AND TO: **ST. LAWRENCE BARRISTERS LLP**  
144 King Street East  
Toronto, Ontario  
M5C 1G8

Phil Tunley  
*phil.tunley@stlbarristers.ca*  
Tel: 647-245-8282  
Fax: 647-245-8285

Lawyers for the defendant,  
Rob Copeland

AND TO: **NATHAN ANDERSON**  
c/o ClaritySpring Inc.  
545 5th Avenue  
8th Floor  
New York, New York  
10017

defendant

AND TO: **SCOTT VENTURO RUDAKOFF LLP**  
Lawyers  
1500, 222 3rd Ave SW  
Calgary, Alberta  
T2P 0B4

Eugene J. Bodnar  
*g.bodnar@svrlawyers.com*  
Tel: 403-231-8209  
Fax: 403-565-4632

Lawyers for the defendant,  
Kevin Baumann

AND TO: **JEFFREY MCFARLANE**

defendant

AND TO: **DANSON & ZUCKER**  
Barristers and Solicitors  
375 University Avenue  
Suite 701  
Toronto, Ontario  
M5G 2J5

Symon Zucker  
*sz@bondlaw.net*  
Tel: 416-863-9955  
Fax: 1-855-696-5441

Lawyers for the defendant,  
Darryl Levitt

AND TO: **JOHN DOES #1-10**

defendant

AND TO: **CRAWLEY MACKEWN BRUSH LLP**  
Barristers and Solicitors  
179 John Street  
Suite 800  
Toronto, Ontario  
M5T 1X4

Robert Brush (LSUC# 40373N)  
Tel: 416-217-0822  
Fax: 416-217-0220  
*rbrush@cmblaw.ca*  
Clarke Tedesco (LSUC# 55391C)  
Tel: 416-217-0884  
Fax: 416-217-0220  
*ctedesco@cmblaw.ca*

Lawyers for the third party

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL  
CORPORATION

Plaintiffs

and

WEST FACE CAPITAL INC., GREGORY BOLAND, MSV ADVISORS INC., c.o.b.  
as ANSON GROUP CANADA, ADMIRALTY ADVISORS LLC, FRIGATE  
VENTURES LP, ANSON CAPITAL LP, ANSON INVESTMENTS MASTER  
FUND LP, AIMF GP, ANSON CATALYST MASTER FUND LP, ACF GP, MOEZ  
KASSAM, ADAM SPEARS, SUNNY PURI, BRUCE LANGSTAFF, ROB  
COPELAND, NATHAN ANDERSON, KEVIN BAUMANN, RICHARD  
MOLYNEUX, JEFFREY MCFARLANE, DARRYL LEVITT and JOHN DOES  
#1-10

Defendants

**INDEX**

<b>Tab</b>	<b>Description</b>	<b>Page No.</b>
1	Notice of Motion, returnable July 11, 2018	1
2	Affidavit of Cristina Garisto, sworn June 29, 2018	14
A	Exhibit "A" - Demand for Particulars, delivered May 15, 2018	17
B	Exhibit "B" - Endorsement of the Honourable Justice Hainey, dated May 23, 2018	37
C	Exhibit "C" - Email from Plumpton to Moore, dated June 4, 2018	40
D	Exhibit "D" - Email from Plumpton to Moore, dated June 7, 2018	42
E	Exhibit "E" - Email from Plumpton to Moore, dated June 19, 2018	45
F	Exhibit "F" - Email from Wood to Moore, dated June 25, 2018	48
G	Exhibit "G" - Email from Solmon to Moore, dated June 26, 2018	52

TAB I

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**BETWEEN:**

**THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL  
CORPORATION**

**Plaintiffs**

**and**

**WEST FACE CAPITAL INC., GREGORY BOLAND, M5V ADVISORS INC.,  
c.o.b. as ANSON GROUP CANADA, ADMIRALTY ADVISORS LLC,  
FRIGATE VENTURES LP, ANSON CAPITAL LP, ANSON INVESTMENTS  
MASTER FUND LP, AIMF GP, ANSON CATALYST MASTER FUND LP,  
ACF GP, MOEZ KASSAM, ADAM SPEARS, SUNNY PURI, BRUCE  
LANGSTAFF, ROB COPELAND, NATHAN ANDERSON, KEVIN  
BAUMANN, RICHARD MOLYNEUX, JEFFREY MCFARLANE, DARRYL  
LEVITT and JOHN DOES #1-10**

**Defendants**

**NOTICE OF MOTION**

**(Motion for particulars/ to strike the Statement of Claim, returnable July 11, 2018)**

The defendant, Richard Molyneux, will make a Motion to a Judge presiding over the Commercial List on Wednesday July 11, 2018 at 10:00 a.m., or as soon after that time as the Motion can be heard at the court house, 330 University Avenue, 7th Floor, Toronto, Ontario, M5G 1R7.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard:

orally.



**THE MOTION IS FOR:**

- (a) An Order striking out the Statement of Claim and dismissing this action as against the defendant, Richard Molyneux;
- (b) In the alternative, an Order for particulars of the following paragraphs of the Statement of Claim in this proceeding in accordance with the Demand for Particulars delivered on May 15, 2018: Paragraphs 1(a); 1(b); 1(c); 1(d); 1(e); 1(f); 1(g); 37; 41, 43, 51; 57; 58; 59; 61; 63; 64; 65; 66; 68; 69; 70; 74; 75; 76; 77; 78; 79; 81; 82; 84; 86; 87; 89; 92; 93; 101; 103; 104; 114(a); 115; 116; 117; 119; 120; 121; 122; 125; 127; 128; and, 129;
- (c) The costs of this motion on a substantial indemnity basis; and,
- (d) Such further and other Relief as to this Honourable Court may seem just.

**THE GROUNDS FOR THE MOTION ARE:**

- (a) The plaintiffs commenced this action on November 7, 2017 against 32 defendants, ten of whom are unknown. The Statement of Claim (the “Pleading”) is a lengthy, 132 paragraph pleading that alleges approximately six causes of action against all of the defendants. The plaintiffs claim general, special, aggravated and punitive damages jointly and severally against all of the defendants on the basis of each cause of action.
- (b) In the Pleading, the defendant Richard Molyneux (“Molyneux”) is identified as one of four “Guarantor Conspirators”, as one of 24 “Conspirators”, and as one of six “Guarantors” (as therein defined). The factual allegations against the defendants are made against various groupings defendants. As such, the Pleading fails to disclose the case being made against Molyneux as an individual defendant.

- (c) The plaintiffs broadly allege the following causes of action collectively against each defendant in the action: (i) defamation; (ii) injurious falsehood; (iii) intentional interference with economic relations; (iv) civil conspiracy; and, (v) unjust enrichment in the first paragraph of the Pleading.
- (d) The Pleading fails to comply with the rules of pleading for the causes of action asserted, pleads them with insufficient particularity
- (e) On May 15, 2018, Molyneux delivered a Demand for Particulars with regard to the Statement of Claim. On May 23, 2018, Molyneux, other defendants, and the plaintiffs appeared before the Honourable Justice Hainey at a 9:30 a.m. hearing.
- (f) At the hearing, the Honourable Justice Hainey ordered that the plaintiffs respond to the demands for particulars made by Molyneux and other defendants by June 15, 2018.
- (g) As of June 29, 2018, the plaintiffs have not delivered a response to Molyneux's demand for particulars. In doing so, the plaintiffs have failed to comply with a timetable as ordered by a Judge, and have breached an interlocutory order of this Court.
- (h) Rule 25.06(8), which requires that allegations of fraud, breach of trust, malice or intent be pleaded with full particulars, applies to each and every cause of action alleged by the plaintiffs:
  - (i) The torts of injurious falsehood and intentional interference with economic relations each require that the tortfeasor acted intentionally.
  - (ii) With respect to the tort of civil conspiracy, the Conspiracy (as defined in the Pleading) alleged is that the defendants conspired to cause economic harm to the plaintiffs. Therefore, in the circumstances of the Pleading, the conspiracy requires a finding of an intent to injure, or knowledge that an injury is likely to occur.

- (iii) In their claim for unjust enrichment, the plaintiffs claim that the defendants received a benefit resulting from their participation in an unlawful short selling attack. Accordingly, this allegation also involves an allegation of intent or malice against the defendants.
- (iv) The defamation claimed against the defendants involves an allegation that unspecified malicious and false statements were made.
- (i) The Pleading falls short of making Molyneux aware of the claims made against him, all of which require full particulars. Furthermore, because the plaintiffs plead intentional torts, the claims against Molyneux engage Rule 25.06(8) of the *Rules of Civil Procedure*. When Rule 25.06(8) is engaged, it is mandatory that a pleading contain full particulars as they are required elements to support the causes of action pleaded. As full particulars are not present in the Pleading, it is clearly deficient with regard to all causes of action alleged, as discussed below.

### **Injurious Falsehood**

- (j) Actions for injurious falsehood involve the publication of false statements, either orally or in writing, reflecting adversely on the plaintiffs' business or property, and so calculated as to induce persons not to deal with the plaintiffs. There must be a showing that the published statements are untrue, that they were made maliciously, that they were made without just cause or excuse, and that the plaintiff suffered special damages.
- (k) The Pleading fails to plead facts particularizing what alleged false statement was published by Molyneux, the form of that false statement, how such a false statement reflected adversely on the plaintiffs' business, and the harm suffered by the plaintiffs as a result of the false statement.

- (l) The Pleading does not allege any particular malicious conduct by Molyneux. The particulars of an alleged false statement are not pleaded. As a result, there are also no particulars pleaded to suggest that Molyneux believed any such statement to be untrue.

#### **Intentional Interference with Economic Relations**

- (m) Intentional interference with economic relations requires that the defendant intend to cause loss to the plaintiff, either as an end in itself or as a means of, for example, enriching himself. If the loss suffered by the plaintiff is merely a foreseeable consequence of the defendant's actions, that is not enough. A pleading for unlawful interference with economic relations requires a pleading that a defendant committed an actionable wrong directed against a third party that intentionally caused the plaintiff economic harm.
- (n) The Pleading does not disclose full particulars of an actionable wrong committed against a third party. Nor does the Pleading specify what conduct of Molyneux is alleged to have interfered in the plaintiffs' economic relations, when such conduct occurred, with whom, what economic relations were interfered with, the particulars of which investors suffered a loss, and how the plaintiffs were harmed and to what extent financially.

#### **Conspiracy**

- (o) The plaintiffs plead unlawful conspiracy against all of the defendants. A claim for unlawful conspiracy requires a factual basis to establish that Molyneux used unlawful means with knowledge that his acts were aimed at the plaintiffs and knowing or constructively knowing his acts would result in injury to the plaintiffs.

- (p) The material facts in the Pleading do not contain the particulars of the Conspiracy as against Molyneux. The Pleading does not establish who the parties to the Conspiracy were, when the Conspiracy was entered into, what the terms of the Conspiracy were, what Molyneux's involvement in the Conspiracy is alleged to be, what acts Molyneux took in furtherance of the conspiracy, and what acts Molyneux undertook to hide the conspiracy.

### **Unjust Enrichment**

- (q) A claim for unjust enrichment requires that the defendant receive a benefit, that the plaintiff experience a corresponding deprivation, and that there be no juristic reason for the enrichment.
- (r) The plaintiffs' claims of unjust enrichment against Molyneux is premised on alleged profits made by short-selling Callidus' shares. However, short-selling is not unlawful.
- (s) The plaintiffs allege that they suffered an alleged deprivation as a result of defamation/interference with economic relations/ conspiracy. These causes of action are not properly pleaded. Furthermore, there are no allegations that Molyneux engaged in short-selling shares, and it is not pleaded that Molyneux received any specific benefit.
- (t) In the circumstances of the general facts the plaintiffs have included in the Pleading, the unjust enrichment claims are grounded in intentional torts and therefore require full particulars.

## **Defamation**

- (u) An action for defamation requires pleading with particularity. The plaintiffs must describe the allegedly defamatory words; who the plaintiffs allege uttered the defamatory words, to whom the defamatory words were spoken and when the defamatory words were spoken.
  
- (v) The plaintiffs have not established a cause of action in defamation against Molyneux. They have instead made general, vague, and unspecified allegations of defamation. For example, paragraphs 64, 65 and 73-77, 86-92, of the Pleading omit particulars of:
  - (i) The words spoken or otherwise distributed that are alleged to be defamatory;
  - (ii) The date on which the words were spoken or otherwise distributed;
  - (iii) Where the words were spoken or otherwise distributed;
  - (iv) Who is alleged to have spoken the defamatory words, or what words were spoken by Molyneux; and,
  - (v) The names of the persons to whom the words were spoken or otherwise published.

## **Damages Claimed**

- (w) The Pleading broadly claims general and aggravated damages as against all of the defendants, jointly and severally.
  
- (x) Consequently, the Pleading fails to disclose the amount of damages claimed as against Molyneux and which claims for relief are connected to which damages. Furthermore, the plaintiffs have claimed punitive damages as against all defendants, including Molyneux. The Pleading fails to set out the means of Molyneux, which is a material fact.

- (y) As such, Molyneux requires the particulars of the damages claimed against him.
- (z) Rules 3.04, 25.06, 25.10, 57.03 and 60.13 of the *Rules of Civil Procedure*; and,
- (aa) Such further and other grounds as the lawyers may advise.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

- (a) The affidavit of Cristina Garisto sworn June 29, 2018 and exhibits thereto; and,
- (b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

June 29, 2018

**SOLMON ROTHBART GOODMAN LLP**  
Barristers  
375 University Avenue  
Suite 701  
Toronto, Ontario  
M5G 2J5

Melvyn L. Solmon (LSUC# 16156J)  
*msolmon@srglegal.com*  
Tel: 416-947-1093 (Ext. 333)  
Fax: 416-947-0079

Lawyers for the defendant,  
Richard Molyneux

TO: **MOORE BARRISTERS**  
Barristers & Solicitors  
393 University Avenue, Suite 1600  
Toronto, Ontario  
M5G 1E6

David C. Moore (LSUC# 16996)  
*david@moorebarristers.ca*  
Tel: 416-581-1818 ext. 222  
Fax: 416-581-1279

Lawyers for the plaintiffs

AND TO: **DAVIES WARD PHILLIPS & VINEBERG LLP**  
Barristers and Solicitors  
40th Floor - 155 Wellington Street West  
Toronto, Ontario  
M5V 3J7

Matthew Milne-Smith  
*mmilne-smith@dwpv.com*  
Tel: 416-863-5595  
Fax: 416-863-0871

Lawyers for the defendants,  
West Face Capital Inc. and Gregory Boland

AND TO: **TORYS LLP**  
Barristers and Solicitors  
79 Wellington Street West  
Suite 3000  
Box 270, TD South Tower  
Toronto, Ontario  
M5K 1N2

Andrew Bernstein  
Tel: 416-865-7678  
Fax: 416-865-7380  
*abernstein@torys.com*  
Linda M. Plumpton  
Tel: 416-865-8193  
Fax: 416-865-7380  
*lplumpton@torys.com*

Lawyers for the defendants,  
M5V Advisors Inc., c.o.b. as ANSON GROUP CANADA, Admiralty Advisors LLC,  
Frigate Ventures LP, Anson Capital LP, Anson Investments Master Fund LP, AIMF  
GP, Anson Catalyst Master Fund LP, ACF GP, Moez Kassam, Adam Spears and  
Sunny Puri



AND TO: **MILBURN & ASSOCIATES**  
Barristers & Solicitors  
20 Toronto Street  
Suite 860  
Toronto, Ontario  
M5C 2B8

A. Jane Milburn  
Tel: 647-728-8081  
Fax: 647-689-2983  
*jmilburn@milburnlaw.ca*

Lawyers for the defendant,  
Bruce Langstaff

AND TO: **ST. LAWRENCE BARRISTERS LLP**  
144 King Street East  
Toronto, Ontario  
M5C 1G8

Phil Tunley  
*phil.tunley@stlbarristers.ca*  
Tel: 647-245-8282  
Fax: 647-245-8285

Lawyers for the defendant,  
Rob Copeland

AND TO: **NATHAN ANDERSON**  
c/o ClaritySpring Inc.  
545 5th Avenue  
8th Floor  
New York, New York  
10017

defendant

AND TO: **SCOTT VENTURO RUDAKOFF LLP**

Lawyers  
1500, 222 3rd Ave SW  
Calgary, Alberta  
T2P 0B4

Eugene J. Bodnar  
*g.bodnar@svrlawyers.com*  
Tel: 403-231-8209  
Fax: 403-565-4632

Lawyers for the defendant,  
Kevin Baumann

AND TO: **JEFFREY MCFARLANE**

defendant

AND TO: **DANSON & ZUCKER**

Barristers and Solicitors  
375 University Avenue  
Suite 701  
Toronto, Ontario  
M5G 2J5

Symon Zucker  
*sz@bondlaw.net*  
Tel: 416-863-9955  
Fax: 1-855-696-5441

Lawyers for the defendant,  
Darryl Levitt

AND TO: **JOHN DOES #1-10**

defendant

AND TO: **CRAWLEY MACKEWN BRUSH LLP**  
Barristers and Solicitors  
179 John Street  
Suite 800  
Toronto, Ontario  
M5T 1X4

**Robert Brush (LSUC# 40373N)**

Tel: 416-217-0822

Fax: 416-217-0220

*rbrush@cmlaw.ca*

**Clarke Tedesco (LSUC# 55391C)**

Tel: 416-217-0884

Fax: 416-217-0220

*ctedesco@cmlaw.ca*

Lawyers for the third party

RCP-E 37A (July 1, 2007)

THE CATALYST CAPITAL GROUP INC. et al.  
Plaintiffs

-and- WEST FACE CAPITAL INC. et al.  
Defendants

Court File No. CV-17-587463-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**NOTICE OF MOTION**

**SOLMON ROTHBART GOODMAN LLP**

Barristers  
375 University Avenue  
Suite 701  
Toronto, Ontario  
M5G 2J5

Melvyn L. Solmon (LSUC# 16156J)  
*msolmon@srglegal.com*  
Tel: 416-947-1093 (Ext. 333)  
Fax: 416-947-0079

Lawyers for the defendant,  
Richard Molyneux

File Number: 17983

RCP-E 4C (May 1, 2016)

TAB 2

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL  
CORPORATION

Plaintiffs

and

WEST FACE CAPITAL INC., GREGORY BOLAND, MSV ADVISORS INC.,  
c.o.b. as ANSON GROUP CANADA, ADMIRALTY ADVISORS LLC,  
FRIGATE VENTURES LP, ANSON CAPITAL LP, ANSON INVESTMENTS  
MASTER FUND LP, AIMF GP, ANSON CATALYST MASTER FUND LP,  
ACF GP, MOEZ KASSAM, ADAM SPEARS, SUNNY PURI, BRUCE  
LANGSTAFF, ROB COPELAND, NATHAN ANDERSON, KEVIN  
BAUMANN, RICHARD MOLYNEUX, JEFFREY MCFARLANE, DARRYL  
LEVITT and JOHN DOES #1-10

Defendants

**AFFIDAVIT OF CRISTINA GARISTO**

I, Cristina Garisto, of the City of Toronto in the Province of Ontario, MAKE OATH AND  
SAY:

1. I am a legal assistant with the law firm of Solmon Rothbart Goodman LLP, the lawyers for the defendant, Richard Molyneux ("Molyneux"), and, as such, have knowledge of the matters contained in this affidavit, save and except where I state that I have received information from other sources, in which case I verily believe the same to be true.
2. The Statement of Claim in this proceeding was issued on November 11, 2017.

3. On May 15, 2018, counsel for Molyneux delivered a Demand for Particulars (the "Demand") to the Plaintiffs, a true copy of which is attached hereto and marked as **Exhibit "A"**.

4. On May 23, 2018, counsel for the parties attended a 9:30 a.m. hearing in front of the Honourable Justice Hainey, who ordered that the Plaintiffs respond to the Demand by June 15, 2018. A true copy of the Endorsement is attached hereto and marked as **Exhibit "B"**.

5. On June 4, 2018, Melvyn Solmon ("Solmon"), counsel for Molyneux, was copied on an email sent from Linda Plumpton ("Plumpton"), counsel for the Anson Defendants, to David Moore ("Moore"), counsel for the Plaintiffs, noting that the Plaintiffs had not complied with the Endorsement of Justice Hainey. The Endorsement required that the Plaintiffs respond to Plumpton's clients' Demand for Particulars by June 1, 2018. A true copy of this email is attached hereto and marked as **Exhibit "C"**.

6. On June 7, 2018, Solmon was copied on an email sent from Plumpton to Moore, stating that the response to Plumpton's Demand for Particulars had still not yet been received, despite assurances by Moore that they would be sent. A true copy of this email is attached hereto and marked as **Exhibit "D"**.

7. Almost two weeks passed and no response to Plumpton's Demand for Particulars was received, as indicated in an email to Moore, to which Solmon was copied on June 19, 2018, a true copy of which is attached hereto and marked as **Exhibit "E"**. In this email, Plumpton stated her position that she intended to proceed with a motion to strike on July 11, 2018 and ask that any particulars received be disregarded.

8. On June 25, 2018, Alexi Wood, who had also submitted a Demand for Particulars on behalf of his clients, copied Solmon on an email to Moore stating that his clients would also be moving to strike on July 11, 2018. A true copy of this email is attached hereto and marked as **Exhibit "F"**.

9. On June 26, Solmon sent an email to Moore, advising that Molyneux took the same position and would also be bringing a motion on July 11, 2018. A true copy of this email is attached hereto and marked as **Exhibit "G"**.

10. No response to Molyneux's Demand has been received.

11. I swear this affidavit in support of Molyneux's motion for particulars returnable July 11, 2018 and for no improper purpose.

**SWORN BEFORE ME** at the City of Toronto, in the Province of Ontario on June 29, 2018



Commissioner for Taking Affidavits  
*(or as may be)*

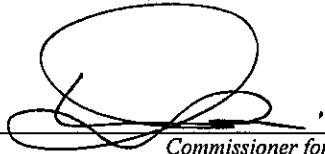
LANEVE RADOCK



CRISTINA GARISTO



This is Exhibit "A" referred to in the Affidavit of Cristina Garisto  
sworn June 29, 2018



---

*Commissioner for Taking Affidavits (or as may be)*

LANEY PADDOCK

Court File No. CV-17-586091

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL  
CORPORATION

Plaintiffs

and

WEST FACE CAPITAL INC., GREGORY BOLAND, M5V ADVISORS INC.  
c.o.b. ANSON GROUP CANADA, ADMIRALTY ADVISORS LLC, FRIGATE  
VENTURES LP, ANSON INVESTMENTS LP, ANSON CAPITAL LP, ANSON  
INVESTMENTS MASTER FUND LP, AIMF GP, ANSON CATALYST  
MASTER FUND LP, ACF GP, MOEZ KASSAM, ADAM SPEARS, SUNNY  
PURI, CLARITYSPRING INC., NATHAN ANDERSON, BRUCE  
LANGSTAFF, ROB COPELAND, KEVIN BAUMANN, JEFFREY  
MCFARLANE, DARRYL LEVITT, RICHARD MOLYNEIUX, AND  
JOHN DOES #1-10

Defendants

**DEMAND FOR PARTICULARS**

The defendant, Richard Molyneux, demands particulars of the following allegations in your Statement of Claim:

1. With respect to paragraph 1(a), what damages are being claimed against Mr. Molyneux;
2. With respect to paragraph 1(b), which transactions are referred based upon which the Plaintiffs are claiming an accounting and any gains;
3. With regard to paragraph 1(b), what derivative securities are being referred to;

4. With regard to paragraph 1(c), what defamation is being claimed as against Richard Molyneux, including the words that were allegedly said by Mr. Molyneux, to whom and when, and whether these were oral or in writing;
5. With regard to paragraph 1(d), in what way is it alleged that Mr. Molyneux breached Section 126.1 of the *Securities Act*;
6. With regard to paragraph 1(d), in what way is it alleged that Mr. Molyneux breached Section 126.2 of the *Securities Act*;
7. With regard to paragraph 1(e), which corporations is it alleged that Mr. Molyneux should be personally liable for, related to alleged unlawful acts carried out by the corporation;
8. With regard to paragraph 1(e), what unlawful actions are alleged to have taken place with regard to the corporations alleged to have carried out the unlawful actions;
9. Please provide particulars of how Mr. Molyneux assisted or in any way carried out any unlawful actions that are alleged in paragraph 1(e).
10. With regard to paragraph 1(f), particulars of the special damages for costs associated with the investigation and what investigation is referred to, including particulars of all the alleged costs of the investigation;
11. With regard to paragraph 1(f), what wilful misconduct of Richard Molyneux is referred to and please provide particulars;
12. With regard to paragraph 1(g), what conduct is alleged against Richard Molyneux that would be the foundation of any claim for punitive damages as against him for \$5,000,000.00;

13. With respect to paragraph 37, and the alleged conspiracy, particulars of:
- a) who are the parties to this alleged agreement;
  - b) when was this alleged agreement entered into;
  - c) what were the terms of the agreement;
  - d) what unlawful means are alleged against Mr. Molyneux;
  - e) what defamation is alleged against Mr. Molyneux;
  - f) what injurious falsehoods are alleged against Mr. Molyneux;
  - g) what breaches of Section 126.1 of the *Securities Act* are alleged against Mr. Molyneux;
  - h) what breaches of Section 126.2 of the *Securities Act* are alleged against Mr. Molyneux;
  - i) what breach of which related regulations is alleged against Mr. Molyneux;
  - j) what breach of provisions of National Instrument 81-102 are alleged against Mr. Molyneux; and
  - k) what unjust enrichment is alleged against Mr. Molyneux and what unjust enrichment is it alleged that he received.
14. With regard to paragraph 37, particulars of the malicious conduct and intentional conduct of Mr. Molyneux, including all particulars of the alleged malice.
15. With regard to paragraph 41, if Mr. Molyneux is one of the “some of the Guarantors”, what Baumann offered to him with regard to “substantial funding to fight the Guarantee Actions”.
16. With regard to paragraph 43, how is the counterclaim in the action involving Mr. Molyneux “specious” and provide particulars of that.

17. With regard to paragraph 51, what support is it alleged Mr. Molyneux received and from whom.

18. With regard to paragraph 57, if Mr. Molyneux is one of the “several of the Guarantors” referred to, particulars of his involvement.

19. With regard to paragraph 58, particulars of when Mr. Livesey contacted Mr. Molyneux and what was said with regard to “induce their participation in a wave of short attacks against Callidus”.

20. With regard to paragraph 59 of the Statement of Claim, particulars of the “planned short attack” that was alleged to be co-ordinated between the Guarantors.

21. With regard to paragraph 61, particulars of:

- a) who are the parties to this alleged agreement;
- b) when was this alleged agreement entered into;
- c) what were the terms of the agreement;
- d) what Mr. Molyneux’s involvement in this conspiracy is alleged to be; and
- e) what overt acts were taken in furtherance of the conspiracy by Mr. Molyneux.

22. With regard to paragraph 63, who is alleged to have funded Mr. Molyneux, and in what manner and in what amount.

23. With respect to paragraph 64, with reference to “false whistleblower complaints” or other false allegations allegedly leaked to the media, particulars of:

- a) the words spoken or otherwise distributed that are alleged to be defamatory;
- b) the date on which the words were spoken or otherwise distributed;
- c) where the words were spoken or otherwise distributed;
- d) who is alleged to have spoken the words or what words were spoken by Mr. Molyneux; and
- e) the names of the persons to whom the words were spoken or otherwise published.

24. With respect to paragraph 64 and 65, how Mr. Molyneux is alleged to have “timed a media report about the complaints to be released near the end of the trading day and the means by which Mr. Molyneux allegedly caused the report to be released; and particulars of the alleged “repetition of the situation”, including full particulars of:

- a) the words spoken or otherwise distributed that are alleged to be defamatory;
- b) the date on which the words were spoken or otherwise distributed;
- c) where the words were spoken or otherwise distributed; and
- d) the names of the persons to whom the words were spoken or otherwise published.

25. With respect to paragraph 66, particulars of:

- a) the steps taken to hide details of the conspiracy, aside from the example provided in that paragraph; and
- b) whether Mr. Molyneux is alleged to have participated in hiding details and if so, what are the particulars of his alleged hiding of details.

26. With respect to paragraph 68, particulars of:
- a) what whistleblower complaints were false and defamatory; and
  - b) whether Mr. Molyneux is alleged to have agreed to file “false and defamatory whistleblower complaints”.
27. With respect to paragraph 69, particulars of the “complainants” referred to in paragraph 69 and if it includes Mr. Molyneux, particulars of what was disclosed to the WSJ reporters, to whom, when, how it was disclosed, what was disclosed and full particulars of the “publication of the existence and substance of the Complaints (falsely) alleging fraud”, including full particulars of the allegations of fraud, that are the subject matter of the complaint in paragraph 69 of the pleading by the Plaintiffs.
28. With regard to paragraph 69, the particulars of what profitable short selling of Callidus shares was carried out by Mr. Molyneux, including full particulars.
29. With regard to paragraph 70, what is alleged to have been false and defamatory, including particulars of the “illegal accounting practices with respect to loans”.
30. With regard to paragraph 74, particulars of:
- a) the allegations of what words were defamatory, the particular words, who published them, to whom they were published and when;
  - b) how Mr. Molyneux profited and what amount.

31. With regard to paragraph 75, who is it alleged Mr. Molyneux contacted (as a journalist) and what false allegations and what leaks is it alleged that he leaked, to whom and when and particulars of the “false allegations”.

32. With regard to paragraph 76, particulars of how Mr. Molyneux is alleged to have engaged Livesey and/or to have agreed to compensate Livesey for writing a “negative story targeting Callidus, Catalyst and their principals”, what negative story and full particulars of what Mr. Molyneux is alleged to have done.

33. With regard to paragraph 77, the information alleged to have been “fed to Livesey”, if it is alleged that Mr. Molyneux did so, including;

- a) the words spoken or otherwise distributed that are alleged to be defamatory;
- b) the date on which the words were spoken or otherwise distributed;
- c) where the words were spoken or otherwise distributed;
- d) which words were alleged to have been spoken by Mr. Molyneux; and
- e) the names of the persons to whom the words were spoken or otherwise published;
- f) what false information is alleged that Mr. Molyneux published;
- g) what information is part of the complaint; and
- h) what other information that was not part of the complaint.

34. With respect to paragraph 78, particulars of:

- a) when the allegations set out in paragraph 78 are alleged to have occurred;
- b) how and in what capacity Mr. Molyneux is alleged to have worked with Livesey; and



- c) how and in what capacity the other persons described in paragraph 78 are alleged to have “worked with Livesey”.
35. With regard to paragraph 79 of the Statement of Claim, particulars of:
- a) how and what Mr. Molyneux did to “create another story” that caused the investigation;
  - b) what it is alleged that Mr. Molyneux did to create the appearance of a credible news story;  
and
  - c) what was alleged to have been said by Mr. Molyneux, to whom and when;
36. With regard to the substance of the complaints allegedly disclosed as pleaded in paragraph 79, particulars of:
- a) the words spoken or otherwise distributed that are alleged to be defamatory;
  - b) the date on which the words were spoken or otherwise distributed;
  - c) where the words were spoken or otherwise distributed;
  - d) which words were alleged to have been spoken by Mr. Molyneux; and
  - e) the names of the persons to whom the words were spoken or otherwise published;
37. With respect to paragraph 81 and 82, particulars of how Mr. Molyneux participated in the facts alleged, what he did and with whom, and what was said.
38. With regard to paragraphs 84, 86 and 87 of the Statement of Claim, particulars of:
- a) when and what Mr. Molyneux is alleged to have done and who he “contacted at Copeland of the WSJ” with regard to the allegations related to:
    - i. the request that Copeland write an article; and

ii. the direction to Copeland to interview McFarlane.

39. With regard to paragraph 86 and the alleged conversations, if any involved Mr. Molyneux, when they occurred, with whom and what was said.

40. With regard to paragraph 87, particulars of what is alleged that Mr. Molyneux's involvement was with regard to the allegation in paragraph 87.

41. With regard to paragraph 89, particulars of any information allegedly provided to Copeland and Jack McNish by Mr. Molyneux and as well, "any other Conspirators" and if any of the information is alleged to be defamatory, particulars of:

- a) the words spoken or otherwise distributed that are alleged to be defamatory;
- b) the date on which the words were spoken or otherwise distributed;
- c) where the words were spoken or otherwise distributed;
- d) which words were alleged to have been spoken by Mr. Molyneux; and
- e) the names of the persons to whom the words were spoken or otherwise published;

42. With regard to paragraph 92, whether the allegations in paragraph 92 of the Statement of Claim relate to the same Article described in paragraph 103 of the Statement of Claim, and if not, particulars of:

- a) the words spoken or otherwise distributed that are alleged to be defamatory;
- b) the date on which the words were spoken or otherwise distributed;
- c) where the words were spoken or otherwise distributed;
- d) which words were alleged to have been spoken by Mr. Molyneux; and

- e) the names of the persons to whom the words were spoken or otherwise published; and
- f) what false information is alleged that Mr. Molyneux published.

43. With regard to paragraph 93 of the Statement of Claim, particulars of Richard Molyneux's involvement and how he is alleged to have contacted Copeland on August 9, 2017 or to have encouraged Copeland to "release the article near the end of trading day on August 9<sup>th</sup>".

44. With regard to paragraphs 103 and 11, particulars of:

- a) which words in the Article, aside from those words already pleaded in paragraph 103 that are alleged to be defamatory;
- b) which words were alleged to have been spoken by Mr. Molyneux;
- c) copies of the Articles as viewed with a "pay wall" and as viewed by subscribers; however, if already provided pursuant to the Notice to Inspect Documents, advise which Articles they are in the bundle of documents produced.

45. With respect to paragraph 104, particulars of Mr. Molyneux's involvement in any of the matters alleged in paragraph 104, and if so, what his involvement was, with whom, what was said, when it was said and to whom.

46. With regard to paragraph 114 (a) with respect to the "tip-offs and previews to selected investors", particulars of Mr. Molyneux's participation, efforts and actions, including:

- a) the words spoken or otherwise distributed that are alleged to be defamatory;
- b) the date on which the words were spoken or otherwise distributed;

- c) where the words were spoken or otherwise distributed;
- d) which words were alleged to have been spoken by Mr. Molyneux;
- e) the names of the persons to whom the words were spoken or otherwise published; and
- f) what false information is alleged that Mr. Molyneux published;

47. With respect to paragraph 115, particulars of Mr. Molyneux's alleged participation in the "short attack", as being one of the "each Defendant".

48. With regard to paragraph 116, particulars of what Mr. Molyneux is alleged to have said, to whom, when, what was misleading and what was untrue and full particulars of his involvement.

49. With regard to paragraph 117, particulars of the allegations alleged against Mr. Molyneux for breaching of the *Securities Act* and what unlawful acts are referred to and particulars of those alleged unlawful acts:

- a) the words spoken or otherwise distributed that are alleged to be defamatory;
- b) the date on which the words were spoken or otherwise distributed;
- c) where the words were spoken or otherwise distributed;
- d) which words were alleged to have been spoken by Mr. Molyneux; and
- e) the names of the persons to whom the words were spoken or otherwise published; and
- f) what false information is alleged that Mr. Molyneux published;

50. With regard to paragraph 119, particulars of alleged interference with economic relations, including what conduct of Mr. Molyneux is alleged, when it occurred, with whom, what economic

relation, including particulars of which investors and how Callidus was harmed and to what extent financially.

51. With regard to paragraph 120, particulars of the unlawful means alleged against Mr. Molyneux and what amount is alleged against him with regard to restitution, what amount with regard to disgorgement and what ill-gotten gains are referred to.

52. With regard to paragraph 121 of the Statement of Claim, particulars of how Mr. Molyneux is alleged to have:

- a) completely dominated and controlled corporate entities among the Defendants in which the Corporate entities are referred to;
- b) sought to use the Corporate entities among the Defendants to obtain significant personal financial benefits, and which Corporate entities are referred to;
- c) caused Corporate entities within the Defendants to direct wrongful things to be done, and which Corporate entities are referred to;
- d) caused Corporate entities with the Defendants to act as his agent, and which Corporate entities are referred to;
- e) when this occurred; and
- f) the amount of the claim for this conduct alleged against Mr. Molyneux.

53. With respect to paragraph 121 of the Statement of Claim, whether Mr. Molyneux is alleged to have engaged in conduct involving “malice” and dishonesty and if so, full particulars of the malice and full particulars of the dishonesty.

54. With respect to paragraph 122 of the Statement of Claim, particulars as to the “defamatory and otherwise unlawful conduct...contrary to the best interests of the Corporate entities among the Defendants” alleged to have been carried out by Mr. Molyneux, including full particulars of:

- a) the words spoken or otherwise distributed that are alleged to be defamatory;
- b) the date on which the words were spoken or otherwise distributed;
- c) where the words were spoken or otherwise distributed;
- d) which words were alleged to have been spoken by Mr. Molyneux;
- e) the names of the persons to whom the words were spoken or otherwise published; and
- f) what false information is alleged that Mr. Molyneux published;

55. With respect to paragraph 125, particulars of the unjust enrichment allegations against Mr. Molyneux, what amount, how he was unjustly enriched and to whose detriment.

56. With regard to paragraph 127, full particulars of Mr. Molyneux’s involvement in the “scheme” and in the “market manipulation” and full particulars of the alleged “scheme” and full particulars of the alleged “market manipulation”, including:

- a) the words spoken or otherwise distributed that are alleged to be defamatory;
- b) the date on which the words were spoken or otherwise distributed;
- c) where the words were spoken or otherwise distributed;
- d) which words were alleged to have been spoken by Mr. Molyneux;
- e) the names of the persons to whom the words were spoken or otherwise published; and
- f) what false information is alleged that Mr. Molyneux published.

57. With regard to paragraph 128, particulars of what conduct of Mr. Molyneux was;

- a) high-handed”;
- b) “wilful”;
- c) “wanton”;
- d) “reckless”;
- e) “contemptuous”; and
- f) “contumelious”;

including full particulars of the conduct, including when it occurred and the names of any other persons alleged to have been involved in this conduct.

58. With regard to paragraph 129, with regard to all of the “sworn statements, emails and other facts and evidence which form the basis on which this Action is based”, full particulars of:

- a) which sworn statements, by whom, and the date of those sworn statements;
- b) a list of the emails, by date, sender and recipient;
- c) Particulars of all of the “other facts” referred to in paragraph 129; and
- d) Particulars of all of the “evidence” referred to in paragraph 129.

May 15, 2018

**SOLMON ROTHBART GOODMAN LLP**  
375 University Avenue  
Suite 701  
Toronto, Ontario M5G 2J5

Melvyn L. Solmon (LSUC# 16156J)  
*msolmon@srglegal.com*  
Tel: 416-947-1093 (Ext. 333)  
Fax: 416-947-0079

Lawyers for the defendant,  
Richard Molyneux

TO: **MOORE BARRISTERS**  
393 University Avenue  
Suite 1600  
Toronto, ON M5G 1E6

David C. Moore (LSUC #: 16996)  
Kenneth Jones  
Tel: 416-581-1818  
Fax: 416-581-1279

Lawyers for the Plaintiffs



AND TO: **TORYS LLP**  
79 Wellington St. W., 30<sup>th</sup> Floor  
BOX 270, TD South Tower  
Toronto, ON M5K 1N2  
Fax: 416-865-7380

Linda Plumpton (LSUC #: 38400A)  
Andrew Bernstein (LSUC #: 42191F)

Lawyers for the Anson Defendants

AND TO: **MILBURN & ASSOCIATES**  
Barristers & Solicitors  
20 Toronto Street  
Suite 860  
Toronto, Ontario  
M5C 2B8

A. Jane Milburn  
Tel: 647-728-8081  
Fax: 647-689-2983  
*jmilburn@milburnlaw.ca*

Lawyers for the defendant,  
Bruce Langstaff

AND TO: **ST. LAWRENCE BARRISTERS LLP**  
144 King Street East  
Toronto, Ontario  
M5C 1G8

Phil Tunley  
*phil.tunley@stlbarristers.ca*  
Tel: 647-245-8282  
Fax: 647-245-8285

Lawyers for the defendant,  
Rob Copeland

AND TO: **NATHAN ANDERSON**  
c/o ClaritySpring Inc.  
545 5th Avenue  
8th Floor  
New York, New York  
10017

defendant

AND TO: **HUNT PARTNERS LLP**  
21 Balmuto Street, Suite 1404  
Toronto, ON M4Y 1W4

Andrew Burns (LSUC #: 345912W)  
Tel: 416-350-2934  
Fax: 416-943-1484

Lawyers for the defendant,  
Kevin Baumann

AND TO: **DANSON & ZUCKER**  
Barristers and Solicitors  
375 University Avenue  
Suite 701  
Toronto, Ontario  
M5G 2J5

Symon Zucker  
*sz@bondlaw.net*  
Tel: 416-863-9955  
Fax: 1-855-696-5441

Lawyers for the defendant,  
Darryl Levitt

AND TO: **DAVIES WARD PHILLIPS & VINEBERG LLP**  
Barristers and Solicitors  
40th Floor - 155 Wellington Street West  
Toronto, Ontario  
M5V 3J7

Kent E. Thomson (LSUC # 24264J)  
Tel: 416-863-5566  
Matthew Milne-Smith (LSUC #44266P)  
*mmilne-smith@dwpv.com*  
Tel: 416-863-5595  
Andrew Carlson (LSUC #58850N)  
Tel: 416-367-7437  
Fax: 416-863-0871

Lawyers for the defendants  
West Face Capital Inc. and Gregory Boland

AND TO: **JEFFREY MCFARLANE**

Defendant

AND TO: **JOHN DOE #1-10**

Defendants

THE CATALYST CAPITAL GROUP INC. et al.  
Plaintiffs

-and- M5V ADVISORS INC., c.o.b. as ANSON GROUP CANADA et al.  
Defendants

Court File No. CV-17-586091

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
  
PROCEEDING COMMENCED AT  
TORONTO

**DEMAND FOR PARTICULARS**

**SOLMON ROTHBART GOODMAN LLP**  
Barristers  
375 University Avenue  
Suite 701  
Toronto, Ontario  
M5G 2J5

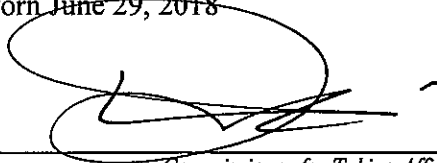
Melvyn L. Solmon (LSUC# 161561)  
*msolmon@srglegal.com*  
Tel: 416-947-1093 (Ext. 333)  
Fax: 416-947-0079

Lawyers for the defendant,  
Richard Molyneux

File Number: 17983

RCP-E 4C (May 1, 2016)

This is Exhibit "B" referred to in the Affidavit of Cristina Garisto  
sworn June 29, 2018



---

*Commissioner for Taking Affidavits (or as may be)*

LANEY DRAOOCK

9:30 A.M.  
COUNSEL SLIP

38  
H

COURT FILE NO CV-17-587463-00CL DATE MAY 23, 2018

NO ON LIST 3

TITLE OF  
PROCEEDING

THE CATALYST CAPITAL GROUP INC. et al  
V WEST FACE CAPITAL INC. et al

COUNSEL FOR:  
PLAINTIFF(S)  
APPLICANT(S)  
PETITIONER(S)

LINDA PLUMPTON <sup>LEORA JACKSON</sup> FOR MOVING  
PARTY, ANSON

PHONE & FAX NOS

T 416-865-8193  
F 416-865-7386

MELVYN L. SOLMON FOR MOVING PART R. MOZYNEUX  
+ FOR MR. ZUCKER FOR MOVING

416 947 0093  
416 947 0079

COUNSEL FOR:  
DEFENDANT(S)  
RESPONDENT(S)

Alexi Wood  
647-245-8283

FRANK LEVIT

counsel for

PHONE & FAX NOS

Dan Jones.

Alexi.wood@SThbarristers.ca

LUCAS LUNG (For Clarity Spring and Anderson)

LP) 416 601 2673 (F) 416 601 4192 llung@clarity.com

Matthew Milne-Smith for West Face Capital

Andrew Carlson (T) 416 863 0900 (F) 416 863 0871

mmilne-smith@dwpr.com  
acarison

Clarke Tedesco 416-217-0110 F-416-217-0270  
for Concord Gemcity Corp.

clarkes@cmblaw.com

David Moore  
for Catalyst

416-581-1818 ext 222

416-581-1279 (ext)

dauid@moorebarristers.ca

May 23/18

Mr Moore shall deliver  
his response to Ms Plumpton's  
Demand for Particulars by

June 1, 2018. A  $\frac{1}{2}$  day  
hearing is scheduled  
for July 11, 2018 at 11<sup>00</sup> AM.  
& deal with all  
demands for particulars  
relating to the statement  
of claim in this action.

The balance of the  
responses to other parties  
demands for particulars  
shall be delivered  
by June 15, 2018.

Haining J.

This is Exhibit "C" referred to in the Affidavit of Cristina Garisto sworn June 29, 2018



---

*Commissioner for Taking Affidavits (or as may be)*

LANEY DABLOCK



**From:** Plumpton, Linda  
**To:** "david@moorebarristers.ca"; ""Ken Jones" (kenjones@moorebarristers.ca)"  
**Cc:** Bernstein, Andrew; Eugene J. Bodnar; Jackson, Leora; "Phil.Tunley@Stlbarristers.ca"; Mel Solmon; Carlson, Andrew; "jadair@agblp.com"; "gmcquire@agblp.com"; "rbrush@cmblaw.ca"; "ctedesco@cmblaw.ca"; "dcarson@cmblaw.ca"; "aburns@huntlegal.com"; "bradnoff@lerner.ca"; "lung@lerner.ca"; "gavin@mackenziebarristers.com"; "brooke@mackenziebarristers.com"; ""Symon Zucker" (sz@bondlaw.net)"; "jmilburn@milburnlaw.ca"; "djarcaiq@milburnlaw.ca"; Milne-Smith, Matthew; Breanne Campbell; Plumpton, Linda  
**Subject:** Catalyst v. Anson et al - Particulars  
**Date:** June-04-18 12:20:23 PM  
**Attachments:** image904753.JPG

---

Mr. Moore,

In his endorsement dated May 23, 2018, Justice Hainey indicated that "Mr. Moore shall deliver his response to Ms. Plumpton's Demand for Particulars by June 1, 2018." We did not receive particulars on Friday, and have been provided with no explanation as to why this is the case. Given that your clients have had our Demand since January 23, 2018, it is difficult to imagine that there could be a reasonable explanation for this delay. Please provide the particulars immediately as further delay will prejudice our clients' ability to consider and prepare for their motion. If we do not receive a response promptly, we will at a minimum be seeking elevated costs on the motion.

Regards,

Linda Plumpton

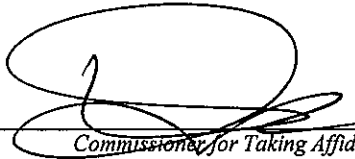
P. 416.865.8193 | F. 416.865.7380 | 1.800.505.8679  
 79 Wellington St. W., 30th Floor, Box 270, TD South Tower  
 Toronto, Ontario M5K 1N2 Canada | www.torlys.com



This email and any attachments are for the sole use of the intended recipients and may be privileged or confidential. Any distribution, printing or other use by anyone else is prohibited. If you are not an intended recipient, please contact the sender immediately, and permanently delete this email and attachments.

Le présent courriel et les documents qui y sont joints sont exclusivement réservés à l'utilisation des destinataires concernés et peuvent être de nature privilégiée ou confidentielle. Toute distribution, impression ou autre utilisation est interdite aux autres personnes. Si vous ne faites pas partie des destinataires concernés, veuillez en informer immédiatement l'expéditeur, ainsi que supprimer ce courriel et les documents joints de manière permanente.

This is Exhibit "D" referred to in the Affidavit of Cristina Garisto  
sworn June 29, 2018



---

*Commissioner for Taking Affidavits (or as may be)*

HANEN DAIDOO

**From:** Plumpton, Linda  
**To:** "david@moorebarristers.ca"; ""Ken Jones" (kenjones@moorebarristers.ca)"  
**Cc:** Bernstein, Andrew; Eugene J. Bodnar; Jackson, Leora; "Phil.Tunley@Stlbarristers.ca"; Mel Solmon; Carlson, Andrew; "jadair@agblp.com"; "gmcguire@agblp.com"; "rbrush@cmblaw.ca"; "ctedesco@cmblaw.ca"; "dcarson@cmblaw.ca"; "aburns@huntlegal.com"; "bradnoff@lernalers.ca"; "llung@lernalers.ca"; "gavin@mackenziebarristers.com"; "brooke@mackenziebarristers.com"; ""Symon Zucker" (sz@bondlaw.net); "jmilburn@milburnlaw.ca"; "djarcaig@milburnlaw.ca"; Milne-Smith, Matthew; Breanne Campbell; Plumpton, Linda  
**Subject:** RE: Catalyst v. Anson et al - Particulars  
**Date:** June-07-18 2:04:30 PM  
**Attachments:** image925eb1.JPG

---

Mr. Moore,

Almost a week has passed since the deadline set by Justice Hainey for delivery of your response to our demand for particulars. When we spoke on Monday, you indicated that we would receive them by Wednesday. That deadline has also now passed. Do you intend to deliver a response to our demand?

Regards,

Linda

Linda Plumpton

P. 416.865.8193 | F. 416.865.7380 | 1.800.505.8679  
 79 Wellington St. W., 30th Floor, Box 270, TD South Tower  
 Toronto, Ontario M5K 1N2 Canada | www.torys.com




---

**From:** Plumpton, Linda  
**Sent:** Monday, June 4, 2018 12:20 PM  
**To:** 'david@moorebarristers.ca' <david@moorebarristers.ca>; 'Ken Jones' (kenjones@moorebarristers.ca) <kenjones@moorebarristers.ca>  
**Cc:** Bernstein, Andrew <abernstein@torys.com>; Eugene J. Bodnar <E.Bodnar@scottventuro.com>; Jackson, Leora <lackson@torys.com>; 'Phil.Tunley@Stlbarristers.ca' <Phil.Tunley@Stlbarristers.ca>; 'Mel Solmon' (msolmon@srglegal.com) <msolmon@srglegal.com>; Carlson, Andrew <acarlson@dwpv.com>; 'jadair@agblp.com' <jadair@agblp.com>; 'gmcguire@agblp.com' <gmcguire@agblp.com>; 'rbrush@cmblaw.ca' <rbrush@cmblaw.ca>; 'ctedesco@cmblaw.ca' <ctedesco@cmblaw.ca>; 'dcarson@cmblaw.ca' <dcarson@cmblaw.ca>; 'aburns@huntlegal.com' <aburns@huntlegal.com>; 'bradnoff@lernalers.ca' <bradnoff@lernalers.ca>; 'llung@lernalers.ca' <llung@lernalers.ca>; 'gavin@mackenziebarristers.com' <gavin@mackenziebarristers.com>; 'brooke@mackenziebarristers.com' <brooke@mackenziebarristers.com>; 'Symon Zucker' (sz@bondlaw.net) <sz@bondlaw.net>; 'jmilburn@milburnlaw.ca' <jmilburn@milburnlaw.ca>; 'djarcaig@milburnlaw.ca' <djarcaig@milburnlaw.ca>; Milne-Smith, Matthew <MMilne-Smith@dwpv.com>; Breanne Campbell <B.Campbell@scottventuro.com>; Plumpton, Linda <lplumpton@torys.com>  
**Subject:** Catalyst v. Anson et al - Particulars

Mr. Moore,

In his endorsement dated May 23, 2018, Justice Hainey indicated that "Mr. Moore shall deliver his response to Ms. Plumpton's Demand for Particulars by June 1, 2018." We did not receive particulars on Friday, and have been provided with no explanation as to why this is the case. Given that your clients have had our Demand since January 23, 2018, it is difficult to imagine that there could be a reasonable explanation for this delay. Please provide the particulars immediately as further delay will prejudice our clients' ability to consider and prepare for their motion. If we do not receive a response promptly, we will at a minimum be seeking elevated costs on the motion.

Regards,

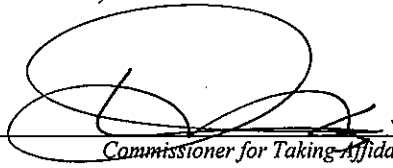
Linda Plumpton

P. 416.865.8193

This email and any attachments are for the sole use of the intended recipients and may be privileged or confidential. Any distribution, printing or other use by anyone else is prohibited. If you are not an intended recipient, please contact the sender immediately, and permanently delete this email and attachments.

Le présent courriel et les documents qui y sont joints sont exclusivement réservés à l'utilisation des destinataires concernés et peuvent être de nature privilégiée ou confidentielle. Toute distribution, impression ou autre utilisation est interdite aux autres personnes. Si vous ne faites pas partie des destinataires concernés, veuillez en informer immédiatement l'expéditeur, ainsi que supprimer ce courriel et les documents joints de manière permanente.

This is Exhibit "E" referred to in the Affidavit of Cristina Garisto sworn June 29, 2018



---

*Commissioner for Taking Affidavits (or as may be)*

LANEY PROSSER

**From:** Plumpton, Linda  
**To:** "david@moorebarristers.ca"; ""Ken Jones" (kenjones@moorebarristers.ca)"  
**Cc:** Bernstein, Andrew; Eugene J. Bodnar; Jackson, Leora; "Phil.Tunley@Stlbarristers.ca"; Mel Solmon; Carlson, Andrew; "jadair@agblp.com"; "gmcguire@agblp.com"; "rbrush@cmblaw.ca"; "ctedesco@cmblaw.ca"; "dcarson@cmblaw.ca"; "aburns@huntlegal.com"; "bradnoff@lernalers.ca"; "lung@lernalers.ca"; "gavin@mackenziebarristers.com"; "brooke@mackenziebarristers.com"; ""Symon Zucker" (sz@bondlaw.net)"; "jmilburn@milburnlaw.ca"; "djarcaig@milburnlaw.ca"; Plumpton, Linda; Milne-Smith, Matthew; Breanne Campbell; Jackson, Leora  
**Subject:** RE: Catalyst v. Anson et al - Particulars  
**Date:** June-19-18 9:43:36 AM  
**Attachments:** image61d57d.JPG

---

Mr. Moore,

Further to my email below, Justice Hainey directed your client to deliver particulars in response to our clients' demand by no later than June 1, 2018. He also directed a response to all other demands by June 15, 2018. Despite your repeated promises to me that your client's response would soon be delivered, we received nothing from you. In the circumstances, we intend to proceed with our motion to strike on July 11, 2018 on the basis of the statement of claim. If your client delivers particulars prior to that date, we will ask that they be disregarded, or alternatively that a significant award of costs be made against your client in light of its complete disregard of the Court's directions.

Regards,

Linda Plumpton

P. 416.865.8193 | F. 416.865.7380 | 1.800.505.8679  
 79 Wellington St. W., 30th Floor, Box 270, TD South Tower  
 Toronto, Ontario M5K 1N2 Canada | www.torys.com




---

**From:** Plumpton, Linda  
**Sent:** Monday, June 4, 2018 12:20 PM  
**To:** 'david@moorebarristers.ca' <david@moorebarristers.ca>; 'Ken Jones' (kenjones@moorebarristers.ca) <kenjones@moorebarristers.ca>  
**Cc:** Bernstein, Andrew <abernstein@torys.com>; Eugene J. Bodnar <E.Bodnar@scottventuro.com>; Jackson, Leora <lackson@torys.com>; 'Phil.Tunley@Stlbarristers.ca' <Phil.Tunley@Stlbarristers.ca>; 'Mel Solmon' (msolmon@srglegal.com) <msolmon@srglegal.com>; Carlson, Andrew <acarlson@dwpv.com>; 'jadair@agblp.com' <jadair@agblp.com>; 'gmcguire@agblp.com' <gmcguire@agblp.com>; 'rbrush@cmblaw.ca' <rbrush@cmblaw.ca>; 'ctedesco@cmblaw.ca' <ctedesco@cmblaw.ca>; 'dcarson@cmblaw.ca' <dcarson@cmblaw.ca>; 'aburns@huntlegal.com' <aburns@huntlegal.com>; 'bradnoff@lernalers.ca' <bradnoff@lernalers.ca>; 'lung@lernalers.ca' <lung@lernalers.ca>; 'gavin@mackenziebarristers.com' <gavin@mackenziebarristers.com>; 'brooke@mackenziebarristers.com' <brooke@mackenziebarristers.com>; 'Symon Zucker' (sz@bondlaw.net) <sz@bondlaw.net>; 'jmilburn@milburnlaw.ca' <jmilburn@milburnlaw.ca>; 'djarcaig@milburnlaw.ca' <djarcaig@milburnlaw.ca>; Milne-Smith, Matthew <MMilne-Smith@dwpv.com>; Breanne Campbell <B.Campbell@scottventuro.com>; Plumpton, Linda <lplumpton@torys.com>

**Subject:** Catalyst v. Anson et al - Particulars

Mr. Moore,

In his endorsement dated May 23, 2018, Justice Hainey indicated that "Mr. Moore shall deliver his response to Ms. Plumpton's Demand for Particulars by June 1, 2018." We did not receive particulars on Friday, and have been provided with no explanation as to why this is the case. Given that your clients have had our Demand since January 23, 2018, it is difficult to imagine that there could be a reasonable explanation for this delay. Please provide the particulars immediately as further delay will prejudice our clients' ability to consider and prepare for their motion. If we do not receive a response promptly, we will at a minimum be seeking elevated costs on the motion.

Regards,

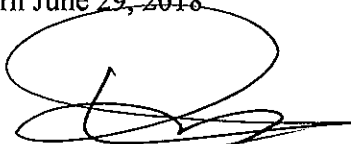
Linda Plumpton

P. 416.865.8193

This email and any attachments are for the sole use of the intended recipients and may be privileged or confidential. Any distribution, printing or other use by anyone else is prohibited. If you are not an intended recipient, please contact the sender immediately, and permanently delete this email and attachments.

Le présent courriel et les documents qui y sont joints sont exclusivement réservés à l'utilisation des destinataires concernés et peuvent être de nature privilégiée ou confidentielle. Toute distribution, impression ou autre utilisation est interdite aux autres personnes. Si vous ne faites pas partie des destinataires concernés, veuillez en informer immédiatement l'expéditeur, ainsi que supprimer ce courriel et les documents joints de manière permanente.

This is Exhibit "F" referred to in the Affidavit of Cristina Garisto sworn June 29, 2018



---

*Commissioner for Taking Affidavits (or as may be)*

LANEY PRODOCK



**From:** Alexi Wood  
**To:** Plumpton, Linda; "david@moorebarristers.ca"; "Ken Jones" (kenjones@moorebarristers.ca)"  
**Cc:** Bernstein, Andrew; Eugene J. Bodnar; Jackson, Leora; Phil Tunley; Mel Solmon; Carlson, Andrew; "jadair@agblp.com"; "gmcguire@agblp.com"; "rbrush@cmblaw.ca"; "ctedesco@cmblaw.ca"; "dcarson@cmblaw.ca"; "aburns@huntlegal.com"; "bradnoff@lerner.ca"; "llung@lerner.ca"; "gavin@mackenziebarristers.com"; "brooke@mackenziebarristers.com"; "Symon Zucker" (sz@bondlaw.net); "jmilburn@milburnlaw.ca"; "djarcaig@milburnlaw.ca"; Milne-Smith, Matthew; Breanne Campbell; Jackson, Leora  
**Subject:** RE: Catalyst v. Anson et al - Particulars  
**Date:** June-25-18 6:53:54 PM  
**Attachments:** image001.jpg

---

Mr. Moore:

Further to Ms. Plumpton's email, we have not received your client's answers to our demands for particulars. We have instructions to proceed with a motion to strike both actions on 11 July 2018, and have started preparing the materials. Should your client deliver the answers to the particulars between now and the return date, we have instructions to seek our costs thrown away.

Alexi N. Wood  
 Partner  
ST. LAWRENCE BARRISTERS LLP  
 144 King St. East, Toronto, Ontario M5C 1G8  
 Direct: 617 245 8283 | Fax: 617 245 8285  
 Email: alexi.wood@stlbarristers.ca

*This e-mail is intended only for the persons to whom it is addressed. It should not be read by, or delivered to, any other persons, as it may contain privileged or confidential information. If you have received this message in error, please notify us immediately.*

---

**From:** Plumpton, Linda <lplumpton@torys.com>  
**Sent:** 19-Jun-18 9:43 AM  
**To:** 'david@moorebarristers.ca' <david@moorebarristers.ca>; 'Ken Jones' (kenjones@moorebarristers.ca) <kenjones@moorebarristers.ca>  
**Cc:** Bernstein, Andrew <abernstein@torys.com>; Eugene J. Bodnar <E.Bodnar@scottventuro.com>; Jackson, Leora <ljackson@torys.com>; Phil Tunley <phil.tunley@stlbarristers.ca>; 'Mel Solmon' (msolmon@srglegal.com) <msolmon@srglegal.com>; Carlson, Andrew <acarlson@dwpv.com>; 'jadair@agblp.com' <jadair@agblp.com>; 'gmcguire@agblp.com' <gmcguire@agblp.com>; 'rbrush@cmblaw.ca' <rbrush@cmblaw.ca>; 'ctedesco@cmblaw.ca' <ctedesco@cmblaw.ca>; 'dcarson@cmblaw.ca' <dcarson@cmblaw.ca>; 'aburns@huntlegal.com' <aburns@huntlegal.com>; 'bradnoff@lerner.ca' <bradnoff@lerner.ca>; 'llung@lerner.ca' <llung@lerner.ca>; 'gavin@mackenziebarristers.com' <gavin@mackenziebarristers.com>; 'brooke@mackenziebarristers.com' <brooke@mackenziebarristers.com>; 'Symon Zucker' (sz@bondlaw.net) <sz@bondlaw.net>; 'jmilburn@milburnlaw.ca' <jmilburn@milburnlaw.ca>; 'djarcaig@milburnlaw.ca' <djarcaig@milburnlaw.ca>; Plumpton, Linda <lplumpton@torys.com>; Milne-Smith, Matthew <MMilne-Smith@dwpv.com>; Breanne Campbell <B.Campbell@scottventuro.com>; Jackson, Leora <ljackson@torys.com>

**Subject:** RE: Catalyst v. Anson et al - Particulars

Mr. Moore,

Further to my email below, Justice Hainey directed your client to deliver particulars in response to our clients' demand by no later than June 1, 2018. He also directed a response to all other demands by June 15, 2018. Despite your repeated promises to me that your client's response would soon be delivered, we received nothing from you. In the circumstances, we intend to proceed with our motion to strike on July 11, 2018 on the basis of the statement of claim. If your client delivers particulars prior to that date, we will ask that they be disregarded, or alternatively that a significant award of costs be made against your client in light of its complete disregard of the Court's directions.

Regards,

Linda Plumpton

P. 416.865.8193 | F. 416.865.7380 | 1.800.505.8679  
79 Wellington St. W., 30th Floor, Box 270, TD South Tower  
Toronto, Ontario M5K 1N2 Canada | [www.torvs.com](http://www.torvs.com)




---

**From:** Plumpton, Linda

**Sent:** Monday, June 4, 2018 12:20 PM

**To:** 'david@moorebarristers.ca' <david@moorebarristers.ca>; "Ken Jones" (kenjones@moorebarristers.ca) <kenjones@moorebarristers.ca>

**Cc:** Bernstein, Andrew <abernstein@torvs.com>; Eugene J. Bodnar <E.Bodnar@scottventuro.com>; Jackson, Leora <ljackson@torvs.com>; 'Phil.Tunley@Stlbarristers.ca' <Phil.Tunley@Stlbarristers.ca>; 'Mel Solmon' (msolmon@srglegal.com) <msolmon@srglegal.com>; Carlson, Andrew <acarlson@dwpv.com>; 'jadair@agbllp.com' <jadair@agbllp.com>; 'gmcguire@agbllp.com' <gmcguire@agbllp.com>; 'rbrush@cmblaw.ca' <rbrush@cmblaw.ca>; 'ctedesco@cmblaw.ca' <ctedesco@cmblaw.ca>; 'dcarson@cmblaw.ca' <dcarson@cmblaw.ca>; 'aburns@huntlegal.com' <aburns@huntlegal.com>; 'bradnoff@lerners.ca' <bradnoff@lerners.ca>; 'llung@lerners.ca' <llung@lerners.ca>; 'gavin@mackenziebarristers.com' <gavin@mackenziebarristers.com>; 'brooke@mackenziebarristers.com' <brooke@mackenziebarristers.com>; "Symon Zucker" (sz@bondlaw.net) <sz@bondlaw.net>; 'jmilburn@milburnlaw.ca' <jmilburn@milburnlaw.ca>; 'djarcaig@milburnlaw.ca' <djarcaig@milburnlaw.ca>; Milne-Smith, Matthew <MMilne-Smith@dwpv.com>; Breanne Campbell <B.Campbell@scottventuro.com>; Plumpton, Linda <lplumpton@torvs.com>

**Subject:** Catalyst v. Anson et al - Particulars

Mr. Moore,

In his endorsement dated May 23, 2018, Justice Hainey indicated that "Mr. Moore shall deliver his response to Ms. Plumpton's Demand for Particulars by June 1, 2018." We did not receive particulars on Friday, and have been provided with no explanation as to why this is the case. Given that your

clients have had our Demand since January 23, 2018, it is difficult to imagine that there could be a reasonable explanation for this delay. Please provide the particulars immediately as further delay will prejudice our clients' ability to consider and prepare for their motion. If we do not receive a response promptly, we will at a minimum be seeking elevated costs on the motion.

Regards,

Linda Plumpton

P. 416.865.8193

This email and any attachments are for the sole use of the intended recipients and may be privileged or confidential. Any distribution, printing or other use by anyone else is prohibited. If you are not an intended recipient, please contact the sender immediately, and permanently delete this email and attachments.

Le présent courriel et les documents qui y sont joints sont exclusivement réservés à l'utilisation des destinataires concernés et peuvent être de nature privilégiée ou confidentielle. Toute distribution, impression ou autre utilisation est interdite aux autres personnes. Si vous ne faites pas partie des destinataires concernés, veuillez en informer immédiatement l'expéditeur, ainsi que supprimer ce courriel et les documents joints de manière permanente.

This is Exhibit "G" referred to in the Affidavit of Cristina Garisto sworn June 29, 2018



---

*Commissioner for Taking Affidavits (or as may be)*

LANEY PROCTOR

**From:** [Mel Solmon](#)  
**To:** [Alexi Wood](#); [Plumpton, Linda](#); "[david@moorebarristers.ca](#)"; ""[Ken Jones](#)" ([kenjones@moorebarristers.ca](#))"  
**Cc:** [Bernstein, Andrew](#); [Eugene J. Bodnar](#); [Jackson, Leora](#); [Phil Tunley](#); [Carlson, Andrew](#); "[jadair@agblp.com](#)"; "[gmcguire@agblp.com](#)"; "[rbrush@cmblaw.ca](#)"; "[ctedesco@cmblaw.ca](#)"; "[dcarson@cmblaw.ca](#)"; "[aburns@huntlegal.com](#)"; "[bradnoff@lernalers.ca](#)"; "[llung@lernalers.ca](#)"; "[gavin@mackenziebarristers.com](#)"; [Laney Paddock](#); "[brooke@mackenziebarristers.com](#)"; ""[Symon Zucker](#)" ([sz@bondlaw.net](#)); "[jmilburn@milburnlaw.ca](#)"; "[djarcaig@milburnlaw.ca](#)"; [Milne-Smith, Matthew](#); [Breanne Campbell](#); [Jackson, Leora](#); [Mel Solmon](#)  
**Subject:** RE: Catalyst v. Anson et al - Particulars  
**Date:** June-26-18 8:13:40 AM  
**Attachments:** [image001.jpg](#)

---

Mr. Moore

On behalf of Mr. Molyneux we take the same position as we have not received any particulars as promised and we are in the midst of preparing motion material.

e-mel

### **Melvyn L. Solmon**

Solmon Rothbart Goodman LLP  
 375 University Avenue, Ste. 701  
 Toronto, Ontario M5G 2J5  
 Tel: (416) 947-1093  
 Fax: (416) 947-0079

This electronic message is directed in confidence to the person named above, and may not otherwise be distributed, copied or disclosed. The contents of this electronic message may also be subject to solicitor-client privilege and all rights to that privilege are expressly claimed and not waived. If you have received this electronic mail message in error, please notify me immediately by telephone at 416-947-1093, ext. 333 and destroy this electronic mail message, without making a copy. Thank you for your assistance. WARNING: From time to time, our spam scanners eliminate legitimate email from clients. If your email contains important instructions, please ensure that we acknowledge receipt of those instructions.

---

**From:** [Alexi Wood](mailto:alexi.wood@stlbarristers.ca) [<mailto:alexi.wood@stlbarristers.ca>]  
**Sent:** Monday, June 25, 2018 6:54 PM  
**To:** [Plumpton, Linda](#); '[david@moorebarristers.ca](#)'; "[Ken Jones](#)" ([kenjones@moorebarristers.ca](#))'  
**Cc:** [Bernstein, Andrew](#); [Eugene J. Bodnar](#); [Jackson, Leora](#); [Phil Tunley](#); [Mel Solmon](#); [Carlson, Andrew](#); '[jadair@agblp.com](#)'; '[gmcguire@agblp.com](#)'; '[rbrush@cmblaw.ca](#)'; '[ctedesco@cmblaw.ca](#)'; '[dcarson@cmblaw.ca](#)'; '[aburns@huntlegal.com](#)'; '[bradnoff@lernalers.ca](#)'; '[llung@lernalers.ca](#)'; '[gavin@mackenziebarristers.com](#)'; '[brooke@mackenziebarristers.com](#)'; "[Symon Zucker](#)" ([sz@bondlaw.net](#)); '[jmilburn@milburnlaw.ca](#)'; '[djarcaig@milburnlaw.ca](#)'; [Milne-Smith, Matthew](#); [Breanne Campbell](#); [Jackson, Leora](#)  
**Subject:** RE: Catalyst v. Anson et al - Particulars

Mr. Moore:

Further to Ms. Plumpton's email, we have not received your client's answers to our demands for particulars. We have instructions to proceed with a motion to strike both actions on 11 July 2018, and have started preparing the materials. Should your client deliver the answers to the particulars between now and the return date, we have instructions to seek our costs thrown away.

Alexi N. Wood

Partner

ST. LAWRENCE BARRISTERS LLP

144 King St. East, Toronto, Ontario M5C 1G8

Direct: 617 245 8288 | Fax: 617 245 8285

Email: [alexi.wood@stlbarristers.ca](mailto:alexi.wood@stlbarristers.ca)

*This e-mail is intended only for the persons to whom it is addressed. It should not be read by, or delivered to, any other persons, as it may contain privileged or confidential information. If you have received this message in error, please notify us immediately.*

---

**From:** Plumpton, Linda <lplumpton@torys.com>  
**Sent:** 19-Jun-18 9:43 AM  
**To:** 'david@moorebarristers.ca' <david@moorebarristers.ca>; "Ken Jones" (kenjones@moorebarristers.ca) <kenjones@moorebarristers.ca>  
**Cc:** Bernstein, Andrew <abernstein@torys.com>; Eugene J. Bodnar <E.Bodnar@scottventuro.com>; Jackson, Leora <ljackson@torys.com>; Phil Tunley <phil.tunley@stlbarristers.ca>; 'Mel Solmon' (msolmon@srglegal.com) <msolmon@srglegal.com>; Carlson, Andrew <acarlson@dwpv.com>; 'jadair@agbllp.com' <jadair@agbllp.com>; 'gmcguire@agbllp.com' <gmcguire@agbllp.com>; 'rbrush@cmblaw.ca' <rbrush@cmblaw.ca>; 'ctedesco@cmblaw.ca' <ctedesco@cmblaw.ca>; 'dcarson@cmblaw.ca' <dcarson@cmblaw.ca>; 'aburns@huntlegal.com' <aburns@huntlegal.com>; 'bradnoff@lernalers.ca' <bradnoff@lernalers.ca>; 'llung@lernalers.ca' <llung@lernalers.ca>; 'gavin@mackenziebarristers.com' <gavin@mackenziebarristers.com>; 'brooke@mackenziebarristers.com' <brooke@mackenziebarristers.com>; "Symon Zucker" (sz@bondlaw.net) <sz@bondlaw.net>; 'jmilburn@milburnlaw.ca' <jmilburn@milburnlaw.ca>; 'djarcaig@milburnlaw.ca' <djarcaig@milburnlaw.ca>; Plumpton, Linda <lplumpton@torys.com>; Milne-Smith, Matthew <MMilne-Smith@dwpv.com>; Breanne Campbell <B.Campbell@scottventuro.com>; Jackson, Leora <ljackson@torys.com>  
**Subject:** RE: Catalyst v. Anson et al - Particulars

Mr. Moore,

Further to my email below, Justice Hainey directed your client to deliver particulars in response to our clients' demand by no later than June 1, 2018. He also directed a response to all other demands by June 15, 2018. Despite your repeated promises to me that your client's response would soon be delivered, we received nothing from you. In the circumstances, we intend to proceed with our motion to strike on July 11, 2018 on the basis of the statement of claim. If your client delivers particulars prior to that date, we will ask that they be disregarded, or alternatively that a significant

award of costs be made against your client in light of its complete disregard of the Court's directions.

Regards,

Linda Plumpton

P. 416.865.8193 | F. 416.865.7380 | 1.800.505.8679  
79 Wellington St. W., 30th Floor, Box 270, TD South Tower  
Toronto, Ontario M5K 1N2 Canada | [www.torlys.com](http://www.torlys.com)



**From:** Plumpton, Linda

**Sent:** Monday, June 4, 2018 12:20 PM

**To:** 'david@moorebarristers.ca' <[david@moorebarristers.ca](mailto:david@moorebarristers.ca)>; "Ken Jones" (kenjones@moorebarristers.ca) <[kenjones@moorebarristers.ca](mailto:kenjones@moorebarristers.ca)>

**Cc:** Bernstein, Andrew <[abernstein@torlys.com](mailto:abernstein@torlys.com)>; Eugene J. Bodnar <[E.Bodnar@scottventuro.com](mailto:E.Bodnar@scottventuro.com)>; Jackson, Leora <[ljackson@torlys.com](mailto:ljackson@torlys.com)>; 'Phil.Tunley@Stlbarristers.ca' <[Phil.Tunley@Stlbarristers.ca](mailto:Phil.Tunley@Stlbarristers.ca)>; 'Mel Solmon' ([msolmon@srglegal.com](mailto:msolmon@srglegal.com)) <[msolmon@srglegal.com](mailto:msolmon@srglegal.com)>; Carlson, Andrew <[acarlson@dwpv.com](mailto:acarlson@dwpv.com)>; 'jadair@agbllp.com' <[jadair@agbllp.com](mailto:jadair@agbllp.com)>; 'gmcguire@agbllp.com' <[gmcguire@agbllp.com](mailto:gmcguire@agbllp.com)>; 'rbrush@cmblaw.ca' <[rbrush@cmblaw.ca](mailto:rbrush@cmblaw.ca)>; 'ctedesco@cmblaw.ca' <[ctedesco@cmblaw.ca](mailto:ctedesco@cmblaw.ca)>; 'dcarson@cmblaw.ca' <[dcarson@cmblaw.ca](mailto:dcarson@cmblaw.ca)>; 'aburns@huntlegal.com' <[aburns@huntlegal.com](mailto:aburns@huntlegal.com)>; 'bradnoff@lerners.ca' <[bradnoff@lerners.ca](mailto:bradnoff@lerners.ca)>; 'llung@lerners.ca' <[llung@lerners.ca](mailto:llung@lerners.ca)>; 'gavin@mackenziebarristers.com' <[gavin@mackenziebarristers.com](mailto:gavin@mackenziebarristers.com)>; 'brooke@mackenziebarristers.com' <[brooke@mackenziebarristers.com](mailto:brooke@mackenziebarristers.com)>; "Symon Zucker" (sz@bondlaw.net) <[sz@bondlaw.net](mailto:sz@bondlaw.net)>; 'jmilburn@milburnlaw.ca' <[jmilburn@milburnlaw.ca](mailto:jmilburn@milburnlaw.ca)>; 'djarcaig@milburnlaw.ca' <[djarcaig@milburnlaw.ca](mailto:djarcaig@milburnlaw.ca)>; Milne-Smith, Matthew <[MMilne-Smith@dwpv.com](mailto:MMilne-Smith@dwpv.com)>; Breanne Campbell <[B.Campbell@scottventuro.com](mailto:B.Campbell@scottventuro.com)>; Plumpton, Linda <[lplumpton@torlys.com](mailto:lplumpton@torlys.com)>

**Subject:** Catalyst v. Anson et al - Particulars

Mr. Moore,

In his endorsement dated May 23, 2018, Justice Hainey indicated that "Mr. Moore shall deliver his response to Ms. Plumpton's Demand for Particulars by June 1, 2018." We did not receive particulars on Friday, and have been provided with no explanation as to why this is the case. Given that your clients have had our Demand since January 23, 2018, it is difficult to imagine that there could be a reasonable explanation for this delay. Please provide the particulars immediately as further delay will prejudice our clients' ability to consider and prepare for their motion. If we do not receive a response promptly, we will at a minimum be seeking elevated costs on the motion.

Regards,

Linda Plumpton

P. 416.865.8193

This email and any attachments are for the sole use of the intended recipients and may be privileged or confidential. Any distribution, printing or other use by anyone else is prohibited. If you are not an intended recipient, please contact the sender immediately, and permanently delete this email and attachments.

Le présent courriel et les documents qui y sont joints sont exclusivement réservés à l'utilisation des destinataires concernés et peuvent être de nature privilégiée ou confidentielle. Toute distribution, impression ou autre utilisation est interdite aux autres personnes. Si vous ne faites pas partie des destinataires concernés, veuillez en informer immédiatement l'expéditeur, ainsi que supprimer ce courriel et les documents joints de manière permanente.



THE CATALYST CAPITAL GROUP INC. et al.  
Plaintiffs

-and- WEST FACE CAPITAL INC. et al.  
Defendants

Court File No. CV-17-587463-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**PROCEEDING COMMENCED AT  
TORONTO**

**AFFIDAVIT OF CRISTINA GARISTO  
SWORN JUNE 29, 2018**

**SOLMON ROTHBART GOODMAN LLP**

Barristers  
375 University Avenue  
Suite 701  
Toronto, Ontario  
M5G 2J5

Melvyn L. Solmon (LSUC# 16156J)  
*msolmon@srglegal.com*  
Tel: 416-947-1093 (Ext. 333)  
Fax: 416-947-0079

Lawyers for the defendant,  
Richard Molyneux

File Number: 17983

RCP-E 4C (May 1, 2016)

THE CATALYST CAPITAL GROUP INC. et al.  
Plaintiffs

-and-

WEST FACE CAPITAL INC. et al.  
Defendants

Court File No. CV-17-587463-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**MOTION RECORD**

**SOLMON ROTHBART GOODMAN LLP**

Barristers  
375 University Avenue  
Suite 701  
Toronto, Ontario  
M5G 2J5

Melvyn L. Solmon (LSUC# 16156J)  
*msolmon@syglegal.com*  
Tel: 416-947-1093 (Ext. 333)  
Fax: 416-947-0079

Lawyers for the defendant,  
Richard Molyneux

File Number: 17983

RCP-E 4C (May 1, 2016)