

Divisional Court File No. 648/15  
Court File No. CV-14-507120

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(DIVISIONAL COURT)**

**BETWEEN:**

**THE CATALYST CAPITAL GROUP INC.**

**Plaintiff/  
Moving Party**

**and**

**BRANDON MOYSE and WEST FACE CAPITAL INC.**

**Defendants/  
Responding Parties**

**SUPPLEMENTARY MOTION RECORD**

January 20, 2016

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Tel: (416) 646-7490

Fax: 416-646-4301

Lawyers for the Defendant,  
Brandon Moyse

**AND TO: DAVIES WARD PHILLIPS & VINEBERG LLP**  
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Toronto ON M5V 3J7

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Fax: 416-863-0871

Lawyers for the Defendant,  
West Face Capital Inc.

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**BETWEEN:**

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**Plaintiff/  
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**and**

**BRANDON MOYSE and WEST FACE CAPITAL INC.**

**Defendants/  
Responding Parties**

**AFFIDAVIT OF ANDREW WINTON  
(SWORN JANUARY 20, 2016)**

I, Andrew Winton, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Lawyer with the law firm of Lax O'Sullivan Lisus Gottlieb LLP ("LOLG"), the lawyers for the Plaintiff ("Catalyst"), and, as such, have knowledge of the matters contained in this affidavit. To the extent my knowledge is based on information and belief, I identify the source of such information and believe the information to be true.

2. Attached as Exhibit "A" is a copy of a Notice of Intention to Dismiss for Delay File No. M45378 from the Court of Appeal for Ontario dated September 9, 2015.

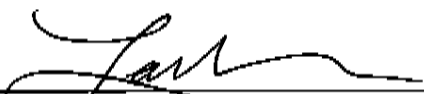
3. Attached as Exhibit "B" is a copy of a Notice of Intention to Dismiss for Delay File No. M45387 from the Court of Appeal for Ontario dated September 9, 2015.

4. On or about December 16, 2015, Matthew Milne-Smith, counsel for West Face Capital Inc. ("West Face"), sent me and Rocco DiPucchio an email containing a press release announcing that Shaw Communications Inc. intended to acquire WIND Mobile Corp. Prior to receiving this email, I received a telephone call from Mr. Milne-Smith alerting me to the proposed transaction and informing me that the transaction would affect Catalyst's claim against West Face. Attached as Exhibit "C" is a copy of an email dated December 16, 2015 from Matthew Milne-Smith to me and Rocco DiPucchio.

5. On or around December 21, 2015, LOLG was informed that the transaction between Shaw Communications Inc. and WIND Mobile Corp. was to take place through a Plan of Arrangement under the OBCA. Attached as Exhibit "D" is an email exchange between Matthew Milne-Smith and Rocco DiPucchio dated December 21, 2015 in which Mr. Milne-Smith requests our availability to schedule the Plan of Arrangement hearing.

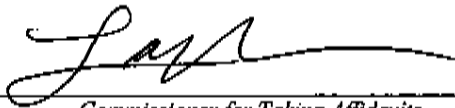
6. Attached as Exhibit "E" is an email from Wendy White on behalf of Mr. Milne-Smith to me and Rocco DiPucchio dated December 31, 2015, which attached a Notice of Application to approve the Plan of Arrangement.

**SWORN BEFORE ME** at the City of  
Toronto, in the Province of Ontario on  
January 20, 2016

  
\_\_\_\_\_  
Commissioner for Taking Affidavits  
Lauren Epstein

  
\_\_\_\_\_  
**ANDREW WINTON**

This is Exhibit "A" referred to in the Affidavit of Andrew Winton  
sworn January 20, 2016



---

*Commissioner for Taking Affidavits*

**LAUREN P.S. EPSTEIN**

COURT OF APPEAL FOR ONTARIO  
OSGOODE HALL  
130 QUEEN STREET WEST  
TORONTO, ONTARIO M5H 2N5



COUR D'APPEL DE L'ONTARIO  
OSGOODE HALL  
130, RUE QUEEN OUEST  
TORONTO, ONTARIO M5H 2N5

File No.: M45378

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

The Catalyst Capital Group Inc.

Plaintiff/  
Appellant

-and-

Brandon Moyse and West Face Capital Inc.

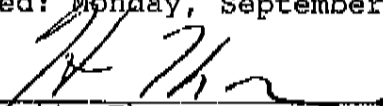
Defendants/  
Respondents

NOTICE OF INTENTION TO DISMISS FOR DELAY

TAKE NOTICE of my intention to dismiss this motion for delay if the moving party's motion record and factum are not filed in accordance with the Rules of Civil Procedure on or before Tuesday, September 22, 2015. This notice is given pursuant to Rule 61.16(7), the notice of motion having been filed on Thursday, August 6, 2015.

An extension of time for the filing of the moving party's motion record and factum may be obtained only by the filing of the consent of the parties to that end or by Order of a Judge of the Court of Appeal for Ontario.

Dated: Monday, September 7, 2015

  
Huguette Thomson  
Registrar and Manager of Court Operations  
Court of Appeal for Ontario

Mr. Chris G. Paliare  
Paliare Roland Rosenberg Rothstein LLP  
155 Wellington Street West  
35th Floor  
Toronto, Ontario  
M5V 3H1, Canada

Mr. Robert A. Centa  
Paliare Roland Rosenberg Rothstein LLP  
155 Wellington Street West  
35th Floor  
Toronto, Ontario  
M5V 3H1, Canada

Mr. Kristian Borg-Oliver  
Paliare Roland Rosenberg Rothstein LLP  
155 Wellington Street West  
35th Floor  
Toronto, Ontario  
M5V 3H1, Canada

Mr. Matthew Milne-Smith  
Davies, Ward Phillips & Vineberg LLP  
155 Wellington Street West  
Toronto, Ontario  
M5V 3J7, Canada

Mr. Rocco Di Pucchio  
Lax O'Sullivan Scott Lisus LLP  
Barristers & Solicitors  
Suite 2750  
145 King Street West  
Toronto, Ontario  
M5H 1J8, Canada

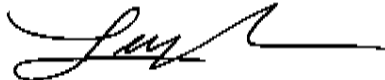
Mr. Andrew J. Winton  
Lax O'Sullivan Scott Lisus LLP  
Barristers & Solicitors  
Suite 2750  
145 King Street West  
Toronto, Ontario  
M5H 1J8, Canada

Mr. Andrew Carlson  
Davies Ward Phillips & Vineberg LLP  
155 Wellington St. West  
40th Floor  
Toronto, Ontario  
M5V 3J7, Canada

NIDD2



This is Exhibit "B" referred to in the Affidavit of Andrew Winton  
sworn January 20, 2016



---

*Commissioner for Taking Affidavits*

**LAUREN P.S. EPSTEIN**

COURT OF APPEAL FOR ONTARIO  
OSGOODE HALL  
130 QUEEN STREET WEST  
TORONTO, ONTARIO M5H 2N5



COUR D'APPEL DE L'ONTARIO  
OSGOODE HALL  
130, RUE QUEEN OUEST  
TORONTO, ONTARIO M5H 2N5

File No.: M45387

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

The Catalyst Capital Group Inc.

Plaintiff/  
Appellant

-and-

Brandon Moyses and West Face Capital Inc.

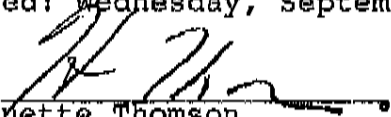
Defendants/  
Respondents

NOTICE OF INTENTION TO DISMISS FOR DELAY

TAKE NOTICE of my intention to dismiss this motion for delay if the moving party's motion record and factum are not filed in accordance with the Rules of Civil Procedure on or before Thursday, September 24, 2015. This notice is given pursuant to Rule 61.16(7), the notice of motion having been filed on Friday, August 7, 2015.

An extension of time for the filing of the moving party's motion record and factum may be obtained only by the filing of the consent of the parties to that end or by Order of a Judge of the Court of Appeal for Ontario.

Dated: Wednesday, September 9, 2015

  
Hugnette Thomson  
Registrar and Manager of Court Operations  
Court of Appeal for Ontario

Mr. Matthew Milne-Smith  
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155 Wellington Street West  
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M5V 3J7, Canada

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Mr. Andrew J. Winton  
Lax O'Sullivan Scott Lisus LLP  
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Mr. Robert A. Centa  
Paliare Roland Rosenberg Rothstein LLP  
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Mr. Kristian Borg-Oliver  
Paliare Roland Rosenberg Rothstein LLP  
155 Wellington Street West  
35th Floor  
Toronto, Ontario  
M5V 3H1, Canada

NIDD2

This is Exhibit "C" referred to in the Affidavit of Andrew Winton  
sworn January 20, 2016



---

*Commissioner for Taking Affidavits*

**LAUREN P.S. EPSTEIN**

**From:** Milne-Smith, Matthew <MMilne-Smith@dwpv.com>  
**Sent:** December-16-15 6:10 PM  
**To:** Andrew Winton; Rocco DiPucchio  
**Subject:** FW: (MWR) Shaw Communications Inc. to Acquire WIND Mobile Corp.

Shaw Communications Inc. to Acquire WIND Mobile Corp.  
2015-12-16 23:03:03.958 GMT

Shaw Communications Inc. to Acquire WIND Mobile Corp.

- Enhances Shaw's product offering by expanding mobile service capabilities and enabling development of a best-in-class converged wireline and wireless network
- Unique opportunity to acquire rapidly growing wireless business together with 50 MHz of spectrum in Ontario, Alberta and British Columbia
- Acquisition of WIND represents the most efficient operating and financial entry point into the Canadian wireless landscape
- Time to market and integration will be greatly enhanced via an established operating business and experienced management team

CALGARY, ALBERTA -- (Marketwired) -- 12/16/15 -- Shaw Communications Inc. ("Shaw") (TSX: SJR.B)(NYSE: SJR) announced today that it has agreed to acquire a 100% interest in Mid-Bowline Group Corp. and its wholly-owned subsidiary, WIND Mobile Corp. ("WIND" or the "Company") for an enterprise value of approximately \$1.6 billion (the "Transaction").

"The global telecom landscape is quickly evolving towards 'mobile-first' product offerings as consumers demand ubiquitous connectivity from their service providers. The acquisition of WIND provides Shaw with a unique platform in the wireless sector which will allow us to offer a converged network solution to our customers that leverages our full portfolio of best-in-class telecom services, including fibre, cable, WiFi, and now wireless," said Chief Executive Officer, Brad Shaw. "This transaction represents a transformational step in the history of Shaw and we are excited about our future growth prospects in mobile. This growth will be accelerated by combining Shaw's existing customer relationships, trusted brand and wireline and WiFi infrastructure with WIND's impressive asset base, including its existing spectrum position and mobile network."

WIND is Canada's largest non-incumbent wireless services provider, serving approximately 940,000 subscribers across Ontario, British Columbia and Alberta with 50MHz of spectrum in each of these regions. Led by a management team with demonstrated telecom expertise, the Company has achieved impressive growth as evidenced by a 47% increase in its subscriber base over the past two years which has translated into strong growth in revenue and EBITDA. In calendar year 2015, WIND is expected to generate \$485 million in revenue and \$65 million in EBITDA. As WIND continues to reinvest in its network and service offering, including a scheduled upgrade to 4G LTE services by 2017, the Company expects that its unique customer

value proposition will result in continued strong growth in the future.

WIND's current management team is led by Chief Executive Officer Alek Krstajic, who has over 20 years of telecom experience. Mr. Krstajic and his team will remain with the Company and will continue to drive the wireless opportunity. "We believe the combination of Shaw and WIND creates a wireless leader with immediate benefits for our customers and employees, giving them more choice, capabilities and opportunities to stay connected," said Mr. Krstajic. "With Shaw's long-term commitment, customer focus and breadth of product offering, this transaction enables us to enter into a new phase of growth."

In 2011, Shaw announced the launch of a carrier-grade WiFi network, Shaw GO WiFi, which has since expanded to over 75,000 hotspots, increasing the value proposition of broadband outside of the home. "The time has come to offer even more mobility to our customers," said Mr. Shaw. "By acquiring WIND, we now have immediate scale, spectrum, retail distribution and a network with a clear path to LTE that complements our existing fibre and WiFi infrastructure."

### Transaction Terms & Financing

Under the terms of the Transaction, Shaw will acquire 100% of the shares of WIND's parent company, Mid-Bowline Group Corp., by plan of arrangement, for an enterprise value of approximately \$1.6 billion based on quarterly financial statements as of September 30, 2015.

Shaw has executed a fully-committed bridge financing facility with the Toronto Dominion Bank and the Canadian Imperial Bank of Commerce.

Shaw is committed to a financing plan that maintains its investment grade status and accordingly will optimize the significant flexibility available to it, including potential debt issuance, asset sales, the issuance of preferred or common equity or any combination thereof. Additional details regarding the longer term financing of the Transaction will be provided prior to close.

The Transaction is subject to the receipt of certain approvals, including those from the Competition Bureau and the Ministry of Innovation, Science & Economic Development (formerly Industry Canada) and court approval of the plan of arrangement. Shareholders of Mid-Bowline Group Corp. have approved the transaction and closing is expected to occur during the third quarter of fiscal 2016.

CIBC World Markets Inc. and TD Securities Inc. acted as financial advisors to Shaw in connection with the Transaction and Dentons Canada LLP provided legal advice.

### Management Presentation

Shaw and WIND senior management will hold a conference call with the financial community on Thursday, December 17, 2015 at 6:00 a.m.

MT/8:00 a.m. ET. Members of the media and the public will be able to participate in listen-only mode.

The call details are:

- Canada/U.S. Toll Free: 1-800-319-4610

- Int'l Toll:

<http://services.choruscall.ca/links/operatorassisted.html>

- Please call five to 10 minutes prior to commencement of the call

- Replay Dial In (available until midnight Thursday, December 31,

2015):

- Canada/U.S. Toll free: 1-800-319-6413

- Int'l toll: +1-604-638-9010

- Passcode: 91023#

There will be an investor presentation associated with the transaction and it will be further discussed during the conference call. The investor presentation will be available at:

<http://www.shaw.ca/Corporate/Investors/Presentations-And-Meetings/>

This presentation and conference call will also be available on the web live or as a recorded broadcast (until midnight on Thursday, December 31, 2015) at:

<http://services.choruscall.ca/links/shaw20151217.html>

#### About Shaw

Shaw Communications Inc. is a diversified communications and media company, serving 3.2 million customers through a reliable and extensive fibre network. Shaw serves consumers with broadband Internet, WiFi, Digital Phone and Video products and services. Shaw Business Network Services provides business customers Internet, data, WiFi, telephony, Video and fleet tracking services. Shaw Business Infrastructure Services offers North American enterprises colocation, cloud and managed services through ViaWest. Shaw Media provides Canadians with engaging programming content through one of Canada's largest conventional television networks, Global Television, and 19 specialty networks including HGTV Canada, Food Network Canada, HISTORY(R) and Showcase. Shaw is traded on the Toronto and New York stock exchanges and is included in the S&P/TSX 60 Index (TSX: SJR.B)(NYSE: SJR).

#### About WIND

WIND Mobile is Canada's largest non-incumbent wireless carrier, serving approximately 940,000 subscribers across Ontario, Alberta and British Columbia. WIND is dedicated to offering a differentiated wireless experience for Canadians by offering strong value and exclusive features through easy to understand wireless plans and no-term contracts. Learn more about WIND Mobile at [WINDmobile.ca](http://WINDmobile.ca) or follow online at [facebook.com/WINDmobile](https://facebook.com/WINDmobile) or [twitter.com/WINDmobile](https://twitter.com/WINDmobile).

#### Caution Regarding Forward-Looking Statements

##### Statements in thi

s news release relating to the acquisition of WIND, the related financing, Shaw's credit rating and operational and growth plans and expected business and financial results for Shaw and WIND constitute "forward-looking statements" within the meaning of applicable securities laws. These statements are based on assumptions made by Shaw that it believes are appropriate in the circumstances, including without limit, that: regulatory and court approvals will be received and the other conditions to closing of the transaction will be satisfied; financial markets will be receptive to Shaw's future financing on acceptable terms; expected business and financial results for Shaw and WIND will be realized; the pricing environment for WIND is stable relative to current rates; there is no significant market disruption or other significant changes in economic conditions, competition or regulation; the upgrade to 4G LTE, other growth plans and the converged network solution can be executed in a timely and cost effective manner to yield the results expected for Shaw and WIND; and WIND will provide expected benefits to the Shaw and the service offering for its customers. There is the risk that one or more of

these assumptions will not prove to be accurate and this may affect closing of the transaction and/or the business, operational and financial expectations for Shaw. Undue reliance should not be placed on any forward-looking statement. Except as required by law, Shaw disclaims any obligation to update any forward-looking statement.

**Contacts:**

**Investor Inquiries:**

Shaw Communications Inc.

Investor Relations

[investor.relations@sjrb.ca](mailto:investor.relations@sjrb.ca)

[www.shaw.ca](http://www.shaw.ca)

**Media Inquiries:**

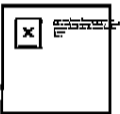
Shaw Communications Inc.

Chethan Lakshman, VP External Affairs

[chethan.lakshman@sjrb.ca](mailto:chethan.lakshman@sjrb.ca)

(403) 930-8448

-0- Dec/16/2015 23:03 GMT



**Matthew Milne-Smith | Bio**

155 Wellington Street West  
Toronto, ON M5V 3J7

T 416.863.6695  
[mmilne-smith@dwpv.com](mailto:mmilne-smith@dwpv.com)

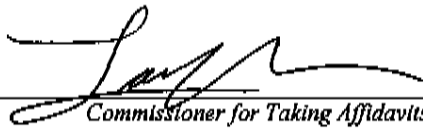
**DAVIES WARD PHILLIPS & VINEBERG LLP**

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This e-mail may contain confidential information which may be protected by legal privilege. If you are not the intended recipient, please immediately notify us by reply e-mail or by telephone (collect if necessary), delete this e-mail and destroy any copies.



This is Exhibit "D" referred to in the Affidavit of Andrew Winton  
sworn January 20, 2016



---

*Commissioner for Taking Affidavits*

**LAUREN P.S. EPSTEIN**

**From:** Milne-Smith, Matthew <MMilne-Smith@dwpv.com>  
**Sent:** December-21-15 9:56 AM  
**To:** Rocco DiPucchio; Andrew Winton  
**Subject:** RE: 9:30 appointment

Of course, I'm around today. Call me when you're free.

---

**From:** Rocco DiPucchio [<mailto:rdipucchio@counsel-toronto.com>]  
**Sent:** December 21, 2015 9:52 AM  
**To:** Milne-Smith, Matthew; Andrew Winton  
**Subject:** Re: 9:30 appointment

I'm just up here with Doris. Can we speak at some point today?

Rocco DiPucchio  
Lax O'Sullivan Lixus Gottlieb LLP  
(416) 598-2268

----- Original message -----

**From:** "Milne-Smith, Matthew" <MMilne-Smith@dwpv.com>  
**Date:** 12-21-2015 09:03 (GMT-05:00)  
**To:** Andrew Winton <[awinton@counsel-toronto.com](mailto:awinton@counsel-toronto.com)>, Rocco DiPucchio <[rdipucchio@counsel-toronto.com](mailto:rdipucchio@counsel-toronto.com)>  
**Subject:** 9:30 appointment

Are you guys available any or all of the next three days to go and schedule our plan of arrangement hearing?



Matthew Milne-Smith | Bio

155 Wellington Street West  
Toronto, ON M5V 3J7

T 416.863.5595  
[mmilne-smith@dwpv.com](mailto:mmilne-smith@dwpv.com)

DAVIES WARD PHILLIPS & VINEBERG LLP

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This is Exhibit "E" referred to in the Affidavit of Andrew Winton  
sworn January 20, 2016



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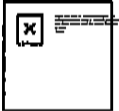
*Commissioner for Taking Affidavits*

**LAUREN P.S. EPSTEIN**

**From:** White, Wendy <WWhite@dwpv.com> on behalf of Milne-Smith, Matthew <MMilne-Smith@dwpv.com>  
**Sent:** December-31-15 10:52 AM  
**To:** Rocco DiPucchio; Andrew Winton  
**Cc:** Milne-Smith, Matthew  
**Subject:** West Wind / Catalyst  
**Attachments:** Notice of Application.PDF; Letter.PDF

Our process servers just tried to serve you with the Notice of Application but your office seems to be closed. Would you please email back acceptance of service on behalf of Catalyst. Thank you.

Wendy White for:  
 Matthew Milne-Smith



Matthew Milne-Smith | Bio

155 Wellington Street West  
 Toronto, ON M5V 3J7

T 416.863.6596  
 mmilne-smith@dwpv.com

DAVIES WARD PHILLIPS & VINEBERG LLP

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This e-mail may contain confidential information which may be protected by legal privilege. If you are not the intended recipient, please immediately notify us by reply e-mail or by telephone (collect if necessary), delete this e-mail and destroy any copies.

**THE CATALYST CAPITAL GROUP INC.**  
Plaintiff (Moving Party)

**-and- BRANDON MOYSE et al.**  
Defendants (Responding Parties)

Divisional Court No. 648/15  
Court File No. CV-14-507120

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(DIVISIONAL COURT)**

**PROCEEDING COMMENCED AT**  
**TORONTO**

**AFFIDAVIT OF ANDREW WINTON**

**LAX O'SULLIVAN LISUS GOTTLIEB LLP**  
Counsel  
Suite 2750, 145 King Street West  
Toronto ON M5H 1J8

**Rocco DiPuccio** LSUC#: 381851  
rdipuccio@counsel-toronto.com  
Tel: 416 598-2268

**Lauren P. S. Epstein** LSUC#: 640150  
lepstein@counsel-toronto.com  
Tel: 416 645 5078  
Fax: 416 598 3730

Lawyers for the Plaintiff/Moving Party

THE CATALYST CAPITAL GROUP INC.  
Plaintiff (Moving Party)

-and- BRANDON MOYSE et al.  
Defendants (Responding Parties)

Divisional Court No. 648/15  
Court File No. CV-14-507120

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(DIVISIONAL COURT)**

PROCEEDING COMMENCED AT  
TORONTO

**SUPPLEMENTARY MOTION RECORD**

**LAX O'SULLIVAN LISUS GOTTILIEB LLP**  
Counsel  
Suite 2750, 145 King Street West  
Toronto ON M5H 1J8

**Rocco DiPucchio** LSUC#: 381851  
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**Lauren P. S. Epstein** LSUC#: 640150  
lepstein@counsel-toronto.com  
Tel: 416 645 5078  
Fax: 416 598 3730

Lawyers for the Plaintiff/Moving Party