

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

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

B E T W E E N :

THE CATALYST CAPITAL GROUP INC.

Plaintiff/Moving Party

- and -

BRANDON MOYSE and WEST FACE CAPITAL INC.

Defendants/Responding Parties

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**FURTHER SUPPLEMENTAL RESPONDING MOTION RECORD  
OF THE DEFENDANT, WEST FACE CAPITAL INC.  
RE: MOTION TO EXTEND TIME AND  
FOR LEAVE TO APPEAL  
(Returnable January 21, 2016)**

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**DAVIES WARD PHILLIPS & VINEBERG LLP**  
155 Wellington Street West  
Toronto, ON M5V 3J7

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**AND TO: PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**

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Lawyers for the Defendant, Brandon Moyse

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

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**I N D E X**

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**TAB 1**

Divisional Court File No.: 648/15  
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B E T W E E N :

THE CATALYST CAPITAL GROUP INC.

Plaintiff/Moving Party

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Defendants/Responding Parties

**AFFIDAVIT OF WENDY WHITE**

I, WENDY WHITE, of the City of Toronto in the Province of Ontario, MAKE  
OATH AND SAY AS FOLLOWS:

1. I am secretary to Matthew Milne-Smith, a partner in the firm Davies Ward Phillips & Vineberg LLP, counsel to the Defendant, West Face Capital Inc., and as such manage the correspondence for Mr. Milne-Smith's practice.
2. A copy of e-mail correspondence dated August 27, 2015 from Andrew Winton to Matthew Milne-Smith re Catalyst Appeal is attached to my affidavit as Exhibit "A".
3. A copy of the Notice of Intention to Dismiss Appeal for Delay from Court of Appeal for Ontario dated August 31, 2015 is attached to my affidavit as Exhibit "B".

SWORN before me at )  
the City of Toronto, in the )  
Province of Ontario, this )  
20th day of January, 2016. )

  
A Commissioner, etc.  
Nathaniel Read-Ellis

  
WENDY WHITE

# TAB A



**Milne-Smith, Matthew**

**From:** Andrew Winton <awinton@counsel-toronto.com>  
**Sent:** August 27, 2015 6:07 PM  
**To:** Milne-Smith, Matthew; 'Robert.Centa@paliarerland.com'  
**Cc:** Carlson, Andrew; 'Kris Borg-Olivier (kris.borg-olivier@paliarerland.com)'; 'Denise.Cooney@paliarerland.com'; Rocco DiPucchio  
**Subject:** RE: Catalyst appeal [IWOV-CLIENT.FID45653]

Understood. Thanks,

**Andrew Winton**  
 Lax O'Sullivan Scott Lisus LLP

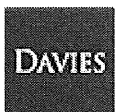
Direct: (416) 644-5342

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**From:** Milne-Smith, Matthew [mailto:MMilne-Smith@dwvpv.com]  
**Sent:** August-27-15 6:07 PM  
**To:** Andrew Winton; 'Robert.Centa@paliarerland.com'  
**Cc:** Carlson, Andrew; 'Kris Borg-Olivier (kris.borg-olivier@paliarerland.com)'; 'Denise.Cooney@paliarerland.com'; Rocco DiPucchio  
**Subject:** RE: Catalyst appeal [IWOV-CLIENT.FID45653]

Andrew, we're fine with you taking until September 11, subject to Paliare Roland's position. We may ask for a similar indulgence for our materials, particularly if the motion to quash is heard in advance and is still pending.

Matt



Matthew Milne-Smith | Bio

155 Wellington Street West  
 Toronto, ON M5V 3J7

T 416.863.5595  
 mmilne-smith@dwvpv.com

DAVIES WARD PHILLIPS & VINEBERG LLP

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**From:** Andrew Winton [mailto:awinton@counsel-toronto.com]  
**Sent:** August 27, 2015 2:57 PM  
**To:** Milne-Smith, Matthew; 'Robert.Centa@paliarerland.com'  
**Cc:** Carlson, Andrew; 'Kris Borg-Olivier (kris.borg-olivier@paliarerland.com)'; 'Denise.Cooney@paliarerland.com'; Rocco DiPucchio  
**Subject:** Catalyst appeal [IWOV-CLIENT.FID45653]

This is Exhibit.....<sup>A</sup>.....referred to in the  
 affidavit of.....*Wendy White*.....  
 sworn before me, this.....*20th*.....  
 day of.....*January*.....20..16..

A COMMISSIONER FOR TAKING AFFIDAVITS

Counsel,

According to the rules, our appeal is supposed to be perfected tomorrow. We are not quite in a position to do so.

We would appreciate if you would agree to extend the deadline to perfect by two weeks to September 11, 2015.

Thank you,

**Andrew Winton**

Direct: (416) 644-5342

[awinton@counsel-toronto.com](mailto:awinton@counsel-toronto.com)

**Lax O'Sullivan Scott Lisus LLP**

Suite 2750, 145 King Street West

Toronto ON M5H 1J8 Canada

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**LAX  
O'SULLIVAN  
SCOTT  
LISUS**

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TAB B

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.: C60799

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 Appeal for Delay

TAKE NOTICE of my intention to dismiss this appeal for delay if it is not perfected in accordance with the Rules of Civil Procedure on or before: Tuesday, September 22, 2015. This notice is given pursuant to Rule 61.13(2.1), the Notice of Appeal having been filed on: Wednesday, July 29, 2015.

An extension of time for the perfection of the appeal may be obtained only by the filing of the consent of the parties to that end or by Order of the Court or a Judge thereof.

Date: Monday, August 31, 2015

Huguette G. Thomson  
Registrar and Manager of Court Operations  
(416) 327-5020  
(416) 327-5032 fax

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

This is Exhibit.....<sup>B</sup>.....referred to in the  
affidavit of.....Wendy White.....  
sworn before me, this.....20th.....  
day of.....January.....2016.....

ACOMMISSIONER FOR TAKING AFFIDAVITS

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

and  
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