

Court 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 MOTION TO QUASH APPEAL**

**TAKE NOTICE THAT** the defendant (respondent), Brandon Moyse, will make a motion to the Court of Appeal for Ontario at Osgoode Hall, 130 Queen Street West, Toronto, Ontario, M5H 2N5, on a date to be fixed by the Registrar.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR**

- (a) An order quashing the plaintiff's appeal from the order of Justice Glustein dated July 7, 2015, on the basis that the Court of Appeal for Ontario does not have jurisdiction to hear this appeal;
- (b) The costs of this motion; and,
- (c) Such further and other relief as this Honourable Court deems just.

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**THE GROUNDS FOR THE MOTION ARE**

- (a) The plaintiff brought a motion seeking:
  - (i) an order prohibiting the defendant West Face Capital Inc. ("West Face") from voting its 35% share interest in WIND Mobile pending a determination of the issues raised in the action (the "Voting Injunction");
  - (ii) an order authorizing an Independent Supervising Solicitor to create and review forensic images of the corporate servers of West Face and the electronic devices used by five individuals at West Face at the defendants' expense (the "Imaging Order"); and
  - (iii) an order that Mr. Moyse was in contempt of an interim consent order of Firestone J., dated July 16, 2014 (the "Contempt Order");
- (b) On July 7, 2015, Justice Glustein dismissed the plaintiff's motion in its entirety;
- (c) The order dismissing the motion for the Voting Injunction, the Imaging Order and the Contempt Order is an interlocutory order;
- (d) The Court of Appeal for Ontario does not have jurisdiction to hear appeals from an interlocutory order of a judge of the Superior Court of Justice;
- (e) An appeal from an interlocutory order of a judge of the Superior Court of Justice lies only to the Divisional Court, and only with leave of that court;

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- (f) Pursuant to the practice direction of the Court of Appeal for Ontario:
  - (i) motions to quash appeals are heard by a panel of the court; and
  - (ii) where the basis for the motion to quash is that the court lacks jurisdiction to hear the appeal, the motion will be scheduled at an early date.
- (g) Sections 6(1)(b), 7(3), 19(1)(b) and 134(3) of the *Courts of Justice Act*, RSO 1990, c C.43;
- (h) Rules 37, 61.16 and 62.02 of the *Rules of Civil Procedure*, RRO 1990, Reg 194.
- (i) Practice Direction Concerning Civil Appeals in the Court of Appeal, October 7, 2003, Part 5.

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

- (a) Order of Honourable Justice Glustein, dated July 7, 2015, and His Honour's reasons for decision;
- (b) Such further and other evidence as counsel may advise and this Honourable Court may permit.

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August 4, 2015

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PROCEEDING COMMENCED AT  
TORONTO

**NOTICE OF MOTION**

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