

MINISTRY OF THE ATTORNEY GENERAL
 SUPERIOR COURT OF JUSTICE
 FAMILY LAW DIVISION
 393 UNIVERSITY AVE. 9TH FLOOR
 TORONTO, ONTARIO
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FACSIMILE TRANSMITTAL SHEET

FILE NUMBER: <i>CN-14-509-120</i>	FILE NAME: <i>Capitalist vs Empire</i>
FROM: <i>Justice Centre</i>	DATE: <i>October 7 2014</i>
FAX NUMBER (S): <i>416 367 7091</i>	NUMBER OF PAGES:
TO: <i>Jeff Hopkins & John Tebbel</i>	
TO: <i>Rocco Di Rocchio</i>	
TO:	
TO:	

URGENT
 FOR REVIEW
 PLEASE COMMENT
 PLEASE REPLY
 PLEASE RECYCLE

NOTES/COMMENTS:

• Please see attached ^{CV} the environmental
 from Justice Centre for case # *14-509120*
 the Capitalist Capital groups vs Empire

Oct 7/14

Mr Hopkins for Defndt B Moyses
Mr Winton for Plaintiff

The Defndt seeks a stay of the claim for punitive damages on the grounds that the claim is subject to the requirement for arbitration in the arbitration clause in the employment agreement. The plaintiff also seeks injunctive relief against the defendant, which is not subject to the arbitration requirement. In paragraph 35 of its statement of claim, the plaintiff alleges that it is entitled to punitive damages because of the "egregious acts" of the

Go to p 2

THE CATALYST CAPITAL GROUP INC.

- and -

MOYSE ET AL

Court File No. CV-14-507120

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at TORONTO

MOTION RECORD OF THE DEFENDANT
BRANDON MOYSE



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defendant pleaded in the first of claims on the grounds for the injunctive relief sought. Accordingly, the claim for punitive damages is ancillary to the claim for injunctive relief. If the claim for punitive damages is required to be arbitrated instead of litigated along with the claim for injunctive relief there is a risk of multiplicity of proceedings yielding inconsistent results. The plaintiff submits that s. 7 (5) of the Arbitration Act is applicable and the court should in effect sever the punitive damages issue from the arbitration and allow it to be heard as part of the litigation of the injunctive relief. While it would seem reasonable for that disposition to be made, Section 7 (5) does not seem to allow it.

S. 7 (5) allows the court to allow litigation proceedings to continue separate from the stay to be granted with respect to "the matter dealt with in the arbitration agreement" but it does not provide that

p3

The court may sever out of ~~the~~ arbitration a matter covered by it (such as the punitive damages claim) and send such a matter to litigation ~~act~~ instead. Accordingly, the default is entitled to have the punitive damages issue ~~litigated~~ arbitrated and to have the requested stay for that purpose, pursuant to s. 7(1) of the Arbitration Act.

counsel may make written submissions as to costs to me, with a copy by email to my assistant, - within 10 days for the default, within the 10 days after that for the plaintiff, and 10 days after that for any reply.

Spence J