

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR
ARRANGEMENT WITH RESPECT TO 1570499 B.C. LTD.

**FACTUM OF THE MONITOR
(CLAIMS PROCEDURE ORDER & ANCILLARY ORDER)**

February 6, 2026

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**FACTUM OF THE MONITOR
CLAIMS PROCEDURE ORDER & ANCILLARY ORDER**

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PART I - NATURE OF THIS MOTION

1. This Factum is filed in support of a motion by KSV Restructuring Inc., in its capacity as court-appointed monitor (in such capacity, the “**Monitor**”) of 1570499 B.C. Ltd. (“**ResidualCo**”), pursuant to the Order (Approval and Reverse Vesting Order) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated January 2, 2026 (the “**ARVO**”), seeking the following Orders:

(a) an Order (the “**Claims Procedure Order**”), *inter alia*:

(i) approving the claims procedure contemplated by the Claims Procedure Order for the identification, assertion, resolution and determination of Claims against ResidualCo (as defined below), including processes relating to the delivery of Claims Packages, the filing of Proofs of Claim, the issuance of Notices of Revision or Disallowance, the filing of Notices of Dispute, and the determination of Proven Claims (collectively the “**Claims Process**”); and

- (ii) authorizing and directing the Monitor to administer the Claims Process in accordance with the Claims Procedure Order and to exercise the powers and protections set out therein;
- (b) an Order (the “**Ancillary Order**”), *inter alia*:
 - (i) extending the Stay Period (as defined in the ARIO, defined below) to and including May 29, 2026;
 - (ii) approving the Fourth Report of the Monitor dated February 3, 2026 (the “**Fourth Report**”) and the Monitor’s activities described therein; and
 - (iii) approving the fees and disbursements of the Monitor and its counsel, as set out in the Fee Affidavits (as defined below) appended to the Fourth Report.

2. Capitalized terms not defined herein have their meaning as set out in the Fourth Report.

PART II - SUMMARY OF FACTS

A. Background

3. On October 17, 2025, B+H Architects Corp. (the “**Original Applicant**” or “**BHA**”) obtained an initial order (the “**Initial Order**”) under the CCAA, which among other things, appointed KSV Restructuring Inc. as the Monitor in these CCAA proceedings.¹ The Initial Order

¹ Fourth Report of the Monitor dated February 3, 2026 at 1.0.1 [*Fourth Report*].

was subsequently amended and restated by Order dated October 27, 2025 (as further amended from time to time, the “**ARIO**”).²

4. BHA is a leading architecture and design firm headquartered in Toronto, Ontario, and has operated under the “B+H” brand for more than 70 years. Its portfolio includes several of Toronto’s most prominent buildings, such as Ripley’s Aquarium of Canada, Brookfield Place, Mount Sinai Hospital, the Toronto Eaton Centre, and the MaRS Convergence Centre. Although based in Toronto, BHA maintains an international practice, with projects completed in the United States, China, Singapore, the Kingdom of Saudi Arabia, India, Qatar, Vietnam, Brazil, and the United Arab Emirates (“**UAE**”).³

5. On January 2, 2026, the Court granted the ARVO, which, among other things:⁴

- (a) approved the Amended Stalking Horse Agreement and the transactions contemplated thereby (the “**Transaction**”);
- (b) vested in Surbana Jurong Holdings (Canada) Ltd. (“**SJHC**”) the Subscribed Shares (as defined in the Amended Stalking Horse Agreement) free and clear of all Encumbrances other than the Permitted Encumbrances;
- (c) deemed the Original Applicant to be removed, and added ResidualCo, as the Applicant debtor company in these CCAA proceedings upon closing of the Transaction;

² Fourth Report at 1.0.4.

³ Fourth Report at 2.0.1.

⁴ Fourth Report at 1.0.8.

- (d) approved the transfer to and vesting in ResidualCo of BHA's right, title and interest in and to, and liabilities and obligations under, the Excluded Assets and the Excluded Liabilities (each as defined in the Amended Stalking Horse Agreement); and
- (e) expanded the Monitor's power to, among other things, perform such activities as may be required to facilitate or assist ResidualCo in undertaking the orderly completion of these CCAA proceedings and the administration of ResidualCo's estate, including assigning ResidualCo, or causing ResidualCo to be assigned, into bankruptcy.

6. The Transaction closed on January 30, 2026 (the "**Closing Date**").⁵ Pursuant to the Amended Stalking Horse Agreement, the Purchase Price comprised of a credit bid of all amounts outstanding under the DIP Facility as at Closing, which totaled approximately \$1.93 million (including accrued interest and fees), plus the following cash consideration: (i) to the extent not funded through the DIP Loan or cash on hand at Closing, cash required to satisfy any unpaid amounts secured by the Priority Charges and the Administrative Winddown Amount; and (ii) the Additional Cash Consideration of \$2.47 million.⁶

7. The Monitor received \$2.47 million from SJHC at Closing, and BHA paid the Administrative Winddown Amount and all amount outstanding as of closing that were secured by Administration Charge.⁷ In accordance with the ARVO, the Monitor also paid the KERP Funds to

⁵ Fouth Report at para 4.0.1.

⁶ Fourth Report at para 4.0.2.

⁷ Fourth Report at para 4.0.3.

BHA at Closing so they could be distributed in accordance with the KERP.⁸ Under the ARVO, BHA ceased to be the applicant in these CCAA proceedings on the Closing Date, and ResidualCo was substituted as the applicant for the remaining steps in the proceeding.⁹

B. The Claims Procedure Order¹⁰

8. The proposed Claims Procedure, which will be administered by the Monitor, must be completed in order for the Monitor to seek Court approval to distribute funds to the creditors of ResidualCo.¹¹ The Claims Procedure is designed to solicit, receive, and determine all Claims as defined in the Claims Procedure Order.¹²

9. The proposed Claims Procedure is summarized as follows and more fully described in the Fourth Report.

10. Following the issuance of the Claims Procedure Order, the Monitor will publish the Notice to Creditors and make the Claims Package and Claims Schedule available on the Case Website.¹³ By February 13, 2026, the Monitor will also deliver the Claims Package to parties on the Service List and to those known or reasonably believed to have potential Claims based on the books and records of BHA or ResidualCo.¹⁴

⁸ Fourth Report at 4.0.4.

⁹ Fourth Report at 4.0.5.

¹⁰ Capitalized terms in this section have the meaning provided to them in the Claims Procedure Order unless otherwise defined herein.

¹¹ Fourth Report at 5.0.1

¹² Fourth Report at 5.0.3.

¹³ Fourth Report at 5.1.1-2(a).

¹⁴ Fourth Report at 5.1.2(b)

11. Creditors wishing to assert a Claim must submit a Proof of Claim, with supporting documentation, to the Monitor by 5:00 p.m. EST on March 30, 2026.¹⁵ Creditors who do not file by the Claims Bar Date will be barred from asserting or enforcing such Claims against ResidualCo or its property.¹⁶

12. For the purposes of the Claims Procedure, Claims is defined to include “Claim” means any right or claim of any Person that has been or may be asserted or made in whole or in part against ResidualCo, including, for any avoidance of doubt, any right or claim of any Person that has been or may be asserted or made in whole or in part against the Original Applicant, which were transferred to, assumed by, and vested in ResidualCo pursuant to the ARVO. The following liabilities of the Original Applicant were not transferred to ResidualCo and accordingly, do not constitute Claims:

- (a) the Insured Litigation Claims, being the Barnett Litigation and the Plenary Litigation;
- (b) the SDIC Insurance Claim (provided that SDIC’s claim remaining after recovery from the Arbitration Insurance Policy constitutes a Claim for which a Proof of Claim must be filed by the Claims Bar Date);
- (c) all Taxes owed or owing or accrued due by BHA for any taxation year (if any) ending on or before the Closing Date and any audits or reassessments for any taxation year (if any) ending on or before the Closing Date;

¹⁵ Fourth Report at 5.2.1.

¹⁶ Fourth Report at 5.2.1.

- (d) any Liability in connection with or related to the DIP Loan or under the DIP Term Sheet;
- (e) any Liability of BHA to BHI in connection with or under the Services Agreement or in connection with any other services provided between BHI and BHA;
- (f) any other Liability of BHA to SJHC, BHI and/or any of their subsidiaries and affiliates, except to the extent such Liability arises as a consequence of a third-party claim that is an Excluded Liability for which a claim for contribution or indemnity exists against ResidualCo;
- (g) Liabilities relating to BHA employees; and
- (h) Liabilities which relate to (i) business under any Retained Contracts; and (ii) any Permits and Licenses forming part of the Retained Assets.

13. Excluded Claims consist only of claims by beneficiaries of the Administration Charge for obligations secured by that charge.¹⁷

14. The Monitor will review all Proofs of Claim submitted by the Claims Bar Date and may accept, revise, or disallow any Claim. Any Creditor who disputes the revisions or disallowance must deliver a Notice of Dispute to the Monitor by no later than 5:00 p.m. EST on the date that is fourteen (14) calendar days after the date on which the Monitor sends the revision or disallowance to the Creditor. Upon receipt of a Notice of Dispute, the Monitor shall attempt to resolve such

¹⁷ Fourth Report at 5.4.1

dispute consensually by way of an agreement between the Monitor and the Creditor, or upon further Order of the Court.¹⁸

C. The Ancillary Order

15. The Monitor is seeking an extension of the Stay of Proceedings from February 13, 2026 to May 29, 2026 to allow for time to carry out the proposed Claims Procedure (if approved by the Court) and thereafter return to the Court to seek a distribution order.¹⁹

16. The Monitor is also seeking approval of the Fourth Report, and the activities of the Monitor described therein, as well as the fees and disbursements of the Monitor and its legal counsel, Cassels Brock & Blackwell LLP (“**Cassels**”).

17. In support of this motion, the Fourth Report attaches the Affidavit of Noah Goldstein sworn February 3, 2026 and the Affidavit of Natalie E. Levine sworn February 3, 2026 (together, the “**Fee Affidavits**”), which provide a comprehensive listing of accounts sought to be passed, including each account (redacted for matters of privilege or confidentiality) and summary tables identifying the individual professionals who have worked on this matter, their hourly billing rates and total number of hours worked, among other information.²⁰

PART III - STATEMENT OF ISSUES, LAW & AUTHORITIES

18. The issues to be determined on this Motion are whether this Court should:

¹⁸ Fourth Report at 5.3.

¹⁹ Fourth Report at 6.0.1.

²⁰ Fourth Report at 9.0.

- (a) approve the proposed Claims Procedure;
- (b) extend the Stay Period to May 29, 2026;
- (c) approve the Fourth Report and the actions, conduct and activities of the Monitor set out therein; and
- (d) approve the fees of the Monitor and Cassels as set out in the Fourth Report.

A. The Court Ought to Grant the Claims Procedure Order

The Court Has the Discretion to Approve the Claims Procedure Order

19. The Court’s general power under section 11 of the CCAA includes the authority to approve a process to solicit claims against a debtor company.²¹ This authority is “well accepted” in CCAA proceedings.²² The same principles apply in the present BHA proceeding, with respect to claims against ResidualCo, the entity to which the Excluded Liabilities and Excluded Assets were vested under the ARVO.

20. Courts routinely approve claims processes in connection with the CCAA restructuring process.²³ The Monitor seeks similar relief here to establish a structured, court-supervised process for identifying and determining Claims against ResidualCo following the closing of the BHA Transaction on January 30, 2026.

²¹ *Companies’ Creditors Arrangement Act*, [R.S.C. 1985, c. C-36](#), s. [11](#) [CCAA].

²² *ScoZinc Ltd., Re*, [2009 NSSC 136](#) (“ScoZinc”) at para [25](#).

²³ *Re TOYS “R” US (CANADA) LTD.*, [2018 ONSC 609](#) (“Toys “R” Us”) at para [8](#); *U.S. Steel Canada Inc. (Re)*, [2017 ONSC 1967](#) at paras [5-6](#).

21. The jurisdiction to approve a claims bar date arises from sections 11 and 12 of the CCAA. Section 12 expressly authorizes the Court to fix deadlines for voting and distributions under a compromise or arrangement.²⁴ Canadian courts have consistently held that this power encompasses the authority to impose a claims bar process.²⁵

It Is Appropriate for the Court to Approve the Claims Procedure Order

22. Claims processes assist organizations under CCAA protection in determining the universe of claims against the debtor entity to enable informed decisions regarding restructuring and distributions. These orders should be flexible and expeditious.²⁶

23. As indicated by this Court in *Timminco*²⁷:

It is also necessary to return to first principles with respect to claims-bar orders. The CCAA is intended to facilitate a compromise or arrangement between a debtor company and its creditors and shareholders. For a debtor company engaged in restructuring under the CCAA, which may include a liquidation of its assets, it is of fundamental importance to determine the quantum of liabilities to which the debtor and, in certain circumstances, third parties are subject. It is this desire for certainty that led to the development of the practice by which debtors apply to court for orders which establish a deadline for filing claims.

Adherence to the claims-bar date becomes even more important when distributions are being made (in this case, to secured creditors), or when a plan is being presented to creditors and a creditors' meeting is called to consider the plan of compromise. These objectives are recognized by s. 12 of the CCAA, in particular the references to "voting" and "distribution".

In such circumstances, stakeholders are entitled to know the implications of their actions. The claims-bar order can assist in this process. By establishing a claims-bar date, the debtor can determine the universe of claims and the potential distribution to creditors, and creditors are in a position to make an informed choice as to the alternatives presented

²⁴ CCAA, s. [12](#).

²⁵ *Toys "R" Us* at para [8](#); *Timminco Limited (Re)*, [2014 ONSC 3393](#) ("Timminco") at para [40](#).

²⁶ *ScoZinc* at para [23](#).

²⁷ *Timminco* at paras [41-43](#).

to them. If distributions are being made or a plan is presented to creditors and voted upon, stakeholders should be able to place a degree of reliance in the claims bar process.

24. The proposed Claims Process adheres to these principles and objectives and is appropriately tailored to the context of this case. The proposed notices, dispute resolution provisions and timelines set out in the Claims Procedure Order are consistent with those commonly approved by Canadian courts in insolvency proceedings and, in the Monitor's view, provides reasonable time and procedures for the identification of claims.²⁸

B. The Court Ought to Grant the Ancillary Order

The Stay Period Should be Extended

25. The Monitor is seeking an extension of the Stay Period from February 13, 2026 to, and including, May 29, 2026.

26. Pursuant to section 11.02(2) of the CCAA, this Court is empowered to grant a stay extension, for any period it considers necessary, where satisfied that: (i) circumstances exist which make such an order appropriate; and (ii) the applicants have acted and are continuing to act in good faith and with due diligence.²⁹

27. This Court has indicated that, in the context of a “super monitor”, the monitor is held to the good faith standard.³⁰

²⁸ Fourth Report at 5.5.

²⁹ CCAA, ss. [11.02\(2\)-\(3\)](#).

³⁰ *Forme Development Group Inc. (Re)* (February 20, 2020), ONSC (Commercial List), Court File No. CV-18-608313-00CL ([Endorsement of Mr. Justice Hainey](#)); *In the Matter of a Compromise or Arrangement of Balboa Inc. et. al.* (July 31, 2024), ONSC (Commercial List), Court File No. CV-24-00713245-00CL ([Endorsement of Madame Justice Steele](#)).

28. Extending the Stay Period is necessary and appropriate in the circumstances to allow sufficient time to carry out the proposed Claims Procedure and thereafter return to Court to seek a distribution order. As outlined in the Fourth Report, the Monitor is satisfied that: (i) no creditor will be materially prejudiced by the extension; (ii) there is sufficient cash on hand, together with the Administrative Winddown Amount and retainers, to fund these proceedings through the proposed stay period; and (iii) no party has indicated any opposition to the extension.³¹ In these circumstances, the requested stay extension is reasonable and will facilitate the orderly completion of these CCAA proceedings.

29. The Monitor has acted in good faith in discharging its duties and obligations under the CCAA and submits that the Stay Period should be extended to May 29, 2026.³²

The Monitor's Activities and the Fourth Report Should be Approved

30. As noted by this Court, requests to approve a monitor's report are not unusual, and there are good policy and practical reasons for the court to do so, including:³³

- (a) allowing the monitor to move forward with the next steps in these CCAA proceedings;
- (b) allowing the monitor to bring its activities before the Court;
- (c) allowing an opportunity for the concerns of the stakeholders to be addressed, and any problems to be rectified;

³¹ Fourth Report at 6.0.1.

³² Fourth Report at 6.0.1.

³³ *Target Canada Co. (Re)*, [2015 ONSC 7574](#) at paras 2, 22-23.

- (d) enabling the court to satisfy itself that a monitor's activities have been conducted in prudent and diligent manners;
- (e) providing protection for the monitor not otherwise provided by the CCAA; and
- (f) protecting creditors from delay that may be caused by re-litigation of steps and potential indemnity claims by the monitor.

31. This Court has previously approved the Monitor's reports and activities in these CCAA proceedings, including most recently on December 30, 2025.³⁴

32. The Fourth Report and the actions, conduct and activities of the Monitor described therein should be approved, as the Monitor has acted reasonably and in good faith, and in compliance with the Orders of the Court, throughout these CCAA proceedings.³⁵

The Fees and Disbursements of the Monitor and Cassels Should be Approved

33. The Monitor also seeks approval of its fees and disbursements incurred between December 1, 2025 to January 15, 2026 and the fees and disbursements of its legal counsel, Cassels, incurred between December 1, 2025 to January 19, 2026.³⁶

34. In considering whether to approve fees and disbursements, the Court has regard to the "overriding principle of reasonableness," and does not engage in a docket-by-docket or line-by-line assessment of the accounts.³⁷ The guiding principle is whether the fees are fair, reasonable

³⁴ *In the Matter of a Compromise or Arrangement of B+H Architects Corp.* (December 30, 2025), ONSC (Commercial List), Court File No. CL-25-00753537-0000 ([Stay Extension and Ancillary Relief Order](#)).

³⁵ Fourth Report at 6.0.1(a).

³⁶ Fourth Report at 9.0.1.

³⁷ *Nortel Networks Inc.*, [2022 ONSC 6680](#) at para 10.

and proportionate given the value of the Applicant's assets and liabilities, as well as the complexity of the Applicant's business and the CCAA proceedings. As a non-exhaustive list of factors for consideration, the Ontario Court of Appeal has cited: (a) the time spent; (b) the monitor's knowledge, experience and skill; (c) the responsibilities assumed; (d) the complications and difficulties encountered; (e) the results achieved; and (f) the cost of comparable services when performed in a prudent and economical manner.³⁸

35. The Fee Affidavits provide detailed information on the fees and disbursements of the Monitor from December 1, 2025 to January 15, 2026 and of Cassels from December 1, 2025 to January 19, 2026.³⁹

36. The Monitor is of the view that the hourly rates charged by Cassels are consistent with the rates charged by large corporate law firms practicing in the area of corporate insolvency and restructuring in the Toronto market, that Cassels' billings reflect work performed consistent with the Monitor's instructions and that the overall fees charged by Cassels and the Monitor are reasonable and appropriate in the circumstances.⁴⁰

PART IV - ORDER REQUESTED

37. For the reasons set out above, the Monitor respectfully requests that this Court grant the Claims Procedure Order and the Ancillary Order.

³⁸ *Confectionately Yours Inc (Re)*, [2002 CanLII 45059](#) (ON CA) at paras [42-54](#); *Bank of Nova Scotia v. Diemer*, [2014 ONCA 851](#) at para [33](#).

³⁹ Fourth Report at 9.0.3.

⁴⁰ Fourth Report at 9.0.4.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 6th day of February, 2026.

Cassels Brock & Blackwell LLP

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SCHEDULE "A"
LIST OF AUTHORITIES

1. *ScoZinc Ltd.*, Re, [2009 NSSC 136](#)
2. *Re TOYS "R" US (CANADA) LTD.*, [2018 ONSC 609](#)
3. *U.S. Steel Canada Inc. (Re)*, [2017 ONSC 1967](#)
4. *Timminco Limited (Re)*, [2014 ONSC 3393](#)
5. *Forme Development Group Inc. (Re)* (February 20, 2020), ONSC (Commercial List), Court File No. CV-18-608313-00CL ([Endorsement of Mr. Justice Hainey](#))
6. *In the Matter of a Compromise or Arrangement of Balboa Inc. et. al.* (July 31, 2024), ONSC (Commercial List), Court File No. CV-24-00713245-00CL ([Endorsement of Madame Justice Steele](#))
7. *Target Canada Co. (Re)*, [2015 ONSC 7574](#)
8. *In the Matter of a Compromise or Arrangement of B+H Architects Corp.* (December 30, 2025), ONSC (Commercial List), Court File No. CL-25-00753537-0000 ([Stay Extension and Ancillary Relief Order](#))
9. *Nortel Networks Inc.*, [2022 ONSC 6680](#)
10. *Confectionately Yours Inc (Re)*, [2002 CanLII 45059](#) (ONCA)
11. *Bank of Nova Scotia v. Diemer*, [2014 ONCA 851](#)

I, Joshua Gordon, am satisfied as to the authenticity of every authority cited in this factum, in accordance with Rule 4.06.1(2.1) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

Dated as of February 6, 2026


Joshua Gordon

SCHEDULE “B”
TEXT OF STATUTES, REGULATIONS & BY - LAWS

Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36

General power of court

11 Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

Stays, etc. — other than initial application

11.02 (2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

- (a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

(3) The court shall not make the order unless

- (a) the applicant satisfies the court that circumstances exist that make the order appropriate; and
- (b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

Fixing deadlines

12 The court may fix deadlines for the purposes of voting and for the purposes of distributions under a compromise or arrangement.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO 1570499 B.C. LTD.

Applicant

Court File No. CL-25-00753537-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**FACTUM OF THE MONITOR
(CLAIMS PROCEDERE ORDER & ANCILLARY
ORDER)**

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