

**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 EDDIE BAUER LLC, EDDIE BAUER GIFT CARD
SERVICES LLC, SPARC EB HOLDINGS LLC, 13051269 CANADA INC. AND EDDIE
BAUER OF CANADA CORPORATION

APPLICATION OF EDDIE BAUER LLC UNDER SECTION 46 OF THE *COMPANIES'
CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AMENDED

APPLICANT

**FACTUM OF THE APPLICANT
(CCAA TERMINATION ORDER)**

June 8, 2026

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PART I - NATURE OF THE MOTION

1. This factum is filed in support of the motion by Eddie Bauer LLC (“**Eddie Bauer U.S.**”), in its capacity as the foreign representative of the Chapter 11 Debtors (in such capacity, the “**Foreign Representative**”), for an order (the “**CCAA Termination Order**”), which will, among other things, terminate the ongoing CCAA Recognition Proceedings (as defined below).
2. On February 9, 2026 (the “**Petition Date**”), Eddie Bauer U.S. and four other debtors in possession (collectively, the “**Chapter 11 Debtors**” or the “**Company**”) filed voluntary petitions for relief with the United States Bankruptcy Court for the District of New Jersey (the “**U.S. Court**”), pursuant to Chapter 11 of the U.S. Bankruptcy Code (the “**Petitions**,” and the cases commenced thereby, the “**Chapter 11 Cases**”). The Chapter 11 Debtors include two Canadian entities (collectively the “**Canadian Debtors**”): 13051269 Canada Inc. and Eddie Bauer of Canada Corporation (“**Eddie Bauer Canada**”).
3. On February 18, 2026, on the application of Eddie Bauer U.S. as Foreign Representative, this Court recognized the Chapter 11 Cases as a foreign main proceeding (the “**CCAA Recognition Proceedings**”), and appointed KSV Restructuring Inc. (now operating as AlixPartners Restructuring, Inc.) as the information officer for such proceedings (in such capacity, the “**Information Officer**”).
4. The CCAA Recognition Proceedings have served their purpose and are nearly complete. Pursuant to the terms of the court-approved Plan (as defined below), a Plan Administrator has been appointed, and is responsible for winding down the Chapter 11 Debtors’ estates and implementing the terms of the Plan (the “**Plan Administrator**”). The Chapter 11 Debtors, including the Canadian Debtors, have ceased operations, and the Chapter 11 Cases remain open solely for purposes of

effecting distribution under the Plan and attending to certain ancillary matters. There are no remaining material steps which require the CCAA Recognition Proceedings to be continued.

5. The Foreign Representative therefore seeks the CCAA Termination Order, which will, among other things:

- (a) terminate the CCAA Recognition Proceedings, including by discharging the Information Officer, release and discharge the Court-approved Charges (as defined below), and grant a release to the Released Parties (as defined below);
- (b) approve the activities of the Information Officer
- (c) authorize the assignment of Eddie Bauer Canada into bankruptcy immediately following the termination of the CCAA Recognition Proceedings; and
- (d) approve the fees and disbursements of the Information Officer and its counsel.

6. The CCAA Termination Order should be granted so the CCAA Recognition Proceedings can be brought to an orderly close, providing certainty and finality for all stakeholders.

PART II - THE FACTS

7. The facts are more fully set out in the Affidavit of Steven Balasiano.¹

¹ Affidavit of Steven Balasiano, affirmed June 4, 2026 [Balasiano Affidavit]. Dollar amounts are given in U.S. dollars unless otherwise specified. Capitalized terms not otherwise defined have the same meaning as in the Balasiano Affidavit. Capitalized terms not otherwise defined or defined in the Balasiano Affidavit have the same meaning as in the Affidavit of George Pantelis, sworn April 24, 2026.

A. Update on Chapter 11 Cases and CCAA Recognition Proceedings

8. On April 30, 2026, this Court granted the Third Recognition Order, which recognized and gave effect to the *Findings of Fact, Conclusions of Law, and Order (I) Approving the Debtors' Disclosure Statement and (II) Confirming the Third Amended Joint Plan of Reorganization of Eddie Bauer LLC and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* (the "**Plan Confirmation Order**") entered by the U.S. Court in the Chapter 11 Cases. The Plan Confirmation Order, among other things, approved the *Third Amended Joint Plan of Reorganization of Eddie Bauer LLC and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* (as may be amended, modified, or supplemented from time to time, together with all exhibits and supplements thereto, the "**Plan**").²

9. The Effective Date under the Plan occurred on May 6, 2026. The Foreign Representative delivered the Effective Date Notice to the Information Officer on May 7, 2026, and the Information Officer filed the Effective Date Certificate and served it on the service list in these Recognition Proceedings on that same date.³

10. The Plan contemplates certain distributions from the Chapters 11 Debtors' cash on hand, the proceedings from the Chapter 11 Debtors' ordinary course operations and the Store Closing Sales, the implementation of the UCC Settlement, the compromise and settlement of all Claims and Interests subject to the Plan, the Debtor Release and the Third-Party Releases, and the wind-

² Balasiano Affidavit at para. 5.

³ Balasiano Affidavit at para. 8

down of the Chapter 11 Debtors pursuant to the transactions set out in Article IV.G of the Plan (the “**Wind-Down Transactions**”).⁴

11. Pursuant to the Plan Administrator Agreement (an exhibit to the Plan), the Plan Administrator is responsible for, among other things: (i) implementing the Plan, and winding-down, liquidating, or otherwise dissolving the business and affairs of the Chapter 11 Debtors; and (ii) providing administration, wind-down, dissolution, and liquidation services in order to effectuate the Wind-Down Transactions and to make certain distributions under the Plan. Since the Effective Date, the Plan Administrator has been diligently implementing these steps, and Plan implementation is well underway.⁵

B. The WEEPA Relief

12. As part of the motion heard by this Court on April 30, the Foreign Representative also sought a declaration that, pursuant to subsections 5(1)(b)(iv) and 5(5) of the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1 (“**WEPPA**”), Eddie Bauer Canada meets the criteria prescribed by section 3.2 of the *Wage Earner Protection Program Regulations*, SOR/2008-222.⁶

13. The relief related to WEPPA was opposed by the Department of Justice of Canada on the asserted basis that a recognition proceeding was not a “proceeding” instituted or commenced under

⁴ Balasiano Affidavit at para. 9.

⁵ Balasiano Affidavit at para. 10-12. See Balasiano Affidavit at para. 10 for a detailed summary of the role of the Plan Administrator.

⁶ Balasiano Affidavit at para. 6.

the CCAA, as required by s. 5(1)(b)(iv) of WEPPA. At the hearing on April 30, the Court ordered to parties to file additional material and return on June 12, 2026 to address the issue.⁷

14. The Foreign Representative, with the support of the Information Officer, ultimately determined not to pursue the WEPPA declaration as a part of the CCAA Recognition Proceedings, and to instead to seek authorization for Eddie Bauer Canada to file an assignment in bankruptcy under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”). Should such relief be granted, AlixPartners Restructuring, Inc. (formerly operating as KSV Restructuring Inc.) (“**AlixPartners**”), in its capacity as trustee, intends to apply for and administer the Wage Earner Protection Program under WEPPA in such bankruptcy proceeding.⁸

PART III - THE ISSUES

15. The issues to be determined on this motion are whether:
- (a) the CCAA Recognition Proceedings should be terminated upon the filing of the Information Officer’s Termination Certificate (as defined below);
 - (b) the Releases (as defined below) should be granted; and
 - (c) the Information Officer’s activities, and the fees and disbursements of the Information Officer and its counsel, should be approved.

⁷ Balasiano Affidavit at para. 6.

⁸ Balasiano Affidavit at para. 7.

PART IV - THE LAW

A. The CCAA Recognition Proceedings Should be Terminated

16. The CCAA Recognition Proceedings have achieved their purpose. The Chapter 11 Debtors, including the Canadian Debtors, have ceased operations, and the Chapter 11 Cases remain open solely for purposes of effecting distribution under the Plan and attending to certain ancillary matters, following which distributions the Chapter 11 Debtors anticipate bringing a hearing before the U.S. Court to close the Chapter 11 Cases.⁹

17. There are therefore no remaining material steps which require the CCAA Recognition Proceedings to be continued. The Applicant accordingly seeks the CCAA Termination Order, which will, among other things:¹⁰

- (a) upon service on the Service List of a certificate by the Information Officer (the “**Information Officer’s Termination Certificate**,” the delivery of which shall constitute the “**CCAA Termination Time**”) certifying that, to the knowledge of the Information Officer, all matters to be attended to in connection with the CCAA Recognition Proceedings have been completed: (i) terminate the CCAA Recognition Proceedings; (ii) discharge the Information Officer from all further duties, except for matters ancillary to these proceedings that may arise after termination of the proceedings; (iii) discharge the charges granted in the Supplemental Order; and (iv) release the Released Parties from certain claims and liabilities; and

⁹ Balasiano Affidavit at para. 13.

¹⁰ See Balasiano Affidavit at para. 14 for a detailed summary of the effect of the CCAA Termination Order.

- (b) prior to or immediately after the CCAA Termination Time, authorizing: (i) Eddie Bauer Canada to make an assignment in bankruptcy; (ii) the Plan Administrator to execute any assignment in bankruptcy and related documents on behalf of Eddie Bauer Canada; and (iii) AlixPartners to act as Trustee under the BIA in respect of Eddie Bauer Canada.

18. As indicated above, this Court has recognized the Chapter 11 Cases as a “foreign main proceeding” pursuant to ss. 47 and 48 of the CCAA. When a foreign main proceeding has been recognized under Part IV of the CCAA, s. 49 empowers this Court to make any order that it considers appropriate to protect the debtor’s property or the interests of one or more creditors. The Court’s discretion is broad: an order under Part IV “may be made on any terms and conditions that the Court considers appropriate in the circumstances,”¹¹ and has been held to include the authority to terminate proceedings under Part IV.¹²

19. This Court therefore has jurisdiction to grant the CCAA Termination Order, which is appropriate in the circumstances. Terminating the CCAA Recognition Proceedings upon service of the Information Officer’s Termination Certificate will both save professional fees and eliminate the need to take up additional court time in respect of ancillary, non-contentious matters.¹³ Orders approving similar mechanisms for terminating Part IV proceedings, including the discharge of the

¹¹ CCAA, s. 50.

¹² See, e.g., *HSP Liquidation. et al. (Re)*, (December 02, 2024), Ont. S.C.J [Commercial List], CV-19-00620484-00CL ([Endorsement of Justice Osborne](#)) at para. 29 [*Hollander* (Endorsement)]. See also *David’s Bridal, LLC et al. (Re)*, (September 23, 2023), Ont. S.C.J [Commercial List], CV-23-00698107-00CL ([Endorsement of Justice Conway](#)) at para. 5 [*David’s Bridal* (Endorsement)]; *Kidkraft, Inc. (Re)*, (June 28, 2024), Ont. S.C.J [Commercial List], CV-24-007220035-00CL ([Endorsement of Justice Cavanaugh](#)) at paras. 18-20 [*Kidkraft*].

¹³ Balasiano Affidavit at para. 17.

information officer and any remaining charges, are commonly granted by this Court.¹⁴ The Information Officer is not aware of any other matters that need to be attended to in the CCAA Recognition Proceedings, and supports the proposed termination as reasonable and appropriate in the circumstances.¹⁵

B. The Releases Should be Granted

20. The CCAA Termination Order contains a release (the “**Release**”) in favour of the Information Officer and its counsel, Canadian counsel to the Foreign Representative, and each of their respective affiliates, officers, directors, partners, employees and agents (together, the “**Released Parties**”).¹⁶

21. The Release is appropriate in the circumstances and should be granted. CCAA courts have granted similar releases in the past,¹⁷ and the proposed Release satisfies the well-established test for third-party releases under the CCAA, which asks: (i) whether the parties to be release were necessary to the restructuring of the debtor; (ii) whether the claims to be released are rationally connected to the purpose of the restructuring and necessary for it; (iii) whether the restructuring could succeed without the release; (iv) whether the parties being released contributed to the

¹⁴ See, i.e., *David’s Bridal, LLC et al. (Re)*, (September 23, 2023), Ont. S.C.J [Commercial List], CV-23-00698107-00CL ([Termination of CCAA Proceedings Order](#)) at paras. 4-10 [*David’s Bridal* (Order)]; *HSP Liquidation LCC et al. (Re)*, (December 2, 2024), Ont. S.C.J [Commercial List], CV-19-620484-00CL ([Termination of CCAA Recognition Proceedings Order](#)) at paras. 3-8 [*Hollander* (Order)]; *Kidkraft, Inc. (Re)*, (June 28, 2024), Ont. S.C.J [Commercial List], CV-24-007220035-00CL ([Plan Confirmation Order, Sale Order, Termination of CCAA Proceedings, and Related Relief](#)) at paras. 19-23 [*Kidkraft* (Order)].

¹⁵ Third Report of the Information Officer at paras. 4.0.3-4.0.4, 4.1.3, 4.3.7 [Third Report].

¹⁶ Balasiano Affidavit at para. 14(b)(iv).

¹⁷ See *David’s Bridal* (Order), at para. 9; *Hollander* (Order), at para. 7.

restructuring; and (v) whether the releases benefit the debtors as well as the creditors generally.¹⁸

It is not necessary for each of these factors to apply in order for a release to be granted.¹⁹

22. The proposed Release satisfies this test. The Released Parties have been critical components and have contributed value to the CCAA Recognition Proceedings. Further, the proposed Release is appropriately limited in scope as it does not apply in respect of any claim or liability arising out of gross negligence or willful misconduct on the part of the Released Parties. Finally, it is in the interest of all parties that the Release be granted, as once the CCAA Recognition Proceedings are brought to a close, granting the Release will provide certainty and finality to all parties.²⁰

23. The Release is supported by the Information Officer, which regards each of the Released Parties as having had an integral role and as having materially contributed to the CCAA Recognition Proceedings. In recommending that the Court approve the Release, the Information Officer notes, among other things:²¹

- (a) these Recognition Proceedings, the Canadian Debtors' wind-down and the roles of the Released Parties therein are now substantially complete;
- (b) the Released Parties have had an integral role in, and contributed materially to, these Recognition Proceedings, as demonstrated by the activities of the Information

¹⁸ *Lydian International Limited (Re)*, [2020 ONSC 4006](#) at para. 54.

¹⁹ *Green Relief Inc. (Re)*, [2020 ONSC 6837](#) at para. 28.

²⁰ Balasiano Affidavit at para. 19.

²¹ Third Report at para. 4.2.2.

Officer and the Canadian Debtors reported to this Court throughout these Recognition Proceedings, which have included:

- (i) engaging with Eddie Bauer Canada's employees and the Canadian Debtors' other stakeholders throughout these Recognition Proceedings;
- (ii) facilitating the conduct of the Bidding Procedures and attempts to identify a going-concern Sale Transaction for all or part of the Canadian Debtors' business;
- (iii) assisting with the Store Closing Sales in Canada;
- (iv) assisting with the Chapter 11 Debtors' and Wind-Down Debtors' orderly wind-down; and
- (v) advocating for WEPPA relief at the earliest opportunity for the benefit of Eddie Bauer Canada's former employees;

24. The Information Officer views the proposed Releases as not overly broad, and as consistent with releases previously granted by this Court.²²

²² Third Report at para. 4.2.2.

C. The Information Officer’s Activities, and the Fees and Disbursements of the Information Officer and its Counsel, Should be Approved

25. The CCAA Termination Order provides for the approval of the reports and activities of the Information Officer,²³ and further provides for the approval of the following fees:²⁴

- (a) fees of the Information Officer from January 1, 2026 to May 31, 2026, totalling \$193,564;
- (b) fees of the Information Officer’s counsel, Bennet Jones LLP, from January 23, 2026 to May 31, 2026, totalling \$453,065.

26. The CCAA Termination additionally approves an accrual of CAD \$100,000 plus HST (the “**Fee Accrual**”) to cover the fees and disbursements incurred or to be incurred by the Information Officer and Bennet Jones LLP from June 1, 2026 until the discharge of the Information Officer.²⁵

27. The requested relief is fair and reasonable in the circumstances and should be granted. CCAA termination orders in Part IV proceedings commonly approve the activities, fees, and disbursements of the information officer and its counsel.²⁶ The Information Officer has acted

²³ The CCAA Termination Order approves of the following reports, along with the activities listed therein: (i) the Pre-Filing Report of KSV dated February 16, 2026; (ii) the First Report of the Information Officer dated March 18, 2026; and (iii) the Second Report of the Information Officer dated April 28, 2026.

²⁴ Third Report at para. 6.0.2.

²⁵ Third Report at para. 1.1.1(b)(v).

²⁶ See, i.e., *David’s Bridal* (Endorsement), at para. 7; *Hollander* (Endorsement), at para. 33; *Kidkraft* (Endorsement), at para. 20.

diligently and with good faith throughout the CCAA Recognition Proceedings, and is of the view that the hourly rates charged by its counsel are reasonable and appropriate.²⁷

28. The Foreign Representative supports the requested approval of the Information Officer's activities, fees and disbursements.²⁸

PART V - RELIEF REQUESTED

29. For the foregoing reasons, the Applicant requests that this Honourable Court grant the proposed CCAA Termination Order substantially in the form attached to the Motion Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 8th day of June, 2026.



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²⁷ Third Report at para. 6.0.4.

²⁸ Balasiano Affidavit at para. 19.

SCHEDULE "A": LIST OF AUTHORITIES

1. *David's Bridal, LLC et al. (Re)*, (September 23, 2023), Ont. S.C.J [Commercial List], CV-23-00698107-00CL ([CCAA Termination Order](#))
2. *David's Bridal, LLC et al. (Re)*, (September 23, 2023), Ont. S.C.J [Commercial List], CV-23-00698107-00CL ([Endorsement of Justice Conway](#))
3. *Green Relief Inc. (Re)*, [2020 ONSC 6837](#)
4. *HSP Liquidation LCC et al. (Re)*, (December 2, 2024), Ont. S.C.J [Commercial List], CV-19-620484-00CL ([Termination of CCAA Recognition Proceedings Order](#))
5. *HSP Liquidation LLC et al. (Re)*, (December 02, 2024), Ont. S.C.J [Commercial List], CV-19-00620484-00CL (Endorsement of Justice Osborne)
6. *Kidkraft, Inc. (Re)*, (June 28, 2024), Ont. S.C.J [Commercial List], CV-24-007220035-00CL ([Plan Confirmation Order, Sale Order, Termination of CCAA Proceedings, and Related Relief](#))
7. *Kidkraft, Inc. (Re)*, (June 28, 2024), Ont. S.C.J [Commercial List], CV-24-007220035-00CL ([Endorsement of Justice Cavanaugh](#))
8. *Lydian International Limited (Re)*, [2020 ONSC 4006](#)

I certify that I am satisfied as to the authenticity of every authority.

Date June 8, 2026



Signature
Megan Stewart

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

COMPANIES’ CREDITORS ARRANGEMENT ACT

R.S.C., 1985, c. C-36, as amended

Cross-border Insolvencies

Application for recognition of a foreign proceeding

46 (1) A foreign representative may apply to the court for recognition of the foreign proceeding in respect of which he or she is a foreign representative.

Documents that must accompany application

(2) Subject to subsection (3), the application must be accompanied by

(a) a certified copy of the instrument, however designated, that commenced the foreign proceeding or a certificate from the foreign court affirming the existence of the foreign proceeding;

(b) a certified copy of the instrument, however designated, authorizing the foreign representative to act in that capacity or a certificate from the foreign court affirming the foreign representative’s authority to act in that capacity; and

(c) a statement identifying all foreign proceedings in respect of the debtor company that are known to the foreign representative.

Documents may be considered as proof

(3) The court may, without further proof, accept the documents referred to in paragraphs (2)(a) and (b) as evidence that the proceeding to which they relate is a foreign proceeding and that the applicant is a foreign representative in respect of the foreign proceeding.

Other evidence

(4) In the absence of the documents referred to in paragraphs (2)(a) and (b), the court may accept any other evidence of the existence of the foreign proceeding and of the foreign representative’s authority that it considers appropriate.

Translation

(5) The court may require a translation of any document accompanying the application.

Order recognizing foreign proceeding

47 (1) If the court is satisfied that the application for the recognition of a foreign proceeding relates to a foreign proceeding and that the applicant is a foreign representative in respect of that foreign proceeding, the court shall make an order recognizing the foreign proceeding.

Nature of foreign proceeding to be specified

(2) The court shall specify in the order whether the foreign proceeding is a foreign main proceeding or a foreign non-main proceeding.

Order relating to recognition of a foreign main proceeding

48 (1) Subject to subsections (2) to (4), on the making of an order recognizing a foreign proceeding that is specified to be a foreign main proceeding, the court shall make an order, subject to any terms and conditions it considers appropriate,

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken against the debtor company under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the debtor company;

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the debtor company; and

(d) prohibiting the debtor company from selling or otherwise disposing of, outside the ordinary course of its business, any of the debtor company's property in Canada that relates to the business and prohibiting the debtor company from selling or otherwise disposing of any of its other property in Canada.

Scope of order

(2) The order made under subsection (1) must be consistent with any order that may be made under this Act.

When subsection (1) does not apply

(3) Subsection (1) does not apply if any proceedings under this Act have been commenced in respect of the debtor company at the time the order recognizing the foreign proceeding is made.

Application of this and other Acts

(4) Nothing in subsection (1) precludes the debtor company from commencing or continuing proceedings under this Act, the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act* in respect of the debtor company.

Other orders

49 (1) If an order recognizing a foreign proceeding is made, the court may, on application by the foreign representative who applied for the order, if the court is satisfied that it is necessary for the

protection of the debtor company's property or the interests of a creditor or creditors, make any order that it considers appropriate, including an order

(a) if the foreign proceeding is a foreign non-main proceeding, referred to in subsection 48(1);

(b) respecting the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor company's property, business and financial affairs, debts, liabilities and obligations; and

(c) authorizing the foreign representative to monitor the debtor company's business and financial affairs in Canada for the purpose of reorganization.

Restriction

(2) If any proceedings under this Act have been commenced in respect of the debtor company at the time an order recognizing the foreign proceeding is made, an order made under subsection (1) must be consistent with any order that may be made in any proceedings under this Act.

Application of this and other Acts

(3) The making of an order under paragraph (1)(a) does not preclude the commencement or the continuation of proceedings under this Act, the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act* in respect of the debtor company.

Terms and conditions of orders

50 An order under this Part may be made on any terms and conditions that the court considers appropriate in the circumstances.

AND IN THE MATTER OF EDDIE BAUER LLC, EDDIE BAUER GIFT CARD SERVICES LLC, SPARC EB HOLDINGS LLC, 13051269 CANADA INC. AND EDDIE BAUER OF CANADA CORPORATION

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PROCEEDING COMMENCED AT TORONTO

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