



ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL SLIP/ENDORSEMENT**

COURT FILE NO.: CV-24-00713245-00CL DATE: June 14, 2024

NO. ON LIST: 2

TITLE OF PROCEEDING: In the Matter of a Plan of Compromise or Arrangement of Balboa Inc.,  
and Others

BEFORE: Justice Osborne

**PARTICIPANT INFORMATION**

**For Applicant(s):**

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**ENDORSEMENT OF JUSTICE OSBORNE:**

[1] The Applicants sought this case conference to address scheduling matters, arising, at least in part from the Fourth Report of the Monitor delivered in this proceeding. The Court-appointed Monitor also seeks the

assistance of the Court to address certain matters. Finally, the secured lenders seek to schedule a motion to further expand the powers of the Monitor.

- [2] The Applicants sought and were granted an Initial Order under the CCAA on January 23, 2024. The Monitor was appointed. To address significant concerns expressed by the secured lenders of the Applicants, the Court granted an Amended and Restated Initial Order on March 28, 2024.
- [3] Among other things, the ARIO expanded the powers of the Monitor and authorized that Court officer to conduct an investigation into the use of funds oral by the Applicants and other pre-filing transactions conducted by them or their principals and affiliates.
- [4] The Monitor was directed to report on its findings in respect of that investigation, and it did so in the Fourth Report which has now been delivered. The publicly filed version of the Report, however, contains redactions.
- [5] The Applicants seek to schedule a motion for a sealing order authorizing the redaction of certain information contained in the Fourth Report (including the Appendices thereto) from the public Court file.
- [6] I observe that there are already pending motions in this proceeding, scheduled at an earlier case conference to be heard on June 24, 2024, in respect of a proposed stay extension; a proposed SISF; and advice and directions of the Court in respect of various of the matters addressed in the Fourth Report.
- [7] Those motions were specifically scheduled for June 24 since the stay of proceedings currently in effect expires on that date.
- [8] It is the position of the Monitor and the secured lenders, supported by all other parties except the Applicants, that the proposed motion of the Applicants for a sealing order and the proposed motion of the secured lenders to expand the powers of the Monitor also need to be heard and determined on that same date.
- [9] The Applicants take the position that, given the volume of materials comprising the Fourth Report, they need additional time to review the Fourth Report and prepare for the motion for a proposed sealing order and consider their position with respect to the proposed motion to expand the powers of the Monitor (and restrict the powers of management of the Applicants), such that those motions should be scheduled at a later date.
- [10] In the circumstances, and given the subject matter of the Fourth Report, I am of the view that all of these matters need to be heard at the same time, and on June 24. I have reached this conclusion in large part, on the basis that the secured lenders and other parties have advised the Court that they will oppose any extension of the stay of proceedings in this matter if the powers of the Monitor are not further expanded and the powers of existing management of the Applicants are not restricted, largely as a result of the findings of the Monitor as described in the Fourth Report.
- [11] Accordingly, it seems to me, that the issues will have to be addressed on June 24 either way (i.e., in the context of a contested stay extension motion or in the context of a motion to expand the powers of the Monitor and restrict the powers of management of the Applicants), such that there is no judicial efficiency or benefit to the parties and the stakeholders, to have those proposed motions deferred.
- [12] It follows that all of those motions will be heard on June 24. The parties will ensure that all materials are served, filed and uploaded to Caselines to enable the motions to be determined on their merits on that date.

Osawa, J.

