

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 1

AMMENDED NOTICE OF APPEAL (RULE 6(1))



Court of Appeal File No.
(For Registry Use Only)

CA49039

Tribunal File No.

BCSECCOM 180, BCSECCOM 37

The file number can be found on the upper
right corner of the Supreme Court documents

Tribunal Location

BC Securities Commission, Vancouver

To the respondent(s)

A court proceeding has been commenced against you in the Court of Appeal. See the final page of this form for details on how to respond.

1. PARTIES TO THE APPEAL

Appellant(s)

List the party(ies) appealing the
Supreme Court or tribunal order.
Identify their roles in the proceeding
below in brackets. E.g., Jane Doe
(plaintiff, petitioner, etc.)

SHH Holdings Limited and Timothy Durkin (Respondents)

Respondent(s)

List the other party(ies) in the
Supreme Court or tribunal order
you are appealing who are affected
by the appeal. Identify their roles in
the proceeding below in brackets.
E.g., Jane Doe (defendant).

British Columbia Securities Commission (Plaintiff)

2. THE ORDER YOU ARE APPEALING

Is leave to appeal required?
Court of Appeal Rule 12 explains when you need leave to appeal. If you are unsure, check "Yes."

☒ Yes ☐ No

Who made the order?
Name the justice or other decision maker who pronounced the order you are appealing.

Gordon Johnson, Judith Downes, Karen Keilty

What court and/or tribunal pronounced the order(s)?

☐ Supreme Court ☒ Tribunal

British Columbia Securities Commission

Name of tribunal

Date the order was pronounced
Include the day, month and year that the order being appealed was pronounced (not the date the order was entered).

18/04/2023

DD/MM/YYYY

City where the order was pronounced

Vancouver

Length of lower court hearing
Indicate in days or hours the length of the hearing that led to the order you are appealing from. For example, if you are appealing a judgment from a trial that took two hours, enter "two hours."

3 days

What type of proceeding are you appealing from?
Check only one.

☐ Trial Judgment ☒ Order of a Tribunal
☐ Summary Trial Judgment ☐ Chambers Judgment

3. RELIEF SOUGHT

If leave to appeal is not required, fill out Part A. If you are seeking leave to appeal, fill out Part B.

PART A: LEAVE NOT REQUIRED

Part of the order being appealed
If you only want to appeal one part of an order, enter the part that is being appealed.

Order(s) you are seeking on appeal
Briefly list the order(s) you will ask this Court to make on appeal. For example: "Set aside the trial judgment and order a new trial." Include any order as to costs.

PART B: SEEKING LEAVE TO APPEAL

Part of the order being appealed
If you are only seeking leave to appeal one part of an order, enter the part that you are seeking leave to appeal.

Grounds for leave to appeal
Be as specific as possible. For example, if you believe the trial judge used an incorrect legal test or otherwise misapplied the law, indicate that here.

The tribunal failed to apply reasonableness and failed to uphold the Canadian Judicial Council's Statement of Principles on Self Represented Litigants and Accused Persons. **The tribunal failed to permit exculpatory evidence to be heard severely prejudicing the appellant**

4. ADDITIONAL INFORMATION

Sealing order
Is there an order sealing any part of the trial court or tribunal file? If yes, add date(s).

☐ Yes

☒ No

Date

DD/MM/YYYY

Anonymity order/publication ban
Are there orders that protect the identity of a party or parties? If yes, add date(s).

☐ Yes

☒ No

Date

DD/MM/YYYY

Areas of law raised in the appeal

You may check more than one box if appropriate. For example, you should check "motor vehicle accidents" and "torts" for a personal injury claim involving a motor vehicle accident.

☒ Constitutional/
Administrative

☐ Motor Vehicle
Accidents

☐ Torts

☐ Divorce Act (Canada)

☒ Civil Procedure

☐ Municipal Law

☐ Equity

☐ Family Law Act

☐ Commercial

☐ Real Property

☐ Wills and Estates

☐ Other

Appeals involving children

Does this appeal involve the rights or interests of a child?
E.g., parenting order.

☐ Yes

☒ No

5. SERVICE

Are you representing yourself?

☒ Yes

☐ No

**Name(s) and address(es)
within BC for service of
appellant(s)**

If you have a lawyer, include the law firm's address; otherwise provide your own residential address.

Timothy Durkin
PO Box 201 Station Main
6795 West Coast Road
Sooke, British Columbia V9Z 0S9

Phone number(s) of appellant(s)

250-433-7251

**Email address(es) for service of
the appellant(s)**

If you provide an email address,
you consent to have documents
served on you by email.

shhml@outlook.com

Date form completed

12/05/2023

DD/MM/YYYY

Name of lawyer or party
authorizing filing of this form

Timothy Durkin

To the appellant(s):

You must file and serve this form on each respondent named in this document within the timelines required by the *Court of Appeal Act* and Court of Appeal Rules. You must file a Notice of Hearing **not more than one year** after filing this Form 1 or your appeal will be placed on the inactive list (Rule 50(1)(a)).

To the respondent(s)

If you intend to participate in this proceeding, **you must give notice** of your intention by doing the following **not more than 10 days** after receiving this Notice of Appeal: (1) file a "Notice of Appearance" (Form 2 of the Court of Appeal Rules) in a Court of Appeal registry and; (2) serve the Notice of Appearance on the appellant.

If you fail to file and serve a Notice of Appearance:

- (a) You are presumed to take no position on the appeal, or the application for leave to appeal (if leave is required).
- (b) The parties are not obliged to serve you with any further documents related to the appeal, including an order granting leave to appeal (if leave is required).

You are presumed to take no position if you fail to file and serve a Notice of Appearance within the time described above. The filing registries for the British Columbia Court of Appeal are as follows.

Central Registry:

B.C. Court of Appeal
Suite 400, 800 Hornby St.
Vancouver BC V6Z 2C5

Other Registries:

B.C. Court of Appeal
The Law Courts
P.O. Box 9248
STN PROV GOVT
850 Burdett Ave.
Victoria BC V8W 1B4

B.C. Court of Appeal
223 - 455 Columbia St.
Kamloops BC V2C 6K4

Inquiries should be addressed to (604) 660-2468.