

CA 46324

VANCOUVER

Court of Appeal File No.

AUG 21 2019

COURT OF APPEAL COURT OF APPEAL

BETWEEN: REGISTRY

FORUM NATIONAL INVESTMENTS LTD. AND DANIEL CLOZZA

APPELLANTS

AND

BRITISH COLUMBIA SECURITIES COMMISSION AND THE EXECUTIVE DIRECTOR  
OF THE BRITISH COLUMBIA SECURITIES COMMISSION

RESPONDENTS

**NOTICE OF APPLICATION FOR LEAVE TO APPEAL**

TAKE NOTICE that Daniel Clozza ("**Clozza**") and Forum National Investments ("**Forum**") (collectively the "**Appellants**") hereby apply for leave to appeal to the Court of Appeal for British Columbia from the decision of the British Columbia Securities Commission ("**Commission**") pronounced on July 22, 2019 (the "**Decision**") at Vancouver, British Columbia.

1. The appeal is from a:

- |   |   |
|---|---|
| <input type="checkbox"/> Trial Judgment                       | <input type="checkbox"/> Summary Trial Judgment |
| <input checked="" type="checkbox"/> Order of a Statutory Body | <input type="checkbox"/> Chambers Judgment      |

2. Please identify which of the following is involved in the appeal:

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Constitutional/Administrative | <input type="checkbox"/> Civil Procedure         | <input type="checkbox"/> Commercial    |
| <input type="checkbox"/> Family                                   | <input type="checkbox"/> Motor Vehicle Accidents | <input type="checkbox"/> Municipal Law |
| <input type="checkbox"/> Real Property                            | <input type="checkbox"/> Torts                   | <input type="checkbox"/> Equity        |
| <input type="checkbox"/> Wills and Estates                        |  |  |

AND FURTHER TAKE NOTICE that the Court of Appeal will be moved at the hearing of this application for an Order that:

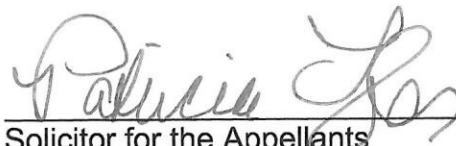
1. leave to appeal be granted;
2. if leave to appeal is granted, the following orders be made at the hearing of the appeal:
  - (a) an order that the Decision be set aside;
  - (b) an order granting a permanent stay of proceedings; and
  - (c) an order that the Applicants be granted costs of the appeal.

The grounds of appeal are that the Commission:

1. erred in law by failing to consider and apply values enshrined by the *Canadian Charter of Rights and Freedoms* and *R. v. Jordan*, 2016 SCC 27 in refusing to stay the proceedings;
2. erred in law and fact by concluding that the death of two witnesses and delays of almost six years before amending the Notice of Hearing in relation to Forum and Clozza and the illness and disability of the Respondent Douglas Corrigan that developed over that period, did not impair the fairness of the hearing or prejudice the ability of Forum and Clozza to meet the cases against them;
3. erred in law and in fact by concluding that the delay, coupled with the restriction of a confidentiality order under S. 148 of the *Securities Act*, did not result in significant actual prejudice as set out in *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44; and
4. erred in law and in fact by concluding that the unreasonable delay, and surrounding circumstances, did not cause significant prejudice that brings the Commission's enforcement system into disrepute.

The hearing of this proceeding occupied 2 days.

DATED at Vancouver, British Columbia, on this 20th day of August 2019.

  
Solicitor for the Appellants  
**Patricia Taylor**

To the Respondents:

**British Columbia Securities Commission**

Attention: Commission Secretary  
1200 - 701 West Georgia Street  
P.O. Box 10142, Pacific Centre  
Vancouver, BC V7Y 1L2

**Executive Director of the B.C. Securities Commission**

Attention: Peter Brady  
1200 - 701 Georgia Street  
Vancouver BC V7Y 1L2  
PO Box 10142

This NOTICE OF APPLICATION FOR LEAVE TO APPEAL is given by Patricia Taylor of the firm Patricia Taylor Law Corporation, Solicitors for the Appellants, whose address for service is Suite 500-666 Dunsmuir Street, Vancouver BC V6C 3P6 Telephone: 604.642-6178. Facsimile: 604.608-9875.

**To the Respondents:**

IF YOU INTEND TO PARTICIPATE in this proceeding, YOU MUST GIVE NOTICE of your intention by filing a form entitled "Notice of Appearance" (Form 2 of the Court of Appeal Rules) in a Court of Appeal registry and serve the notice of appearance on the appellant WITHIN 10 DAYS of receiving this Notice of Application for Leave to Appeal.

IF YOU FAIL TO FILE A NOTICE OF APPEARANCE,

- (a) you are deemed to take no position on the application, and
- (b) the parties are not obliged to serve you with any further documents related to the application.

The filing registries for the British Columbia Court of Appeal are as follows:

Central Registry:

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

Other Registries:

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

B.C. Court of Appeal  
223 - 455 Columbia Street  
Kamloops, B.C. V2C 6K4

Inquiries should be addressed to: (604) 660-2468  
Fax filings: (604) 660-1951