

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 1

NOTICE OF APPEAL (RULE 6(1))



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

Case File No. **CA49449**

Supreme Court File No.

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

Supreme Court Registry 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.)

Bridgemark Financial Corp., Jackson and Company Professional Corp. and Anthony Kevin Jackson (collectively "Jackson")

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 (the "BCSC") and the Executive Director of the British Columbia Securities Commission (the "Executive Director")

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.

Commissioner Audrey T. Ho and Commissioner Judith Downes of the British Columbia Securities Commission (the "BCSC")

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).

3/10/2023

DD/MM/YYYY

City where the order was pronounced

Vancouver, British Columbia

Length of lower court hearing

1 hour

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.*

The order denying, in part, Jackson's Application for an adjournment until 2024 of the hearing dates for an Enforcement Hearing pursuant to Section 161 of the *Securities Act*, RSBC 1996, c. 418 pursuant to Notice of Hearing 2018 BCSECCOM 369 before the BCSC against Jackson and others (the "Hearing") which hearing was previously scheduled to begin October 3, 2023 and is now scheduled to begin November 8, 2023 ("Adjournment Decision").

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 BCSC erred in refusing to grant the adjournment requested by Jackson which adjournment was necessary to allow Jackson to retain counsel to represent them in the Hearing. The BCSC failed to consider the material prejudice to Jackson of proceeding through the hearing without counsel, failed to consider the requirement for procedural fairness and accepted, without any evidence, the Executive Director of British Columbia Securities Commission's (the "Executive Director") arguments of prejudice.

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

☐ Civil Procedure

☐ Commercial

☐ Motor Vehicle
Accidents

☐ Municipal Law

☐ Real Property

☐ Torts

☐ Equity

☐ Wills and Estates

☐ Divorce Act (Canada)

☐ Family Law Act

☐ 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.*

Gowling WLG (Canada) LLP
Attn: Scott Kugler and Ricki T. Johnston
Barristers and Solicitors
Suite 2300, 550 Burrard Street
Vancouver, BC V6C 2B5

Phone number(s) of appellant(s)

Attention Ricki Johnston - 1-403-298-1948

**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.*

Via email: scott.kugler@gowlingwlg.com
Ricki.johnston@gowlingwlg.com

Date form completed

November 1, 2023

DD/MM/YYYY

**Name of lawyer or party
authorizing filing of this form**

Ricki T. Johnston

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.