

# 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. **CA49302**

Supreme Court File No.

n/a

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

Supreme Court Registry Location

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.)

Global Crossing Airlines Group Inc., formerly known as Canada Jetlines Ltd.

##### 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).

Executive Director of the British Columbia Securities Commission;  
British Columbia Securities Commission; and  
Mark Morabito

## 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.*

British Columbia Securities Commission:  
Judith Downes, James Kershaw, and Marion Shaw (Commissioners)

**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).*

17/08/2023

DD/MM/YYYY

**City where the order was pronounced**

Vancouver, British Columbia

**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."*

Two 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 whole of the Order of the British Columbia Securities Commission, issued on 17 August 2023, dismissing the Appellant's application to permanently stay the proceedings arising from the Notice of Hearing dated 7 October 2021 (citation 2021 BCSECCOM 397) as an abuse of process.

1. The Commission erred in law by:

- a. misapprehending the legal test for determining whether an administrative proceeding has become an abuse of process;
- b. finding that this proceeding had not come to constitute an abuse of process for which a stay of proceedings was the appropriate remedy;
- c. making findings of fact or drawing inferences not supported by the record, or even advanced by the Executive Director; and
- d. failing to identify and give effect to the evidentiary burden borne by the Executive Director or, alternatively, relieving him from that burden.

2. Such further and other grounds as the Appellant may advise and the Court may permit.

#### 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.*

Sean K. Boyle / Jenna Green  
Blake, Cassels & Graydon LLP  
Barristers and Solicitors  
1133 Melville Street  
Suite 3500, The Stack  
Vancouver, BC V6E 4E5

Phone number(s) of appellant(s)

(604) 631-3344 / (604) 631-5247

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.*

[sean.boyle@blakes.com](mailto:sean.boyle@blakes.com) / [jenna.green@blakes.com](mailto:jenna.green@blakes.com)

Date form completed

22/08/2023

DD/MM/YYYY

Name of lawyer or party  
authorizing filing of this form

Sean K. Boyle

**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.