

# 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. **CA49489**

Supreme Court File No.

S-235288

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

Supreme Court Registry Location

Vancouver Registry

#### 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.)

M&M Business Group, L.P., Mufeed Haddad, and Mike Budka

#### 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).

NextPoint Financial, Inc., NPI Holdco LLC, LT Holdco, LLC, LT Intermediate Holdco, LLC, SiempreTax + LLC, JTH Tax LLC, Liberty Tax Holding Corporation, Liberty Tax Service, Inc., JTH Financial, LLC, JTH Properties 1632, LLC, Wefile LLC, JTH Tax Office Properties, LLC, LTS Software LLC, JTH Court Plaza, LLC, 360 Accounting Solutions, LLC, LTS Properties, LLC, CTAX Acquisition LLC, Community Tax Puerto Rico LLC, Community Tax LLC, NPLM Holdco LLC, MMS Servicing LLC, LoanMe, LLC, LoanMe Funding, LLC, LM Retention Holdings, LLC, LoanMe Stores LLC, LM BP Holdings, LLC, InsightsLogic LLC, LM 2020 CM I SPE, LLC (Petitioners); FTI Consulting Canada Inc. (Monitor); BasePoint (Respondent); First Century Bank, N.A. (Respondent); Drake Enterprises Ltd. (Respondent); TMI Trust Company (Respondent); Chilmark Administrative Ltd. (Respondent); Frontier Capital Group Ltd. (Respondent), CMB Tax Service, LLC (Respondent); HMTK in Right of Canada (Respondent)

## 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.

Madam Justice Fitzpatrick

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

Supreme Court  Tribunal

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

31/10/2023

DD/MM/YYYY

### City where the order was pronounced

Vancouver, BC

### 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."

One day

### What type of proceeding are you appealing from?

Check one only.

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

**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 appellants seek leave to appeal the Order to the extent it provides for a transfer of the appellants' assets to residual companies. Without limitation, the appellants seek leave to appeal paragraphs 1, 3, and 6 of the Order.

**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.

1. The supervising judge erred in dispensing with the requirement that the appellants be provided with notice of the underlying application, in which they had a material interest.
2. The supervising judge erred in approving the reverse vesting order in the absence of evidence from the Monitor as to the economic impact of excluding (or not excluding) the appellants' Area Developer Agreements.

**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

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Constitutional/Administrative | <input type="checkbox"/> Civil Procedure | <input checked="" type="checkbox"/> Commercial |
| <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     |
| <input type="checkbox"/> Divorce Act (Canada)          | <input type="checkbox"/> Family Law Act  | <input type="checkbox"/> 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.

Lawson Lundell LLP  
1600-925 West Georgia Street  
Vancouver, BC V6C 3L2  
Attention: William L. Roberts / Laura L. Bevan / Sarah B. Hannigan

Phone number(s) of appellant(s)

(604) 685-3456

**Email address(es) for service of appellant(s)**  
If you provide an email address, you are consenting to have documents served on you by email.

wroberts@lawsonlundell.com  
lbevan@lawsonlundell.com  
shannigan@lawsonlundell.com

Date form completed

Date

21/11/2023

DD/MM/YYYY

Name of lawyer or party authorizing filing of this form

Sarah Hannigan

**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 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.