

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM  
CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN  
LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH  
ROAD HOLDING CORP., AND FINAL BELL CORP.**

**(Applicants)**

**AIDE MÉMOIRE OF  
FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

**Case Conference May 6, 2024**

May 6, 2024

**STIKEMAN ELLIOTT LLP**  
5300 Commerce Court West  
199 Bay Street  
Toronto, Canada M5L 1B9

**Maria Konyukhova** LSO#: 52880V  
Email: mkonyukhova@stikeman.com  
Tel: 416-869-5230

**Nicholas Avis** LSO#: 76781Q  
Email: navis@stikeman.com  
Tel: 416-869-5563

Lawyers for the Monitor

**TO: THE SERVICE LIST**

1. FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor (the “**Monitor**”) of the Applicants<sup>1</sup> in this proceeding under the *Companies’ Creditors Arrangement Act* (“**CCAA**”), files this *aide mémoire* in connection with the case conference scheduled May 6, 2024, regarding Final Bell Holdings International Ltd.’s (“**FBHI**”) claim for rescission against BZAM Ltd. (“**BZAM**”) and BZAM and Cortland Lending Corporation’s (“**Cortland**”) motion for security for costs.

2. The Monitor is delivering this *aide mémoire* to inform the Court of communications from FBHI in which FBHI has stated that the Monitor has acted improperly in these CCAA proceedings and to seek directions as to how it should conduct itself in light of these allegations.

### **FBHI’s Recent Correspondence with the Monitor**

3. Lax O’Sullivan Lissus Gottlieb LLP (“**Lax**”), as counsel for FBHI, has made various requests and queries of the Monitor and Stikeman Elliott LLP (“**Stikeman**”), counsel for the Monitor.

4. In particular, Lax asked Stikeman in an email dated April 27, 2024, whether Stikeman had sent an email pertaining to the endorsement from the April 19, 2024 case conference “before or after the Monitor and its counsel met privately with counsel for BZAM and Cortland” and if after, to send “copies of any emails or other correspondence that were exchanged between the Monitor or its counsel, on the one hand, and counsel for BZAM and Cortland, on the other, sent or received” for a certain period of time. The Monitor understands that the reference to a private meeting is to a phone call on April 19, 2024, in which Stikeman, the Monitor, and counsel to BZAM (not Cortland) discussed the impact of the adjournment of the hybrid trial on the Applicants. A copy of this email and Stikeman’s response (described in the following paragraph) is attached hereto as **Schedule “A”**.

5. In an email dated April 28, 2024, Stikeman advised Lax of the content of the April 19, 2024, phone call. Stikeman also sought confirmation from Lax that if it produced the requested emails or correspondence that Lax would not subsequently argue that this production constituted

---

<sup>1</sup> BZAM Ltd., BZAM Holdings Inc., BZAM Management Inc., BZAM Cannabis Corp., Folium Life Science Inc., 102172093 Saskatchewan Ltd., The Green Organic Dutchman Ltd. (“**TGOD**”), Medican Organic Inc., High Road Holding Corp., and Final Bell Corp. doing business as BZAM Labs.

a waiver of any privilege or confidentiality between the Monitor and Stikeman, on the one hand, and the Applicants and their counsel, on the other hand, in respect of this or other communications between the Monitor and the Applicants. Stikeman confirmed that no privilege or confidentiality was being asserted at that time and the confirmation of non-waiver was being requested to avoid a costly analysis of whether any confidentiality or privilege applied to these or other communications between the Applicants and the Monitor (whether under common law or any orders made in the Applicants' CCAA proceedings).

6. In the course of exchanging emails about privilege, Lax stated on April 28, 2024, that "I am sensing there may be more going on between the Monitor, BZAM, and Cortland than there should be."

7. Stikeman responded to Lax by email on April 28, 2024, and provided a copy of correspondence between Stikeman and the Monitor, on the one hand, and counsel to BZAM, on the other hand. A copy of Stikeman's email (along with email attachments) is attached hereto as **Schedule "B"**.

8. On May 3, 2024, Lax sent Stikeman an email that contained the following queries:

- (a) Did the Monitor or its counsel share drafts of its Second Report with BZAM and Cortland, or their counsel, prior to delivering its Second Report on April 16 or its revised Second Report on April 17?
  - (i) If so, please provide us with copies of any related correspondence, the drafts, and any mark-ups of the drafts provided to the Monitor.
- (b) Did the Monitor or its counsel engage in any correspondence with BZAM and Cortland, or their counsel, between the time Final Bell delivered its Opening Statement on May 16<sup>2</sup> and the case conference heard April 19?
  - (i) If so, please provide us with copies of that correspondence.

---

<sup>2</sup> The Monitor believes that the reference to "May 16" should have been "April 16", which is the actual date on which FBHI's opening statement was served.

[...] Please be assured this request is not being made lightly. Rather, having learned earlier this week that the Monitor engaged in a private “strategy” session with counsel for BZAM and Cortland shortly after Final Bell’s hybrid trial was adjourned, we have reason to believe similar consultations and discussions occurred prior to April 19. Depending on the responses to the questions above, we may have more questions to ask of the Monitor concerning its communications with BZAM and Cortland and/or their counsel.

9. A copy of Lax’s email dated May 3, 2024, is attached hereto as **Schedule “C”**.
10. Stikeman responded on May 5, 2024. A copy of Stikeman’s response (along with email attachments) is included as Schedule “C”. Amongst other things, Stikeman’s response:
  - (a) Advises that it is common in a CCAA proceeding for the Monitor to engage in discussions and correspondence with the individual parties to CCAA parties;
  - (b) Advises that the Monitor has acted and continues to act in a neutral and fair manner with a view to assisting the parties and the Court reach a resolution or fair adjudication of the dispute between the parties;
  - (c) Repeats that (a) the Monitor and Stikeman have not had discussions with Cortland following the adjournment of the hybrid trial; and (b) Stikeman, the Monitor, and counsel to BZAM spoke after the case conference on April 19, 2024, to discuss the impact of the adjournment of BZAM and FBHI’s hybrid trial on the Applicants and the conduct of the CCAA proceedings;
  - (d) States that neither the Monitor nor Stikeman provided a draft report of the Monitor’s Second Report to BZAM or Cortland or their respective counsel prior to serving the final version;
  - (e) Attaches email correspondence relating to FBHI’s claim for rescission exchanged between the Monitor, Stikeman, and counsel for BZAM for the relevant period (excluding any emails on which Lax was copied, emails relating to delivery of a confidential supplement to the Honourable Justice Osborne, and emails relating to the preparation of an NDA);
  - (f) Notes that the Monitor received an email from Keith Merker, director at BZAM, during the relevant period but the Monitor would not disclose this email because it

pertains to commercially sensitive information about costs incurred by the Applicants at their Bowmanville facility; and

- (g) Notes that representatives of the Monitor have had and continue to have regular interactions with the Applicants and Cortland and their representatives regarding operational, cash flow and other day-to-day CCAA activities unrelated to FBHI's claim for rescission.

11. Lax replied to Stikeman's email later that same day. A copy of Lax's email is attached hereto as **Schedule "D"**. Lax wrote, amongst other things:

I think the Monitor's conduct in relation to my client's claim has been less neutral than you profess.

For example, the Monitor twice took positions in the litigation that were adverse to Final Bell, and on both occasions the Court agreed with Final Bell's position and disagreed with the Monitor [...].

[...] Not to mention that the email produced last weekend disclosed that the Monitor expressly asked BZAM if it intended to seek security for costs within hours of the adjournment, before you had spoke with counsel. All of which tells me that the Monitor's professed neutrality looks a lot like a third adverse party that I have to deal with in this proceeding.

12. On May 6, 2024, FBHI served an *aide mémoire* that, amongst other things, stated the following at paragraph 9:

The Monitor was made aware of BZAM's intention to bring its motion at a private meeting the Monitor held with BZAM's counsel on April 19 – the day the summary trial was adjourned.<sup>[footnote omitted]</sup>  
The only party unaware that these motions were in the works was Final Bell.

13. The Monitor, via Stikeman, has previously and repeatedly advised Lax that the "private meeting" conducted on April 19, 2024, was a phone call in which Stikeman, the Monitor, and counsel to BZAM discussed the impact of the adjournment of the hybrid trial on the Applicants. The possibility of seeking security for costs was raised in this context, but there was no substantive discussion about the bringing of a motion for security for costs. The Monitor and Stikeman did not have any further discussions regarding the motion for security for costs until the morning of April

24, 2024, when counsel to BZAM gave Stikeman a courtesy notice that such a motion would be served in approximately one hour.

**Requests for Directions**

14. The Monitor seeks this Court's guidance as to how it should conduct itself in carrying out its duties under the CCAA and the Amended and Restated Initial Order in light of FBHI's continued allegations that the Monitor's conduct is improper. In particular, the Monitor seeks guidance on the following points:

- (a) Is the Monitor and Stikeman authorized to engage in communications with any of the Applicants, FBHI, or Cortland and their respective counsel without the other parties to the dispute between BZAM and FBHI being involved in these communications, and is the Monitor under an obligation to continually produce those communications in the absence of any asserted relevance to the dispute between the parties?
- (b) What, if any, role should the Monitor play with respect to the litigation between BZAM and FBHI?

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 6<sup>th</sup> day of May 2024.

**STIKEMAN ELLIOTT LLP**  
5300 Commerce Court West  
199 Bay Street  
Toronto, Canada M5L 1B9

**Maria Konyukhova** LSO#: 52880V  
Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)  
Tel: 416-869-5230

**Nicholas Avis** LSO#: 76781Q  
Email: [navis@stikeman.com](mailto:navis@stikeman.com)  
Tel: 416-869-5563

**Philip Yang** LSO#: 82084O  
Email: [pyang@stikeman.com](mailto:pyang@stikeman.com)  
Tel: 416-869-5593

Lawyers for the Monitor

## Schedule "A"

**From:** Maria Konyukhova  
**Sent:** Sunday, April 28, 2024 4:47 PM  
**To:** Andrew Winton  
**Cc:** Nick Avis; David Ionis; Pendrith, Colin; Joseph Blinick; Jeffrey Rosenberg (jeffrey.rosenberg@fticonsulting.com)  
**Subject:** RE: BZAM/Final Bell

Andrew – not sure what private meeting with counsel for BZAM and Cortland you are referring to. As I told you on our call on Friday, Jeff and I spoke with Joey after the case conference with Justice Osborne to discuss the impact of the adjournment on the Applicants. The email below was sent after that phone call.

Without admitting the relevance of any correspondence that may have been exchanged, before we produce it, I would like to have confirmation from you that you will not subsequently argue that this production constitutes a waiver of any privilege or confidentiality that may apply to communications between the Monitor and its counsel on the one hand and the Applicants and their counsel on the other.

Maria Konyukhova

Direct: 416-869-5230  
Mobile: 416-319-1632  
Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>  
**Sent:** Sunday, April 28, 2024 8:00 AM  
**To:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Cc:** Philip Yang <[PYang@stikeman.com](mailto:PYang@stikeman.com)>; David Ionis <[dionis@lolg.ca](mailto:dionis@lolg.ca)>  
**Subject:** Re: BZAM/Final Bell

Maria?

Andrew Winton  
Lax O'Sullivan Lisus Gottlieb LLP  
D: 416 644 5342 | M: 647 286 9001  
[awinton@lolg.ca](mailto:awinton@lolg.ca)

On Apr 27, 2024, at 9:15 AM, Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)> wrote:

Good morning Maria,

Can you please let us know if the email below was sent before or after the Monitor and its counsel met privately with counsel for BZAM and Cortland.

If after, can you please send us copies of any emails or other correspondence that were exchanged between the Monitor or its counsel, on the one hand, and counsel for BZAM and Cortland, on the other, sent or received between receipt of Justice Osborne's endorsement and before you sent the email below?

Thanks,



Andrew

**Andrew Winton**

Direct 416 644 5342

Cell 647 286 9001

[awinton@lolg.ca](mailto:awinton@lolg.ca)

**Lax O'Sullivan Lisus Gottlieb LLP**

Suite 2750, 145 King St W

Toronto ON M5H 1J8 Canada

T 416 598 1744

On Apr 19, 2024, at 5:27 PM, Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)> wrote:

Andrew, Joey, Colin – following up on the case conference before Justice Osborne this afternoon, I am writing in connection with two matters.

Firstly, it appears that in his Endorsement, Justice Osborne made several references to examinations for discovery that have been conducted (para. 2 and para. 3). I propose to write to His Honour to request a correction to the Endorsement to reflect that the examinations to date have been either cross-examinations or R39 examinations. Please advise if there are any objections.

Secondly, Andrew – can you please provide BZAM as soon as possible your requested production request and proposed process for examinations. We encourage the parties to use the time freed up on Monday and Tuesday of next week for either examinations or, at the very least, settling on the process forward.

Maria Konyukhova

Direct: 416-869-5230

Mobile: 416-319-1632

Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**Stikeman Elliott**

Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](http://stikeman.com)

**Stikeman Elliott LLP** Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

## Schedule "B"

**From:** Maria Konyukhova  
**Sent:** Sunday, April 28, 2024 5:13 PM  
**To:** Andrew Winton  
**Cc:** Nick Avis; David Ionis; Pendrith, Colin; Joseph Blinick; Jeffrey Rosenberg (jeffrey.rosenberg@fticonsulting.com)  
**Subject:** RE: BZAM/Final Bell  
**Attachments:** RE: BZAM

I don't recall suggesting the Monitor formed a common interest with anyone.

Our exchange with Joey from April 19 is attached.

Nick will send you some cases tomorrow.

Maria Konyukhova

Direct: 416-869-5230  
Mobile: 416-319-1632  
Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Andrew Winton <awinton@lolg.ca>  
**Sent:** Sunday, April 28, 2024 5:02 PM  
**To:** Maria Konyukhova <MKonyukhova@stikeman.com>  
**Cc:** Nick Avis <NAvis@stikeman.com>; David Ionis <dionis@lolg.ca>; Pendrith, Colin <cpendrith@cassels.com>; Joseph Blinick <BlinickJ@bennettjones.com>; Jeffrey Rosenberg (jeffrey.rosenberg@fticonsulting.com) <jeffrey.rosenberg@fticonsulting.com>  
**Subject:** Re: BZAM/Final Bell

I will not take the position that by providing me with the emails responsive to my request that the Monitor is waiving privilege. My point is no such privilege can exist, as you cannot form a common interest with two litigants against a third while presenting yourself as a neutral disinterested party to the court. So by agreeing you are not waiving, I am not waiving my position that there is no such privilege in these circumstances.

We may need to get on a call to discuss this in more detail as I am sensing there may be more going on between the Monitor, BZAM, and Cortland than there should be.

In the interim, please send me the cases you are referring to, along with your Friday April 19 correspondence.

Thanks,

Andrew

Andrew Winton  
Lax O'Sullivan Lissus Gottlieb LLP  
D: 416 644 5342 | M: 647 286 9001  
[awinton@lolg.ca](mailto:awinton@lolg.ca)

On Apr 28, 2024, at 4:54 PM, Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)> wrote:

I am not getting into an argument of whether or not there is or is not privilege or confidentiality that applies to those communications. And I am not asking you to confirm there is privilege or confidentiality that applies. All I am asking you is whether or not you intend to argue that the mere production of the correspondence you requested constitutes a waiver of any such privilege or confidentiality.

If you'd like to learn more about privilege that may apply to correspondence between a court appointed monitor and CCAA applicants, we'd be happy to send you some cases.

Maria Konyukhova

Direct: 416-869-5230

Mobile: 416-319-1632

Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>

**Sent:** Sunday, April 28, 2024 4:48 PM

**To:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>

**Cc:** Nick Avis <[NAvis@stikeman.com](mailto:NAvis@stikeman.com)>; David Ionis <[dionis@lolg.ca](mailto:dionis@lolg.ca)>; Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>; Jeffrey Rosenberg ([jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)) <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>

**Subject:** Re: BZAM/Final Bell

On what grounds can the Monitor claim privilege over communications with BZAM's counsel or Cortland's counsel in regards to the Final Bell claim? Please explain what you mean.

**Andrew Winton**

Direct 416 644 5342

Cell 647 286 9001

[awinton@lolg.ca](mailto:awinton@lolg.ca)

**Lax O'Sullivan Lisus Gottlieb LLP**

Suite 2750, 145 King St W

Toronto ON M5H 1J8 Canada

T 416 598 1744

On Apr 28, 2024, at 4:46 PM, Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)> wrote:

Andrew – not sure what private meeting with counsel for BZAM and Cortland you are referring to. As I told you on our call on Friday, Jeff and I spoke with Joey after the case conference with Justice Osborne to discuss the impact of the adjournment on the Applicants. The email below was sent after that phone call.

Without admitting the relevance of any correspondence that may have been exchanged, before we produce it, I would like to have confirmation from you that you will not subsequently argue that this production constitutes a waiver of any privilege or confidentiality that may apply to communications between the Monitor and its counsel on the one hand and the Applicants and their counsel on the other.

Maria Konyukhova

Direct: 416-869-5230

Mobile: 416-319-1632

Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>

**Sent:** Sunday, April 28, 2024 8:00 AM

**To:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>

**Cc:** Philip Yang <[PYang@stikeman.com](mailto:PYang@stikeman.com)>; David Ionis <[dionis@lolg.ca](mailto:dionis@lolg.ca)>

**Subject:** Re: BZAM/Final Bell

Maria?

Andrew Winton

Lax O'Sullivan Lissus Gottlieb LLP

D: 416 644 5342 | M: 647 286 9001

[awinton@lolg.ca](mailto:awinton@lolg.ca)

On Apr 27, 2024, at 9:15 AM, Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)> wrote:

Good morning Maria,

Can you please let us know if the email below was sent before or after the Monitor and its counsel met privately with counsel for BZAM and Cortland.

If after, can you please send us copies of any emails or other correspondence that were exchanged between the Monitor or its counsel, on the one hand, and counsel for BZAM and Cortland, on the other, sent or received between receipt of Justice Osborne's endorsement and before you sent the email below?

Thanks,

Andrew

**Andrew Winton**

Direct 416 644 5342

Cell 647 286 9001

[awinton@lolg.ca](mailto:awinton@lolg.ca)

**Lax O'Sullivan Lissus Gottlieb LLP**

Suite 2750, 145 King St W

Toronto ON M5H 1J8 Canada

T 416 598 1744

On Apr 19, 2024, at 5:27 PM, Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)> wrote:

Andrew, Joey, Colin – following up on the case conference before Justice Osborne this afternoon, I am writing in connection with two matters.

Firstly, it appears that in his Endorsement, Justice Osborne made several references to examinations for discovery that have been conducted (para. 2 and para. 3). I propose to write to His Honour to request a correction to the Endorsement to reflect that the examinations to date have been either cross-examinations or R39 examinations. Please advise if there are any objections.

Secondly, Andrew – can you please provide BZAM as soon as possible your requested production request and proposed process for examinations. We encourage the parties to use the time freed up on Monday and Tuesday of next week for either examinations or, at the very least, settling on the process forward.

Maria Konyukhova

Direct: 416-869-5230

Mobile: 416-319-1632

Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

## **Stikeman Elliott**

Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](#)

**Stikeman Elliott LLP** Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

---

## **Stikeman Elliott**

Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](#)

**Stikeman Elliott LLP** Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

---

## **Stikeman Elliott**

Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](#)

**Stikeman Elliott LLP** Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

**Email Attachment no. 1**

**From:** Maria Konyukhova  
**Sent:** Friday, April 19, 2024 2:46 PM  
**To:** Joseph Blinick; Rosenberg, Jeffrey  
**Subject:** RE: BZAM

Ok for me

Maria Konyukhova

Direct: 416-869-5230  
Mobile: 416-319-1632  
Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>  
**Sent:** Friday, April 19, 2024 2:45 PM  
**To:** Rosenberg, Jeffrey <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>; Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Subject:** RE: BZAM

Sorry, can we adjourn a few? 3:15? Stuck in another meeting.

**Joseph Blinick**, *Partner\**, Bennett Jones LLP  
\*Denotes Professional Corporation  
T. 416 777 4828 | F. 416 863 1716 | M. 416 803 7301

---

**From:** Rosenberg, Jeffrey <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>  
**Sent:** Friday, April 19, 2024 2:24 PM  
**To:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>; Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>  
**Subject:** RE: BZAM

Works for me.

---

**From:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Sent:** Friday, April 19, 2024 2:23 PM  
**To:** Rosenberg, Jeffrey <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>; Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>  
**Subject:** [EXTERNAL] Re: BZAM

Just stepped out for a bite. Can we do in 15?

Maria Konyukhova

Direct: 416-869-5230  
Mobile: 416-319-1632  
Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)



**From:** Rosenberg, Jeffrey <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>  
**Sent:** Friday, April 19, 2024 2:22:14 PM  
**To:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>; Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Subject:** RE: BZAM

Let's do teams.

Jeff

---

**From:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>  
**Sent:** Friday, April 19, 2024 2:21 PM  
**To:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Cc:** Rosenberg, Jeffrey <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>  
**Subject:** [EXTERNAL] RE: BZAM

I will call you shortly if that works. Or happy to set up a Teams if you both want to be on.

**Joseph Blinick**, *Partner\**, Bennett Jones LLP  
\*Denotes Professional Corporation  
T. 416 777 4828 | F. 416 863 1716 | M. 416 803 7301

---

**From:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Sent:** Friday, April 19, 2024 1:59 PM  
**To:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>  
**Cc:** Jeffrey Rosenberg ([jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)) <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>  
**Subject:** RE: BZAM

Ok. Let me know when you want to connect about next steps before I reach out to Andrew.

Maria Konyukhova

Direct: 416-869-5230  
Mobile: 416-319-1632  
Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>  
**Sent:** Friday, April 19, 2024 1:37 PM  
**To:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Cc:** Jeffrey Rosenberg ([jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)) <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>  
**Subject:** RE: BZAM

Top of my list.

**Joseph Blinick**, *Partner\**, Bennett Jones LLP  
\*Denotes Professional Corporation  
T. 416 777 4828 | F. 416 863 1716 | M. 416 803 7301

---

**From:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Sent:** Friday, April 19, 2024 1:37 PM  
**To:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>

Cc: Jeffrey Rosenberg ([jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)) <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>

Subject: BZAM

Now that we have the time, perhaps the company should consider bringing a motion for security for costs?

Maria Konyukhova

Direct: 416-869-5230

Mobile: 416-319-1632

Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](http://stikeman.com)

**Stikeman Elliott LLP** Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

The contents of this message may contain confidential and/or privileged subject matter. If this message has been received in error, please contact the sender and delete all copies. If you do not wish to receive future commercial electronic messages from Bennett Jones, you can unsubscribe at the following link:

<http://www.bennettjones.com/unsubscribe>

---

Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](http://stikeman.com)

**Stikeman Elliott LLP** Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

The contents of this message may contain confidential and/or privileged subject matter. If this message has been received in error, please contact the sender and delete all copies. If you do not wish to receive future commercial electronic messages from Bennett Jones, you can unsubscribe at the following link:

<http://www.bennettjones.com/unsubscribe>

**Confidentiality Notice:**

This email and any attachments may be confidential and protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the e-mail or any attachment is prohibited. If you have received this email in error, please notify us immediately by replying to the sender and then delete this copy and the reply from your system. Thank you for your cooperation.

---

Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](http://stikeman.com)

**Stikeman Elliott LLP** Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

The contents of this message may contain confidential and/or privileged subject matter. If this message has been received in error, please contact the sender and delete all copies. If you do not wish to receive future commercial electronic messages from Bennett Jones, you can unsubscribe at the following link:  
<http://www.bennettjones.com/unsubscribe>

## Schedule "C"

**From:** Maria Konyukhova  
**Sent:** Sunday, May 5, 2024 5:30 PM  
**To:** Andrew Winton  
**Cc:** Joseph Blinick; Pendrith, Colin; jshepherd@cassels.com; Jeffrey Rosenberg (jeffrey.rosenberg@fticonsulting.com); David Ionis; Nick Avis  
**Subject:** RE: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647] [LOLG-DMS.FID160107]  
**Attachments:** RE: BZAM - materials for April 22-23 hearing; FW: BZAM/Final | Supplementary Answers to Undertakings

Andrew,

You have now made numerous insinuations during the course of the BZAM CCAA proceedings that the Monitor is acting improperly in this matter. Among other things, you appear to take issue with me and the Monitor having discussions or corresponding with the Applicants' or Cortland's counsel without you present. I appreciate that you are not a frequent visitor to CCAA proceedings and so can advise that discussions and correspondence between the Monitor and individual parties to CCAA proceedings are common and are intended to allow the Monitor to find common ground to move issues in dispute along. In fact, as you well know, we have had numerous discussions with you without counsel for Cortland and BZAM being present which I assume you do not take any issue with.

I can also advise that the Monitor in this case has and continues to act in a neutral and fair manner with a view to assisting the parties and the Court reach a resolution or fair adjudication of the dispute between them. If the Monitor happens to disagree with your position on any particular issue, that is not evidence that the Monitor is biased against your client.

I will also correct you for the third time in that the Monitor and I did not have any discussions with counsel for Cortland following the adjournment of the hybrid trial. Jeff Rosenberg and I had a call with Joey Blinick following the case conference ("strategy" session" are your words, not mine) to discuss the impact of the adjournment on the Applicants and the conduct of the CCAA proceedings. Please confirm you have received and understood this message.

In respect of the specific information and documents requests you make below, I can advise that neither the Monitor nor its counsel provided a draft of the Second Report to the Applicants or Cortland or their respective counsel prior to serving the final version. I am attaching copies of the correspondence relating to the litigation with Final Bell exchanged between us/the Monitor and counsel for Bennett Jones between the delivery of your Opening Statement on April 16 and the case conference on April 19 (excluding any you are copied on, emails relating to delivery of the Confidential Supplement to Justice Osborne, and emails relating solely to preparation of an NDA for Final Bell at its request). There is one additional email from Keith Merker to various representatives of the Monitor dated April 19 at 11:11am providing information regarding costs being incurred by the Applicants at the Bowmanville facility. This email may contain commercially sensitive information, which is confidential to the Applicants and, in accordance with paragraph 28 of the ARIQ, can only be disclosed with their consent or pursuant to Court order. We are providing these responses and copies of communications for expediency only and are not admitting the relevance of any of the information or documents you requested and without waiving any confidentiality or privilege that may apply to these or other similar documents. In addition to these emails, representatives of the Monitor have had and continue to have regular interactions with the Applicants and Cortland and their representatives regarding operational, cash flow and other day-to-day CCAA activities unrelated to the Final Bell litigation.

I hope that this will be the last time we have to address this issue. If this is insufficient and you have some allegation of impropriety to make against the Monitor, please do so. In the absence of any such allegation, your continued requests for copies of correspondence between the Monitor and the Applicant are not relevant to any issue in dispute between Final Bell and the Applicants and will not be entertained further barring a Court order.

We intend to bring this correspondence chain to the attention of Justice Osborne on Monday.

Maria Konyukhova

Direct: 416-869-5230  
Mobile: 416-319-1632  
Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Andrew Winton <awinton@lolg.ca>  
**Sent:** Friday, May 3, 2024 4:37 PM  
**To:** Maria Konyukhova <MKonyukhova@stikeman.com>  
**Cc:** Joseph Blinick <BlinickJ@bennettjones.com>; Pendrith, Colin <cpendrith@cassels.com>; jshepherd@cassels.com; Jeffrey Rosenberg (jeffrey.rosenberg@fticonsulting.com) <jeffrey.rosenberg@fticonsulting.com>; David Ionis <dionis@lolg.ca>  
**Subject:** RE: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647] [LOLG-DMS.FID160107]

Hi Maria,

I have been giving this further thought. In light of the Monitor's position in your email below I would appreciate it if you could answer the following questions:

1. Did the Monitor or its counsel share drafts of its Second Report with BZAM and Cortland, or their counsel, prior to delivering its Second Report on April 16 or its revised Second Report on April 17?
  - a. If so, please provide us with copies of any related correspondence, the drafts, and any mark-ups of the drafts provided to the Monitor.
2. Did the Monitor or its counsel engage in any correspondence with BZAM and Cortland, or their counsel, between the time Final Bell delivered its Opening Statement on May 16 and the case conference heard April 19?
  - a. If so, please provide us with copies of that correspondence.

In all cases, if you are sending us documents, please send us digital originals with all metadata intact.

If the Monitor is claiming privilege in response to our questions, please provide us with the cases you rely on to support the existence of such privilege and please provide us with a list of the dates and senders/recipients of the communications over which the Monitor asserts privilege.

Please be assured this request is not being made lightly. Rather, having learned earlier this week that the Monitor engaged in a private "strategy" session with counsel for BZAM and Cortland shortly after Final Bell's hybrid trial was adjourned, we have reason to believe similar consultations and discussions occurred prior to April 19. Depending on the responses to the questions above, we may have more questions to ask of the Monitor concerning its communications with BZAM and Cortland and/or their counsel.

Thank you,

Andrew

**Andrew Winton**  
Lax O'Sullivan Lissus Gottlieb LLP  
D: 416 644 5342 | M: 647 286 9001  
[www.lolg.ca](http://www.lolg.ca)

---

**From:** Maria Konyukhova <MKonyukhova@stikeman.com>  
**Sent:** Wednesday, May 1, 2024 6:07 PM  
**To:** Andrew Winton <awinton@lolg.ca>  
**Cc:** Joseph Blinick <BlinickJ@bennettjones.com>; Pendrith, Colin <cpendrith@cassels.com>; jshepherd@cassels.com; Jeffrey Rosenberg (jeffrey.rosenberg@fticonsulting.com) <jeffrey.rosenberg@fticonsulting.com>  
**Subject:** Re: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647] [LOLG-DMS.FID160107]

Are you asking for production of any specific documents? If not, this is a hypothetical discussion and a waste of the Applicants' funds.

Maria Konyukhova

Direct: 416-869-5230  
Mobile: 416-319-1632  
Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>  
**Sent:** Wednesday, May 1, 2024 6:03:03 PM  
**To:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Cc:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>; Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; [jshepherd@cassels.com](mailto:jshepherd@cassels.com) <[jshepherd@cassels.com](mailto:jshepherd@cassels.com)>; Jeffrey Rosenberg ([jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)) <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>  
**Subject:** RE: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647] [LOLG-DMS.FID160107]

Hi Maria,

I'm not trying to "do" anything. We had an exchange over the weekend where you indicated you were not waiving any privilege that might apply to your communications with BZAM and Cortland. I questioned the basis for any such privilege claim, and you told me Philip would send me cases on Monday to support your position that privilege might apply. I never received those cases.

My emails below were just following up on what you promised. I assumed you and Philip had specific case law in mind. I'm interesting in seeing those cases because I do not believe the Monitor can assert privilege over the communications in question.

While this may be a "sideshow" for the Monitor, it is a serious issue for Final Bell. Since you have not yet taken a position, I am asking you to do so now: Does the Monitor claim privilege over its correspondence with BZAM and Cortland concerning the Final Bell misrepresentation claim? If so, can you please provide me with the cases you rely on to support that position?

Regards,

Andrew

**Andrew Winton**  
Lax O'Sullivan Lissu Gottlieb LLP

D: 416 644 5342 | M: 647 286 9001

[www.lolg.ca](http://www.lolg.ca)

---

**From:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>

**Sent:** Wednesday, May 1, 2024 3:03 PM

**To:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>

**Cc:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>; Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; [jshepherd@cassels.com](mailto:jshepherd@cassels.com);  
Jeffrey Rosenberg <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)> <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>

**Subject:** RE: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647] [LOLG-DMS.FID160107]

Andrew,

It appears you are looking to create issues where there are none. You asked for certain correspondence between the Monitor and the Applicants or Cortland which we provided and clarified that to the extent there was a privilege or confidentiality that applied to that correspondence, the mere disclosure of it did not waive such privilege or confidentiality. Moreover, I specified on a couple of occasions that the Monitor has not taken a view on whether there is privilege or confidentiality attaches to any such or other correspondence. So I struggle to understand where you are getting that we need to support the position that our correspondence with BZAM and Cortland re Final Bell Claim is privileged. To be extra clear – we have not taken such a position.

I again urge you to focus on issues of substance rather than these sideshow issues.

Thanks.

Maria Konyukhova

Direct: 416-869-5230

Mobile: 416-319-1632

Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>

**Sent:** Wednesday, May 1, 2024 2:56 PM

**To:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>

**Cc:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>; Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; [jshepherd@cassels.com](mailto:jshepherd@cassels.com);  
Jeffrey Rosenberg <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)> <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>

**Subject:** Re: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647] [LOLG-DMS.FID160107]

I thought when you emailed me on Sunday to say I'd get cases "tomorrow" you meant Monday. I don't need educating I need to know what law you rely on to support your position that your correspondence with BZAM and Cortland re the Final Bell claim is privileged. Thanks,

**Andrew Winton**

Direct 416 644 5342

Cell 647 286 9001

[awinton@lolg.ca](mailto:awinton@lolg.ca)

**Lax O'Sullivan Lisus Gottlieb LLP**

Suite 2750, 145 King St W



Toronto ON M5H 1J8 Canada  
T 416 598 1744

On May 1, 2024, at 2:49 PM, Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)> wrote:

I will let Joey and Colin respond to your point 1.

With respect to your second point, since you are not examining Mr. Bovington, will you be delivering an amended opening statement and, if so, when? The Monitor would like to have this trial scheduled for the earliest available date and we need to understand what steps need to take place before then.

With respect to your last point, what disputed privilege issue? You asked for certain correspondence which we provided. We are happy to provide some cases for your educational purposes, but its not a priority from my timing perspective.

We will be asking for Justice Osborne's times on Thursday or Friday and scheduling will depend on HH's availability.

Thanks.

Maria Konyukhova

Direct: 416-869-5230  
Mobile: 416-319-1632  
Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>  
**Sent:** Wednesday, May 1, 2024 2:34 PM  
**To:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>; Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>  
**Cc:** Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; [jshepherd@cassels.com](mailto:jshepherd@cassels.com); Jeffrey Rosenberg ([jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)) <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>  
**Subject:** RE: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647] [LOLG-DMS.FID160107]

Maria,

I would ask that we schedule the conference for Friday afternoon to accommodate my schedule. I don't think there is any prejudice if we wait until then.

In the interim, I can advise that:

1. Final Bell intends to deliver its responding record to the security for costs motion by May 9, but will deliver it sooner if possible. That is conditional on receiving the dockets we requested from BZAM and Cortland by the end of this week. We need a reasonable period of time to review the dockets as part of the preparation of our responding record. We are still waiting for BZAM and Cortland to confirm their position on our request.
  1. Assuming the motion is heard later this month, we will deliver a responding factum four business days before the hearing date.
2. Final Bell does not intend to examine Mr. Bovingdon further on the limited documents delivered by BZAM on April 29.

Finally, on Sunday I was told the Monitor would send me case law on a disputed privilege issue by Monday. I did not see that case law. Please send that today as that remains an open issue.

Regards,

Andrew

**Andrew Winton**

Lax O'Sullivan Lissus Gottlieb LLP

D: 416 644 5342 | M: 647 286 9001

[www.lolg.ca](http://www.lolg.ca)

---

**From:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>

**Sent:** Wednesday, May 1, 2024 11:09 AM

**To:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>; Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>

**Cc:** Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; [jshepherd@cassels.com](mailto:jshepherd@cassels.com); Jeffrey Rosenberg  
([jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)) <[jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)>

**Subject:** RE: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647] [LOLG-DMS.FID160107]

I don't think the below is in keeping with any of the 3C's either and urge everyone to reign in the unhelpful rhetoric. It appears to the Monitor that the progress on this matter has stalled, and we will reach out to Justice Osborne to request a case conference for tomorrow or Friday to assist the parties with setting appropriate deadlines to move this matter forward.

Andrew – to the extent it is helpful, I understand the Applicants are agreeable to proceeding with the hearing of the security for motion orally. We look forward to receiving later today your proposed timetable for the adjudication of the security for costs motion, as well as your proposed method of and date for the examination of Mr. Bovington.

Maria Konyukhova

Direct: 416-869-5230

Mobile: 416-319-1632

Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>

**Sent:** Wednesday, May 1, 2024 8:00 AM

**To:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>

**Cc:** Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>;  
[jshepherd@cassels.com](mailto:jshepherd@cassels.com)

**Subject:** Re: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647] [LOLG-DMS.FID160107]

Joey,

I don't think the tone or content of your email is in keeping with the 3Cs. I will not debate this issue further via email as we seem to have exhausted your ability to think rationally about the issues.

I still anticipate having a proposed date for a responding record to you by end of day. I would appreciate a response to the other issues raised in my email below.

Regards,

Andrew

Andrew Winton  
Lax O'Sullivan Lisus Gottlieb LLP  
D: 416 644 5342 | M: 647 286 9001  
[awinton@lolg.ca](mailto:awinton@lolg.ca)

On Apr 30, 2024, at 6:08 PM, Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)> wrote:

Andrew,

You have had our materials for the security costs motion for nearly a week, yet you persist in your refusal to even suggest a date by which Final Bell could reasonably deliver responding materials. This is unacceptable. Your continued failure to even propose a date for delivery of responding materials on the basis of a purported need to review BZAM's supplementary productions and schedule an examination of Mr. Bovingdon makes no sense and is a transparent delay tactic. In any event, you have BZAM's supplementary productions addressing the narrow issue concerning BMI's B300s (which you leveraged to postpone the hearing), and you also have our commitment to make Mr. Bovingdon available on the first available date for a continued examination on that subject-matter should Final Bell wish to conduct such an examination.

It is eminently clear that Final Bell has no genuine interest in agreeing to any kind of reasonable timetable for the motion and that it is intent on delaying the matter unreasonably. Accordingly, if we do not hear from you by 10 am tomorrow morning with a draft timetable for the security for costs motions and your position on Mr. Bovingdon's continued examination, we will be asking the Monitor to reach out to the Court to set up a case conference on the first available date to address all extant issues between the parties with a view to getting the matter back on track for timely adjudication.

Yours truly,

**Joseph Blinick**, *Partner\**, Bennett Jones LLP  
\*Denotes Professional Corporation  
T. 416 777 4828 | F. 416 863 1716 | M. 416 803 7301

---

**From:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>  
**Sent:** Tuesday, April 30, 2024 1:12 PM  
**To:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>  
**Cc:** Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>; [jshepherd@cassels.com](mailto:jshepherd@cassels.com)  
**Subject:** Re: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647] [LOLG-DMS.FID160107]

Joey,

Your email below does not accurately summarize what happened last week. At the case conference held April 25, we asked Justice Osborne to stand down the scheduling of Final Bell's response to the motion until the pending case conference to schedule the claim hearing date(s). Justice Osborne did not agree with that submission, and instead directed the parties to try to agree on a timetable or else return before him. He did not otherwise make any directions or comments about the timing for delivery of a responding record.

My email below informed you that we would not be able to commit to a date for a responding record after we had a chance to review BZAM's additional documents and agree to a date for Mr. Bovingdon's examination, at which point we would provide you with a date for our responding record. That does not conflict with His Honour's direction.

From Final Bell's point of view, it could not commit to a date for a responding record without first seeing the scope of BZAM's additional documents, which will feature in the responding record, which will include documents that go to the merits of the claim.

While my proposal below was not inconsistent with Justice Osborne's direction, your threat to request another case conference before Final Bell has a reasonable chance to propose a date by which it will deliver responding materials is contrary to the direction that the parties attempt to negotiate a timetable. Your conference would be a waste of the court's time.

We received your client's additional documents yesterday afternoon and they are under review. We anticipate we will be able to propose a date by which we will deliver a responding record by end of day tomorrow.

That deals with the first issue in your email. I don't understand the balance of your email re form of hearing and dockets. Per Rule 37.12.1, after a party delivers a motion record and factum for an opposed motion in writing, the responding party may elect to make oral argument at a hearing. The moving party can either attend at the hearing and also make submissions or it can rely solely on its written materials. The moving party does not have the ability to restrict the responding party's right to make oral argument on an opposed motion.

My email below informed you that we intend to make oral argument. I assumed you want to do so the same, which is why I suggested equal time for you and Cortland. If you are trying to suggest that BZAM can somehow prevent Final Bell from responding to an opposed motion with oral submissions, I'd like to know what case law you rely on for that position, which contrary to the Rules and basic principles of procedural fairness.

Likewise, the Rules and case law are clear re bills of costs and supporting dockets: a Bill of Costs should include supporting dockets or other evidence to support the time claimed. While it may be common practice not to include dockets at first instance, the party seeking costs is required to produce redacted dockets or other similar evidence to support the hours claimed upon request from the responding party.

Here, where Final Bell and Cortland combined seek security of approximately \$1 million, and where most of the time for which security is sought has already been incurred, we require your (redacted) dockets. We want to review the dockets the moving parties rely upon as being in relation to the Final Bell claim when both parties are engaged in other tasks for the CCAA proceeding.

Thanks,

Andrew

Andrew Winton  
Lax O'Sullivan Liusus Gottlieb LLP  
D: 416 644 5342 | M: 647 286 9001  
[awinton@lolg.ca](mailto:awinton@lolg.ca)

On Apr 29, 2024, at 3:58 PM, Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)> wrote:

Andrew,

At the last case conference, you made the submission that Final Bell should not be required to respond to these motions until after the record for the rescission claim is finalized. The Court disagreed and directed the parties to agree on a timetable. Your below position is inconsistent with the Court's direction. It is also a clear attempt to delay the timely adjudication of the motions for security for costs. Accordingly, either re-consider your below position and provide us with a reasonable date by which Final Bell proposes to deliver responding materials consistent with the Court's direction

or we will be left with no choice but to return to Court to implement a timetable and compel delivery of Final Bell's responding materials so that we can have the matter adjudicated expeditiously.

As it relates to the form of hearing, that is something we can address amongst ourselves or, if necessary, with the Court once the motion is briefed.

As it relates to your request for dockets, there is a lawyer's certificate attached to the bill of costs confirming that all of the historical time was spent. The balance relates to our anticipated costs going forward, which may be light given Final Bell's conduct and the extent to which it is seeking to expand the scope of the agreed-upon process and tactically delay the adjudication of the issues. If you wish to challenge the quantum of security for costs sought as being unreasonable, that is of course your right, and you can tender you own costs outline showing all of the costs Final Bell has incurred.

You now have BZAM's supplementary productions and a commitment to make Mr. Bovingdon available for an examination on the earliest possible date. Let's please set a timetable within the next 24 hours for the security for costs motions or we will seek to address the matter a case conference.

Yours truly,

**Joseph Blinick**, *Partner\**, Bennett Jones LLP

\*Denotes Professional Corporation

T. 416 777 4828 | F. 416 863 1716 | M. 416 803 7301

---

**From:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>

**Sent:** Sunday, April 28, 2024 5:31 PM

**To:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>

**Cc:** Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>; [jshepherd@cassels.com](mailto:jshepherd@cassels.com)

**Subject:** Re: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647]

Joey,

It is more complicated than you seem to appreciate. Having thought about it since Friday, I won't be in a position to commit to a date to deliver a responding record until we receive BZAM's documents in response to our April 22 request. Once we have a chance to review the documents and schedule Mr. Bovingdon's examination, we can discuss the timetable for delivery of a responding record.

I also do not agree that the motion can proceed in writing. Our intention is to respond to the motion with reference to both the merits of our claim and the process by which this motion was brought.

I estimate we'll need a half day to argue, based on my need for 90 minutes to respond to the motion, and I assume you and Cortland will want to have an equal amount of time to argue in favour. If you need more than 90 minutes combined, then I will want an allotment of time equal to your combined submissions to respond, so plan accordingly.

I also need you and Colin to deliver redacted dockets to support the hours claimed by your respective firms. I am concerned at the number of timekeepers and hours claimed and would appreciate understanding what timekeepers' dockets (days and hours docketed) are referenced in your bills of costs. I obviously do not care for the entries (for now), but I am concerned that in the haste with which you prepared your materials, you inadvertently included time entries that are unrelated to the Final Bell claim, so I reserve the right to further challenge the time claimed if necessary.

Thanks,

Andrew

Andrew Winton  
Lax O'Sullivan Lissus Gottlieb LLP  
D: 416 644 5342 | M: 647 286 9001  
[awinton@lolg.ca](mailto:awinton@lolg.ca)

On Apr 27, 2024, at 8:51 AM, Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)> wrote:

Thanks. This should not be difficult. We are simply asking for you to advise when you propose to deliver responding materials. I am not sure why you need 4 days to advise, but we will look forward to hearing from you later today or tomorrow latest.

Have a nice weekend.

**Joseph Blinick**, *Partner\**, Bennett Jones LLP  
\*Denotes Professional Corporation  
T. 416 777 4828 | F. 416 863 1716 | M. 416 803 7301

---

**From:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>  
**Sent:** Saturday, April 27, 2024 8:45 AM  
**To:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>  
**Cc:** Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>; [jshepherd@cassels.com](mailto:jshepherd@cassels.com)  
**Subject:** RE: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647]

Good morning Joey,

I just wanted to send a quick note to confirm I am not ignoring your email below and will try to get back to you before the end of the weekend.

Regards,

**Andrew Winton**  
Lax O'Sullivan Lissus Gottlieb LLP  
D: 416 644 5342 | M: 647 286 9001  
[www.lolg.ca](http://www.lolg.ca)

---

**From:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>  
**Sent:** Thursday, April 25, 2024 1:52 PM  
**To:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>  
**Cc:** Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>; [jshepherd@cassels.com](mailto:jshepherd@cassels.com)  
**Subject:** RE: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647]

Andrew,

Further to the below and Justice Osborne's direction of a moment ago, please advise as to when you propose to deliver Final Bell's responding materials for the security for costs motions so we can consider your position and work toward settling on a timetable.

We look forward to hearing from you.

Thank you,

**Joseph Blinick**, *Partner\**, Bennett Jones LLP  
\*Denotes Professional Corporation  
T. 416 777 4828 | F. 416 863 1716 | M. 416 803 7301

---

**From:** Joseph Blinick  
**Sent:** Thursday, April 25, 2024 11:56 AM  
**To:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>  
**Cc:** Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Subject:** FW: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647]

Andrew,

We will need to get the motions for security for costs adjudicated in a timely manner. Please let us know as soon as possible when you propose to deliver Final Bell's responding materials.

Thank you,

**Joseph Blinick**, *Partner\**, Bennett Jones LLP  
\*Denotes Professional Corporation  
T. 416 777 4828 | F. 416 863 1716 | M. 416 803 7301

---

**From:** Tom Feore <[FeoreT@bennettjones.com](mailto:FeoreT@bennettjones.com)>  
**Sent:** Wednesday, April 24, 2024 11:09 AM  
**To:** [PYang@stikeman.com](mailto:PYang@stikeman.com); Andrew Froh <[froha@bennettjones.com](mailto:froha@bennettjones.com)>; Jamie Ernst <[ernstj@bennettjones.com](mailto:ernstj@bennettjones.com)>; [jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com); [kamran.hamidi@fticonsulting.com](mailto:kamran.hamidi@fticonsulting.com); [adsaran.vithiyananthan@fticonsulting.com](mailto:adsaran.vithiyananthan@fticonsulting.com); [MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com); [NAvis@stikeman.com](mailto:NAvis@stikeman.com); Joseph <[jbellissimo@cassels.com](mailto:jbellissimo@cassels.com)>; Levine, Natalie <[nlevine@cassels.com](mailto:nlevine@cassels.com)>; Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; [abozzelli@cassels.com](mailto:abozzelli@cassels.com); [ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com); [harvey@chaitons.com](mailto:harvey@chaitons.com); [pat.confalone@justice.gc.ca](mailto:pat.confalone@justice.gc.ca); [kelly.smithwayland@justice.gc.ca](mailto:kelly.smithwayland@justice.gc.ca); [kevin.dias@justice.gc.ca](mailto:kevin.dias@justice.gc.ca); [christopher.vanberkum@justice.gc.ca](mailto:christopher.vanberkum@justice.gc.ca); [AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca](mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca); [pat.confalone@cra-arc.gc.ca](mailto:pat.confalone@cra-arc.gc.ca); [sandra.palma@cra-arc.gc.ca](mailto:sandra.palma@cra-arc.gc.ca); [steven.groeneveld@ontario.ca](mailto:steven.groeneveld@ontario.ca); [insolvency.unit@ontario.ca](mailto:insolvency.unit@ontario.ca); [servicebc@gov.bc.ca](mailto:servicebc@gov.bc.ca); [aglsbrevtaxinsolvency@gov.bc.ca](mailto:aglsbrevtaxinsolvency@gov.bc.ca); [fin.minister@gov.sk.ca](mailto:fin.minister@gov.sk.ca); [jus.minister@gov.sk.ca](mailto:jus.minister@gov.sk.ca); [janine.vindevoghel@gov.sk.ca](mailto:janine.vindevoghel@gov.sk.ca); [jsg.servicehmk@gov.ab.ca](mailto:jsg.servicehmk@gov.ab.ca); [danielcantin@revenuquebec.ca](mailto:danielcantin@revenuquebec.ca); [notif-quebec@revenuquebec.ca](mailto:notif-quebec@revenuquebec.ca); [cassandra.scullion@hc-sc.gc.ca](mailto:cassandra.scullion@hc-sc.gc.ca); [licensing-cannabis-licenses@hc-sc.gc.ca](mailto:licensing-cannabis-licenses@hc-sc.gc.ca); [inquiry@slga.com](mailto:inquiry@slga.com); [jgasper@slga.com](mailto:jgasper@slga.com); [amacfarlane@blg.com](mailto:amacfarlane@blg.com); [bbrooksbank@blg.com](mailto:bbrooksbank@blg.com); [nhollard@blg.com](mailto:nhollard@blg.com); [jeffrey.ring@bcldb.com](mailto:jeffrey.ring@bcldb.com); [cannabis.vendor@bcldb.com](mailto:cannabis.vendor@bcldb.com); [procurement@aglc.ca](mailto:procurement@aglc.ca); [craig.smitten@aglc.ca](mailto:craig.smitten@aglc.ca); [larysa.palyniak@aglc.ca](mailto:larysa.palyniak@aglc.ca); [loi-cannabis@msss.gouv.qc.ca](mailto:loi-cannabis@msss.gouv.qc.ca); [inquiries@osc.gov.on.ca](mailto:inquiries@osc.gov.on.ca); [maya@chaitons.com](mailto:maya@chaitons.com); [info@thecse.com](mailto:info@thecse.com); [cecilia@otcmarkets.com](mailto:cecilia@otcmarkets.com); [ralgar@bdplaw.com](mailto:ralgar@bdplaw.com); [customercare@johnstoneequipment.com](mailto:customercare@johnstoneequipment.com); [customerexperience@cangaspropane.ca](mailto:customerexperience@cangaspropane.ca); [elizabeth.patrick@bmo.com](mailto:elizabeth.patrick@bmo.com); [enquiries.canada@silverchef.ca](mailto:enquiries.canada@silverchef.ca); [sheryl.nisenbaum@linde.com](mailto:sheryl.nisenbaum@linde.com); [contactus@linde.com](mailto:contactus@linde.com); [awinton@lolg.ca](mailto:awinton@lolg.ca); [bbohn@lolg.ca](mailto:bbohn@lolg.ca); [dionis@lolg.ca](mailto:dionis@lolg.ca); [lapointeclaudio@live.ca](mailto:lapointeclaudio@live.ca); [ron@auxly.com](mailto:ron@auxly.com); [helen.martin@organigram.ca](mailto:helen.martin@organigram.ca); [tjeffries@farris.com](mailto:tjeffries@farris.com); [jquick@cannapiece.ca](mailto:jquick@cannapiece.ca); [gwhaywood642@msn.com](mailto:gwhaywood642@msn.com); [fnadon@pax.com](mailto:fnadon@pax.com); [m Gunderson@pax.com](mailto:m Gunderson@pax.com); [mpatag@pax.com](mailto:mpatag@pax.com); [sally@pax.com](mailto:sally@pax.com); [bcosman@perkinscoie.com](mailto:bcosman@perkinscoie.com); [hurutledge@perkinscoie.com](mailto:hurutledge@perkinscoie.com); [rleibowitz@perkinscoie.com](mailto:rleibowitz@perkinscoie.com); [jlotz@lotzandco.com](mailto:jlotz@lotzandco.com)  
**Cc:** Sean Zweig <[ZweigS@bennettjones.com](mailto:ZweigS@bennettjones.com)>; Mike Shakra <[ShakraM@bennettjones.com](mailto:ShakraM@bennettjones.com)>; Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>; Tom Feore <[FeoreT@bennettjones.com](mailto:FeoreT@bennettjones.com)>  
**Subject:** Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647]

To the Service List:

Attached please find BZAM Ltd.'s materials for its motion seeking security for costs from Final Bell Holdings International Ltd., which is hereby served pursuant to the *Rules of Civil Procedure* and the E-Service Protocol.

Yours truly,

**Tom Feore**

Associate, Bennett Jones LLP  
3400 One First Canadian Place, P.O. Box 130, Toronto, ON, M5X 1A4  
T. 416 777 7905 | F. 416 863 1716

[BennettJones.com](http://BennettJones.com)

<image001.png>

The contents of this message may contain confidential and/or privileged subject matter. If this message has been received in error, please contact the sender and delete all copies. If you do not wish to receive future commercial electronic messages from Bennett Jones, you can unsubscribe at the following link:

<http://www.bennettjones.com/unsubscribe>

The contents of this message may contain confidential and/or privileged subject matter. If this message has been received in error, please contact the sender and delete all copies. If you do not wish to receive future commercial electronic messages from Bennett Jones, you can unsubscribe at the following link:

<http://www.bennettjones.com/unsubscribe>

The contents of this message may contain confidential and/or privileged subject matter. If this message has been received in error, please contact the sender and delete all copies. If you do not wish to receive future commercial electronic messages from Bennett Jones, you can unsubscribe at the following link:

<http://www.bennettjones.com/unsubscribe>

The contents of this message may contain confidential and/or privileged subject matter. If this message has been received in error, please contact the sender and delete all copies. If you do not wish to receive future commercial electronic messages from Bennett Jones, you can unsubscribe at the following link:

<http://www.bennettjones.com/unsubscribe>

---

**Stikeman Elliott**

Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](#)

**Stikeman Elliott LLP** Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

---

**Stikeman Elliott**

Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](#)

**Stikeman Elliott LLP** Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.



---

## **Stikeman Elliott**

Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](#)

**Stikeman Elliott LLP** Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

---

## **Stikeman Elliott**

Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](#)

**Stikeman Elliott LLP** Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

**Email Attachment no. 1**

[REDACTED]

---

**From:** Maria Konyukhova  
**Sent:** Wednesday, April 17, 2024 6:11 PM  
**To:** Joseph Blinick  
**Subject:** RE: BZAM - materials for April 22-23 hearing

Did you mean to send this twice?

Maria Konyukhova

Direct: 416-869-5230  
Mobile: 416-319-1632  
Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>  
**Sent:** Wednesday, April 17, 2024 5:40 PM  
**To:** Osborne, Justice Peter (SCJ) [REDACTED]  
**Cc:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>; Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Subject:** RE: BZAM - materials for April 22-23 hearing

Your Honour,

Attached please find the fully unredacted responding record of BZAM Ltd. for the hearing returnable April 22/23. In accordance with Your Honour's direction, the redacted version is being filed with the Commercial List office and will be uploaded to Caselines.

Thank you,

**Joseph Blinick**, *Partner\**, Bennett Jones LLP  
\*Denotes Professional Corporation  
T. 416 777 4828 | F. 416 863 1716 | M. 416 803 7301

---

**From:** Osborne, Justice Peter (SCJ) [REDACTED]  
**Sent:** Wednesday, April 17, 2024 1:31 PM  
**To:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Cc:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>; Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>  
**Subject:** RE: BZAM - materials for April 22-23 hearing

Acknowledged.

PJO

---

**From:** Maria Konyukhova <[MKonyukhova@stikeman.com](mailto:MKonyukhova@stikeman.com)>  
**Sent:** April 17, 2024 1:13 PM  
**To:** Osborne, Justice Peter (SCJ) [REDACTED]  
**Cc:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>; Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; Joseph Blinick

<[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>

**Subject:** RE: BZAM - materials for April 22-23 hearing

Your Honour,

Following up on my email, one of the parties may have an objection to some of the documents referred to in the Monitor's Report and related text. We are working with counsel to resolve same, but request that you not review the Second Report pending such resolution. We will advise as soon as the issue is resolved.

Maria Konyukhova

Direct: 416-869-5230

Mobile: 416-319-1632

Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Maria Konyukhova

**Sent:** Wednesday, April 17, 2024 11:43 AM

**To:** [REDACTED]

**Cc:** Andrew Winton <[awinton@lolg.ca](mailto:awinton@lolg.ca)>; Pendrith, Colin <[cpendrith@cassels.com](mailto:cpendrith@cassels.com)>; Joseph Blinick <[BlinickJ@bennettjones.com](mailto:BlinickJ@bennettjones.com)>

**Subject:** BZAM - materials for April 22-23 hearing

Good morning, Justice Osborne.

By way of a quick update, the parties are loading materials into the Caselines bundle for this hearing. The Agreed Statement of Facts, Chronology and Cast of Characters will be uploaded this afternoon. The Monitor's Second Report has been uploaded as well but will be replaced with a hyperlinked version in the next day or so. Additionally, I will email your Honour the Confidential Supplement by way of separate email on which I will not cc Mr. Winton as he advised he does not wish to see the Confidential Supplement.

Please let me know if you have any issues accessing the materials or would like any additional materials for the hearing.

Maria Konyukhova

Direct: 416-869-5230

Mobile: 416-319-1632

Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](http://stikeman.com)

**Stikeman Elliott LLP** Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

The contents of this message may contain confidential and/or privileged subject matter. If this message has been received in error, please contact the sender and delete all copies. If you do not wish to receive future commercial electronic messages from Bennett Jones, you can unsubscribe at the following link:

<http://www.bennettjones.com/unsubscribe>

**Email Attachment no. 2**

**From:** Maria Konyukhova  
**Sent:** Thursday, April 18, 2024 5:51 PM  
**To:** Joseph Blinick  
**Cc:** Jeffrey Rosenberg (jeffrey.rosenberg@fticonsulting.com); Philip Yang  
**Subject:** FW: BZAM/Final | Supplementary Answers to Undertakings  
**Attachments:** Letter to Lax, April 17, 2024.pdf

Hi Joey. Can we have a call to understand what happened here?

Maria Konyukhova

Direct: 416-869-5230  
Mobile: 416-319-1632  
Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

---

**From:** Joseph Blinick <BlinickJ@bennettjones.com>  
**Sent:** Thursday, April 18, 2024 5:19 PM  
**To:** Andrew Winton <awinton@lolg.ca>; David Ionis <dionis@lolg.ca>; Brendan Bohn <bbohn@lolg.ca>  
**Cc:** Sean Zweig <ZweigS@bennettjones.com>; Mike Shakra <ShakraM@bennettjones.com>; Tom Feore <FeoreT@bennettjones.com>; Pendrith, Colin <cpendrith@cassels.com>; Levine, Natalie <nlevine@casselsbrock.com>; Maria Konyukhova <MKonyukhova@stikeman.com>; Philip Yang <PYang@stikeman.com>; Nick Avis <NAvis@stikeman.com>; Jeffrey Rosenberg (jeffrey.rosenberg@fticonsulting.com) <jeffrey.rosenberg@fticonsulting.com>; kamran.hamidi@fticonsulting.com; adsaran.vithiyananthan@fticonsulting.com  
**Subject:** BZAM/Final | Supplementary Answers to Undertakings

Andrew,

Please see attached.

Yours truly,

**Joseph Blinick**

*Partner\**, Bennett Jones LLP

\*Denotes Professional Corporation

3400 One First Canadian Place, P.O. Box 130, Toronto, ON, M5X 1A4

T. 416 777 4828 | F. 416 863 1716 | M. 416 803 7301

[BennettJones.com](http://BennettJones.com)



The contents of this message may contain confidential and/or privileged subject matter. If this message has been received in error, please contact the sender and delete all copies. If you do not wish to receive future commercial electronic messages from Bennett Jones, you can unsubscribe at the following link:

<http://www.bennettjones.com/unsubscribe>

## Schedule “D”

**From:** Andrew Winton <awinton@lolg.ca>  
**Sent:** Sunday, May 5, 2024 9:02 PM  
**To:** Maria Konyukhova  
**Cc:** Joseph Blinick; Pendrith, Colin; jshepherd@cassels.com; Jeffrey Rosenberg (jeffrey.rosenberg@fticonsulting.com); David Ionis; Nick Avis  
**Subject:** RE: Re BZAM Ltd. et al. (Court File No.: CV-24-00715773-00CL) [BJ-WSLegal.FID6404647] [LOLG-DMS.FID160107]

Maria,

Thank you for your response. I think the disconnect here is between how you the Monitor should conduct itself in an ordinary CCAA matter and how I think the Monitor should conduct itself in relation to a proceeding within the CCAA proceeding where a major creditor and shareholder of the applicant is bringing a *bona fide* claim for fraudulent misrepresentation against the applicant, which is being heard in the form of a summary trial. I think the Monitor's conduct in relation to my client's claim has been less neutral than you profess.

For example, the Monitor twice took positions in the litigation that were adverse to Final Bell, and on both occasions the Court agreed with Final Bell's position and disagreed with the Monitor:

1. The Monitor sought to include in its second report evidence gathered outside of the evidence-gathering process the parties agreed upon in their timetable, over the objection of Final Bell; and
2. The Monitor opposed Final Bell's effort to adjourn the hearing of its claim after BZAM disclosed relevant documents the Thursday night before a Monday trial, by suggesting other steps short of an adjournment should be taken, which would have required Final Bell to abandon its effort to seek additional relevant documents in the aftermath of BZAM's incomplete disclosure regarding excise taxes.

I was further concerned about your efforts to assert, or at least protect your right to assert, privilege over the Monitor's communications with BZAM regarding the Final Bell litigation, which could only exist if the Monitor and BZAM determined they have a common interest in need of protection. The fact that you would even suggest such privilege could exist was troubling, as it would necessarily mean the Monitor had determined it had an interest in a specific outcome of the claim, and that interest was the same as BZAM's. The privilege you sought to protect could only mean that the Monitor saw itself as adverse to Final Bell, and if you were trying to protect the right to assert privilege, I think I was justified in suspecting that meant the Monitor had already engaged in previous direct communications with BZAM.

Not to mention that the email produced last weekend disclosed that the Monitor expressly asked BZAM if it intended to seek security for costs within hours of the adjournment, before you had spoke with counsel. All of which tells me that the Monitor's professed neutrality looks a lot like a third adverse party that I have to deal with in this proceeding.

With respect to our private discussions, we had a discussion concerning the communications at issue. At no point has the Monitor had the type of strategy discussion with Final Bell that it initiated with BZAM on April 19. The difference is palpable.



All that said, I am grateful for your specific and direct responses to my questions below. This does indeed put an end to my inquiries concerning communications prior to the adjournment.

Regards,

Andrew

**Andrew Winton**

Lax O'Sullivan Lissus Gottlieb LLP

D: 416 644 5342 | M: 647 286 9001

[www.lolg.ca](http://www.lolg.ca)

---

*[Text removed. For the remainder of the email chain, see Schedule "C"]*

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,  
c. C-36, AS AMENDED**

Court File No: CV-24-00715773-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP., AND FINAL BELL CORP.**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**AIDE MÉMOIRE OF  
THE MONITOR  
(Case Conference May 6, 2024)**

**STIKEMAN ELLIOTT LLP**  
Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
Toronto, Canada M5L 1B9

**Maria Konyukhova** LSO#: 52880V  
Email: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)  
Tel: +1 416 869 5230

**Nicholas Avis** LSO#: 76781Q  
Email: [navis@stikeman.com](mailto:navis@stikeman.com)  
Tel: 416-869-5563

**Philip Yang** LSO#: 82084O  
Email: [pyang@stikeman.com](mailto:pyang@stikeman.com)  
Tel: 416-869-5593

**Lawyers for the Monitor**