

# **Arrangements for the Hearing of Commercial Insolvency Matters in Light of COVID-19 April 7, 2020**

## **General Comments**

1. In accordance with the Notice to the Profession issued by Chief Justice Dewart on April 3rd, 2020, all regular matters that had been scheduled and were not urgent, or time sensitive, have been adjourned to after June 1, 2020, subject to any further direction from the Court.
2. As previously noted, the Court will continue to hear urgent and time- sensitive matters during the COVID-19 pandemic. Effective immediately, and until further notice, commercial insolvency matters of the type described in Schedule "A" must be commenced in the Judicial District of Saint John. Matters that are urgent or time sensitive, or those in which there are immediate and significant financial repercussions that may result if there is no judicial hearing, may be scheduled on an urgent basis. The Court will use its discretion to determine whether a matter should be heard urgently.
3. Counsel are directed to contact the Clerk of the Judicial District of Saint John at **506-658-2587, NB-Insolv@gnb.ca** with details regarding any such matter they wish to have heard urgently, identifying why the matter is urgent, time sensitive or will result in significant financial consequence. Counsel should also advise of a time estimate for the hearing. This information, together with a draft of the relevant application/motion, must be provided in writing.
4. Any steps taken by the Court or counsel outside the usual procedure due to COVID-19, including proceeding by way of teleconference, should be expressly noted and recorded in the endorsement or order, if necessary.

## **Conduct of Teleconference Hearings**

1. If the Court accepts that a matter is to be heard urgently, the Court may direct counsel to communicate directly with the Judge who will hear the matter. That Judge will provide direction with respect to service and timing.
2. The matter may proceed by way of teleconference. The Court anticipates having teleconference lines available, some with recording capabilities. In the meantime, the Court may ask counsel to provide conference facilities.
3. The Court expects counsel to follow the three Cs: cooperating, communicating and using common sense, particularly in terms of scheduling.

## **Materials for Hearing Urgent Matters**

Parties shall email the Court all relevant materials necessary for the teleconference hearing unless otherwise directed by the presiding Judge. The system cannot accommodate large Records. Parties should exercise discretion in determining what materials are necessary. Parties should also consider sending large documents by way of secure file share rather than attachments. Caselaw and other source materials referenced in any facta should be hyperlinked. Where hyperlinks are provided, it will not be necessary to file a Book of Authorities. The Judge will ask for further materials if necessary, and hard copies of Records may be filed with the Court at a later time or as otherwise directed by the Judge.

## **Affidavits Regarding Urgent Matters**

1. Parties should have regard to the Guidelines published by the Law Society of New Brunswick on March 23, 2020 regarding the commissioning of affidavits.
2. The Court will accept unsworn affidavits prior to the hearing, provided that a sworn affidavit is provided prior to or at the hearing, or the affiant is available at the teleconference to swear the truth of its contents in accordance with the Guidelines.

## **Orders for Urgent Matters**

1. Finalized draft orders should be emailed directly to the Judge. The Judge will sign the order and send a scanned signed copy to counsel.
2. Orders may be entered at the courthouse. If this changes, the Court will provide further direction.

## **Reservation**

This directive is being issued on an interim basis in response to the challenge posed to our economy and the efficient administration of justice by COVID-19. The Court reserves the right to direct that any matter submitted to it in accordance with this directive be commenced in an alternate judicial district for processing and disposition in the usual course.

## Schedule “A”

### Matters

The following are commercial insolvency matters that may be considered essential or urgent:

- a) an application for an initial order or stay extension order under the **Companies Creditors Arrangement Act (“CCAA”)**;
- b) the appointment of a liquidator, receiver, interim receiver or receiver-manager under the **Canada Business Corporations Act (“CBCA”), Business Corporations Act (“BCA”), Bankruptcy and Insolvency Act (“BIA”) or Rules of Court**;
- c) applications for an interim and/or final order of arrangement, or shareholder disputes requiring immediate relief, under the CBCA or BCA;
- d) applications for bankruptcy orders under the BIA falling within the jurisdiction of the Court; or
- e) an application for relief specific to a restructuring proceeding under the BIA or CCAA.