

**IN THE COURT OF APPEAL**

BETWEEN:

**LINCOLN WOLFE and 5606269 MANITOBA LTD.,**

(Applicants) Respondents,

– and –

**DUANNE TAYLOR and 5608067 MANITOBA LTD.,**

(Respondents) Appellants,

– and –

**FILED**  
**COURT OF APPEAL**

**TAYLOR BROS. FARM LTD. and EDWIN POTATO GROWERS LTD.,**

**MAY 19 2015**  
**LAW COURTS**  
**WINNIPEG**

(Respondents).

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**NOTICE OF APPEAL**

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**FAST TRIPPIER CLUNIE WITTMAN LLP**  
Barristers & Solicitors  
10 Donald Street  
Winnipeg, Manitoba R3C 1L5

**Faron J. Trippier / Irina Vakurova**

Telephone No.: (204) 942-3311  
Facsimile No.: (204) 943-7997

File No. 15,110-0-150-150

File No: AI21-\_\_\_\_\_  
QB/PC File No: CI15-01-97066

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**BETWEEN:**

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(Applicants) Respondents,

– and –

**DUANNE TAYLOR and 5608067 MANITOBA LTD.,**

(Respondents) Appellants,

– and –

**TAYLOR BROS. FARM LTD. and EDWIN POTATO GROWERS LTD.,**

(Respondents).

**NOTICE OF APPEAL**

TAKE NOTICE that a motion will be made on behalf of the (Respondents) Appellants, Duane Taylor and 5608067 Manitoba Ltd., as soon as the motion can be heard, by way of appeal from the Order of the Honourable Mr. Justice Toews of the Court of Queen's Bench, Winnipeg Centre, pronounced on the 16<sup>th</sup> day of February, 2021, in Queen's Bench File No. CI15-01-97066, whereby the Learned Motions Judge did:

1. grant the Order dismissing the motion made by the (Respondents) Appellants, Duanne Taylor and 5608067 Manitoba Ltd. for leave to commence an action against the Liquidator; and

2. ~~order costs as against the (Respondents) Appellants, Duane Taylor and 5608067 Manitoba Ltd. payable by the Appellants personally.~~

On the appeal, this Honourable Court will be asked to:

1. set aside the said Order of the Honourable Mr. Justice Toews; and
2. order such other and further relief as counsel may advise and this Honourable Court may allow;

on the following grounds:

1. the Learned Motions Judge erred in failing to grant leave to commence an action as against the Liquidator;
2. the Learned Motions Judge erred in his finding that strong *prima facie* case is required for leave to commence an action as against the Liquidator;
3. the Learned Motions Judge erred in relying upon irrelevant considerations in making his decision;
4. the Learned Motions Judge failed to draw inferences or proper inferences from the relevant facts, failed to consider certain relevant facts, and did consider certain irrelevant facts in arriving at his decision;
5. the Learned Motions Judge failed to follow the rules of natural justice and procedural fairness;
6. the Learned Motion's Judge's decision is contrary to the law and the evidence;
7. if the Learned Motions Judge's order were allowed to stand, it would result in an injustice, or in the alternative, an unreasonable result; and
8. such further and other grounds as counsel may advise and this Honourable Court may allow.

Has a transcript of the evidence with respect to the judgment appealed from been ordered from transcription services?

Yes       No       Not required

Has a court order or legislation imposed a publication ban in relation to the trial of other proceeding that is the subject of the appeal?

Yes       No

If yes, attach a copy of the order if available or provide details of the publication ban:  
N/A

Has access to the court file been restricted by court order or legislation?

Yes       No

If yes, attach a copy of the order if available or provide details on the restriction to the court file: N/A

Dated this 19<sup>th</sup> day of May, 2021

**FAST TRIPPIER CLUNIE WITTMAN LLP**  
Barristers & Solicitors  
10 Donald Street  
Winnipeg, Manitoba R3C 1L5

Per: \_\_\_\_\_

**Faron J. Trippier/ Irina Vakurova**  
Counsel for the (Respondents) Appellants,  
Duane Taylor and 5608067 Manitoba Ltd.

**TO: The Registrar of the Court of Appeal**  
Law Courts Building  
100E – 408 York Avenue  
Winnipeg, Manitoba R3C 0P9

**AND TO: MLT Aikins**  
30<sup>th</sup> Floor – 360 Main Street  
Winnipeg, Manitoba R3C 4G1

**Attention: Jeffrey M. Lee/J.J. Burnell**  
Counsel for the Liquidator

**AND TO: Thompson Dorfman Sweatman LLP**  
2200 – 201 Portage Avenue  
Winnipeg, Manitoba R3B 3L3

**Attention: Ross A. McFadyen**  
Counsel for the (Applicants) Respondents.

SCHEDULE C

FORM 1  
(Rule 112)

IN THE COURT OF APPEAL

Notice of Intent to Exercise Language Right

The attached document begins a proceeding in the Court of Appeal. Your rights may be affected in the course of the proceeding. You have a right to use either the English or the French language even where the attached document is in the other language, but in order to exercise your right you are required within 21 days of service of this document on you to file with the registrar of the court a notice of your intention to do so and to leave with the registrar an address for service. If you file such a notice, you will be notified, in the language indicated in your notice, of further stages in the proceeding by registered mail addressed to your address for service. If you do not file a notice of your intention to exercise your right, the appeal will continue in the language of the attached document. The time limited for your filing of a notice may be enlarged or abridged at any time by order of a judge made on application in either English or French.

Registrar  
Manitoba Court of Appeal  
Room 205 Law Courts Building  
408 York Avenue  
Winnipeg, Manitoba  
R3C 0P9