

**THE KING'S BENCH
Winnipeg Centre**

BETWEEN:

DONALD R. KNIGHT, K.C.,

Applicant,

- and -

BOKHARI DEVELOPMENT INC.,

Respondent.

**APPLICATION PURSUANT TO THE BUILDERS' LIENS ACT, C.C.S.M. c.B91 and
THE COURT OF KING'S BENCH ACT AND RULES, C.C.S.M. c. C280**

NOTICE OF APPLICATION

HEARING DATE: WEDNESDAY, JULY 3, 2024 AT 10:00 A.M.

CIVIL UNCONTESTED MOTIONS LIST

KNIGHT LAW OFFICE
Suite 202 – 900 Harrow Street E.
Winnipeg, Manitoba
R3M 3Y7

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TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing before a judge, on Wednesday,
(day)

July 3, 2024, at 10:00 A.M., at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba R3C 0P9.
(date) (time) (address of court house)

IF YOU WISH TO OPPOSE THIS APPLICATION, you or a Manitoba lawyer acting for you must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2:00 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date

June 12, 2024

Issued

Deputy Registrar

**K. SANDISON
DEPUTY REGISTRAR
COURT OF KING'S BENCH
FOR MANITOBA**

To: [see attached Service List]

APPLICATION

1. The applicant makes application for:
 - A. An Order for short leave for the hearing of this Application;
 - B. An Order authorizing the Applicant to pay into the Court of King's Bench monies held back (the "**Holdback Funds**") pursuant to *The Builders' Liens Act*, C.C.S.M. c. B91 (the "**BLA**") in the sum of \$1,107,458.18 together with all interest earned thereon to the date of payment, less the legal fees, taxes and disbursements of Knight Law Office which are the subject of a lien in favour of the Applicant;
 - C. A lien for costs, fees and/or expenses; and
 - D. Costs.

2. The grounds for the application are:
 - A. The BLA, including sections 55 and 56;
 - B. Court of King's Bench Rules 43 and 73.02;
 - C. The Respondent, Bokhari Development Inc. ("**BDI**") is a property developer in connection with the development of a project comprising, located at, arising from, or in any way relating to the property commonly known as 1801 - 1825 Park Drive in Portage la Prairie, Manitoba, (the "**Project**");
 - D. At all material times the Applicant, Donald Knight was counsel to BDI in respect of the Project, and in accordance with the BLA Mr. Knight held back the Holdback Funds from payments made under a contract with the general contractor 6332189 Manitoba Ltd. o/a Gateway Projects;
 - E. On August 29, 2023, KMPG Inc. was appointed receiver (the "**Receiver**") of all of the assets, undertakings and properties of BDI and the Project, and all proceeds thereof (collectively, the "**Property**") by order of the Honourable Mr. Justice Chartier of this Honourable Court;
 - F. A dispute has arisen as to the entitlement of the Holdback Funds held in trust by Knight Law Office in the sum of \$1,107,458.18, plus interest thereon;
 - G. That on March 21, 2024, counsel for the Receiver wrote to the Honourable Mr. Justice Chartier to request that the Holdback Funds held by Knight Law Office be paid into Court to permit claimants to prove their claims outside of the receivership proceedings;
 - H. On March 25, 2024, the Honourable Mr. Justice Chartier responded in writing to

counsel for the Receiver and agreed that the Holdback Funds could be paid into Court outside of the receivership proceedings;


- I. That Knight Law Office and Mr. Knight do not claim an interest in the Holdback Funds other than a lien for their reasonable costs, fees and/or expenses which are estimated to be \$2,500.00 plus taxes and disbursements; and
- J. Such further and other grounds as counsel may advise and this Honourable Court may allow.

3. The following documentary evidence will be used at the hearing of the application:

- A. Affidavit of Jennifer M. Hurst, sworn June 10, 2024;
- B. The Consent of Parties through their counsel; and
- C. Such further and other documentary evidence as counsel may advise and this Honourable Court may allow.

This Application is being served outside Manitoba without a Court Order, pursuant to King's Bench Rules 17.02 (a) [Property in Manitoba], 17.02 (e) [Mortgage or Lien on Real Property] and 17.02 (L) [Necessary or Proper Party].

June 12, 2024
Date of issue



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