



COURT FILE NUMBER

2001-05630

COURT

COURT OF QUEEN'S BENCH OF ALBERTA IN  
BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE

CALGARY

APPLICANTS

**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 DOMINION DIAMOND MINES ULC,  
DOMINION DIAMOND DELAWARE COMPANY LLC,  
DOMINION DIAMOND CANADA ULC, WASHINGTON  
DIAMOND INVESTMENTS, LLC, DOMINION DIAMOND  
HOLDINGS, LLC, DOMINION FINCO INC., AND DOMINION  
DIAMOND MARKETING CORPORATION**

DOCUMENT

**APPLICATION (SEALING ORDER)**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**BLAKE, CASSELS & GRAYDON LLP**

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Calgary, Alberta T2P 4J8

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## NOTICE TO THE RESPONDENTS

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court. To do so, you must be in Court when the application is heard as shown below:

Date: October 30, 2020

Time: 10:00 a.m.

Where: Calgary Courts Centre, 601 – 5th Street S.W., Calgary (Virtual Courtroom Via Webex)

Before: The Honourable Justice Eidsvik

Go to the end of this document to see what you can do and when you must do it.

### Remedy claimed or sought:

1. The applicants, Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC, Dominion Finco Inc., and Dominion Diamond Marketing Corporation (together, the "**Applicants**") seek an order, substantially in the form attached hereto as Schedule "**A**":

- (a) abridging the time for service of this application, deeming service of this application and the supporting materials to be good and sufficient, and dispensing with any further service thereof;
- (b) sealing Confidential Exhibits "1" and "2" (the "**Confidential Exhibits**") to the affidavit of Kristal Kaye, sworn October 28, 2020 (the "**Kaye Affidavit**"), until further order of this court; and
- (c) such further and other relief as counsel may advise and this Honourable Court may deem appropriate.

### Grounds for making this application:

2. The Confidential Exhibits contain third-party analysis and information regarding the diamond market that is proprietary, confidential, and commercially sensitive. The information in the Confidential Exhibits is not publicly available and has been attached to the Kaye Affidavit with the express consent of its authors on the basis that it would not be disclosed publicly. The

disclosure of this information could be detrimental to the Applicants' and other parties' commercial interests, including those of the authors of the information in the Confidential Exhibits.

3. The salutary effects of sealing the Confidential Exhibits outweigh any deleterious effects of doing so and no stakeholder will be prejudiced by this relief.
4. Such further grounds as counsel for the Applicants may advise.

**Affidavit or other evidence to be used in support of this application:**

5. The Applicants intend to rely upon the following materials:
  - (a) the affidavit of Kristal Kaye, sworn October 28, 2020;
  - (b) the Confidential Exhibits, unfiled; and
  - (c) such further and other evidence as counsel may advise and this Honourable Court may permit.

**Applicable Rules:**

6. Rule 6.28 of the Alberta *Rules of Court* (AR 124/2010).

**Applicable Acts and Regulations:**

7. The Applicants will rely upon and refer to the following during the making of the application:
  - (a) the *Companies' Creditors Arrangement Act* (Canada); and
  - (b) such further and other Acts and regulations as counsel may advise.

**Any irregularity complained of or objection relied on:**

8. None.

**How application is proposed to be heard or considered:**

9. Oral submission by counsel at an application to be heard via Webex before the Honourable Madam Justice K.M. Eidsvik at 10:00 a.m. on October 30, 2020.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

**SCHEDULE "A"  
SEALING ORDER**

CLERK'S STAMP

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JUDICIAL CENTRE CALGARY

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DOCUMENT **ORDER (SEALING)**

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Fax No.: 604.631.3309

**DATE ON WHICH ORDER WAS PRONOUNCED:** October 30, 2020

**LOCATION OF HEARING:** Calgary

**NAME OF JUDGE WHO MADE THIS ORDER:** The Hon. Madam Justice K. Eidsvik

**UPON** the application ("**Application**") of Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC, Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC, Dominion Finco Inc., and Dominion Diamond Marketing Corporation (collectively, the "**Applicants**"); **AND UPON** having read the Affidavit of Kristal Kaye, sworn on October 28, 2020 (the "**Kaye Affidavit**"), filed; **AND UPON** having read Confidential Exhibits "1" and "2" to the Kaye Affidavit (the "**Confidential Exhibits**"), unfiled; **AND UPON** hearing counsel for the Applicants and any other counsel present;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

1. The time for service of the Application and the Kaye Affidavit is abridged, the Application is properly returnable today, service of the Application and the Kaye Affidavit on the service list, in the manner described in the CaseLines Service Order granted May 29, 2020 in these proceedings (the "**CaseLines Service Order**"), is good and sufficient, and no other persons, other than those listed on the service list (the "**Service List**"), are entitled to service of the Application or the Kaye Affidavit.

2. Part 6, Division 4 of the *Alberta Rules of Court* does not apply to the Application and the Clerk of the Court is hereby directed to seal the Confidential Exhibits, on the Court file until further order of this Court. The Confidential Exhibits shall be sealed and filed in an envelope containing the following endorsement thereon:

THIS ENVELOPE CONTAINS THE CONFIDENTIAL EXHIBITS TO THE AFFIDAVIT OF KRISTAL KAYE, SWORN ON OCTOBER 28, 2020. THE CONFIDENTIAL EXHIBITS TO THE AFFIDAVIT OF KRISTAL KAYE, SWORN ON OCTOBER 28, 2020 ARE SEALED PURSUANT TO AN ORDER ISSUED BY THE HONOURABLE JUSTICE K.M. EIDSVIK, DATED OCTOBER 30 2020, AND ARE NOT TO BE PLACED ON THE PUBLIC RECORD OR MADE PUBLICALLY ACCESSIBLE.

3. Any persons may apply, on reasonable notice to the Applicants and any other persons likely to be affected, to vary or amend the terms of paragraph 2 of this Order.

4. The Confidential Exhibits shall be uploaded to the online filesite ("**CaseLines**") established by the Monitor in a case file accessible only by the presiding Justices of the Court of Queen's

Bench and the parties who are authorized to access materials filed under and pursuant to sealing orders in these proceedings.

5. Service of this Order shall be deemed good and sufficient by serving the same in accordance with the procedures in the CaseLines Service Order.

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Justice of the Court of Queen's Bench of Alberta