

CV-19-00617792-00CL

Court File Number: CV-18-00611214-00CL

Superior Court of Justice CV-18-00611219-00CL

Commercial List CV-18-00611217-00CL

FILE/DIRECTION/ORDER

FTI Consulting Co. et al
Plaintiff(s)

AND

ESL Investments et al
Defendant(s)

Case Management Yes No by Judge: _____

Counsel	Telephone No:	Facsimile No:
(see list attached)		

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: _____
- Time Table approved (as follows):

On Apr 18 and 19, 2019 I was to hear three motions - a certification motion and two motions to strike the claim advanced by the Litigation Trustee. Unfortunately the motions had to be adjourned on a contested basis. Although all of the plaintiffs wished to proceed, the defendant supported a motion by Sears Holdings.

18 April 19
Date

McEwen
Judge's Signature

Additional Pages _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

Corporation (SHC) to adjourn the
motions.

I agreed to adjourn the motions
reluctantly, given the fact that
on April 16/19 a motion was
served in the US Chapter 11 proceedings
returnable May 21/19 to lift the
stay against SHC. If successful
it is the stated goal of all
plaintiffs in these actions to pursue
claims against SHC.

Since SHC has an interest in
the motions before me and would
be affected if the stay was
lifted, it is my view that it
would be unfair and not
judicially economical to proceed.
It raises the spectre of real
prejudice to SHC and multiple
motions on the same or similar

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

Subject matters-

There was debate over when STC or its counsel had notice of the lift-stay motion issue. In my view, not much time on this. All developments occurred in the past 2-3 weeks. Overall, an adjournment is reasonable and necessary.

Future steps can be discussed and reviewed at the case conference set for April 26, 2019 and on an ongoing basis depending on the outcome of the May 21/19 motion.

McE...