IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Lionsgate Studios Corp. (Re),* 2025 BCSC 827

Date: 20250429
Docket: S250821
Registry: Vancouver

Lionsgate Studios Corp.

Petitioner

Re: In the Matter of Section 288 of the *Business Corporations Act*, S.B.C. 2002, c. 57

And:

In the Matter of a Proposed Arrangement Involving Lions Gate Entertainment Corp., the Shareholders of Lions Gate Entertainment Corp, Lionsgate Studios Corp., The Shareholders of Lionsgate Studios Corp., LG Sirius Holdings ULC, and Lionsgate Studios Holding Corp

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On appeal from: A decision of an Associate Judge of the Supreme Court of British Columbia, dated April 11, 2025 (*Lionsgate Studios Corp (Re)*, 2025 BCSC 739, Vancouver Docket No. S250821)

Before: The Honourable Justice Maisonville

Oral Reasons for Judgment

Counsel for the Appellants (Applicants), CPPIB Credit Investments II Inc. and CPPIB Credit Investments III Inc.:	P. Williams V. Tortora
Counsel for the Respondents (Petitioners), Lionsgate Studios Corp. and Lions Gate Entertainment Corp.:	M. Schafler S. Chang
Place and Date of Hearing:	Vancouver, B.C. April 28, 2025
Place and Date of Judgment:	Vancouver, B.C. April 29, 2025

Introduction

[1] This is an appeal from a decision of Associate Judge Muir arising from two petitions with respect to proposed plans of arrangements.

[2] The first petition is by Lionsgate Studios Corp. under Vancouver Registry Action No. S250821 and the second petition is by Lions Gate Entertainment Corp. under Vancouver Registry Action No. S250822 (together, "Lionsgate"). The applications are the same in essence.

[3] The decision under appeal concerned an application by CPPIB Credit Investments II Inc. and CPPIB Credit Investments III Inc. (together, "CPP") which sought orders adjourning the final order hearing sought in the petitions in the proceeding from May 1 to 2, 2025 to two days during either May 20 to 23 or May 26 to 27, 2025. CPP also sought costs against Lionsgate in any event of the cause.

[4] The facts are not in dispute. The petitions involve what was referred to as a "separation transaction" by which the studio business and the "subscription business" of Lionsgate would be split up into separate and unaffiliated corporations.

[5] CPP indicates that it owns tens of millions of dollars of notes guaranteed by Lionsgate and that separation will result in the impairment of those guarantees as it will result in the lesser value subscription business being responsible for them.

[6] The Associate Judge denied CPP's application for an adjournment of the final order hearing and gave costs to Lionsgate for the application in any event of the cause.

CPP's Argument and the Muir Reasons

[7] CPP argues the analysis of the Associate Judge was wrong. It argued that she erred in her analysis of the prejudice respecting the application in concluding that Lionsgate had evidence of prejudice and CPP did not.

[8] The basis for CPP's assertion that the Associate Judge's decision is wrong is described as follows:

a. most of the prejudice Lionsgate alleges results only from its decision to unilaterally schedule the hearing and then represent to others that it would proceed—it should not be rewarded for that behaviour and other litigants should not be incentivized to replicate it;

b. it is uncontroversial that CPP Investments' counsel of choice is not available on May 1-2, 2025—that results in significant prejudice to CPP Investments and no further evidence was required; and

c. Associate Judge Muir's suggestion that CPP Investments could have booked alternative hearing dates ignores that CPP Investments had no practical way to do so—including because counsel for Lionsgate refused to provide their availability.

[9] CPP argues, noting they have been litigating against each other in New York since August 2024, that on October 9, 2024, Mr. Michael Feder, K.C., counsel for CPP, an equity partner at McCarthy Tétrault LLP wrote to Ms. Samantha Chang, counsel for Lionsgate in this proceedings, to note CPP's objection to the separate transaction. Mr. Feder expressly requested a discussion on scheduling, writing "[…] [w]e are providing notice of that intention to you now to facilitate a discussion on scheduling when any such proceeding is filed". No response was received. CPP further sought should the matter proceed *ex parte*, that the October 9, 2024 letter be brought to the court's attention.

[10] On January 31, 2025, the petitions in support of a plan of arrangement in Action No. S250822 and Action No. S250821 were filed without notice to CPP. The petitions are substantially the same, seeking to implement the plan of arrangement.

[11] On February 4, 2025, Lionsgate applied *ex parte* for the interim order sought in the petitions and at that hearing, Ms. Chang advised Justice Latimer that she had received Mr. Feder's October 9, 2024 letter but had not notified Mr. Feder of the interim order hearing. Ms. Chang advised Latimer J. that she would "work with Mr. Feder" on the final order hearing. Justice Latimer granted the interim order which set the final order hearing for March 12, 2025. Mr. Feder was not consulted before obtaining the interim order.

[12] On February 7, 2025, Mr. Williams, also counsel for CPP, confirmed to Ms. Chang that CPP would oppose the approval of the plan of arrangement. Mr. Williams informed Ms. Chang that he and Mr. Feder were not available on March 12, 2025 and proposed booking lengthy chambers dates in April 2025. Ms. Chang agreed to cancel the March dates. Without canvassing Mr. Feder's availability, she rebooked the final hearing for May 1 to 2, 2025. Lionsgate obtained a new interim order confirming those dates and served that order on CPP. Mr. Feder immediately indicated counsel would be unavailable on those dates.

[13] The reasons for Mr. Feder's unavailability was presented through the affidavit #3 of Ms. Yu, a paralegal of Mr. Feder's firm, McCarthy Tétrault LLP, sworn April 7, 2025. Ms. Yu advises on information and belief that Mr. Feder had indicated that he had been personally involved in representing CPP continuously since September 2024 and has been involved in all aspects of the matter and that he has a scheduling conflict with May 1 to 2, 2025 being that May 1 to 2, 2025 are the meetings dates of McCarthy Tétrault LLP's board of partners and equity partners in Montréal. Mr. Feder explained that every equity partner of McCarthy Tétrault LLP is mandated to attend the latter meeting on May 2, 2025.

[14] CPP argued that there had already been a lengthy delay in Lionsgate bringing the plans of arrangement and that further delay would not prejudice Lionsgate but would prejudice CPP in not being able to have its experienced counsel attend.

[15] Counsel for Lionsgate in reply argues that to allow the application would set a dangerous precedent hearings regarding plans of arrangement, which as noted by Associate Judge Muir, have their own "procedural cadence". Lionsgate's counsel argues that to accede to the adjournment request would give power to anyone trying to interfere with the arrangement process by insisting on notice at every step and then arguing, as they did before Associate Judge Muir, that an adjournment should be granted if not consulted.

[16] Associate Judge Muir gave reasons in *Lionsgate Studios Corp. (Re)*, indexed as 2025 BCSC 739 (the "Muir reasons").

[17] Associate Judge Muir cited the leading case on deciding adjournments, *Navarro v. Doig River First Nations*, 2015 BCSC 2173, which set out the interests, the factors or considerations, and the ultimate goal which is that of a fair trial on the merits of the action. She quoted paras. 18 through 21 respecting the exercise of discretion where the court noted that it is a "delicate and difficult matter that addresses the interests of justice by balancing interests". This included examining and considering the nature of the proceedings, which as noted were carefully considered.

[18] The Associate Judge as well carefully considered *Re First Marathon Inc*., [1999] O.J. No. 2805 (S.C.J.), where the court noted:

> [8] I do not accept the submission that interim orders of the sort in question here should not be made on a without notice basis, at least where, as here, there has been no indication of shareholder opposition to the proposed transaction prior to the seeking of the order and there has been a public announcement in the media regarding the transaction. Each case will require its own consideration of course. […]

[19] Associate Judge Muir also considered *Re iAnthus Capital Holdings, Inc.,* 2020 BCSC 1383 and while noting that it was distinguishable, the concerns and considerations set out in the cases that she noted were generally applicable. She carefully considered the prejudice to CPP and noted at para. 38 in the Muir's reasons that she had no evidence other than CPP being unable to have Mr. Feder attend the fairness hearing and she continued, "[t]here is no evidence from counsel or a representative from CPP that CPP would be unable to retain and prepare alternate senior counsel in time for the May hearing".

[20] CPP argues that Associate Judge Muir was inappropriately asserting that "further evidence was required." However, read in context, Associate Judge Muir was merely weighing the certainty and severity of the potential prejudice to CPP in relation to the prejudice to Lionsgate, as required by the case law.

[21] Associate Judge Muir also noted the following:

[24] Lionsgate submits that it is well understood that arrangers have control of the process of taking plans of arrangement through the initial hearing, the shareholders' meeting, and the ultimate fairness hearing.

[22] Associate Judge Muir also noted:

[25] Here, Lionsgate did defer to the concerns of CPP by setting the fairness hearing for two days. Normally such applications, as noted, would be made in regular chambers for a duration of less than two hours. They provide evidence, however, that to delay the final or fairness hearing would work substantial prejudice on Lionsgate. Its general counsel, Mr. Tobey, in the April 3, 2025 affidavit referenced earlier, deposed as follows, starting at paragraph 19:

> **Delay in Closing will Substantially Prejudice Lionsgate**
>
> 19. A delay in the Final Order Hearing, whether by weeks or months, as requested by CPPIB, will result in a corresponding delay to the completion of the Arrangement. The delay in closing will expose Lionsgate, Lionsgate shareholders, and other stakeholders to significant risks of adverse consequences, including other avoidable commercial, operational, and regulatory risks and burdens, as I describe more particularly below.
>
> **Shareholder Confidence and Market Expectations**
>
> 20. As noted above, the Arrangement is the culmination of an extensive strategic process undertaken by Lionsgate. I understand the Arrangement to be highly anticipated by the Lionsgate Shareholders, who have previously voted, in an advisory vote, to support a mandate to pursue a collapse of the dual-class share structure as part of the separation of the LG Studios Business and Starz Business.
>
> 21. Both Lionsgate Shareholders and industry and market analysts have been expressing frustration and concern about the time it has taken Lionsgate to affect the Separation. The delay has already begun to adversely affect investor relations, analysts' assessments and share valuations.

[26] He then sets out several examples of criticism and continues at paragraph 24:

> 24. Most recently, in March 2025, Lionsgate publicly disclosed to the Lionsgate Shareholders and the market that, subject to regulatory review by the SEC, the Lionsgate Meeting is expected to occur on April 23, 2025, with the Separation occurring shortly thereafter.
>
> 25. Market and industry analysts have relied on the timing of this transaction in their advice to investors and in their valuation of Lionsgate and LG Studios share prices.
>
> 26. On November 14, 2023, IndieWire, a film industry website, published an article entitled "WTF is Taking So Long For Lionsgate and Starz to Split Up?" The article notes,

> Several anticipated deadlines for the studio spinoff have come and gone. As one analyst told IndieWire for this story, everyone involved in the ongoing saga is “exhausted.” The spinoff is now expected to close by the beginning of spring. For real this time.
>
> Wall Street is getting antsy. Analysts have based their Lionsgate price targets on the spin for a while now.
>
> Consider the ducks in a row — everyone ready to move this along? Oh right, still no. Now what are we waiting for?!?

[27] And Mr. Tobey continues:

> I am advised by Samantha Chang, counsel for Lionsgate and LG Studios, and verily believe [...]

And he attaches a copy of that article.

[28] Several other commentaries to the same effect are referenced, and then he continues at paragraph 35:

> 35. Based on the response of industry publications, market analysts, and Lionsgate Shareholders, including the examples set out above, the Separation is highly anticipated by both Lionsgate Shareholders and the market, who have been told that the Arrangement will be voted on by Lionsgate Shareholders in late April 2024, with the Separation being completed shortly thereafter.
>
> 36. The weeks-long delay that CPPIB now seeks, just as the Lionsgate Shareholders and markets are anticipating the closing of the Arrangement will, undoubtedly, erode investor and market confidence, and raise concerns regarding execution risk and Lionsgate’s ability to follow through on its strategic commitments. Additionally, market uncertainly surrounding any postponement is likely to weigh on Lionsgate’s and LG Studios’ share prices, as investors will surely react to the perceived instability and further potential regulatory or operational hurdles.
>
> **Regulatory and Financial Recording Risks**
>
> 37. As I indicated earlier, this is a complex commercial transaction involving significant regulatory oversight and coordination and third party stakeholders, including the SEC and various lenders. A weeks-long delay in the previously disclosed date for the Final Order Hearing may require Lionsgate to file additional public disclosure with the SEC and provided to the Lionsgate Shareholders, and to give notice of the adjournment and new hearing date and filing deadlines to the Lionsgate shareholders. The disclosure of such delay is likely to cause significant concerns amongst Lionsgate shareholders and the investment community as to when, if ever, the Separation will occur.
>
> **Increased Costs**
>
> 38. A delay in the completion of the Arrangement will result in increased costs to Lionsgate, including extended legal, accounting, and advisory fees, potential financial expenses [...]. Additionally, in

> anticipation of the pending Separation, a number of employees have been hired to perform certain functions historically centralized within Lionsgate. Any delay will impose additional costs to cover what, prior to Separation, are largely duplicative roles.

[29] He then points out that Lionsgate is planning to obtain new credit facilities with respect to the separated companies, and says:

> 39. […] If there is a delay in the closing of the Arrangement, Lionsgate may have to incur additional fees to get the lending banks to keep their commitments in place. Any such additional fees will be an addition to the added costs of keeping the current Lionsgate corporate facility in place beyond the originally contemplated date of the Separation.
>
> **Additional Tax Liability**
>
> 40. If the closing of the Arrangement is delayed, there is a greater likelihood that the value of the LG Studios shares will increase from the time of the business combination in May 2024, potentially creating a tax liability to Lionsgate.
>
> […]
>
> **Governance Risks**
>
> 42. As part of the Arrangement, Lionsgate has secured the commitment of highly qualified individuals to act as directors of the two resulting public companies, New Lionsgate and Starz Entertainment Corp. Prolonged uncertainty surrounding the closing of the Arrangement increases the risk that these individuals may pursue other opportunities, potentially leaving Lionsgate to reconstitute the board leadership slates. This would not only complicate governance planning but would also necessitate amendments to the Plan of Arrangement and the Joint Proxy Statement, further disrupting the transition and adding complexity to an already time-sensitive process.
>
> **Operational Disruptions and Other Risks**
>
> 43. As with any complex commercial transaction, the closing of the Arrangement involves a significant number of carefully timed and coordinated steps, many of which involve third parties, including but not limited to the SEC, the Nasdaq Stock Market, the New York Stock Exchange, the B.C. Corporate Registry, and lenders. The successful completion of the Separation requires advanced coordination with each of these regulatory authorities who have been informed of the current contemplated timing of the closing. Moreover, any delay would expose the transaction to shifts in regulatory requirements or market conditions, making the transaction more complex and lead to further delays and additional costs.
>
> 44. Similarly, the closing of the Arrangement involves a significant amount of planning and work for Lionsgate's and LG Studios' operations, including but not limited to the implementation of the terms of the separation agreement and certain other agreements relating to the transition and allocation of assets, employees, liabilities, and

> obligations of Lionsgate and its subsidiaries to New Lionsgate and Starz Entertainment Corporation. Any delay will operationally disrupt these plans and result in costly interim inefficiencies.
>
> 45. Further, a delay in closing the Arrangement and the resulting uncertainty may impact the availability and cost of capital for the financing of productions by Lionsgate and by LG Studios.
>
> 46. On closing Lionsgate will fully draw down against its available term loans based on the then prevailing interest rates. As the Court is likely aware, we are living in extremely uncertain geopolitical times, which have the potential to materially adversely affect interest rates. Consequently, a delay of even a few weeks in the closing of the Arrangement will expose Lionsgate to increased interest rate volatility and risk.
>
> 47. For all of these reasons, a delay in closing the Arrangement would not only undermine investor confidence and shareholder value, but will also expose Lionsgate to heightened execution, regulatory, and governance risks, making the transaction more uncertain and potentially jeopardizing its success.

[23] CPP argues that Associate Judge Muir was clearly wrong to place any weight on (alleged) prejudice to Lionsgate because it was entirely of Lionsgate's own making because Lionsgate unilaterally scheduled the final order hearing for May 1 to 2, 2025 in the midst of ongoing scheduling discussions. However, much of the evidence for prejudice to Lionsgate as cited above concerned delays to the completion of the transaction generally, not merely the selection of May 1 to 2 and the gap between shareholder meeting and final hearing. CPP further argues that Associate Judge Muir's decision disregards basic expectations of cooperation between counsel.

[24] However, Lionsgate did defer to the concerns of CPP by setting the fairness hearing for two days—normally such an application would be made in regular chambers for a duration of less than two hours as noted by Associate Judge Muir in the Muir's reasons at para. 25.

[25] In respect of Mr. Feder's inability to attend the scheduled hearing, Associate Judge Muir looked to *Henderson v. Fisher*, 2020 BCSC 886 in which Justice Branch of this court considered the unavailability of counsel of choice. Associate judge Muir noted that the right to counsel of choice is not absolute, particularly where the

conflict is not a competing hearing but rather a personal matter as it is here: *Henderson* at paras. 16 and 23; Muir's reasons at paras. 34–35, 38–39.

[26] CPP also asserts that Associate Judge Muir erred in suggesting that CPP could have booked alternative hearing dates. However, it is not contested that CPP made no inquiries into Supreme Court Scheduling to determine whether their proposed alternative dates were even available. It was noted in the Muir's reasons that the dates that were selected are, in any event unavailable, as there would have been a judge's conference which would have resulted in this hearing possibly going to *sine die* and will have to be rescheduled. Associate Judge Muir's comments merely emphasized the fact that "given the realities of scheduling, it is likely that [the adjourned hearing] would be delayed at least into June": Muir reasons at para. 37. This consideration is relevant to the prejudice to Lionsgate, and it was not an error in principle to note in passing that counsel for CPP might have made efforts to secure alternative dates.

[27] Further, CPP argues that Associate Judge Muir was clearly wrong to place any weight on prejudice to Lionsgate arising from its unilateral scheduling of the final order hearing. However, there is unique nature of court-approved plans of arrangement which was recognized by Associate Judge Muir at para. 31 noting there are "unique considerations" at play for plans of arrangement:

> [31] There are, however, unique considerations at play for plans of arrangement. In *Re First Marathon Inc*., [1999] O.J. No. 2805 (S.C.J.), the court notes:
>
> > [8] I do not accept the submission that interim orders of the sort in question here should not be made on a without notice basis, at least where, as here, there has been no indication of shareholder opposition to the proposed transaction prior to the seeking of the order and there has been a public announcement in the media regarding the transaction. Each case will require its own consideration of course. In section 182 of the Ontario Business Corporations Act, however, the legislature has created a specific procedure for dealing with arrangement transactions. Because of the very nature of such transactions, particularly in relation to publicly traded companies, there is often a tight timing dynamic to them. The provisions of the act should be construed and applied in a fashion which facilitates a fair and effective processing of the application in a manner that is consistent with their real time nature as business transactions. To

> require the corporation to serve notice on all shareholders before taking any steps seems to me to introduce unnecessary expense, duplication, and delay into the procedure.

[28] Similarly, Associate Judge Muir made reference at para. 32 a decision of Justice Gomery, as he then was, in *Re iAnthus*, where he concluded that the company proposing the arrangement in that case was not required to involve the objecting party in fixing the schedule: *Re iAnthus* at paras. 31 and 32.

[29] Associate Judge Muir specifically noted the “commercial realities of plans of arrangement”: Muir’s reasons at para. 41.

[30] Associate Judge Muir considered the evidence of the standard practice in such proceedings which was set out in the affidavit of Ms. Chang made April 3, 2025 in evidence and that the practice here was consistent with her experience in presiding over interim hearings and applications involving plans of arrangement: Muir’s reasons at paras. 18–19; Ms. Chang’s April 3, 2025 affidavit at paras. 24–26.

Conclusion

[31] This appeal is not a re-litigation of the matter in any event. It is a consideration of the exercise of discretion of the Associate Judge in declining to order an adjournment of the final order hearing.

[32] I find that there is no basis as advanced by CPP of finding a legal error. Nor did the Associate Judge err in her factual determinations. I dismiss the appeal.

“Maisonville J.”