CV-18-604410-00CP

Chu

v.

Parwell Investments Inc.

Following my Endorsement dated June 18, 2023, the plaintiff delivered its motion record and expert report on August 15, 2023 and September 22, 2023 respectively. No responding material has been delivered by the landlord defendants, and the proposed new defendant ESA only yesterday served a notice of motion in which it opposes leave being obtained by the plaintiff to certify the claim against ESA, seeks to dismiss the plaintiff’s action for delay, and asks that its proposed summary judgment be scheduled to be heard before the plaintiff’s proposed continued certification motion which seeks to add remaining common issues against the landlord defendants and to add ESA as a party for certification (the “continued certification motion”).

In my June 12, 2023 endorsement, I set out preliminary motions to be heard together “prior to hearing the plainitff’s proposed motion under s. 8(3) of the [*CPA*]”. At the present case conference, I reviewed with the parties the issues of the scope of those preliminary motions and a timetable to move the proceeding forward. I set out the following timetable below, which will result in a preliminary hearing of (i) the plaintiff’s motion for leave to amend the certification order (including leave to add ESA as a party) – but not on the substance of whether the certification order should be amended or ESA added as a party and (ii) ESA’s motion to dismiss, I refer to these motions as the “Leave Motion” and the “Dismissal Motion”.

Timetable to go as follows:

1. By January 9, 2024, ESA to deliver motion record for Dismissal Motion
2. By February 29, 2024, landlord defendants and ESA to deliver responding motion records on both leave and substance of the s. 8(3) (continued certification) motion. In other words, these parties are to deliver a full record relevant to both leave and whether, if leave is granted, certification should be ordered
3. By April 30, 2024, the plaintiff shall deliver a reply motion record on its s. 8(3) (continued certification) motion (both on leave and substance issues), and a responding record to the ESA Dismissal Motion
4. By May 17, 2024, ESA may deliver a reply record on the Dismissal Motion
5. Cross-examinations to be completed by June 30, 2024 on all issues including the substance of certification.
6. ESA and landlord defendants to deliver factums on leave issue (for both ESA and landlord defendants) and Dismissal Motion (for ESA defendants), by July 30, 2024.
7. Plaintiffs to deliver responding factums on leave/dismissal issues by August 30, 2024
8. ESA and landlord defendants to deliver reply factums on leave issues (ESA and landlord defendants) and dismissal issue (ESA), by September 16, 2024
9. Hearing of Dismissal Motion and Leave Motion to be heard on September 30 and October 1, 2024.

Issue of whether scheduling of ESA proposed summary judgment motion is to be heard before the substance of the s. 8(3) motion (if leave is granted and the action is not dismissed for delay at the September 30/October 1 hearing) will be determined at a separate scheduling hearing to take place after the preliminary motions are heard and decided, if that scheduling motion remains necessary.

Timetable for substance of s. 8(3) motion to be determined after scheduling motion, depending on results of preliminary motions.