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ANNOTATED ONTARIO BUSINESS
CORPORATIONS ACT
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This is the most complete and current resource available covering the broad range of issues essential to operating an incorporated Ontario company. This release features updates to the summaries under the *Business Corporations Act*.

What’s New in this Update:

- In *OneMove Capital Corporation v. Dye & Durham Limited*, annotated at para. **99(1):0010**, the court held that a shareholder cannot seek to remove a director by means of a proposal process under s. 99 of the O.B.C.A. The shareholder seeking to remove a particular director must requisition a special meeting for that purpose and cannot impose such direct action simply as a “tag-along” proposal to a different meeting called for a different purpose.

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- In *LaFrance v. LaFrance et al.*, annotated at para. **139(3):0070**, the court found that one sibling was a *de facto* director because he had done many acts normally reserved for directors over several years without being formally appointed. It held that “s. 139(3) [of the O.B.C.A.] does not create a presumption that documentation in a minute book is accurate. It merely provides that such documentation is admissible in evidence of the facts contained therein in the absence of evidence to the contrary.”
- In *Akagi v. Synergy Group (2000) Inc.*, annotated at para. **161(1):0340**, the Ontario Court of Appeal, in considering the appointment of an inspector in the context of a claim alleging oppression, held that such “relief is available at the instance of a shareholder where it is apparent that the corporation’s books and records are not properly kept or are inaccurate, or where there has been some deceit or oppressive conduct practiced against the shareholders ... Its purpose is to ensure that a corporation discharges its core obligation to provide shareholders with an accurate picture of its financial position.”
- In *2724050 Ontario Inc. v. BAS Sports Group Inc.*, annotated at para. **161(1):0360**, the court held that what is required for the appointment of an inspector is a *prima facie* showing that the business or affairs of the corporation are or have been carried out in a manner that is prejudicial to or that unfairly disregards the interests of a security holder or a shareholder or that the respondents have, in relation to the business or affairs of the entity, acted fraudulently or dishonestly.
- In *Amsterdam Square Apartments Inc. (Re)*, annotated at para. **182(5):0580**, the court denied an application for approval of an Arrangement on the grounds that it was premature, that the necessity for the Arrangement had not been demonstrated to the required degree and the proposed plan lacked sufficient detail explaining what the board of directors actually planned to do by way of by-law changes if the Articles were amended.
- In *Zepeda v. Qadar*, annotated at para. **248(2):5960**, the court dismissed an application under s. 248(2) on the grounds that the respondent party to the motion was without the legal capacity to commence the action and had improperly brought the application in his personal capacity while seeking remedies on behalf of the corporation.
- In *Foglia v. Grid Link Corp.*, annotated at para. **248(2):5970**, the Divisional Court specifically ruled that it was not necessary for a court to find oppression before ordering one party to purchase the shares in the corporation owned by another party.
- In *Luo v. Song*, annotated at para. **248(2):5980**, the court dismissed an application to appoint a receiver of the business, affairs, assets, undertakings and properties of the respondent and held that:
 - An investigation is only an investigation, and is not a proceeding for the determination of rights. The investigation provided for by [the relevant section of the OBCA] is not one which should concern itself primarily with disputed or uncertain questions of law. The court held that an investigation contemplated by the Act is an extraordinary remedy and is not intended to assist the court in making findings of oppressive conduct, nor should it be used to assist parties to prepare for litigation.
- In *Bazar McBean LLP v. 1583057 Ontario Inc. et al.*, annotated at para. **248(2):6010**, the plaintiff sought judgment against the defendants and its principal for the balance owing on four invoices. The court held that the claim was subject to the *Limitations Act, 2002*, S.O. 2002, c. 24,

Sched. B. which provides that a claim is statute-barred unless brought within two years of the date on which it was discovered. The court held that under s. 13(9) of the Ontario *Limitations Act*, acknowledgement to reset the limitation clock must be made before the expiry of the limitation period applicable to the claim.

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