



# In the Court of Appeal of Alberta

Please type or print. Attach additional pages if necessary.  
All applicable areas must be completed.

Appeal Number

0501-0271-AL

Q.B. Number

0401-19905

Form N

- Select One  
(Status on Appeal)

- Select One  
(Status at Trial)

See Attached

and

- Select One  
(Status on Appeal)

- Select One  
(Status at Trial)

### Between:

(The style of cause remains the same as in the Trial Court and must show status for both courts. Practice Direction A.2.)

## Civil Notice of Appeal

1. Appeal from:  Judgment  Order  Decision

Portion being appealed (R.511):

Whole, or

Only specific part(s)

If specific part(s), indicate which part(s):

Paragraphs 1, 2, 7, 8, 9, 10 and 11

Provide a brief description of the issues:  
attached

Of the three options below, indicate where the order originated:

Court of Queen's Bench

File number: 0401-19905

Location: Judicial District of Calgary

Justice: Justice G.C. Hawco

On appeal from a Queen's Bench Master or Provincial Court Judge?  Yes  No  
(If you are appealing an order of a Queen's Bench Master or Provincial Court Judge, a copy of that order is also required.)

Administrative Tribunal

Specify Tribunal: \_\_\_\_\_

Appeal of a decision by a Board

Specify Board: \_\_\_\_\_

2. Particulars of Judgment, Order or Decision Appealed from:

Date pronounced: August 19, 2005

Date entered: September 7, 2005

Date served: September 7, 2005

Attach a copy pursuant to R.506(2). If a copy is not attached, provide reason:

(Upon the Judgment or Order becoming available, the Appellant shall forthwith file a copy with the Registrar.)

IN THE MATTER OF

TITAN INVESTMENTS LIMITED PARTNERSHIP, and TITAN GENPAR INC.,  
and EVOLUTION CAPITAL MANAGEMENT LTD., and THE ESTATE OF DAVID  
COMTE, DECEASED, and THE COMTE FAMILY TRUST and PREDATOR  
HOLDINGS LTD.

IN THE MATTER OF THE *JUDICATURE ACT*, R.S.A.2000, c-J-2, and RULES 467  
and 468 OF THE ALBERTA RULES OF COURT

JOHN MCARA

Appellant

INVESTORS COMMITTEE

Respondent

ALGER & ASSOCIATES INC.

Receiver Respondent

THOMAS PEARSON, CHRISTOPHER PEARSON

(not parties to the Appeal)

DAVID PIZZOLATO, JOANNE KROG, ALTON HALLIDAY, HEIDIE FIRTH,  
HARVEY BARRETT, 1043930 ALBERTA LTD.,

(not parties to the Appeal)

SONIA EBANKS, ETENRIT INSTITUTE INC., TW CLEANING SERVICES

(not parties to the Appeal)

JANET COMTE

(not parties to the Appeal)

EDYTA CZARNECKI and 924888 ALBERTA LTD.

(not parties to the Appeal)

**1. Provide a brief description of the issues:**

1. Whether or not the Appellant, a unit holder in Titan Investments Limited Partnership (the "Titan Partnership"), is a "creditor" of either the Titan Partnership or other unit holders.
2. Whether or not the redemptions paid by the Titan Partnership to the Appellant, as a unit holder in the Titan Partnership, were void as "fraudulent preferences" pursuant to the *Fraudulent Preferences Act* (Alberta).

3. If the order originated in the Court of Queen's Bench, check one of the following, to indicate the type of order that is under appeal:

Interim order made

In chambers

During trial

Specify nature of Order: \_\_\_\_\_

Final order or refusal to grant final order before trial (eg. summary judgment, striking pleadings, etc.)

Judgment after trial

4(a) Is this appeal about procedure or custody or access only under Part J. of the Consolidated Practice Directions?

If yes, check applicable boxes:

Error correcting only

Involves new law

Yes  No

Yes  No

Yes  No

4(b) Is this a Family Law Appeal?

If yes, check applicable boxes:

Divorce

Error correcting only

Involves new law

Yes  No

Yes  No

Maintenance only

Child support

Spousal support

Spousal and Child support

Error correcting only

Involves new law

Yes  No

Yes  No

Maintenance arrears

Child support

Spousal support

Spousal and Child support

Error correcting only

Involves new law

Yes  No

Yes  No

Matrimonial property

Error correcting only

Involves new law

Yes  No

Yes  No

Adoption

Error correcting only

Involves new law

Yes  No

Yes  No

Guardianship

Error correcting only

Involves new law

Yes  No

Yes  No

Parentage

Error correcting only

Involves new law

Yes  No

Yes  No

Protection against family violence

Error correcting only

Involves new law

Yes  No

Yes  No

Other, please specify: \_\_\_\_\_

Error correcting only

Involves new law

Yes  No

Yes  No

5. Has this file been under Case Management in the Court of Queen's Bench?  Yes  No  
If yes, case management justice: \_\_\_\_\_  
Trial date: \_\_\_\_\_

6. Is this case related to any case presently before or about to be filed in this Court?  Yes  No  
(e.g. arises from same controversy; involves same, similar or related issues, etc.)  
If yes, name of related case(s): \_\_\_\_\_  
Action or appeal number(s): \_\_\_\_\_  
Nature of relationship: \_\_\_\_\_

7. Is the constitutional validity of an Act or Regulation being challenged as a result of this appeal?  Yes  No

8. Has mediation been attempted in the trial court?  Yes  No

9. Are you willing to participate in Judicial Dispute Resolution with a view to settlement or crystallizing of issues?  Yes  No

10. Would case management be beneficial?  Yes  No

11. Could this matter be decided without oral argument?  Yes  No

12. Should the appeal be expedited?  Yes  No  
If yes, provide reason: \_\_\_\_\_

13. Is there a statutory ban, ban on publication or an order of the Court which affects the privacy status of this file?  Yes  No  
If yes, provide details including which party/parties the ban or order affects and the section the ban was granted under:  
Order Justice Erb December 29, 2004 sealing Affidavit of Croft Axsen December 24, 2004

14. Appellant's estimated time of argument (if less than 45 minutes): 45 minutes

15. List respondent(s) or counsel for the respondent(s)  
see attached  
Name \_\_\_\_\_  
Law Firm (if applicable) \_\_\_\_\_  
Address \_\_\_\_\_ Postal Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

**Note:** The address set out in section 15 will be considered the respondent's address for service until such time as the respondent files documentation specifying otherwise.  
All parties listed in section 15 must be served with a filed copy of the Notice of Appeal within the prescribed appeal period. (R.510(1))

September 26, 2005  
Date Calvin C. Robb  
Signature of Appellant(s) or Counsel  
(Legibly print or stamp name (R.5.1))

Calvin C. Robb  
Robb & Evenson Professional Corporation  
506, 933 17th Avenue SW  
Calgary, AB T2T 5R6

**15. List respondent(s) or counsel for the respondent(s)**

Investors Committee

Bennett Jones

4500, 855 2<sup>nd</sup> Street SW

Calgary, Alberta T2P 4K7

Frank R. Dearlove

Kelsey Drozdowski

Ph: 403-298-3202

Fax:403-265-7219

Alger & Associates Inc. – Receiver

Fleming LLP

1500, 736 6<sup>th</sup> Avenue SW

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Clive O. Llewellyn

Ph: 403-266-5550

Fax: 403-265-6910

IN THE MATTER OF

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**Notice to the Respondent:**

A respondent who fails to comply with the requirements of the Alberta Rules of Court and the Court of Appeal Consolidated Practice Directions, within the prescribed time, will not be allowed to present oral argument, nor be entitled to costs, unless otherwise ordered.

Failure to appear at the hearing may also lead to an order or judgment being made against the respondent in their absence.

**Notice To All Parties:**

Parties are required to provide an address for service if it is different than the address set out in this document.

Parties are also required to notify the Registrar of any change of address throughout the proceedings, to ensure that they can be contacted at all times.

An address for service within 30 kilometers of the office of the Registrar must be provided (R.5(1)(b)(i)).

Appeal Number:

Q.B. Number: 0401-19905

0501-0271 AC

**IN THE COURT OF APPEAL OF ALBERTA**

**BETWEEN:**

See Attached

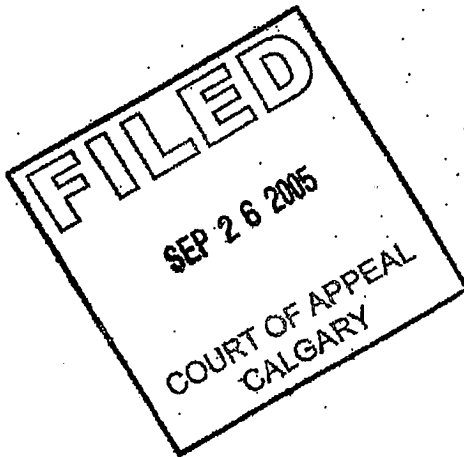
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- Select One  
(Status at Trial)

**-AND-**

- Select One  
(Status on Appeal)

- Select One  
(Status at Trial)



**CIVIL NOTICE OF APPEAL**

**Appellant(s) or counsel for the appellant(s):**

Calvin C. Robb

Name

Robb & Evenson Professional Corporation

Law Firm (if applicable)

506, 933 17th Avenue SW

Address

Calgary, Alberta

T2T 5R6

Postal Code

403-541-1600

Telephone Number

403-541-1604

Fax Number