

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT
ACT, R.S.C. 1985, c. C-36, AS AMENDED***

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF ROBERTS COMPANY CANADA LIMITED**

Applicant

**BOOK OF AUTHORITIES OF THE APPLICANT
(Claims Procedure Order)**

July 23, 2020

BENNETT JONES LLP
Barristers and Solicitors
3400 One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Raj Sahni (LSO#: 42942U)
Tel: (416) 777-4804
Email: sahnir@bennettjones.com

Danish Afroz (LSO#: 65786B)
Tel: (416) 777-6124
Email: afrozd@bennettjones.com

Lawyers for the Applicant

INDEX

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT
ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF ROBERTS COMPANY CANADA LIMITED**

INDEX

TAB	CASES
1	<i>Re Toys "R" Us (Canada) Ltd</i> , 2018 ONSC 609
2	<i>Timminco Ltd, Re</i> , 2014 ONSC 3393
3	<i>ScoZinc Ltd, Re</i> , 2009 NSSC 136
4	<i>Canwest Global Communications Corp, Re</i> , 2011 ONSC 2215
5	<i>Toys "R" Us (Canada) Ltd</i> , (January 25, 2018) Toronto, CV-17-00582960-00CL (Claims Procedure Order)
6	<i>Payless Shoesource Canada Inc.</i> , (April 24, 2019) Toronto, CV-19-00614629-00CL (Claims Procedure Order)
7	<i>U.S. Steel Canada Inc</i> , (March 15, 2017) Toronto, CV-14-10695-00CL (Supplementary Claims Process Order)
8	<i>Forever XXI ULC</i> , (May 28, 2020) Toronto, CV-19-00628233-00CL (Claims Procedure Order)
9	<i>Canwest Publishing Inc</i> , (April 12, 2010) Toronto, CV-10-8533-00CL (Claims Procedure Order)
10	<i>Cline Mining Corporation</i> , (December 3, 2014) Toronto, CV-14-10781-00CL (Claims Procedure Order)

TAB 1

2018 ONSC 609
Ontario Superior Court of Justice [Commercial List]

Re TOYS "R" US (CANADA) LTD.

2018 CarswellOnt 962, 2018 ONSC 609, 288 A.C.W.S. (3d) 16, 56 C.B.R. (6th) 271

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TOYS "R" US (CANADA) LTD. TOYS "R" US (CANADA) LTEE

F.L. Myers J.

Heard: January 25, 2018

Judgment: January 25, 2018^{*}

Docket: CV-17-00582960-00CL

Counsel: Brian F. Empey, Bradley Wiffen for Applicant
Jane Dietrich for Monitor, Grant Thornton Limited
Linc Rogers for JPMorgan Chase Bank, NA, DIP Agent
Jesse Mighton for Crayola Canada
Linda Galessiere for Various landlords
Timothy R. Dunn for CentreCorp Management Services Limited
Adam Slavens, Jonathan Silver for LEGO
Sean Zweig for Unsecured Creditors Committee of Toys "R" Us Inc. and other debtors in Chapter 11 proceedings before the United States Bankruptcy Court for the Eastern District of Virginia

Related Abridgment Classifications

Bankruptcy and insolvency

[XIX](#) Companies' Creditors Arrangement Act

[XIX.5](#) Miscellaneous

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Miscellaneous
Debtor company brought motion to extend time it remained under protection of Companies' Creditors Arrangement Act while it attempted to restructure, and for approval of draft claims procedure by which outstanding claims of creditors could be recognized and quantified — Motion granted — No significant stakeholder opposed relief sought — Company was acting in good faith and with due diligence in pursuit of restructuring process — Company had sufficient liquidity to operate in normal course throughout proposed extended period without drawing upon its

extraordinary financing — Extension of time would allow company to advance going concern restructuring process here and in coordination with United States affiliates — Monitor supported request — Proposed draft claims procedure allowed creditors who disagreed with amounts set out in claims statements to file notices of dispute with monitor by claims bar date to engage review process — Negative option scheduled claim process would eliminate need for filing proofs of claim and supporting evidence in majority of cases, and it ensured that known claims were not lost in procedural uncertainty — Creative scheduled claims procedures like this one that streamlined claims processes, made it easier for all known creditor claims to be recognized and counted, and saved significant time and money were encouraged — Proposed negative option scheduled claim process was both fair and reasonable.

Table of Authorities

Statutes considered:

Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3

Generally — referred to

Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36

Generally — referred to

s. 11 — considered

s. 12 — considered

F.L. Myers J.:

1 Toys "R" Us (Canada) Ltd. Toys "R" Us (Canada) Ltee asks the court to extend the time that it remains under protection of the *CCAA* while it attempts to restructure. It also asks the court to approve a draft claims procedure by which the outstanding claims of its creditors can be recognized and quantified.

2 No significant stakeholder opposed the relief sought and I have granted it accordingly.

3 I am satisfied that the applicant is acting in good faith and with due diligence in pursuit of its restructuring process to date. These are the findings required for it to be entitled to an extension of time under the statute. The applicant's financial results through the holidays exceeded conservative forecasts. It reports that it has sufficient liquidity to operate in the normal course throughout the proposed extended period without drawing upon its extraordinary financing. The extension of time will allow the applicant to advance a going concern restructuring process here and in coordination with its affiliates in the US. The Monitor supports the request. Accordingly the request for an extension of the proceedings is granted.

4 The outcome of a successful restructuring process usually involves the applicant proposing a plan of compromise or arrangement to its creditors. The creditors have the opportunity to vote on whether they agree to the terms of the plan proposed. To approve a plan, the *CCAA* requires

a vote of more than 50% of the creditors in number who hold collectively more than two-thirds of the claims measured by dollar value.

5 In many cases, instead of a plan, the applicant proposes a value-maximizing liquidating transaction. After a liquidation, there will likely be distributions to creditors of the proceeds of liquidation in cash or other property *pari passu* by rank.

6 In either case, whether a plan or a liquidating transaction is proposed, it is necessary to determine the precise number of creditors and the precise amount of their respective claims, so that the creditors can vote and/or receive distributions accordingly.

7 In a bankruptcy governed by the provisions of the *Bankruptcy and Insolvency Act*, RSC 1985, c.B-3, creditors are required to prove their claims individually by delivering to the trustee in bankruptcy sworn proof of claim forms that are accompanied by supporting invoices and other relevant documentation. The *CCAA*, by contrast, does not set out a specific procedure for creditor claims to be proven and counted.

8 Claims procedure orders are routinely granted under the court's general powers under ss. 11 and 12 of the *CCAA*. Claims procedure orders are designed to create processes under which all of the creditors of an applicant and its directors and officers can submit their claims for recognition and valuation. Claims procedures usually involve establishing a method to communicate to potential creditors that there is a process by which they must prove their claims by a specific date. The procedure usually includes an opportunity for the debtor or its representative to review and, if appropriate, contest claims made by creditors. If claims are not agreed upon and cannot be settled by negotiation, then the claims procedure orders may go on to establish an adjudication mechanism in court or, typically in Ontario, by arbitration that is then subject to an appeal to the court. Claims procedure orders will usually also establish a "claims bar date" by which claims must be submitted by creditors. Late claims may not be allowed as it can be necessary to establish a cut off to give accurate numbers for voting and distribution purposes.

9 The claims processes in bankruptcy do not necessarily fit well in a *CCAA* proceeding. It is very unusual for a large corporation to go bankrupt and require proof of claims to be delivered by every single creditor under the *BIA* statutory claims process. Creditors of large companies can number in the thousands. It can be very time consuming and therefore very expensive for each of thousands of creditors to submit proof of claims and for the debtor or the Monitor to review, track, and deal with each claim individually. Managing claims processes for a large business can therefore be a very substantial undertaking that is often occurring behind the scenes throughout *CCAA* processes.

10 Yet, experience shows that the vast majority of claims are usually dealt with consensually. At any given time, most large businesses have readily ascertainable payables outstanding that are carefully tracked electronically by the applicant's financial managers. Requiring each creditor to prove the state of its outstanding claims by submitting invoices then is often just a make work

project that provides no real incremental value beyond the information available by just looking at a listing of outstanding trade payables on the debtor's financial systems.

11 Toys "R" Us has submitted a draft form of claims procedure that addresses the unnecessary cost of requiring its thousands of trade creditors to prove their claims individually. It proposes to list creditor claims from the company's books and records and to provide each known creditor with a simple claim statement that sets out the amount of its claim that is already recognized by the company. If a creditor agrees with the amount that the company says it owes, the creditor need do nothing and the scheduled or listed claim will become the final proven claim at the claims bar date.

12 The draft claims procedure allows creditors who disagree with the amounts set out in their claims statements to file notices of dispute with the Monitor by the claims bar date to engage an individualized review process.

13 This negative option scheduled claim process will eliminate the need for filing proofs of claim and supporting evidence in the vast majority of cases. It also ensures that known claims are not lost in procedural uncertainty which always causes a certain percentage of creditors to fail to file their claims on a timely basis.

14 This is certainly not the first case to use a negative option scheduled claims process like the one proposed here. Creative scheduled claims procedures, like this one, that streamline claims processes, make it easier for all known creditor claims to be recognized and counted, and save significant time and money, are encouraged. Each case must be responsive to its own facts and circumstances. What works in one case may be wholly inapt in another. But in all cases it is appropriate to make efforts to increase efficiency, affordability, and certainty as was done here. The overriding concern of the court is to ensure that any claims procedure process is both fair and reasonable. The negative option scheduled claim process proposed in this case meets both touchstones.

15 Finally, the proposed minor amendment to the cross-border protocol has already been adopted by the US court. The change proposed is not opposed and it is reasonable to keep the terms of both orders consistent.

16 Order signed accordingly.

Motion granted.

Footnotes

* A corrigendum issued by the court on January 31, 2018 has been incorporated herein.

TAB 2

2014 ONSC 3393
Ontario Superior Court of Justice

Timminco Ltd., Re

2014 CarswellOnt 9328, 2014 ONSC 3393, 14 C.B.R. (6th) 113, 242 A.C.W.S. (3d) 764

**In the Matter of the Companies' Creditors
Arrangement Act, R.S.C. 1985, c. C-36, as Amended**

In the Matter of a Plan of Compromise or Arrangement
of Timminco Limited and Bécancour Silicon Inc.

Morawetz R.S.J.

Heard: July 22, 2013

Judgment: July 7, 2014

Docket: CV-12-9539-00CL

Counsel: Jane Dietrich, Kate Stigler for Board of Directors, except John Walsh
Kenneth D. Kraft for Chubb Insurance Company of Canada
James C. Orr for Plaintiff, St. Clair Pennyfeather in the Class Action
Maria Konyukhova for Timminco Entities
Robert Staley for John Walsh
Linc Rogers for Monitor

Related Abridgment Classifications

Bankruptcy and insolvency

[XIX](#) Companies' Creditors Arrangement Act

[XIX.2](#) Initial application

[XIX.2.f](#) Lifting of stay

Civil practice and procedure

[XVI](#) Disposition without trial

[XVI.3](#) Stay or dismissal of action

[XVI.3.c](#) Grounds

[XVI.3.c.ii](#) Another proceeding pending

[XVI.3.c.ii.E](#) Miscellaneous

Headnote

Civil practice and procedure --- Disposition without trial — Stay or dismissal of action — Grounds
— Another proceeding pending — General principles

Representative plaintiff P brought class action against against corporate defendant T, individual defendants who were officers of T, and third party — Action was based in alleged misrepresentations by defendants, causing investors to buy stock in T — Some 2.5 years later, T obtained stay of class action under Companies' Creditors Arrangement Act (CCAA) — T also obtained Claims Procedure Order (CPO) which established deadline for claims against directors — P did not file claim by deadline — P moved to lift stay that remained in place — Motion granted — Stays and orders to lift stay were discretionary — Assets of T had been sold, and distributions had been made to secured creditors — Under these circumstances, stay and claims order did not serve their original purpose — There was no CCAA plan in place, and there was no stated intent to create one — Claims-bar order was not proper bar to P's claim in this case — P's claim was to be decided on merits, and any problems with claim were not bar to claim being able to proceed. Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Initial application — Lifting of stay

Representative plaintiff P brought class action against against corporate defendant T, individual defendants who were officers of T, and third party — Action was based in alleged misrepresentations by defendants, causing investors to buy stock in T — Some 2.5 years later, T obtained stay of class action under Companies' Creditors Arrangement Act (CCAA) — T also obtained Claims Procedure Order (CPO) which established deadline for claims against directors — P did not file claim by deadline — P moved to lift stay that remained in place — Motion granted — Stays and orders to lift stay were discretionary — Assets of T had been sold, and distributions had been made to secured creditors — Under these circumstances, stay and claims order did not serve their original purpose — There was no CCAA plan in place, and there was no stated intent to create one — Claims-bar order was not proper bar to P's claim in this case — P's claim was to be decided on merits, and any problems with claim were not bar to claim being able to proceed.

Table of Authorities

Cases considered by *Morawetz R.S.J.*:

Blue Range Resource Corp., Re (2000), 2000 ABCA 285, 2000 CarswellAlta 1145, [2001] 2 W.W.R. 477, (sub nom. *Enron Canada Corp. v. National-Oilwell Canada Ltd.*) 193 D.L.R. (4th) 314, 271 A.R. 138, 234 W.A.C. 138, 87 Alta. L.R. (3d) 352 (Alta. C.A.) — referred to *Blue Range Resource Corp., Re* (2001), 283 N.R. 391 (note), 2001 CarswellAlta 1209, 2001 CarswellAlta 1210, 299 A.R. 179 (note), 266 W.A.C. 179 (note), [2001] S.C.R. viii (S.C.C.) — referred to

Campeau v. Olympia & York Developments Ltd. (1992), 14 C.B.R. (3d) 303, 14 C.P.C. (3d) 339, 1992 CarswellOnt 185 (Ont. Gen. Div.) — referred to

Canadian Red Cross Society / Société Canadienne de la Croix-Rouge, Re (2008), 48 C.B.R. (5th) 41, 2008 CarswellOnt 6105, 44 E.T.R. (3d) 31 (Ont. S.C.J.) — referred to

Canwest Global Communications Corp., Re (2011), 2011 ONSC 2215, 2011 CarswellOnt 2392, 75 C.B.R. (5th) 156 (Ont. S.C.J. [Commercial List]) — referred to

Green v. Canadian Imperial Bank of Commerce (2014), 2014 CarswellOnt 1143, 2014 ONCA 90, 50 C.P.C. (7th) 113, (sub nom. *Millwright Regional Council of Ontario Pension Trust*

Fund (Trustess of) v. Celestica Inc.) 118 O.R. (3d) 641, 314 O.A.C. 315, 370 D.L.R. (4th) 402 (Ont. C.A.) — followed

Ivorylane Corp. v. Country Style Realty Ltd. (2004), 2004 CarswellOnt 2567 (Ont. S.C.J. [Commercial List]) — referred to

Labourers' Pension Fund of Central and Eastern Canada v. Sino-Forest Corp. (2013), 2013 CarswellOnt 3361, 2013 ONSC 1078, 100 C.B.R. (5th) 30, 37 C.P.C. (7th) 135 (Ont. S.C.J. [Commercial List]) — considered

Muscletech Research & Development Inc., Re (2006), 25 C.B.R. (5th) 218, 33 C.P.C. (6th) 131, 2006 CarswellOnt 4929 (Ont. S.C.J. [Commercial List]) — referred to

Sammi Atlas Inc., Re (1998), 1998 CarswellOnt 1145, 3 C.B.R. (4th) 171 (Ont. Gen. Div. [Commercial List]) — referred to

Statutes considered:

Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36

Generally — referred to

s. 2 — considered

s. 5.1 [en. 1997, c. 12, s. 122] — considered

s. 5.1(2) [en. 1997, c. 12, s. 122] — considered

s. 12 — considered

s. 19 — considered

Securities Act, R.S.O. 1990, c. S.5

Generally — referred to

Morawetz R.S.J.:

Introduction

1 On May 14, 2009, Kim Orr Barristers PC, counsel to the representative plaintiff Mr. St. Clair Pennyfeather ("Plaintiff's Counsel"), initiated the proposed class action (the "Class Action"), which names as defendants Timminco Limited ("Timminco"), a third party, Photon Consulting LLC, and certain of the directors and officers of Timminco, (the "Directors").

2 The Class Action focusses on alleged public misrepresentations that Timminco possessed a proprietary metallurgical process that provided a significant cost advantage in manufacturing solar grade silicon for use in manufacturing solar cells.

3 Mr. Pennyfeather alleges that the representations were first made in March 2008, after which the shares of Timminco gained rapidly in value to more than \$18 per share by June 5, 2008. Subsequently, Mr. Pennyfeather alleges that as Timminco began to acknowledge problems with

the alleged proprietary process, the share price fell to the point where the equity was described as "penny stock" prior to its delisting in January 2012.

4 In the initial order, granted January 3, 2012 in the *Companies' Creditors Arrangement Act.*, R.S.C. 1985, c. C-36, as amended (the "CCAA") proceedings, Timminco sought and obtained stays of all proceedings including the Class Action as against Timminco and the Directors (the "Initial Order").

5 Timminco also obtained a Claims Procedure Order on June 15, 2012 (the "CPO"). Among other things, the CPO established a claims-bar date of July 23, 2012 for claims against the Directors. Mr. Pennyfeather did not file a proof of claim by this date.

6 No CCAA plan has been put forward by Timminco and there is no intention to advance a CCAA plan.

7 Mr. Pennyfeather moves to lift the stay to allow the Class Action to be dealt with on the merits against all named defendants and, if necessary, for an order amending the CPO to exclude the Class Action from the CPO or to allow the filing of a proof of claim relating to those claims.

8 The Class Action seeks to access insurance moneys and potentially the assets of Directors.

9 The respondents on this motion, (the Directors named in the Class Action), contend that the failure to file a claim under the CPO bars any claim against officers and directors or insurance proceeds.

10 Neither Timminco nor the Monitor take any position on this motion.

11 For the reasons that follow, the motion of Mr. Pennyfeather is granted and the stay is lifted so as to permit Mr. Pennyfeather to proceed with the Class Action.

The Stay and CPO

12 The Initial Order contains the relevant stay provision (as extended in subsequent orders):

24. This Court Orders that during the Stay Period... no Proceeding may be commenced or continued against any former, current or future directors or officers of the Timminco Entities with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Timminco Entities whereby the directors or officers are alleged under any law to be liable in their capacities as directors or officers for the payment or performance of such obligations, **until a compromise or arrangement in respect of the Timminco Entities, if one is filed, is sanctioned by this court or is refused by the creditors of the Timminco Entities or this Court.**

[emphasis added]

13 In May and June 2012, The Court approved sales transactions comprising substantially all of the Timminco Entities' assets. In their June 7, 2012 Motion, the Timminco Entities sought an extension of the Stay Period to "give the Timminco Entities sufficient time to, among other things, close the transactions relating to the Successful Bid and carry out the Claims Procedure". The Timminco Entities sought court approval of a proposed claims procedure to "identify claims which may be entitled to distributions of potential proceeds of the ... transactions..." The Timminco entities took the position that the Claims Procedure was "a fair and reasonable method of determining the potential distribution rights of creditors of the Timminco Entities".

14 The mechanics of the CPO are as follows. Paragraph 2(h) of the CPO defines the Claims Bar Date as 5:00 p.m. on July 23, 2012. "D&O Claims" are defined in para. 2(f)(iii):

Any existing or future right or claim of any person against one or more of the directors and/or officers of the Timminco Entity which arose or arises as a result of such directors or officers position, supervision, management or involvement as a director or officer of a Timminco Entity, whether such right, or the circumstances giving rise to it arose before or after the Initial Order up to and including this Claims Procedure whether enforceable in any civil, administrative, or criminal proceeding (each a "D&O Claim") (and collectively the "D&O Claims"), including any right:

- a. relating to any of the categories of obligations described in paragraph 9 of the Initial Order, whether accrued or falling due before or after the Initial Order, in respect of which a director or officer may be liable in his or her capacity as such;
- b. in respect of which a director or officer may be liable in his or her capacity as such concerning employee entitlements to wages or other debts for services rendered to the Timminco Entities or any one of them or for vacation pay, pension contributions, benefits or other amounts related to employment or pension plan rights or benefits or for taxes owing by the Timminco Entities or amounts which were required by law to be withheld by the Timminco Entities;
- c. in respect of which a director or officer may be liable in his or her capacity as such as a result of any act, omission or breach of duty; or
- d. that is or is related to a penalty, fine or claim for damages or costs.

Provided however that in any case "Claim" shall not include an Excluded Claim.

15 The CPO appears to bar a person who fails to file a D&O Claim by the Claims Bar Date from asserting or enforcing the claim:

19. This Court orders that any Person who does not file a proof of a D&O Claim in accordance with this order by the claims-bar date **or such other later date as may be ordered by the Court**, shall be forever barred from asserting or enforcing such D&O Claim against the directors and officers and the directors and officers shall not have any liability whatsoever in respect of such D&O Claim and such D&O Claim shall be extinguished without any further act or notification.

[emphasis added]

Mr. Pennyfeather's Position

16 Mr. Pennyfeather advances a number of arguments. Most significantly, he argues that it is not fair and reasonable to allow the defendants to bar and extinguish the Class Actions claims through the use of an interim and procedural court order. He submits that the respondents attempt to use the CCAA in a tactical and technical fashion to achieve a result unrelated to any legitimate aspect of either a restructuring or orderly liquidation. The operation of the fair and reasonable standard under the CCAA calls for the exercise of the Court's discretion to lift the stay and, if necessary, amend the CPO to either exclude the Class Action claims or permit submissions of a class proof of claim.

17 In support of this argument, Mr. Pennyfeather adds that there is no evidence that any of the Directors who are defendants in the class action contributed anything to the CCAA process, and that the targeted insurance proceeds are not available to other creditors. Thus, he submits, a bar against pursuing these funds benefits only the insurance companies who are not stakeholders in the restructuring or liquidation.

18 Mr. Pennyfeather advances a number of additional arguments. Because I am persuaded by this first submission, it is not necessary to discuss the additional arguments in great detail. However, I will give a brief summary of these additional arguments below.

19 First, Mr. Pennyfeather submits, since the stay was ordered, he has attempted to have the stay lifted as it relates to the Class Action.

20 Second, Mr. Pennyfeather submits that the CPO did not permit the filing of representative claims, unlike, for example, claims processed in *Labourers' Pension Fund of Central and Eastern Canada v. Sino-Forest Corp.*, 2013 ONSC 1078, 100 C.B.R. (5th) 30 (Ont. S.C.J. [Commercial List]). Representative claims are generally not permitted under the CCAA and the solicitors for the representative plaintiff do not act for class members prior to certification (see: *Muscletech Research & Development Inc., Re* (2006), 25 C.B.R. (5th) 218 (Ont. S.C.J. [Commercial List])). Therefore, Mr. Pennyfeather submits that the omission in the order obtained by the Timminco entities, of the type of provision contained in the *Sino-Forest* Claims Order, precluded the action that they now assert should have been taken.

21 Third, Mr. Pennyfeather responds to the significant argument made by the responding parties that the CPO bars the claim. He submits that the Class Action, which alleges, *inter alia*, misrepresentations and breaches of the *Securities Act*, R.S.O. 1990, c. S.5, is unaffected by the CPO. There are several reasons for this. First, the CPO excludes claims that cannot be compromised as a result of the provisions of s. 5.1(2) of the CCAA. Alternatively, even if Mr. Pennyfeather and other class members are not creditors pursuant to section 5.1(2), he submits that Parliament has clearly intended to exclude claims for misrepresentation by directors regardless of who brought them. In addition, insofar as the Class Action seeks to recover insurance proceeds, the CPO did not, according to Mr. Pennyfeather, affect that claim.

22 In summary, Mr. Pennyfeather's most significant argument is that the CCAA process should not be used in a tactical manner to achieve a result collateral to the proper purposes of the legislation. The rights of putative class members should be determined on the merits of the Class Action, which are considerable given the evidence. Further, the lifting of the stay is fair and reasonable in all of the circumstances.

Directors' Position

23 Counsel to directors and officers named in the proposed class action, other than Mr. Walsh (the "Defendant Directors") submit there are three issues to be considered on the motion: (a) should the CPO be amended to grant Mr. Pennyfeather the authority to file a claim on behalf of the class members in the D&O Claims Procedure? (b) if Mr. Pennyfeather is granted the authority to file a claim on behalf of the class members, should the claims-bar date be extended to allow him the opportunity to file a late claim against the Defendant Directors? and (c) if Mr. Pennyfeather is permitted to file a late claim against the Defendant Directors, should the D&O stay be lifted to allow the proposed class action to proceed against the Defendant Directors?

24 The Defendant Directors take the position that: (a) Mr. Pennyfeather does not have the requisite authority and/or right to file a claim on behalf of the class action members and the CPO and should not be amended to permit such; (b) if Mr. Pennyfeather is granted the authority to file a claim on behalf of the class members, the claims-bar date should not be extended to allow Mr. Pennyfeather to file a late claim; and (c) if Mr. Pennyfeather is permitted to file a late claim, the D&O stay should not be lifted to allow the proposed class action to proceed against the Defendant Directors.

25 The Defendant Directors counter Mr. Pennyfeather's arguments with a number of points. They take the position that while they were holding office, they assisted with every aspect of the CCAA process, including (i) the sales process through which the Timminco Entities sold substantially all of their assets and obtained recoveries for the benefit of their creditors; and (ii) the establishment of the claims procedure, resigning only after the claims-bar date passed.

26 The Defendant Directors also submit that Mr. Pennyfeather has been aware of, and participated in, the CCAA proceedings since the weeks following the granting of the Initial Order. They submit that at no time prior to this motion did Mr. Pennyfeather take any position on the claims procedures established to seek the authority to file a claim on behalf of the class members. They submit that, at this point, Mr. Pennyfeather is asking the court to exercise its discretion to (i) amend the CPO to grant him the authority to file a claim on behalf of the class members; (ii) extend the claims-bar date to allow him to file such claim; and (iii) lift the stay of proceedings. They submit that Mr. Pennyfeather asks this discretion be exercised to allow him to pursue a claim against the Defendant Directors which remains uncertified, is in part statute barred, and lacks merit.

27 Counsel to the Defendant Directors submits that the D&O Claims Procedure was initiated for the purpose of determining, with finality, the claims against the directors and officers. They submit that the D&O Claims Procedure has at no time been contingent on, tied to, or dependent on the filing of a Plan of Arrangement by the Timminco Entities.

28 Simply put, the Defendant Directors submit that the CPO sets a claims-bar date of July 23, 2012 for claims against Directors and Mr. Pennyfeather did not file any Proof of Claim against the Defendant Directors by the claims-bar date. Accordingly, they submit that the claims against the Defendant Directors contemplated by the Class Action are currently barred and extinguished by the CPO.

29 The arguments put forward by Mr. Walsh are similar.

30 Counsel to Mr. Walsh attempts to draw similarities between this case and *Sino-Forest*. Counsel submits this is a case where Mr. Pennyfeather intentionally refused to file a Proof of Claim in support of a securities misrepresentation claim against Timminco and its directors and officers.

31 They further submit that Mr. Pennyfeather is asking for the Court to exercise its discretion in his favour to lift the stay of proceedings, in order to allow him to pursue a proceeding which has been largely, if not entirely neutered by the Court of Appeal (leave to appeal to the Supreme Court of Canada dismissed). They point out that just like in *Sino-Forest*, to lift the stay would be an exercise in futility where the Court commented that "there is no right to opt out of any CCAA process...by virtue of deciding, on their own volition, not to participate in the CCAA process", the objectors relinquished their right to file a claim and take steps, in a timely way, to assert their rights to vote in the CCAA proceeding.

32 Counsel to Mr. Walsh also takes the position that Mr. Pennyfeather's only argument is a strained effort to avoid the plain language of the CPO in an effort to say that his claim is an "excluded claim" and therefore a Proof of Claim was never required. Even if Mr. Pennyfeather was right, counsel to Mr. Walsh submits that Mr. Pennyfeather still would have been required to

file a Proof of Claim, failing which his claim would have been barred. Under the CPO, proofs of such claims were still called for, even if they were not to be adjudicated.

33 They note that Mr. Pennyfeather was aware of the CCAA proceeding and the Initial Order. As early as January 17, 2012, counsel to Mr. Pennyfeather contacted counsel for Timminco, asking for consent to lift the Stay.

34 Counsel contends that the "excluded claim" language that Mr. Pennyfeather relies on is not found in the definition of D&O Claim. Under the terms of the CPO, the language is a carve-out from the larger definition of "claim", not the subset definition of D&O Claim. As a result, counsel submits that proofs of claim are still required for D&O Claims, regardless of whether they are excluded claims. In that way, the universe of D&O Claims would be known, even if excluded claims would ultimately not be part of a plan.

35 Mr. Walsh also takes the position that Mr. Pennyfeather made an intentional decision not to file a claim. Mr. Walsh emphasizes that Mr. Pennyfeather had full notice of the motion for the CPO and chose not to oppose or appear on the motion. Further, at no time did Mr. Pennyfeather request the Monitor apply to court for directions with respect to the terms of the CPO.

36 Mr. Walsh submits he is prejudiced by the continuation of the Class Action and he wants to get on with his life but is unable to do so while the claim is extant.

Law and Analysis

37 For the purposes of this motion, I must decide whether the CPO bars Mr. Pennyfeather from proceeding with the Class Action and whether I should lift the stay of proceedings as it applies to the Class Action. For the reasons that follow, I conclude that the CPO should not serve as a bar to proceeding with the Class Action and that the stay should be lifted.

38 As I explain below, the application of the claims bar order and lifting the stay are discretionary. This discretion should be exercised in light of the purposes of both claims-bar orders and stays under the CCAA. A claim bar order and a stay under the CCAA are intended to assist the debtor in the restructuring process, which may encompass asset realizations. At this point, Timminco's assets have been sold, distributions made to secured creditors, no CCAA plan has been put forward by Timminco, and there is no intention to advance a CCAA plan. It seems to me that neither the stay, nor the claims bar order continue to serve their functional purposes in these CCAA proceedings by barring the Class Action. In these circumstances, I fail to see why the stay and the claim bar order should be utilized to obstruct the plaintiff from proceeding with its Class Action.

The Purpose of Stay Orders and Claims-Bar Orders

39 For the purposes of this motion, it is necessary to consider the objective of the CCAA stay order. The stay of proceedings restrains judicial and extra-judicial conduct that could impair the ability of the debtor company to continue in business and the debtor's ability to focus and concentrate its efforts on negotiating of a compromise or arrangement: *Campeau v. Olympia & York Developments Ltd.* (1992), 14 C.B.R. (3d) 303 (Ont. Gen. Div.).

40 Sections 2, 12 and 19 of the CCAA provide the definition of a "Claim" for the purposes of the CCAA and also provide guidance as to how claims are to be determined. Section 12 of the CCAA states

12. The court may fix deadlines for the purposes of voting and for the purposes of distributions under a compromise or arrangement.

The use of the word "may" in s. 12 indicates that fixing deadlines, which includes granting a claims bar order, is discretionary. Additionally, as noted above the CPO provided at para. 19 that a D&O Claim could be filed on "such other later date as may be ordered by the Court".

41 It is also necessary to return to first principles with respect to claims-bar orders. The CCAA is intended to facilitate a compromise or arrangement between a debtor company and its creditors and shareholders. For a debtor company engaged in restructuring under the CCAA, which may include a liquidation of its assets, it is of fundamental importance to determine the quantum of liabilities to which the debtor and, in certain circumstances, third parties are subject. It is this desire for certainty that led to the development of the practice by which debtors apply to court for orders which establish a deadline for filing claims.

42 Adherence to the claims-bar date becomes even more important when distributions are being made (in this case, to secured creditors), or when a plan is being presented to creditors and a creditors' meeting is called to consider the plan of compromise. These objectives are recognized by s. 12 of the CCAA, in particular the references to "voting" and "distribution".

43 In such circumstances, stakeholders are entitled to know the implications of their actions. The claims-bar order can assist in this process. By establishing a claims-bar date, the debtor can determine the universe of claims and the potential distribution to creditors, and creditors are in a position to make an informed choice as to the alternatives presented to them. If distributions are being made or a plan is presented to creditors and voted upon, stakeholders should be able to place a degree of reliance in the claims bar process.

44 Stakeholders in this context can also include directors and officers, as it is not uncommon for debtor applicants to propose a plan under the CCAA that compromises certain claims against directors and officers. In this context, the provisions of s. 5.1 of the CCAA must be respected.

45 In the case of Timminco, there have been distributions to secured creditors which are not the subject of challenge. The Class Action claim is subordinate in ranking to the claims of the secured creditors and has no impact on the distributions made to secured creditors. Further, there is no CCAA plan. There will be no compromise of claims against directors and officers. I accept that at the outset of the CCAA proceedings there may very well have been an intention on the part of the debtor to formulate a CCAA plan and further, that plan may have contemplated the compromise of certain claims against directors and officers. However, these plans did not come to fruition. What we are left with is to determine the consequence of failing to file a timely claim in these circumstances.

46 In the circumstances of this case, i.e., in the absence of a plan, the purpose of the claims bar procedure is questionable. Specifically, in this case, should the claims bar procedure be used to determine the Class Action?

47 In my view, it is not the function of the court on this motion to determine the merits of Mr. Pennyfeather's claim. Rather, it is to determine whether or not the claims-bar order operates as a bar to Mr. Pennyfeather being able to put forth a claim. It does not act as such a bar.

48 It seems to me that CCAA proceedings should not be used, in these circumstances, as a tool to bar Mr. Pennyfeather from proceeding with the Class Action claim. In the absence of a CCAA proceeding, Mr. Pennyfeather would be in position to move forward with the Class Action in the usual course. On a principled basis, a claims bar order in a CCAA proceeding, where there will be no CCAA plan, should not be used in such a way as to defeat the claim of Mr. Pennyfeather. The determination of the claim should be made on the merits in the proper forum. In these circumstances, where there is no CCAA plan, the CCAA proceeding is, in my view, not the proper forum.

49 Similar considerations apply to the Stay Order. With no prospect of a compromise or arrangement, and with the sales process completed, there is no need to maintain the status quo to allow the debtor to focus and concentrate its efforts on negotiating a compromise or arrangement. In this regard, the fact that neither Timminco nor the Monitor take a position on this motion or argue prejudice is instructive.

Applicability of Established Tests

50 The lifting of a stay is discretionary. In determining whether to lift the stay, the court should consider whether there are sound reasons for doing so consistent with the objectives of the CCAA, including a consideration of (a) the balance of convenience; (b) the relative prejudice to the parties; and (c) where relevant, the merits of the proposed action: *Canwest Global Communications Corp., Re*, 2011 ONSC 2215, 75 C.B.R. (5th) 156 (Ont. S.C.J. [Commercial List]), at para. 27.

51 Counsel to Mr. Walsh submit that courts have historically considered the following factors in determining whether to exercise their discretion to consider claims after the claims-bar date: (a) was the delay caused by inadvertence and, if so, did the claimant act in good faith? (b) what is the effect of permitting the claim in terms of the existence and impact of any relevant prejudice caused by the delay; (c) if relevant prejudice is found, can it be alleviated by attaching appropriate conditions to an order permitting late filing? and (d) if relevant prejudice is found which cannot be alleviated, are there any other considerations which may nonetheless warrant an order permitting late filing?

52 These are factors that have been considered by the courts on numerous occasions (see, for example, *Sino-Forest; Sammi Atlas Inc., Re* (1998), 3 C.B.R. (4th) 171 (Ont. Gen. Div. [Commercial List]), *Blue Range Resource Corp., Re*, 2000 ABCA 285, 193 D.L.R. (4th) 314 (Alta. C.A.) , leave to appeal to S.C.C. refused, (S.C.C.); *Canadian Red Cross Society / Société Canadienne de la Croix-Rouge, Re* (2008), 48 C.B.R. (5th) 41 (Ont. S.C.J.); and *Ivorylane Corp. v. Country Style Realty Ltd.*, [2004] O.J. No. 2662 (Ont. S.C.J. [Commercial List])).

53 However, it should be noted that all of these cases involved a CCAA Plan that was considered by creditors.

54 In the present circumstances, it seems to me there is an additional factor to take into account: there is no CCAA Plan.

55 I have noted above that certain delay can be attributed to the CCAA proceedings and the impact of *Green v. Canadian Imperial Bank of Commerce*, 2014 ONCA 90 (Ont. C.A.), at the Court of Appeal. That is not a full answer for the delay but a partial explanation.

56 The prejudice experienced by a director not having a final resolution to the proposed Class Action has to be weighed as against the rights of the class action plaintiff to have this matter heard in court. To the extent that time constitutes a degree of prejudice to the defendants, it can be alleviated by requiring the parties to agree upon a timetable to have this matter addressed on a timely basis with case management.

57 I have not addressed in great detail whether the CPO requires excluded claims to be filed. In my view, it is not necessary to embark on an analysis of this issue, nor have I embarked on a review of the merits. Rather, the principles of equity and fairness dictate that the class action plaintiff can move forward with the claim. The claim may face many hurdles. Some of these have been outlined in the factum submitted by counsel to Mr. Walsh. However, that does not necessarily mean that the class action plaintiff should be disentitled from proceeding.

58 In the result, the motion of Mr. Pennyfeather is granted and the stay is lifted so as to permit Mr. Pennyfeather to proceed with the Class Action. The CPO is modified so as to allow Mr. Pennyfeather to file his claim.

Motion granted.

TAB 3

2009 NSSC 136
Nova Scotia Supreme Court

ScoZinc Ltd., Re

2009 CarswellNS 229, 2009 NSSC 136, 177 A.C.W.S. (3d)
293, 277 N.S.R. (2d) 251, 53 C.B.R. (5th) 96, 882 A.P.R. 251

**In the Matter of The Companies' Creditors
Arrangement Act, R.S.C. 1985, c.C-36, as amended**

And In the Matter of A Plan of Compromise or Arrangement of ScoZinc Ltd. (Applicant)

D.R. Beveridge J.

Heard: April 3, 2009

Judgment: April 3, 2009

Written reasons: April 28, 2009

Docket: Hfx. 305549

Counsel: John G. Stringer, Q.C., Mr. Ben R. Durnford for Applicant
Robert MacKeigan, Q.C. for Grant Thornton

Related Abridgment Classifications

Bankruptcy and insolvency

[XIX](#) Companies' Creditors Arrangement Act

[XIX.2](#) Initial application

[XIX.2.g](#) Monitor

Headnote

Bankruptcy and insolvency --- Proposal — Companies' Creditors Arrangement Act — Miscellaneous issues

Company was granted protection pursuant to s. 11 of Companies' Creditors Arrangement Act ("CCAA") — Monitor was appointed pursuant to s. 11.7 of CCAA — Determination of creditors' claims was set by claims procedure order ("order") — Three creditors submitted proofs of claim by claims bar date set out in order and then submitted revised proofs of claim after claims bar date, but before date set for monitor to complete assessment of claims — Monitor determined errors in proofs of claims were due to inadvertence and issued notice of revision or disallowance, allowing claims as revised if it was determined monitor had power to do so — Monitor brought motion for directions on whether it had authority to allow revision of claim by increasing it after claim's bar date but before date set for monitor to complete assessment of claims — Monitor had necessary authority — Court creates claims process by court order — Determination that claims

had to initially be identified and assessed by monitor, and heard first by claims officer, was valid exercise of court's inherent jurisdiction — Logical and practical that monitor, as officer of court, be directed to fulfil analogous role to that of trustee under Bankruptcy and Insolvency Act, and order accomplished this — Provision in order mandated monitor to review all proofs of claim filed on or before claims bar date and accept, revise or disallow them — While normally monitor's revision would be to reduce proof of claim, nothing in order so restricted monitor's authority — It did not matter that revised claims were submitted after claims bar date — In essence, monitor simply acted to revise proofs of claim already submitted to conform with evidence elicited by monitor or submitted to it.

Table of Authorities

Cases considered by *D.R. Beveridge J.*:

Air Canada, Re (2004), 2 C.B.R. (5th) 23, 2004 CarswellOnt 3320 (Ont. S.C.J. [Commercial List]) — referred to

Blue Range Resource Corp., Re (2000), 2000 CarswellAlta 30, (sub nom. *Blue Range Resources Corp., Re*) 250 A.R. 239, (sub nom. *Blue Range Resources Corp., Re*) 213 W.A.C. 239, 15 C.B.R. (4th) 192, 2000 ABCA 16 (Alta. C.A. [In Chambers]) — referred to

Blue Range Resource Corp., Re (2000), 2000 ABCA 285, 2000 CarswellAlta 1145, [2001] 2 W.W.R. 477, (sub nom. *Enron Canada Corp. v. National-Oilwell Canada Ltd.*) 193 D.L.R. (4th) 314, 271 A.R. 138, 234 W.A.C. 138, 87 Alta. L.R. (3d) 352 (Alta. C.A.) — followed *Carlen Transport Inc. v. Juniper Lumber Co. (Monitor of)* (2001), 21 C.B.R. (4th) 222, (sub nom. *Juniper Lumber Co., Re*) 233 N.B.R. (2d) 111, (sub nom. *Juniper Lumber Co., Re*) 601 A.P.R. 111, 2001 CarswellNB 21 (N.B. Q.B.) — referred to

Federal Gypsum Co., Re (2007), 2007 NSSC 384, 2007 CarswellNS 630, 261 N.S.R. (2d) 314, 835 A.P.R. 314, 40 C.B.R. (5th) 39 (N.S. S.C.) — referred to

Freeman, Re (1922), 55 N.S.R. 545, [1923] 1 D.L.R. 378, 1922 CarswellNS 57 (N.S. C.A.) — considered

Laidlaw Inc., Re (2002), 2002 CarswellOnt 790, 34 C.B.R. (4th) 72 (Ont. S.C.J. [Commercial List]) — referred to

Muscletech Research & Development Inc., Re (2006), 25 C.B.R. (5th) 231, 2006 CarswellOnt 6230 (Ont. S.C.J.) — referred to

Olympia & York Developments Ltd. v. Royal Trust Co. (1993), 17 C.B.R. (3d) 1, (sub nom. *Olympia & York Developments Ltd., Re*) 12 O.R. (3d) 500, 1993 CarswellOnt 182 (Ont. Gen. Div.) — referred to

Pine Valley Mining Corp., Re (2008), 2008 CarswellBC 579, 2008 BCSC 356, 41 C.B.R. (5th) 43 (B.C. S.C.) — referred to

Siscoe & Savoie v. Royal Bank (1994), 1994 CarswellNB 14, 29 C.B.R. (3d) 1, 157 N.B.R. (2d) 42, 404 A.P.R. 42 (N.B. C.A.) — considered

Skeena Cellulose Inc., Re (2003), 2003 CarswellBC 1399, 2003 BCCA 344, 184 B.C.A.C. 54, 302 W.A.C. 54, 43 C.B.R. (4th) 187, 13 B.C.L.R. (4th) 236 (B.C. C.A.) — considered

Stelco Inc., Re (2005), 253 D.L.R. (4th) 109, 75 O.R. (3d) 5, 2 B.L.R. (4th) 238, 9 C.B.R. (5th) 135, 2005 CarswellOnt 1188, 196 O.A.C. 142 (Ont. C.A.) — considered
Triton Tubular Components Corp., Re (2005), 2005 CarswellOnt 4439, 14 C.B.R. (5th) 264 (Ont. S.C.J.) — referred to

Statutes considered:

Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3

Generally — referred to

s. 135(2) — referred to

Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36

Generally — referred to

s. 4 — considered

s. 5 — considered

s. 6 — considered

s. 11 — pursuant to

s. 11.7 [en. 1997, c. 12, s. 124] — considered

s. 11.7(1) [en. 1997, c. 12, s. 124] — considered

s. 11.7(2) [en. 1997, c. 12, s. 124] — considered

s. 11.7(3) [en. 1997, c. 12, s. 124] — considered

s. 11.7(3)(d) [en. 1997, c. 12, s. 124] — considered

s. 12 — considered

s. 12(1) "claim" — considered

s. 12(2) — considered

Probate Act, R.S.N.S. 1900, c. 158

Generally — referred to

D.R. Beveridge J. (orally):

1 On December 22, 2008 ScoZinc Ltd. was granted protection by way of a stay of proceedings of all claims against it pursuant to s.11 of the *Companies' Creditors Arrangement Act* R.S.C. 1985, c. C-36. The stay has been extended from time to time. Grant Thornton was appointed as the Monitor of the business and financial affairs of ScoZinc pursuant to s.11.7 of the *CCAA*.

2 The determination of creditors' claims was set by a Claims Procedure Order. This order set dates for the submission of claims to the Monitor, and for the Monitor to assess the claims. The Monitor brought a motion seeking directions from the court on whether it has the necessary authority to allow a revision of a claim after the claim's bar date but before the date set for the Monitor to complete its assessment of claims.

3 The motion was heard on April 3, 2009. At the conclusion of the hearing of the motion I concluded that the Monitor did have the necessary authority. I granted the requested order with reasons to follow. These are my reasons.

Background

4 The procedure for the identification and quantification of claims was established pursuant to my order of February 18, 2009. Any persons asserting a claim was to deliver to the Monitor a Proof of Claim by 5:00 p.m. on March 16, 2009, including a statement of account setting out the full details of the claim. Any claimant that did not deliver a Proof of Claim by the claims bar date, subject to the Monitor's agreement or as the court may otherwise order, would have its claim forever extinguished and barred from making any claim against ScoZinc.

5 The Monitor was directed to review all Proofs of Claim filed on or before March 16, 2009 and to accept, revise or disallow the claims. Any revision or disallowance was to be communicated by Notice of Revision or Disallowance, no later than March 27, 2009. If a creditor disagreed with the assessment of the Monitor, it could dispute the assessment before a Claims Officer and ultimately to a judge of the Supreme Court.

6 The three claims that have triggered the Monitor's motion for directions were submitted by Acadian Mining Corporation, Royal Roads Corp., and Komatsu International (Canada) Inc.

7 ScoZinc is 100% owned by Acadian Mining Corp. These two corporations share office space, managerial staff, and have common officers and directors. Acadian Mining is a substantial shareholder in Royal Roads and also have some common officers and directors.

8 Originally Royal Roads asserted a claim as a secured creditor on the basis of a first charge security held by it on ScoZinc's assets for a loan in the amount of approximately \$2.3 million. Acadian Mining also claimed to be a secured creditor due to a second charge on ScoZinc's assets securing approximately \$23.5 million of debt. Both Royal Roads and Acadian Mining have released their security. Each company submitted Proofs of Claim dated March 4, 2009 as unsecured creditors.

9 Royal Roads claim was for \$579, 964.62. The claim by Acadian Mining was for \$23,761.270.20. John Rawding, Financial Officer for Acadian Mining and ScoZinc, prepared the

Proofs of Claim for both Royal Roads and Acadian Mining. It appears from the affidavit and materials submitted, and the Monitor's fifth report dated March 31, 2009 that there were errors in each of the Proofs of Claim.

10 Mr. Rawding incorrectly attributed \$1,720,035.38 as debt by Acadian Mining to Royal Roads when it should have been debt owed by ScoZinc to Royal Roads. In addition, during year end audit procedures for Royal Roads, Acadian Mining and ScoZinc, other erroneous entries were discovered. The total claim that should have been advanced by Royal Roads was \$2,772,734.19.

11 The appropriate claim that should have been submitted by Acadian Mining was \$22,041,234.82, a reduction of \$1,720,035.38. Both Royal Roads and Acadian Mining submitted revised Proofs of Claim on March 25, 2009 with supporting documentation.

12 The third claim is by Komatsu. Its initial Proof of Claim was dated March 16, 2009 for both secured and unsecured claims of \$4,245,663.78. The initial claim did not include a secured claim for the equipment that had been returned to Komatsu, nor include a claim for equipment that was still being used by ScoZinc. A revised Proof of Claim was filed by Komatsu on March 26, 2009.

13 The Monitor, sets out in its fifth report dated March 31, 2009, that after reviewing the relevant books and records, the errors in the Proofs of Claim by Royal Roads, Acadian Mining and Komatsu were due to inadvertence. For all of these claims it issued a Notice of Revision or Disallowance on March 27, 2009, allowing the claims as revised "if it is determined by the court that the Monitor has the power to do so".

14 The request for directions and the circumstances pose the following issue:

Issue

15 Does the Monitor have the authority to allow the revision of a claim by increasing it based on evidence submitted by a claimant within the time period set for the monitor to carry out its assessment of claims?

Analysis

16 The jurisdiction of the Monitor stems from the jurisdiction of the court granted to it by the *CCAA*. Whenever an order is made under s.11 of the *CCAA* the court is required to appoint a monitor. Section 11.7 of the *CCAA* provides:

11.7(1) When an order is made in respect of a company by the court under section 11, the court shall at the same time appoint a person, in this section and in section 11.8 referred to as "the monitor", to monitor the business and financial affairs of the company while the order remains in effect.

(2) Except as may be otherwise directed by the court, the auditor of the company may be appointed as the monitor.

(3) The monitor shall

(a) for the purposes of monitoring the company's business and financial affairs, have access to and examine the company's property, including the premises, books, records, data, including data in electronic form, and other financial documents of the company to the extent necessary to adequately assess the company's business and financial affairs;

(b) file a report with the court on the state of the company's business and financial affairs, containing prescribed information,

(i) forthwith after ascertaining any material adverse change in the company's projected cash-flow or financial circumstances,

(ii) at least seven days before any meeting of creditors under section 4 or 5, or

(iii) at such other times as the court may order;

(c) advise the creditors of the filing of the report referred to in paragraph (b) in any notice of a meeting of creditors referred to in section 4 or 5; and

(d) carry out such other functions in relation to the company as the court may direct.

...

17 It appears that the purpose of the *CCAA* is to grant to an insolvent company protection from its creditors in order to permit it a reasonable opportunity to restructure its affairs in order to reach a compromise or arrangement between the company and its creditors. The court has the power to order a meeting of the creditors or class of creditors for them to consider a compromise or arrangement proposed by the debtor company (s. 4, 5). Where a majority of the creditors representing two thirds value of the creditors or class of creditors agree to a compromise or arrangement, the court may sanction it and thereafter such compromise or arrangement is binding on all creditors, or class of creditors (s. 6).

18 Section 12 of the *Act* defines a claim to mean "any indebtedness, liability or obligation of any kind that, if unsecured, would be a debt provable in bankruptcy within the meaning of the *Bankruptcy and Insolvency Act*." However, as noted by McElcheran in *Commercial Insolvency in Canada* (LexisNexis Canada Inc., Markham, Ontario, 2005 at p. 279-80) the *CCAA* does not set out a process for identification or determination of claims; instead, the Court creates a claims process by court order.

19 The only guidance provided by the *CCAA* is that in the event of a disagreement the amount of a claim shall be determined by the court on summary application by the company or by the creditor. Section 12(2) of the *Act* provides:

Determination of amount of claim

(2) For the purposes of this Act, the amount represented by a claim of any secured or unsecured creditor shall be determined as follows:

(a) the amount of an unsecured claim shall be the amount

(i) in the case of a company in the course of being wound up under the Winding-up and Restructuring Act, proof of which has been made in accordance with that Act,

(ii) in the case of a company that has made an authorized assignment or against which a bankruptcy order has been made under the Bankruptcy and Insolvency Act, proof of which has been made in accordance with that Act, or

(iii) in the case of any other company, proof of which might be made under the Bankruptcy and Insolvency Act, but if the amount so provable is not admitted by the company, the amount shall be determined by the court on summary application by the company or by the creditor; and

(b) the amount of a secured claim shall be the amount, proof of which might be made in respect thereof under the Bankruptcy and Insolvency Act if the claim were unsecured, but the amount if not admitted by the company shall, in the case of a company subject to pending proceedings under the Winding-up and Restructuring Act or the Bankruptcy and Insolvency Act, be established by proof in the same manner as an unsecured claim under the Winding-up and Restructuring Act or the Bankruptcy and Insolvency Act, as the case may be, and in the case of any other company the amount shall be determined by the court on summary application by the company or the creditor.

20 The only parties who appeared on this motion were the Monitor, ScoZinc and Komatsu. No specific submissions were requested nor made by the parties with respect to the nature of the court's jurisdiction to determine the mechanism and time lines to classify and quantify claims against the debtor company.

21 Under the *Bankruptcy and Insolvency Act* the Trustee is the designated gatekeeper who first determines whether a Proof of Claim submitted by a creditor is valid. The trustee may admit the claim or disallow it in whole or in part (s.135(2) *BIA*). A creditor who is dissatisfied with a decision by the trustee may appeal to a judge of the Bankruptcy Court.

22 In contrast, the *CCAA* does not set out the procedure beyond the language in s.12. The language only accomplishes two things. The first is that the debtor company can agree on the amount of a secured or unsecured claim; and secondly, if there is a disagreement, then on application of either the company or the creditor, the amount shall be determined by the court on "summary application".

23 The practice has arisen for the court to create by order a claims process that is both flexible and expeditious. The Monitor identifies, by review of the debtor's records, all potential claimants and sends to them a claim package. To ensure that all creditors come forward and participate on a timely basis, there is a provision in the claims process order requiring creditors to file their claims by a fixed date. If they do not, subject to further relief provided by the claims process order, or by the court, the creditor's claim is barred.

24 If the Monitor disagrees with the claim, and the disagreement cannot be resolved, then a claimant can present its case to a claims officer who is usually given the power to adjudicate disputed claims, with the right of appeal to a judge of the court overseeing the *CCAA* proceedings.

25 The establishment of a claims process utilizing the monitor and or a claims officer by court order appears to be a well accepted practice (See for example *Federal Gypsum Co., Re*, 2007 NSSC 384 (N.S. S.C.); *Olympia & York Developments Ltd. v. Royal Trust Co.* (1993), 17 C.B.R. (3d) 1 (Ont. Gen. Div.); *Air Canada, Re* (2004), 2 C.B.R. (5th) 23 (Ont. S.C.J. [Commercial List]); *Triton Tubular Components Corp., Re*, [2005] O.J. No. 3926 (Ont. S.C.J.); *Muscletech Research & Development Inc., Re*, [2006] O.J. No. 4087 (Ont. S.C.J.); *Pine Valley Mining Corp., Re*, 2008 BCSC 356 (B.C. S.C.); *Blue Range Resource Corp., Re*, 2000 ABCA 285 (Alta. C.A.); *Carlen Transport Inc. v. Juniper Lumber Co. (Monitor of)* (2001), 21 C.B.R. (4th) 222 (N.B. Q.B.).)

26 I could find no reported case that doubt the authority of the court to create a claims process. Kenneth Kraft in his article "The *CCAA* and the Claims Bar Process", (2000), 13 *Commercial Insolvency Reporter* 6, endorsed the utilization of a claims process on the basis of reliance on the court's inherent jurisdiction, provided the process adhered to the specific mandates of the *CCAA*. In unrelated contexts, caution has been expressed with respect to reliance on the inherent jurisdiction of the superior court as the basis for dealing with the myriad issues that can arise under the *CCAA* (See: *Skeena Cellulose Inc., Re* (2003), 43 C.B.R. (4th) 187 (B.C. C.A.)) and *Stelco Inc., Re*, [2005] O.J. No. 1171 (Ont. C.A.)).

27 Sir J.H. Jacob, Q.C. in his seminal article "The Inherent Jurisdiction of the Court", (1970) *Current Legal Problems* 23, concluded that it has been clear law from the earliest times that superior courts of justice, as part of their inherent jurisdiction, have the power to control their own proceedings and process. He wrote:

Under its inherent jurisdiction, the court has power to control and regulate its process and proceedings, and it exercises this power in a great variety of circumstances and by many different methods. Some of the instances of the exercise of this power have been of far-reaching importance, others have dealt with matters of detail or have been of transient value. Some have involved the exercise of administrative powers, others of judicial powers. Some have been turned into rules of law, others by long usage or custom may have acquired the force of law, and still others remain mere rules of practice. The exercise of this power has been pervasive throughout the whole legal machinery and has been extended to all stages of proceedings, pre-trial, trial and post-trial. Indeed, it is difficult to set the limits upon the powers of the court in the exercise of its inherent jurisdiction to control and regulate its process, for these limits are coincident with the needs of the court to fulfil its judicial functions in the administration of justice.

p. 32-33

28 The *CCAA* gives no specific guidance to the court on how to determine the existence, nature, validity or extent of a claim against a debtor company. As noted earlier, the only reference is in s. 12 of the *Act* that if there is a dispute as to the amount of a claim, then the amount shall be determined by the court "on summary application". In *Freeman, Re*, [1922] N.S.J. No. 15, [1923] 1 D.L.R. 378 (N.S. C.A.) (en banc) the court considered the words "on summary application" as they appeared in the *Probate Act* R.S.N.S. 1900 c.158. Harris C.J. wrote:

[17] The words "summary application" do not mean without notice, but simply imply that the proceedings before the Court are not to be conducted in the ordinary way, but in a concise way.

[18] The Oxford Dictionary p. 140 gives as one of the meanings of "summary" dispensing with needless details or formalities — done with despatch.

[19] In the case of the *Western & R. Co. v. Atlanta* (1901), 113 Ga. 537, the meaning of the words "summary proceeding" is discussed at some length and the Court held at pp. 543-544: —

"In a summary manner does not at all mean that they may be abated without notice or hearing, but simply that it may be done without a trial in the ordinary forms prescribed by law for a regular judicial procedure."

[20] I cite this not because it is a binding authority, but because its reasoning commends itself to my judgment and I adopt it.

29 In my opinion, whatever process may be appropriate and necessary to adjudicate disputed claims that ultimately end up before a judge of the superior court, the determination by the court

that claims must initially be identified and assessed by the Monitor, and heard first by a Claims Officer, is a valid exercise of the court's inherent jurisdiction.

30 The *CCAA* gives to the court the express and implied jurisdiction to do a variety of things. They need not all be enumerated. The court is required to appoint a monitor (s.11.7). Once appointed, the monitor is required to monitor the company's business and financial affairs. The *Act* mandates that the monitor have access to and examine the company's property including all records. The monitor must file a report with the court on the state of the company's business and financial affairs and contain prescribed information. In addition, the monitor shall carry out such other functions in relation to the company as the court may direct (s.11.7(3)(d)).

31 In these circumstances, it is not only logical, but eminently practical that the monitor, as an officer of the court, be directed by court order to fulfil the analogous role to that of the trustee under the *BIA*. The Claims Procedure Order of February 18, 2009 accomplishes this.

Power of the Monitor

32 The Monitor was required by the Order to publish a notice to claimants in the newspaper regarding the claims procedure. It was also required to send a claims package to known potential claimants identified by the Monitor through its review of the books and records of ScoZinc. The claims bar date was set as March 16, 2009, or such later date as may be ordered by the court.

33 The duties of the Monitor, once a claim was received by it, were set out in paragraphs 9 and 10 of the Claims Procedure Order. They provide as follows:

9. Upon receipt of a Proof of Claim:

- a. The Monitor is hereby authorized and directed to use reasonable discretion as to the adequacy of compliance as to the manner in which Proofs of Claim are completed and executed and may, where it is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Order as to the completion and the execution of a Proof of Claim. A Claim which is accepted by the Monitor shall constitute a Proven Claim;
- b. the Monitor and ScoZinc may attempt to consensually resolve the classification and amount of any Claim with the claimant prior to accepting, revising or disallowing such Claim; and

...

10. The Monitor shall review all Proofs of Claim filed on or before the Claims Bar Date. The Monitor shall accept, revise or disallow such Proofs of Claim as contemplated herein. The Monitor shall send a Notice of Revision or Disallowance and the form of

Notice of Dispute to the Claimant as soon as the Claim has been revised or disallowed but in any event no later than 11:59 p.m. (Halifax time) on March 27, 2009 or such later date as the Court may order. Where the Monitor does not send a Notice of Revision or Disallowance by the aforementioned date to a Claimant who has submitted a Proof of Claim, the Monitor shall be deemed to have accepted such Claim.

34 Any person who wished to dispute a Notice of Revision or Disallowance was required to file a notice to the monitor and to the Claims Officer no later than April 6, 2009. The Claims Officer was designated to be Richard Cregan, Q.C., serving in his personal capacity and not as Registrar in Bankruptcy. Subject to the direction of the court, the Claims Officer was given the power to determine how evidence would be brought before him and any other procedural matters that may arise with respect to the claim. A claimant or the Monitor may appeal the Claims Officer's decision to the court.

35 The Monitor suggests that the power given to it under paragraph 9(a) and 10 is sufficient to permit it to accept the revised Proofs of Claim filed after the claim's bar date of March 16, 2009, but before its assessment date of March 27, 2009.

36 Reliance is also placed on the decision of the Alberta Court of Appeal in *Blue Range Resource Corp., Re*, 2000 ABCA 285 (Alta. C.A.). As noted by the Monitor, the decision in *Blue Range* did not directly deal with the issue on which the Monitor here seeks directions. In *Blue Range*, the claims procedure established by the court set the claims bar date of June 15, 1999. Claims of creditors not proven in accordance with the procedures set out were deemed to be forever barred. Some creditors filed their Notice of Claim after the claims bar date. The monitor disallowed their claims. There were a second group of creditors who filed their Notice of Claim prior to the applicable claims bar date, but then sought to amend their claims after the claims bar date had passed. The monitor also disallowed these claims as late. What is not clear from the reported decisions is whether this second group of creditors requested amendments of their claims during the time period granted to the Monitor to carry out its assessment.

37 The chambers judge allowed the late and amended claims to be filed. Enron Capital Corp. and the creditor's committee sought leave to appeal that decision. Leave to appeal was granted on January 14, 2000 with respect to the following question:

What criteria in the circumstances of these cases should the Court use to exercise its discretion in deciding whether to allow late claimants to file claims which, if proven, may be recognized, notwithstanding a previous claims bar order containing a claims bar date which would otherwise bar the claim of the late claimants, and applying the criteria to each case, what is the result?

Blue Range Resource Corp., Re, 2000 ABCA 16 (Alta. C.A. [In Chambers])

38 Wittmann J.A. delivered the judgment of the court. He noted that all counsel conceded that the court had the authority to allow the late filing of claims and that the appeal was really a matter of what criteria the court should use in exercising that power. Accordingly, a Claims Procedure Order that contains a claims bar date should not purport to forever bar a claim without a saving provision. Wittmann J.A. set out the test for determining when a late claim may be included to be as follows:

[26] Therefore, the appropriate criteria to apply to the late claimants is as follows:

1. Was the delay caused by inadvertence and if so, did the claimant act in good faith?
2. What is the effect of permitting the claim in terms of the existence and impact of any relevant prejudice caused by the delay?
3. If relevant prejudice is found can it be alleviated by attaching appropriate conditions to an order permitting late filing?
4. If relevant prejudice is found which cannot be alleviated, are there any other considerations which may nonetheless warrant an order permitting late filing?

[27] In the context of the criteria, "inadvertent" includes carelessness, negligence, accident, and is unintentional. I will deal with the conduct of each of the respondents in turn below and then turn to a discussion of potential prejudice suffered by the appellants.

[2000 ABCA 285](#) (Alta. C.A.)

39 The appellants claimed that they would be prejudiced if the late claims were allowed because if they had known the late claims would be allowed they would have voted differently. This assertion was rejected by the chambers judge. With respect to what is meant by prejudiced, Wittmann J.A. wrote:

40 In a CCAA context, as in a BIA context, the fact that Enron and the other Creditors will receive less money if late and late amended claims are allowed is not prejudice relevant to this criterion. Re-organization under the CCAA involves compromise. Allowing all legitimate creditors to share in the available proceeds is an integral part of the process. A reduction in that share can not be characterized as prejudice: [Re Cohen \(1956\)](#), [36 C.B.R. 21](#) (Alta. C.A.) at 30-31. Further, I am in agreement with the test for prejudice used by the British Columbia Court of Appeal in 312630 British Columbia Ltd. It is: did the creditor(s) by reason of the late filings lose a realistic opportunity to do anything that they otherwise might have done? Enron and the other creditors were fully informed about the potential for late claims being permitted, and were specifically aware of the existence of the late claimants as creditors. I find, therefore, that Enron and the Creditors will not suffer any relevant prejudice should the late claims be permitted.

40 In considering how the Monitor should carry out its duties and responsibilities under the Claims Procedure Order it is important to note that the Monitor is an officer of the court and is obliged to ensure that the interests of the stakeholders are considered including all creditors, the company and its shareholders (See *Laidlaw Inc., Re* (2002), 34 C.B.R. (4th) 72 (Ont. S.C.J. [Commercial List])).

41 In a different context Turnball J.A. in *Siscoe & Savoie v. Royal Bank* (1994), 29 C.B.R. (3d) 1 (N.B. C.A.) commented that the monitor is an agent of the court and as a result is responsible and accountable to the court, owing a fiduciary duty to all of the parties (para. 28).

42 In my opinion, para. 9(a) is not of assistance in determining the authority of the Monitor to revise upward a claim filed after the claim's bar date but before the assessment date. Paragraph 9(a) authorizes the Monitor to use reasonable discretion as to the adequacy of compliance as to *the manner* to which Proofs of Claim are completed and executed. If it satisfied that the claim has been adequately proven it may waive strict compliance with the requirements of the order as to *completion* and the *execution* of a Proof of Claim.

43 Paragraph 10 of the Claims Procedure Order mandates the Monitor shall review all Proofs of Claim filed on or before the claims bar date. It shall "accept, revise or disallow such Proofs of Claim as contemplated herein". While normally a monitor's revision would be to reduce a Proof of Claim, there is in fact nothing in the Claims Procedure Order that so restricts the Monitor's authority. It is obviously contemplated by para. 10 that the monitor is to carry out some assessment of the claims that are submitted.

44 In my view, the Proofs of Claim that are filed act both as a form of pleading and an opportunity for the claimant to provide supporting documents to evidence its claim. In the case before me, the creditors discovered that the claims they had submitted were inaccurate and further evidence was tendered to the Monitor to demonstrate. The Monitor, after reviewing the evidence, accepted the validity of the claims.

45 Courts in a general way are engaged in dispensing justice. They do so by setting up and applying procedural rules to ensure that litigants are afforded a fair hearing. The resolution of disputes through the litigation process, including the ultimate hearing, is fundamentally a truth-seeking process to determine the facts and to apply the law to those facts. Can it be any different where the process is not in the court but under its supervision pursuant to a claims process under the *CCAA*.?

46 To suggest that the monitor does not have the authority to receive evidence and submissions and to consider them is to say that it does not have any real authority to carry out its court appointed role to assess the claims that have been submitted. The notion that the monitor cannot look at documentary evidence on its own initiative or at the instance of a claimant, and even consider

submissions, is to deny it any real power to consider and make a preliminary determination of the merits of a claim.

47 The Claims Procedure Order contains a number of provisions that anticipate the exchange of information between the Monitor, the company and a creditor. Paragraph 9(b) authorizes the Monitor and ScoZinc to attempt to consensually resolve the classification and the amount of any claim with a claimant prior to accepting, revising or disallowing such claim. Paragraph 17 of the Claims Procedure Order directs that the Monitor shall at all times be authorized to enter into negotiations with claimants and settle any claim on such terms as the Monitor may consider appropriate.

48 In my opinion, it does not matter that revised claims were submitted after the claims bar date. In essence, the Monitor simply acted to revise the Proofs of Claim already submitted to conform with the evidence elicited by the Monitor, or submitted to it. The Monitor had the necessary authority to revise the claims, either as to classification or amount.

49 If a claimant seeks to revise or amend its claim after the assessment date set out in the Claims Procedure Order, different considerations may come into play. The appropriate procedure will depend on the provisions of the Claims Procedure Order. In addition, the court, as the ultimate arbiter of disputed claims under s. 12 of the *CCAA*, should always be viewed as having the jurisdiction to permit appropriate revision of claims.

Order accordingly.

TAB 4

2011 ONSC 2215
Ontario Superior Court of Justice [Commercial List]

Canwest Global Communications Corp., Re

2011 CarswellOnt 2392, 2011 ONSC 2215, [2011] O.J.
No. 1590, 200 A.C.W.S. (3d) 1023, 75 C.B.R. (5th) 156

**In the Matter of the Companies' Creditors
Arrangement Act, R.S.C. 1985, C-36, as Amended**

And In the Matter of a Plan of Compromise or Arrangement of
Canwest Global Communications Corp. and Other Applicants

Pepall J.

Judgment: April 7, 2011
Docket: CV-09-8396-00CL

Counsel: Douglas J. Wray, Jesse B. Kugler for Applicant, Communications, Energy and
Paperworkers Union of Canada
David Byers, Maria Konyukhova for Monitor

Related Abridgment Classifications

Bankruptcy and insolvency

[XIX](#) Companies' Creditors Arrangement Act

[XIX.2](#) Initial application

[XIX.2.f](#) Lifting of stay

Headnote

Bankruptcy and insolvency --- Companies' Creditors Arrangement Act — Initial application —
Lifting of stay

C Entities obtained initial order under Companies' Creditors Arrangement Act (CCAA) staying all
proceedings against them — As part of CCAA proceedings, claims procedure order was granted
which established procedure for identification and quantification of claims against C Entities — B
was dismissed after having been employed by division of one of C Entities for 20 years — Union
filed claims pursuant to claims procedure order in respect of certain outstanding grievances —
Claim with respect to B's grievances was not resolved — Plan was implemented, at which time
all operating assets of C Entities were transferred and C Entities ceased operations — Stay with
respect to employer was terminated — Stay with respect to remaining C Entities was extended
— Union brought motion for order lifting stay of proceedings in respect of B's grievances and
directing that they be adjudicated in accordance with collective agreement — Motion granted

— Generally speaking, grievances should be adjudicated along with other claims pursuant to provisions of claims procedure order within context of CCAA proceedings — Present case was unique — Employer emerged from CCAA protection and was currently operating under different name — B was 20 year employee — Given stage of CCAA proceedings, fact that stay relating to employer had been lifted, and B's employment tenure, B ought to be given opportunity to pursue his claim for reinstatement rather than being compelled to have that entitlement monetized by claims officer if so ordered — No meaningful prejudice would ensue to any stakeholder — Balance of convenience and interests of justice favoured lifting stay to permit grievances to proceed through arbitration rather than before claims procedure officer.

Table of Authorities

Cases considered by *Pepall J.*:

Canadian Airlines Corp., Re (2000), 19 C.B.R. (4th) 1, 2000 CarswellAlta 622 (Alta. Q.B.)
— referred to

Canwest Global Communications Corp., Re (2009), 2009 CarswellOnt 7882, 61 C.B.R. (5th) 200 (Ont. S.C.J. [Commercial List]) — followed

Canwest Global Communications Corp., Re (2010), 321 D.L.R. (4th) 561, 2010 ONSC 1746, 2010 CarswellOnt 3948, 82 C.C.E.L. (3d) 180 (Ont. S.C.J. [Commercial List]) — considered
Health Services & Support-Facilities Subsector Bargaining Assn. v. British Columbia (2007), 2007 C.L.L.C. 220-035, 363 N.R. 226, 400 W.A.C. 1, [2007] 7 W.W.R. 191, D.T.E. 2007T-507, 65 B.C.L.R. (4th) 201, 283 D.L.R. (4th) 40, 137 C.L.R.B.R. (2d) 166, 242 B.C.A.C. 1, 164 L.A.C. (4th) 1, 157 C.R.R. 21, 2007 SCC 27, 2007 CarswellBC 1289, 2007 CarswellBC 1290, [2007] 2 S.C.R. 391 (S.C.C.) — followed

Lehndorff General Partner Ltd., Re (1993), 17 C.B.R. (3d) 24, 9 B.L.R. (2d) 275, 1993 CarswellOnt 183 (Ont. Gen. Div. [Commercial List]) — considered

Nortel Networks Corp., Re (2009), 256 O.A.C. 131, 2009 CarswellOnt 7383, 2009 ONCA 833, 59 C.B.R. (5th) 23, 77 C.C.P.B. 161, (sub nom. *Sproule v. Nortel Networks Corp.*) 2010 C.L.L.C. 210-005, (sub nom. *Sproule v. Nortel Networks Corp., Re*) 99 O.R. (3d) 708 (Ont. C.A.) — considered

Smoky River Coal Ltd., Re (1999), 12 C.B.R. (4th) 94, 1999 ABCA 179, 71 Alta. L.R. (3d) 1, 175 D.L.R. (4th) 703, 237 A.R. 326, 197 W.A.C. 326, [1999] 11 W.W.R. 734, 1999 CarswellAlta 491 (Alta. C.A.) — followed

White Birch Paper Holding Co., Re (2010), 2010 CarswellQue 14255, [2010] R.J.Q. 1518, [2010] R.J.D.T. 887, 2010 CarswellQue 6229, 2010 QCCS 2590, D.T.E. 2010T-443, 65 C.B.R. (5th) 186, 82 C.C.P.B. 192 (C.S. Que.) — considered

Statutes considered:

Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11

Generally — referred to

Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36

Generally — referred to

s. 11 — considered

s. 11.02 [en. 2005, c. 47, s. 128] — considered

s. 33 [en. 2005, c. 47, s. 131] — referred to

s. 33(1) [en. 2005, c. 47, s. 131] — referred to

s. 33(8) [en. 2005, c. 47, s. 131] — referred to

Pepall J.:

Introduction

1 The Communications, Energy and Paperworkers Union of Canada ("CEP") requests an order lifting the stay of proceedings in respect of certain grievances and directing that they be adjudicated in accordance with the provisions of the applicable collective agreement. In the alternative, CEP requests an order amending the claims procedure order so as to permit the subject claim to be adjudicated in accordance with the provisions of the collective agreement.

Background Facts

2 On October 6, 2009, the CMI Entities obtained an initial order pursuant to the *CCA* staying all proceedings and claims against them. Specifically, paragraphs 15 and 16 of that order stated:

NO PROCEEDINGS AGAINST THE CMI ENTITIES OR THE CMI PROPERTY

15. **THIS COURT ORDERS** that until and including November 5, 2009, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the CMI Entities, the Monitor or the CMI CRA or affecting the CMI Business or the CMI Property, except with the written consent of the applicable CMI Entity, the Monitor and the CMI CRA (in respect of Proceedings affecting the CMI Entities, the CMI Property or the CMI Business), the CMI CRA (in respect of Proceedings affecting the CMI CRA), or with leave of this Court, and any and all Proceedings currently under way against or in respect of the CMI Entities or the CMI CRA or affecting the CMI Business or the CMI Property are hereby stayed and suspended pending further Order of this Court. In the case of the CMI CRA, no Proceeding shall be commenced against the CMI CRA or its directors and officers without prior leave of this Court on seven (7) days notice to Stonecrest Capital Inc.

NO EXERCISE OF RIGHTS OR REMEDIES

16. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the CMI Entities, the Monitor and/or the CMI CRA, or affecting the CMI Business or the CMI Property, are hereby stayed and suspended except with the written consent of the applicable CMI Entity, the Monitor and the CMI CRA (in respect of rights and remedies affecting the CMI Entities, the CMI Property or the CMI Business), the CMI CRA (in respect of rights or remedies affecting the CMI CRA), or leave of this Court, provided that nothing in this Order shall (i) empower the CMI Entities to carry on any business which the CMI entities are not lawfully entitled to carry on, (ii) exempt the CMI Entities from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of claim for lien.

3 On October 14, 2009, as part of the CCAA proceedings, I granted a claims procedure order which established a claims procedure for the identification and quantification of claims against the CMI Entities. In that order, "Claim" is defined as any right or claim of any Person against one or more of the CMI Entities in existence on the Filing Date¹ (a "Prefiling Claim") and any right or claim of any Person against one or more of the CMI Entities arising out of the restructuring on or after the Filing Date (a "Restructuring Claim"). Claims arising prior to certain dates had to be asserted within the claims procedure failing which they were forever extinguished and barred. Pursuant to the claims procedure order, subject to the discretion of the Court, claims of any person against one or more of the CMI Entities were to be determined by a claims officer who would determine the validity and amount of the disputed claim in accordance with the claims procedure order. The Honourable Ed Saunders, The Honourable Jack Ground and The Honourable Coulter Osborne were appointed as claims officers. Other persons could also be appointed by court order or on consent of the CMI Entities and the Monitor. This order was unopposed. It was amended on November 30, 2009 and again the motion was unopposed. As at October 29, 2010, over 1,800 claims asserted against the CMI Entities had been finally resolved in accordance with and pursuant to the claims procedure order.

4 On October 27, 2010, CEP was authorized to represent its current and former union members including pensioners employed or formerly employed by the CMI Entities to the extent, if any, that it was necessary to do so.

5 On the date of the initial order, CEP had a number of outstanding grievances. CEP filed claims pursuant to the claims procedure order in respect of those grievances. The claim that is the subject matter of this motion is the only claim filed by CEP that has not been resolved and therefore is the only claim filed by CEP that requires adjudication. There is at least one other claim in Western Canada that may require adjudication.

6 John Bradley had been employed for 20 years by Global Television, a division of Canwest Television Limited Partnership ("CTLTP"), one of the CMI Entities. Mr. Bradley is a member of CEP. On February 24, 2010, CTLTP suspended Mr. Bradley for alleged misconduct. On March 8, 2010, CEP filed a grievance relating to his suspension under the applicable collective agreement. On March 25, 2010, CTLTP terminated his employment. On March 26, 2010, CEP filed a grievance requesting full redress for Mr. Bradley's termination. This would include reinstatement to his employment. On June 23, 2010 a restructuring period claim was filed with respect to the Bradley grievances on the following basis:

The Union has filed this claim in order to preserve its rights. Filing this claim is without prejudice to the Union's ability to pursue all other remedies at its disposal to enforce its rights, including any other statutory remedies available. Notwithstanding that the Union has filed the present claim, the Union does not agree that this claim is subject to compromise pursuant [to the CCAA]². The Union reserves its right to make further submissions in this regard.

7 In spite of the parties' good faith attempts to resolve the Bradley grievances and the Bradley claim, no resolution was achieved.

8 The Plan was sanctioned on July 28, 2010 and implemented on October 27, 2010. At that time, all of the operating assets of the CMI Entities were transferred to the Plan Sponsor and the CMI Entities ceased operations. The CTLTP stay was also terminated. The stay with respect to the Remaining CMI Entities (as that term is defined in the Plan) was extended until May 5, 2011. Pursuant to an order dated September 27, 2010, following the Plan implementation date the Monitor shall be:

(a) empowered and authorized to exercise all of the rights and powers of the CMI Entities under the Claims Procedure Order, including, without limitation, revise, reject, accept, settle and/or refer for adjudication Claims (as defined in the Claims Procedure Order) all without (i) seeking or obtaining the consent of the CMI Entities, the Chief Restructuring Advisor or any other person, and (ii) consulting with the Chief Restructuring Advisor in the CMI Entities; and

(b) take such further steps and seek such amendments to the Claims Procedure Order or additional orders as the Monitor considers necessary or appropriate in order to fully determine, resolve or deal with any Claims.

9 The Monitor has taken the position that if the Bradley matter is not resolved, the claim should be referred to a claims officer for determination. It is conceded that a claims officer would have no jurisdiction to reinstate Mr. Bradley to his employment.

10 CEP now requests an order lifting the stay of proceedings in respect of the Bradley grievances and directing that they be adjudicated in accordance with the provisions of the collective agreement. In the alternative, CEP requests an order amending the claims procedure order so as to permit the Bradley claim to be adjudicated in accordance with the provisions of the collective agreement.

11 For the purposes of this motion and as is obvious from the motion seeking to lift the stay, both CEP and the Monitor agree that the stay did catch the Bradley claim and that it is encompassed by the definition of claim found in the claims procedure order.

12 Since the commencement of the *CCAA* proceedings, CEP has only sought to lift the stay in respect of one other claim, that being a claim relating to a grievance filed by CEP on behalf of Vicky Anderson. The CMI Entities consented to lifting the stay in respect of Ms. Anderson's claim because at the date of the initial order, there had already been eight days of hearing before an arbitrator, all evidence had already been called, and only one further date was scheduled for final argument. Ultimately, the arbitrator ordered that Ms. Anderson be reinstated but made no order for compensation.

13 Pursuant to Article 12.3 of the applicable collective agreement, discharge grievances are to be heard by a single arbitrator. All other grievances are to be heard by a three person Board of Arbitration unless the parties consent to submit the grievance to a single arbitrator. The single arbitrator is to be selected within 10 days of the notice of referral to arbitration from a list of 5 people drawn by lot. An award is to be given within 30 days of the conclusion of the hearing. The list of arbitrators was negotiated and included in the collective agreement. The arbitrator has the power to reinstate with or without compensation.

14 The evidence before me suggests that adjudications of grievances under collective agreements are typically much more costly and time consuming than adjudications before a claims officer as the latter may determine claims in a summary manner and there is more control over scheduling. The Monitor takes the position that additional cost and delay would arise if the claims were adjudicated pursuant to the terms of the collective agreement rather than pursuant to the terms of the claims procedure order.

Issues

15 Both parties agree that the following two issues are to be considered:

- (a) Should this court lift the stay of proceedings in respect of the Bradley grievances and direct that the Bradley grievances be adjudicated in accordance with the provisions of the collective agreement?

(b) Should this court amend the claims procedure order so as to permit the Bradley claim to be adjudicated in accordance with the provisions of the collective agreement?

Positions of the Parties

16 In brief, dealing firstly with the stay, CEP submits that the balance of convenience favours pursuit of the grievances through arbitration. CEP is seeking to compel the employer to comply with fundamental obligations that flow from the collective agreement. This includes the appointment of an arbitrator on consent who has jurisdiction to award reinstatement if he or she determines that there was no just cause to terminate Mr. Bradley's employment. Requiring that the claim and the grievances be adjudicated in a manner that is inconsistent with the collective agreement would have the effect of depriving the grievor of some of the most fundamental rights under a collective agreement. Furthermore, permitting the grievances to proceed to arbitration would prejudice no one.

17 Alternatively, CEP submits that the claims procedure order ought to be amended. It is in conflict with the terms of the collective agreement. Pursuant to section 33 of the *CCAA*, the collective agreement remains in force during the *CCAA* proceedings. The claims procedure order must comply with the express requirements of the *CCAA*. Lastly, orders issued under the *CCAA* should not infringe upon the right to engage in associational activities which are protected by the *Charter of Rights and Freedoms*.

18 The Monitor opposes the relief requested. On the issue of the lifting of the stay, it submits that the *CCAA* is intended to provide a structured environment for the negotiation of compromises between a debtor company and its creditors for the benefit of both. The stay of proceedings permits the *CCAA* to accomplish its legislative purpose and in particular enables continuance of the company seeking *CCAA* protection.

19 The lifting of a stay is discretionary. Mr. Bradley is no more prejudiced than any other creditor and the claims procedure established under the order has been uniformly applied. The claims officer has the power to recognize Mr. Bradley's right to reinstatement and monetize that right. The efficacy of *CCAA* proceedings would be undermined if a debtor company was forced to participate in an arbitration outside the *CCAA* proceedings. This would place the resources of an insolvent *CCAA* debtor under strain. The Monitor submits that CEP has not satisfied the onus to demonstrate that the lifting of the stay is appropriate in this case.

20 As for the second issue, the Monitor submits that the claims procedure order should not be amended. Courts regularly affect employee rights arising from collective agreements during *CCAA* proceedings and recent amendments to the *CCAA* do not change the existing case law in this regard. Furthermore, amending the claims procedure order would undermine the purpose of the *CCAA*. Lastly, relying on the Supreme Court of Canada's statements in *Health Services & Support-*

*Facilities Subsector Bargaining Assn. v. British Columbia*³, the claims procedure order does not interfere with freedom of association.

21 Following argument, I requested additional brief written submissions on certain issues and in particular, to what employment Mr. Bradley would be reinstated if so ordered. I have now received those submissions from both parties.

Discussion

1. Stay of Proceedings

22 The purpose of the *CCAA* has frequently been described but bears repetition. In *Lehndorff General Partner Ltd., Re*⁴, Farley J. stated:

The *CCAA* is intended to provide a structured environment for the negotiation of compromises between a debtor company and its creditors for the benefit of both.

23 The stay provisions in the *CCAA* are discretionary and very broad. Section 11.02 provides that:

(1) A court may, on an initial application in respect of the debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 30 days,

(a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the Bankruptcy and Insolvency Act or the Winding Up and Restructuring Act;

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

(2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an *Act* referred to in paragraph (1)(a);

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

24 As the Court of Appeal noted in *Nortel Networks Corp., Re*⁵, the discretion provided in section 11 is the engine that drives this broad and flexible statutory scheme. The stay of proceedings in section 11 should be broadly construed to accomplish the legislative purpose of the *CCAA* and in particular to enable continuance of the company seeking *CCAA* protection: *Lehndorff General Partner Ltd.*⁶.

25 Section 11 provides an insolvent company with breathing room and by doing so, preserves the status quo to assist the company in its restructuring or arrangement and prevents any particular stakeholder from obtaining an advantage over other stakeholders during the restructuring process. It is anticipated that one or more creditors may be prejudiced in favour of the collective whole. As stated in *Lehndorff General Partner Ltd.*⁷:

The possibility that one or more creditors may be prejudiced should not affect the court's exercise of its authority to grant a stay of proceedings under the *CCAA* because this effect is offset by the benefit to all creditors and to the company of facilitating a reorganization. The court's primary concerns under the *CCAA* must be for the debtor and all of the creditors.

26 In *Canwest Global Communications Corp., Re*⁸, I had occasion to address the issue of lifting a stay in a *CCAA* proceeding. I referred to situations in which a court had lifted a stay as described by Paperny J. (as she then was) in *Canadian Airlines Corp., Re.*⁹ and by Professor McLaren in his book, "*Canadian Commercial Reorganization: Preventing Bankruptcy*"¹⁰. They included where:

- a) a plan is likely to fail;
- b) the applicant shows hardship (the hardship must be caused by the stay itself and be independent of any pre-existing condition of the applicant creditor);
- c) the applicant shows necessity for payment;
- d) the applicant would be significantly prejudiced by refusal to lift the stay and there would be no resulting prejudice to the debtor company or the positions of creditors;
- e) it is necessary to permit the applicant to take steps to protect a right that could be lost by the passage of time;
- f) after the lapse of a significant period, the insolvent debtor is no closer to a proposal than at the commencement of the stay period;
- g) there is a real risk that a creditor's loan will become unsecured during the stay period;

- h) it is necessary to allow the applicant to perfect a right that existed prior to the commencement of the stay period;
- i) it is in the interests of justice to do so.

27 The lifting of a stay is discretionary. As I wrote in *Canwest Global Communications Corp., Re*¹¹:

There are no statutory guidelines contained in the Act. According to Professor R.H. McLaren in his book "Canadian Commercial Reorganization: Preventing Bankruptcy", an opposing party faces a very heavy onus if it wishes to apply to the court for an order lifting the stay. In determining whether to lift the stay, the court should consider whether there are sound reasons for doing so consistent with the objectives of the CCAA, including a consideration of the balance of convenience, the relative prejudice to parties, and where relevant, the merits of the proposed action: *ICR Commercial Real Estate (Regina) Ltd. v. Bricore Land Group Ltd.* (2007), 33 C.B.R. (5th) 50 (Sask. C.A.) at para. 68. That decision also indicated that the judge should consider the good faith and due diligence of the debtor company.

28 There appears to be no real issue that the grievances are caught by the stay of proceedings. In *Smoky River Coal Ltd., Re*¹², the issue was whether a judge had the discretion under the CCAA to establish a procedure for resolving a dispute between parties who had previously agreed by contract to arbitrate their disputes. The question before the court was whether the dispute should be resolved as part of the supervised reorganization of the company under the CCAA or whether the court should stay the proceedings while the dispute was resolved by an arbitrator. The presiding judge was of the view that the dispute should be resolved as expeditiously as possible under the CCAA proceedings. The Alberta Court of Appeal upheld the decision stating:

The above jurisprudence persuades me that "proceedings" in section 11 includes the proposed arbitration under the B.C. *Arbitration Act*. The Appellants assert that arbitration is expeditious. That is often, but not always, the case. Arbitration awards can be appealed. Indeed, this is contemplated by section 15(5) of the *Rules*. Arbitration awards, moreover, can be subject to judicial review, further lengthening and complicating the decision making process. Thus, the efficacy of CCAA proceedings (many of which are time sensitive) could be seriously undermined if a debtor company was forced to participate in an extra-CCAA arbitration. For these reasons, having taken into account the nature and purpose of the CCAA, I conclude that, in appropriate cases, arbitration is a "proceeding" that can be stayed under section 11 of the CCAA.¹³

29 I do recognize that the *Smoky River* decision did not involve a collective agreement but an agreement to arbitrate. That said, the principles described also apply to an arbitration pursuant to the terms of a collective agreement.

30 In considering balance of convenience, CEP's primary concerns are that the claims procedure order does not accord with the rights and obligations contained in the collective agreement. Firstly, a claims officer is the adjudicator rather than an arbitrator chosen pursuant to the terms of the collective agreement and secondly, reinstatement is not an available remedy before a claims officer. Thirdly, an arbitration imports rules of natural justice and procedural fairness whereas the claims procedure is summary in nature.

31 The claims officers who were identified in the claims procedure order are all former respected and experienced judges who are well suited and capable of addressing the issues arising from the Bradley claim. Furthermore, had this been a real issue, CEP could have raised it earlier and identified another claims officer for inclusion in the claims procedure order. Indeed, an additional claims officer still could be appointed but no such request was ever advanced by CEP.

32 Should the claims officer find that CTLP did not have just cause to terminate Mr. Bradley's employment, he can recognize Mr. Bradley's right to reinstatement by monetizing that right. This was done for a multitude of other claims in the *CCAA* proceedings including claims filed by CEP on behalf of other members. I note that Mr. Bradley would not be receiving treatment different from that of any other creditor participating in the claims process.

33 The claims process is summary in nature for a reason. It reduces delay, streamlines the process, and reduces expense and in so doing promotes the objectives of *CCAA*. Indeed, if grievances were to customarily proceed to arbitration, potential exists to significantly undermine the *CCAA* proceedings. Arbitration of all claims arising from collective agreements would place the already stretched resources of insolvent *CCAA* debtors under significant additional strain and could divert resources away from the restructuring. It is my view that generally speaking, grievances should be adjudicated along with other claims pursuant to the provisions of a claims procedure order within the context of the *CCAA* proceedings.

34 That said, it seems to me that this case is unique. While the claims procedure order and the meeting order of June 23, 2010 provide that all claims against CTLP and others arising prior to certain dates must be asserted within the claims procedure failing which they are forever extinguished and barred, the stay relating to CTPL was terminated on October 27, 2010. CTLP has emerged from *CCAA* protection and is currently operating in the normal course having changed its name to Shaw Television Limited Partnership ("STLP"). If the grievance relating to Mr. Bradley's termination is successful, he could be reinstated to his employment at STLP. The position of CEP, Mr. Bradley and the Monitor is that reinstatement, if ordered, would be to STLP. Counsel for CEP advised the court that notice of the motion was given to STLP and that a representative was present

in court for the argument of the motion although did not appear on the record. The Monitor has also confirmed that Shaw Communications Inc., the parent of STLP, was aware of the motion and its counsel has confirmed its understanding that any reinstatement of Mr. Bradley, if ordered, would be to STLP.

35 As mentioned, Mr. Bradley was a 20 year employee. While I do not consider the identity of the arbitrator and the natural justice arguments of CEP to be persuasive, given the stage of the CCAA proceedings, the fact that the stay relating to CTLP has been lifted, and Mr. Bradley's employment tenure, I am persuaded that he ought to be given the opportunity to pursue his claim for reinstatement rather than being compelled to have that entitlement monetized by a claims officer if so ordered. Counsel for the Monitor has confirmed that the timing of the distributions would not appear to be affected by the outcome of this motion. No meaningful prejudice would ensue to any stakeholder. It seems to me that the balance of convenience and the interests of justice favour lifting the stay to permit the grievances to proceed through arbitration rather than before the claims procedure officer. Therefore, CEP's motion to lift the stay is granted and the Bradley grievances may be adjudicated in accordance with the terms of the collective agreement.

2. Amendment of the Claims Procedure Order

36 In light of my decision on the stay, it is not strictly necessary to consider whether the claims procedure order should be amended as requested by CEP as alternative relief. As this issue was argued, however, I will address it.

37 Section 33 of *CCAA* was added to the statute in September, 2009. The relevant sub-sections now provide:

33(1) If proceedings under this Act have been commenced in respect of a debtor company, any collective agreement that the company has entered into as the employer remains in force, and may not be altered except as provided in this section or under the laws of the jurisdiction governing collective bargaining between the company and the bargaining agent.

33(8) For greater certainty, any collective agreement that the company and the bargaining agent have not agreed to revise remains in force, and the court shall not alter its terms.

38 Justice Mongeon of the Québec Superior Court had occasion to address the effect of section 33 of the *CCAA* in *White Birch Paper Holding Co., Re*¹⁴. He stated that the fact that a collective agreement remains in force under a *CCAA* proceeding does not have the effect of "excluding the entire collective labour relations process from the application of the *CCAA*."¹⁵ He went on to write that:

It would be tantamount to paralyzing the employer with respect to reducing its costs by any means at all, and to providing the union with a veto with regard to the restructuring process.¹⁶

39 In *Canwest Global Communications Corp., Re.*¹⁷, I wrote that section 33 of the *CCAA* "maintains the terms and obligations contained in the collective agreement but does not alter priorities or status."¹⁸ In that case when dealing with the issue of immediate payment of severance payments, I wrote:

There are certain provisions in the amendments that expressly mandate certain employee related payments. In those instances, section 6(5) dealing with a sanction of a plan and section 36 dealing with a sale outside the ordinary course of business being two such examples, Parliament specifically dealt with certain employee claims. If Parliament had intended to make such a significant amendment whereby severance and termination payments (and all other payments under a collective agreement) would take priority over secured creditors, it would have done so expressly.¹⁹

40 I agree with the Monitor's position that if Parliament had intended to carve grievances out of the claims process, it would have done so expressly. To do so, however, would have undermined the purpose of the *CCAA* and in particular, the claims process which is designed to streamline the resolution of the multitude of claims against an insolvent debtor in the most time sensitive and cost efficient manner. It is hard to imagine that it was Parliament's intention that grievances under collective agreements be excluded from the reach of the stay provisions of section 11 of the *CCAA* or the ancillary claims process. In my view, such a result would seriously undermine the objectives of the *Act*.

41 Furthermore, I note that over 1,800 claims have been processed and dealt with by way of the claims procedure order, many of them involving claims filed by CEP on behalf of its members. CEP was provided with notice of the motion wherein the claims procedure order and the claims officers were approved. CEP did not raise any objection to the claims procedure order, the claims officers or the inclusion of grievances in the claims procedure at the time that the order was granted. The claims procedure order was not an order made without notice and none of the prerequisites to variation of an order has been met. Had I not lifted the stay, I would not have amended the claims procedure order as requested by CEP.

42 CEP's last argument is that the claims procedure order interferes with Mr. Bradley's freedoms under the Canadian *Charter of Rights and Freedoms*. In this regard I make the following observations. Firstly, this argument was not advanced when the claims procedure order was granted. Secondly, CEP is not challenging the validity of any section of the *CCAA*. Thirdly, nothing in the statute or the claims procedure inhibits the ability to collectively bargain. In *Health Services & Support-Facilities Subsector Bargaining Assn. v. British Columbia*²⁰, the Supreme Court of Canada stated:

We conclude that section 2(d) of the *Charter* protects the capacity of members of labour unions to engage, in association, in collective bargaining on fundamental workplace issues. This protection does not cover all aspects of "collective bargaining", as that term is understood in the statutory labour relations regimes that are in place across the country. Nor does it ensure a particular outcome in a labour dispute or guarantee access to any particularly statutory regime. ...

In our view, it is entirely possible to protect the "procedure" known as collective bargaining without mandating constitutional protection for the fruits of that bargaining process.²¹

43 In my view, nothing in the claims procedure or the *CCAA* impacts the procedure known as collective bargaining.

Conclusion

44 Under the circumstances, the request to lift the stay as requested by CEP is granted. Had it been necessary to do so, I would have dismissed the alternative relief requested.

Motion granted.

Footnotes

- 1 The Filing Date was October 6, 2009, the date of the initial order.
- 2 The words in brackets were omitted but presumably this was the intention.
- 3 (S.C.C.).
- 4 (1993), 17 C.B.R. (3d) 24 (Ont. Gen. Div. [Commercial List]) at para. 6.
- 5 (Ont. C.A.) at para. 33.
- 6 *Supra*, note 4 at para. 10.
- 7 *Ibid*, at para. 6.
- 8 (Ont. S.C.J. [Commercial List]).
- 9 (2000), 19 C.B.R. (4th) 1 (Alta. Q.B.)
- 10 (Aurora: Canada Law Book, looseleaf) at para. 3.3400.
- 11 *Supra*, note 8 at para. 32.

- 12 (Alta. C.A.)
- 13 *Ibid*, at para. 33.
- 14 2010 QCCS 2590 (C.S. Que.)
- 15 *Ibid*, at para. 31.
- 16 *Ibid*, at para. 35.
- 17 (Ont. S.C.J. [Commercial List])
- 18 *Ibid*, at para. 32.
- 19 *Ibid*, at para. 33.
- 20 *Supra*, note 3.
- 21 *Ibid*, at at paras. 19 and 29.

TAB 5

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE

)

THURSDAY, THE 25TH

JUSTICE MYERS

)

DAY OF JANUARY, 2018

)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT*
ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TOYS "R" US (CANADA) LTD.
TOYS "R" US (CANADA) LTEE

Applicant

CLAIMS PROCEDURE ORDER

THIS MOTION, made by Toys "R" Us (Canada) Ltd. Toys "R" Us (Canada) Ltee (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), was heard this day at 361 University Avenue, Toronto, Ontario.

ON READING the affidavit of Melanie Teed-Murch sworn January 18, 2018 and the Third Report of Grant Thornton Limited, in its capacity as monitor of the Applicant (the "**Monitor**"), and on hearing the submissions of counsel for the Applicant, the Monitor, the DIP Agent and such other counsel as were present and wished to be heard:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time and method for service and notice of this Motion is hereby abridged and validated and this Motion is properly returnable today without further service or notice thereof.

2. **THIS COURT ORDERS** that, for the purposes of this Order (the “**Claims Procedure Order**”), in addition to terms defined elsewhere herein, the following terms shall have the following meanings:

- (a) “**Assessments**” means Claims of Her Majesty the Queen in Right of Canada or of any Province or Territory or Municipality or any other taxation authority in any Canadian or foreign jurisdiction, including, without limitation, amounts which may arise or have arisen under any notice of assessment, notice of reassessment, notice of objection, notice of appeal, audit, investigation, demand or similar request from any taxation authority;
- (b) “**Business Day**” means a day, other than a Saturday or a Sunday, on which banks are generally open for business in Toronto, Ontario;
- (c) “**CCAA Proceedings**” means these proceedings of the Applicant pursuant to the CCAA;
- (d) “**Chapter 11 Claims Procedure**” means the claims process approved by the U.S. Bankruptcy Court pursuant to an order dated December 21, 2017 to be conducted within the Chapter 11 Proceedings in respect of the Chapter 11 Debtors other than the Applicant;
- (e) “**Chapter 11 Debtors**” means Toys “R” Us, Inc.; Geoffrey Holdings, LLC; Geoffrey International, LLC; Geoffrey, LLC; Giraffe Holdings, LLC; Giraffe Junior Holdings, LLC; MAP 2005 Real Estate, LLC; Toys “R” Us (Canada) Ltd. Toys “R” Us (Canada) Ltee; Toys “R” Us – Delaware Inc.; Toys “R” Us – Value, Inc.; Toys “R” Us Europe, LLC; Toys “R” Us Property Company II, LLC; Toys Acquisition, LLC; TRU – SVC, Inc.; TRU Asia, LLC; TRU Guam, LLC; TRU Mobility, LLC; TRU of Puerto Rico, Inc.; TRU Taj (Europe) Holdings, LLC; TRU Taj Finance, Inc.; TRU Taj Holdings 1, LLC; TRU Taj Holdings 2 Limited; TRU Taj Holdings 3, LLC; Wayne Real Estate Parent Company, LLC; and such other entities as are or may be debtors for purposes of the Chapter 11 Proceedings;

- (f) “**Chapter 11 Proceedings**” means the proceedings commenced on September 18, 2017 by the Chapter 11 Debtors under chapter 11 of title 11 of the *United States Code* in the U.S. Bankruptcy Court;
- (g) “**Chapter 11 Proof of Claim**” means a proof of claim relating to the Applicant filed in the Chapter 11 Claims Procedure;
- (h) “**Claim**” means:
 - (i) any right or claim of any Person against the Applicant, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind of the Applicant in existence on the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, by surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts that existed prior to the Filing Date and any other claims that would have been claims provable in bankruptcy had such Applicant become bankrupt on the Filing Date, including for greater certainty any Equity Claim and any claim against the Applicant for indemnification by any Director or Officer in respect of a Director/Officer Claim (but excluding any such claim for indemnification that is covered by the Directors’ Charge (as defined in the Initial CCAA Order)), in each case, where such monies remain unpaid as of the date hereof (each, a “**Prefiling Claim**”, and collectively, the “**Prefiling Claims**”);
 - (ii) any right or claim of any Person against the Applicant in connection with any indebtedness, liability or obligation of any kind whatsoever owed by the Applicant to such Person arising out of (A) the restructuring, disclaimer, resiliation, termination or breach by the Applicant on or after the Filing Date of any contract, lease or other agreement or arrangement whether written or oral or (B) the termination of employment with the Applicant on or after the Filing Date, whether arising by contract, under statute or otherwise (each, a “**Restructuring Period Claim**”, and collectively, the “**Restructuring Period Claims**”); and
 - (iii) any right or claim of any Person against one or more of the Directors and/or Officers howsoever arising, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured,

perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer (each a “**Director/Officer Claim**”, and collectively, the “**Director/Officer Claims**”),

provided that “Claim” shall not include an Excluded Claim;

- (i) “**Claim Document Package**” means a document package that contains a copy of the Instruction Letter, the Notice to Creditors, a Claim Statement and Notice of Dispute of Claim Statement (in respect of a Claim Document Package delivered to a Listed Creditor), a Proof of Claim (in respect of a Claim Document Package delivered to a Creditor other than a Listed Creditor), and such other materials as the Monitor and the Applicant may consider appropriate or desirable;
- (j) “**Claim Statement**” means a Claim Statement form in substantially the form attached hereto as Schedule “D”;
- (k) “**Claims Bar Date**” means 5:00 p.m. on April 6, 2018, or such later date as may be ordered by the Court;
- (l) “**Claims Procedure**” means the procedures outlined in this Claims Procedure Order in connection with the assertion of Claims against the Applicant or the Directors or Officers or any of them, as amended or supplemented by further order of the Court;
- (m) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (n) “**Creditor**” means any Person having or asserting a Claim;
- (o) “**Directors**” means all current and former directors (or their estates) of the Applicant, in such capacity, and “**Director**” means any one of them;
- (p) “**Equity Claim**” has the meaning set forth in Section 2(1) of the CCAA;

- (q) **“Excluded Claim”** means:
 - (i) any Claim secured by any of the Charges (as that term is defined in the Initial CCAA Order);
 - (ii) any Claim of a Chapter 11 Debtor or other affiliate of the Applicant; and
 - (iii) any Claim in respect of an obligation referenced in paragraph 7(d) or 7(e) of the Initial CCAA Order;

- (r) **“Filing Date”** means September 19, 2017;

- (s) **“Initial CCAA Order”** means the Initial Order under the CCAA dated September 19, 2017, as amended, restated or varied from time to time;

- (t) **“Instruction Letter”** means the instruction letter to Creditors, in substantially the form attached as Schedule “A” hereto, regarding completion by Creditors of the Proof of Claim and the Notice of Dispute of Claim Statement;

- (u) **“Listed Claim”** has the meaning set forth in paragraph 18 of this Claims Procedure Order;

- (v) **“Listed Creditor”** means a Creditor to whom a Claim Statement is delivered pursuant to paragraph 18 of this Claims Procedure Order;

- (w) **“Known Creditors”** means with respect to the Applicant, or the Directors or Officers or any of them:
 - (i) those Creditors that the books and records of the Applicant disclose were owed monies by the Applicant as of the Filing Date, where such monies remain unpaid in full or in part as of the date hereof;
 - (ii) any Person who commenced a legal proceeding against the Applicant or one or more Directors or Officers in respect of a Claim, which legal proceeding was commenced and served prior to the Filing Date;
 - (iii) any Person who has filed a Chapter 11 Proof of Claim as of the date of this Claims Procedure Order; and

- (iv) any other Creditor of whom the Applicant has knowledge as at the date of this Claims Procedure Order and for whom the Applicant has a current address or other contact information;
- (x) “**Meeting**” means a meeting of the Creditors of the Applicant called for the purpose of considering and voting in respect of a Plan;
- (y) “**Notice of Dispute of Claim Statement**” means a notice in substantially the form attached hereto as Schedule “E”;
- (z) “**Notice to Creditors**” means the notice to Creditors for publication in substantially the form attached as Schedule “B” hereto;
- (aa) “**Officers**” means all current and former officers (or their estates) of the Applicant, in such capacity, and “**Officer**” means any one of them;
- (bb) “**Person**” means any individual, partnership, limited partnership, joint venture, trust, corporation, unincorporated organization, government or agency or instrumentality thereof, or any other corporate, executive, legislative, judicial, regulatory or administrative entity howsoever designated or constituted, including, without limitation, any present or former shareholder, supplier, customer, employee, agent, client, contractor, lender, lessor, landlord, sub-landlord, tenant, sub-tenant, licensor, licensee, partner or advisor;
- (cc) “**Plan**” means a plan of compromise or arrangement or plan of reorganization filed by or in respect of the Applicant;
- (dd) “**Prime Clerk**” means Prime Clerk LLC, the Chapter 11 Debtors’ notice and claims agent in the Chapter 11 Proceedings;
- (ee) “**Proof of Claim**” means a Proof of Claim form in substantially the form attached hereto as Schedule “C”;
- (ff) “**Restructuring Period Claims Bar Date**” means, in respect of a Restructuring Period Claim, 5:00 p.m. on the day that is the later of (i) the Claims Bar Date and (ii) forty-five (45) days after the date on which the Monitor sends a Claim

Document Package with respect to a Restructuring Period Claim to a Creditor;
and

(gg) “**U.S. Bankruptcy Court**” means the United States Bankruptcy Court for the Eastern District of Virginia.

GENERAL PROVISIONS

3. **THIS COURT ORDERS** that all references to time herein shall mean Toronto Time and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.

4. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.

5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

6. **THIS COURT ORDERS** that the Claims Procedure and the forms of Notice to Creditors, Instruction Letter, Proof of Claim, Claim Statement and Notice of Dispute of Claim Statement are hereby approved and, if applicable, arrangements shall be made for French language translations of such forms. Notwithstanding the foregoing, the Monitor may, from time to time, make non-substantive changes to the forms as the Monitor, in its sole discretion, may consider necessary or desirable.

7. **THIS COURT ORDERS** that the Applicant and the Monitor are hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may waive strict compliance with the requirements of this Claims Procedure Order as to completion, execution and submission of such forms and to request any further documentation from a Creditor that the Applicant or the Monitor may require.

8. **THIS COURT ORDERS** that all Claims shall be denominated in Canadian dollars. Any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada daily average exchange rate on the Filing Date.

9. **THIS COURT ORDERS** that there shall be no presumption of validity or deeming of the amount due in respect of amounts claimed in any Assessment.

10. **THIS COURT ORDERS** that copies of all forms delivered hereunder, as applicable, shall be maintained by the Monitor.

ROLE OF THE MONITOR

11. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and under the Initial CCAA Order, shall assist the Applicant in the administration of the Claims Procedure provided for herein and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Procedure Order.

12. **THIS COURT ORDERS** that the Monitor shall (i) have all protections afforded to it by the CCAA, this Claims Procedure Order, the Initial CCAA Order, any Orders of the Court in these proceedings and other applicable law in connection with its activities in respect of this Claims Procedure Order, including the stay of proceedings in its favour provided pursuant to the Initial CCAA Order; and (ii) incur no liability or obligation as a result of carrying out the provisions of this Claims Procedure Order, other than in respect of gross negligence or wilful misconduct.

13. **THIS COURT ORDERS** that the Applicant, the Officers, the Directors and their respective employees, agents and representatives and any other Person given notice of this Claims Procedure Order shall fully cooperate with the Monitor in the exercise of its powers and the discharge of its duties and obligations under this Claims Procedure Order.

NOTICE TO CREDITORS

14. **THIS COURT ORDERS** that:

- (a) the Monitor shall, not later than ten (10) Business Days following the granting of the Claims Procedure Order, deliver on behalf of the Applicant to each of the Known Creditors a copy of the Claim Document Package;

- (b) the Monitor shall cause to be published on or before February 7, 2018, the Notice to Creditors in the following newspapers: (i) The Globe and Mail (National Edition); and (ii) Le Devoir;
- (c) the Monitor shall post a copy of this Claims Procedure Order, the Applicant's Motion Record in respect of this Claims Procedure Order, and the Claim Document Package on its website at www.grantthornton.ca/ToysRUs;
- (d) the Monitor shall deliver as soon as reasonably possible following receipt of a request therefor, a copy of the Claim Document Package to any Person claiming to be a Creditor and requesting such material in writing; and
- (e) any notices of disclaimer or resiliation delivered to Creditors by the Applicant or the Monitor after the Filing Date shall be accompanied by a Claim Document Package and upon becoming aware of any other circumstance giving rise to a Restructuring Period Claim, the Monitor shall send a Claim Document Package to the Creditor in respect of such Restructuring Period Claim.

15. **THIS COURT ORDERS** that the Monitor shall be entitled to rely on the accuracy and completeness of the information obtained from the books and records of the Applicant regarding the Known Creditors. For greater certainty, the Monitor shall have no liability in respect of the information provided to it or otherwise obtained by it regarding the Known Creditors and shall not be required to conduct any independent inquiry and/or investigation with respect to that information.

PROOFS OF CLAIM

16. **THIS COURT ORDERS** that subject to paragraphs 18 to 22 below, to be effective, every Creditor asserting a Claim against the Applicant or the Directors or Officers or any of them shall set out its aggregate Claim in a Proof of Claim, including supporting documentation, and deliver that Proof of Claim to the Monitor so that it is actually received by the Monitor by no later than the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable.

17. **THIS COURT ORDERS** that if a Chapter 11 Proof of Claim is inadvertently filed in respect of the Applicant and such Chapter 11 Proof of Claim would have been timely filed in accordance with the Chapter 11 Claims Procedure if such procedure applied to it, such Chapter 11 Proof of Claim will be deemed to be a Proof of Claim that has been timely delivered to the Monitor in accordance with the Claims Procedure. If (i) a Creditor has delivered a Proof of Claim to the Monitor in accordance with the Claims Procedure and has also filed a Chapter 11 Proof of Claim, the Proof of Claim delivered in accordance with the Claims Procedure shall govern, and (ii) a Claim Statement has been delivered to a Creditor and such Creditor has also filed a Chapter 11 Proof of Claim, the Claim Statement and the procedures related thereto specified in paragraphs 19 to 22 shall govern.

CLAIM STATEMENT

18. **THIS COURT ORDERS** that the Applicant may determine, with the consent of the Monitor, to deliver a Claim Statement to a Known Creditor by including such Claim Statement in the Claim Document Package delivered to such Known Creditor pursuant to paragraph 14. Such Claim Statement shall be in substantially the form attached hereto as Schedule “D” and shall specify the classification, amount and nature of such Known Creditor’s Claim as determined by the Applicant, with the consent of the Monitor, based on the books and records of the Applicant (the “**Listed Claim**”).

19. **THIS COURT ORDERS** that any Creditor who does not dispute the classification, amount or nature of the Listed Claim set forth in the Claim Statement delivered to such Creditor is not required to take any further action and the Claim of such Creditor shall, subject to paragraph 21, be deemed to be the Listed Claim.

20. **THIS COURT ORDERS** that any Creditor who wishes to dispute the classification, amount and/or nature of the Listed Claim set forth in the Claim Statement delivered to such Creditor or to assert an additional Claim in relation to the Applicant other than the Listed Claim shall be required to deliver a Notice of Dispute of Claim Statement to the Monitor so that it is actually received by the Monitor by no later than the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable.

21. **THIS COURT ORDERS** that if, after the date on which a Claim Statement is initially delivered to a Creditor, the Applicant, with the consent of the Monitor, determines that it is appropriate to change the classification, amount or nature of the Listed Claim set forth in such Claim Statement, the Monitor shall cause an amended Claim Statement (an “**Amended Claim Statement**”) to be delivered to such Creditor, which Amended Claim Statement and the revised Listed Claim specified therein shall thereafter supersede any previous Claim Statement delivered to such Creditor. If the Creditor wishes to dispute the classification, amount and/or nature of the Listed Claim set forth in the Amended Claim Statement, such Creditor shall be required to deliver a Notice of Dispute of Statement or Claim so that it is actually received by the Monitor on or before the later of (i) the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, and (ii) thirty (30) days after the date on which the Amended Claim Statement is delivered to the Creditor.

22. **THIS COURT ORDERS** that any Creditor that does not deliver a Notice of Dispute of Claim Statement in respect of a Claim Statement or an Amended Claim Statement, if applicable, pursuant to paragraphs 20 and 21, as applicable, shall be forever barred from disputing the classification, amount or nature of the Listed Claim set forth in the Claim Statement or Amended Claim Statement, as applicable, and any Claim of a different classification or nature or in excess of the amount specified in the Claim Statement or Amended Claim Statement, as applicable, shall be forever barred and extinguished.

CLAIMS BARRED

23. **THIS COURT ORDERS** that, subject to paragraphs 18 to 22, any Person that does not deliver a Proof of Claim in respect of a Claim in the manner required by this Claims Procedure Order such that it is actually received by the Monitor on or before the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable:

- (a) shall not be entitled to attend or vote at a Meeting in respect of such Claim;
- (b) shall not be entitled to receive any distribution in respect of such Claim pursuant to a Plan or otherwise;

- (c) shall not be entitled to any further notice in the CCAA Proceedings (unless it has otherwise sought to be included on the service list); and
- (d) shall be and is hereby forever barred from making or enforcing such Claim against the Applicant, or the Directors or Officers or any of them, and such Claim shall be and is hereby extinguished without any further act or notification.

For greater certainty, this paragraph shall not apply to Excluded Claims and the rights of any Person (including the Applicant) with respect to Excluded Claims are expressly reserved.

SET-OFF

24. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall affect any right of set-off which the Applicant may have against any Creditor.

TRANSFER OF CLAIMS

25. **THIS COURT ORDERS** that if the holder of a Claim transfers or assigns the whole of such Claim to another Person, neither the Monitor nor the Applicant shall be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until written notice of such transfer or assignment, together with satisfactory evidence of such transfer or assignment, has been received by the Monitor and the Monitor has provided written confirmation acknowledging the transfer or assignment of such Claim, and thereafter such transferee or assignee shall for the purposes hereof constitute the “Creditor” in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Claims Procedure Order prior to receiving written confirmation by the Monitor acknowledging such assignment or transfer. After the Monitor has delivered a written confirmation acknowledging the notice of the transfer or assignment of a Claim, the Applicant and the Monitor shall thereafter be required only to deal with the transferee or assignee and not the original holder of the Claim. A transferee or assignee of a Claim takes the Claim subject to any rights of set-off to which the Applicant may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to the Applicant.

Reference to transfer in this Claims Procedure Order includes a transfer or assignment whether absolute or intended as security.

26. **THIS COURT ORDERS** that if a Creditor or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Applicant and the Monitor as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Applicant and the Monitor shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Creditor may, by notice in writing delivered to the Monitor, direct that subsequent dealings in respect of such Claim, but only as a whole, shall be dealt with by a specified Person and in such event, such Person shall be bound by any notices given or steps taken in respect of such Claim with such Creditor or in accordance with the provisions of this Claims Procedure Order.

DETERMINATION OF CLAIMS

27. **THIS COURT ORDERS** that, except as contemplated by paragraphs 19 and 22, the applicable procedures for reviewing and determining Claims shall be established by further Order of the Court.

SERVICE AND NOTICE

28. **THIS COURT ORDERS** that the Applicant and the Monitor may, unless otherwise specified by this Claims Procedure Order, serve and deliver or cause to be served and delivered the Claim Document Package, any letters, notices or other documents to Creditors or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to such Persons or their counsel (including counsel of record in any ongoing litigation) at the physical or electronic address, as applicable, last shown on the books and records of the Applicant or set out in such Creditor's Proof of Claim or Notice of Dispute of Claim Statement, if one has been filed. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after

mailing within Canada, and the fifth Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

29. **THIS COURT ORDERS** that any notice or communication required to be provided or delivered by a Creditor to the Monitor under this Claims Procedure Order shall be in writing in substantially the form, if any, provided for in this Claims Procedure Order and will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery or email addressed to:

Grant Thornton Limited, Court Appointed CCAA Monitor of Toys “R” Us
(Canada) Ltd. Toys “R” Us (Canada) Ltee
Attention: Toys “R” Us CCAA Claims
11th Floor, 200 King Street West
Toronto, Ontario
M5H 3T4

E-mail: toysrusclaims@ca.gt.com

Any such notice or communication delivered by a Creditor shall be deemed to be received upon actual receipt thereof before 5:00 p.m. on a Business Day or if delivered outside of normal business hours, the next Business Day.

30. **THIS COURT ORDERS** that the publication of the Notice to Creditors and the mailing of the Claim Document Packages as set out in this Claims Procedure Order shall constitute good and sufficient notice to Creditors of the Claims Bar Date, the Restructuring Period Claims Bar Date and the other deadlines and procedures set forth herein, and that no other form of notice or service need be given or made on any Person, and no other document or material need be served on any Person in respect of the claims procedure described herein.

31. **THIS COURT ORDERS** that in the event that this Claims Procedure Order is subsequently amended by further Order of the Court, the Applicant shall serve notice of such amendment on the Service List in these proceedings and the Monitor shall post such further Order on the Monitor’s website and such posting shall constitute adequate notice to all Persons of such amended Claims Procedure Order.

GENERAL

32. **THIS COURT ORDERS** that notwithstanding any other provisions of this Claims Procedure Order, the solicitation by the Monitor or the Applicant of Proofs of Claim, the delivery of Claim Document Packages to Known Creditors, and the filing by any Person of any Proof of Claim or Notice of Dispute of Claim Statement shall not, for that reason only, grant any Person any standing in the CCAA Proceedings or rights under a Plan.

33. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall prejudice the rights and remedies of any Directors or Officers or other Persons under the Directors' Charge or any applicable insurance policy or prevent or bar any Person from seeking recourse against or payment from the Applicant's insurance and any Director's or Officer's liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons, whether such recourse or payment is sought directly by the Person asserting a Claim from the insurer or derivatively through the Director or Officer or the Applicant; provided, however, that nothing in this Claims Procedure Order shall create any rights in favour of such Person under any policies of insurance nor shall anything in this Claims Procedure Order limit, remove, modify or alter any defence to such Claim available to the insurer pursuant to the provisions of any insurance policy or at law; and further provided that any Claim or portion thereof for which the Person receives payment directly from, or confirmation that the Person is covered by, the Applicant's insurance or any Director's or Officer's liability insurance or other liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons shall not be recoverable as against the Applicant or Director or Officer, as applicable.

34. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall constitute or be deemed to constitute an allocation or assignment of Claims into particular classes for the purpose of the Plan and, for greater certainty, the treatment of Claims, or any other claims and the classification of Creditors for voting and distribution purposes, shall be subject to the terms of a Plan or further Order of this Court.

35. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court to amend, vary, supplement or replace this Claims Procedure Order or for advice

and directions concerning the discharge of their respective powers and duties under this Claims Procedure Order or the interpretation or application of this Claims Procedure Order.

36. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or outside Canada to give effect to this Claims Procedure Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Claims Procedure Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Claims Procedure Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Claims Procedure Order.

37. **THIS COURT ORDERS** that this Claims Procedure Order and all of its provisions are effective as of 12:01 a.m. Toronto Time on the date of this Claims Procedure Order.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JAN 25 2018

PER / PAR:



SCHEDULE "A"

INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE OF:

**Toys "R" Us (Canada) Ltd. Toys "R" Us (Canada) Ltee
(the "Applicant") and/or its Directors or Officers**

A. CLAIMS PROCEDURE

By Order of the Ontario Superior Court of Justice (Commercial List) made January 25, 2018 (the "**Claims Procedure Order**"), the Court-appointed Monitor of the Applicant, Grant Thornton Limited (the "**Monitor**"), has been authorized to assist the Applicant in conducting a claims procedure (the "**Claims Procedure**") with respect to claims against the Applicant and its present or former Directors and Officers ("**Directors/Officers**") in accordance with the terms of the Claims Procedure Order.

A similar claims process has also been established by the U.S. Bankruptcy Court with respect to the Chapter 11 Debtors other than the Applicant (the "**Chapter 11 Claims Procedure**"). The Order of the U.S. Bankruptcy Court granted in respect of the Chapter 11 Claims Procedure provides that it does not apply to the Applicant or claims relating to the Applicant, other than certain limited matters relating to notice and coordination. The Claims Procedure Order governs all claims related to the Applicant.

Unless otherwise defined, all capitalized terms used herein shall have the meanings given to those terms in the Claims Procedure Order.

The Claims Procedure Order, the Claim Document Package, additional Proofs of Claim and related materials may be accessed from the Monitor's website at www.grantthornton.ca/ToysRUs.

This letter provides instructions for responding to or completing the Proof of Claim or a Notice of Dispute of Claim Statement. Reference should be made to the Claims Procedure Order for a complete description of the Claims Procedure.

The Claims Procedure is intended for any Person with any Claims of any kind or nature whatsoever against the Applicant or the Directors/Officers of the Applicant, whether liquidated, unliquidated, contingent or otherwise. Please review the enclosed material for the complete definitions of "Claim", "Prefiling Claim", "Restructuring Period Claim" and "Director/Officer Claim" to which the Claims Procedure applies.

All notices and enquiries with respect to the Claims Procedure should be addressed to:

Grant Thornton Limited, Court Appointed CCAA Monitor of Toys "R" Us
(Canada) Ltd. Toys "R" Us (Canada) Ltee
Attention: Toys "R" Us CCAA Claims

11th Floor, 200 King Street West
Toronto, Ontario
M5H 3T4

Telephone: 1-855-747-2648
E-mail: toysrusclaims@ca.gt.com

B. FOR CREDITORS SUBMITTING A PROOF OF CLAIM

Unless you are a Listed Creditor (as defined below), if you believe that you have a Claim against the Applicant or the Directors or Officers of the Applicant, you must file a Proof of Claim with the Monitor.

If a Chapter 11 Proof of Claim relating to the Applicant is inadvertently filed in accordance with the Chapter 11 Claims Procedure (including by the claims bar dates specified therein) as if such procedure otherwise applied to the Applicant, the Chapter 11 Proof of Claim will be deemed to have been filed with the Monitor in accordance with the Claims Procedure. If both a Proof of Claim and Chapter 11 Proof of Claim are timely filed, the Proof of Claim delivered in accordance with the Claims Procedure shall govern.

All **Proofs of Claim for Prefiling Claims** (i.e. Claims against the Applicant arising prior to the Filing Date) and all **Director/Officer Claims** must be received by the Monitor **before 5:00 p.m. (Toronto Time) on April 6, 2018** (the “**Claims Bar Date**”).

All **Proofs of Claim for Restructuring Period Claims** (i.e. Claims against the Applicant arising on or after the Filing Date) must be received by the Monitor **before 5:00 p.m. on the date that is the later of (i) the Claims Bar Date and (ii) forty-five (45) days after the date on which the Monitor sends a Claim Document Package with respect to a Restructuring Period Claim** (the “**Restructuring Period Claims Bar Date**”).

PROOFS OF CLAIM MUST BE RECEIVED BY THE CLAIMS BAR DATE OR RESTRUCTURING PERIOD CLAIMS BAR DATE, AS APPLICABLE, OR THE APPLICABLE CLAIM WILL BE FOREVER BARRED AND EXTINGUISHED. If you are required to file a Proof of Claim pursuant to the Claims Procedure but do not file a Proof of Claim in respect of a Claim by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, you shall not be entitled to vote at any Meeting regarding a Plan or participate in any distribution under a Plan or otherwise in respect of such Claims.

All Claims denominated in foreign currency shall be converted to Canadian dollars at the Bank of Canada daily average exchange rate on the date of the Initial CCAA Order.

Additional Proof of Claim forms can be obtained by contacting the Monitor at the telephone numbers and address indicated above and providing particulars as to your name, address and facsimile number or email mail address. Additional Proofs of Claim and related materials may be accessed from the Monitor’s web site at www.grantthornton.ca/ToysRUs.

C. FOR CREDITORS WHO RECEIVE A CLAIM STATEMENT

Certain Known Creditors of the Applicant (each a “**Listed Creditor**”) will receive a Claim Statement from the Monitor specifying the classification, amount and nature of such Creditor’s Claim as determined by the Applicant, with the consent of the Monitor, based on the books and records of the Applicant (the “**Listed Claim**”).

If you receive a Claim Statement and you do not dispute the classification, amount or nature of the Listed Claim, you are not required to take any further action or to file a Proof of Claim with the Monitor in the Claims Procedure Order.

If you wish to dispute the classification, amount and/or nature of the Listed Claim set forth in the Claim Statement or to assert an additional Claim in relation to the Applicant other than the Listed Claim, you are required to deliver a Notice of Dispute of Claim Statement to the Monitor so that it is received by the Monitor by no later than the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable.

If a completed Notice of Dispute of Claim Statement in respect of a Listed Claim is not received by the Monitor by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, the Creditor shall be forever barred from disputing the classification, amount or nature of the Listed Claim and any Claim of a different classification or nature or in excess of the amount specified in the Listed Claim shall be forever barred and extinguished. **IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CREDITOR AND WILL BE FINAL AND BINDING ON THE CREDITOR FOR ALL PURPOSES.**

DATED at Toronto, Ontario this _____ day of _____, 2018.

Grant Thornton Limited

SCHEDULE "B"

NOTICE TO CREDITORS AND OTHERS OF FILING OF CLAIMS AS AGAINST:

Toys "R" Us (Canada) Ltd. Toys "R" Us (Canada) Ltee
(the "Applicant") and/or its Directors or Officers

RE: NOTICE OF CLAIMS PROCEDURE AND CLAIMS BAR DATE

This notice is being published pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) dated January 25, 2018 (the "**Claims Procedure Order**") in proceedings in respect of the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended. The Court has ordered that the Court-appointed Monitor of the Applicant, Grant Thornton Limited (the "**Monitor**"), assist the Applicant with conducting a claims procedure (the "**Claims Procedure**") with respect to claims against the Applicant and its present and former Directors and Officers ("**Directors/Officers**"). The Monitor is required to send Claim Document Packages to the Applicant's Known Creditors. All capitalized terms herein shall have the meanings given to those terms in the Claims Procedure Order.

The Claims Procedure Order, the Claim Document Package, additional Proofs of Claim and related materials may be accessed from the Monitor's web site at www.grantthornton.ca/ToysRUs.

A. Submission of Proof of Claim

With the exception of Listed Creditors (as defined below), all persons wishing to assert a Claim against the Applicant or the Directors or Officers of the Applicant must file a Proof of Claim with the Monitor.

THE CLAIMS BAR DATE is 5:00 p.m. (Toronto Time) on April 6, 2018. Proofs of Claim in respect of Prefiling Claims and Director/Officer Claims must be completed and filed with the Monitor on or before the Claims Bar Date.

THE RESTRUCTURING PERIOD CLAIMS BAR DATE is 5:00 p.m. (Toronto Time) on the date that is the later of (i) the Claims Bar Date and (ii) forty-five (45) days after the date on which the Monitor sends a Claim Document Package with respect to a Restructuring Period Claim (the "Restructuring Period Claims Bar Date"). Proofs of Claim in respect of Restructuring Period Claims must be completed and filed with the Monitor on or before the Restructuring Period Claims Bar Date.

PROOFS OF CLAIM MUST BE RECEIVED BY THE MONITOR BY THE CLAIMS BAR DATE OR RESTRUCTURING PERIOD CLAIMS BAR DATE, AS APPLICABLE, OR THE CLAIM WILL BE FOREVER BARRED AND EXTINGUISHED. If you are required to file a Proof of Claim pursuant to the Claims Procedure but do not file a Proof of Claim in respect of a Claim by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, you shall not be entitled to vote at any Meeting regarding a Plan or participate in any distribution under a Plan or otherwise in respect of such Claims.

Reference should be made to the enclosed material for the complete definitions of “Claim”, “Prefiling Claim”, “Restructuring Period Claim” and “Director/Officer Claim” to which the Claims Procedure applies.

B. Listed Creditors Receiving a Claim Statement

Certain Known Creditors of the Applicant (each a “**Listed Creditor**”) will receive a Claim Statement from the Monitor specifying the classification, amount and nature of such Creditor’s Claim as determined by the Applicant, with the consent of the Monitor, based on the books and records of the Applicant (the “**Listed Claim**”).

If you receive a Claim Statement and you do not dispute the classification, amount or nature of the Listed Claim, you are not required to take any further action or to file a Proof of Claim with the Monitor in the Claims Procedure Order.

If you wish to dispute the classification, amount and/or nature of the Listed Claim set forth in the Claim Statement or to assert an additional Claim in relation to the Applicant other than the Listed Claim, you are required to deliver a Notice of Dispute of Claim Statement to the Monitor so that it is received by the Monitor by no later than the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable.

If a completed Notice of Dispute of Claim Statement in respect of a Listed Claim is not received by the Monitor by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, the Creditor shall be forever barred from disputing the classification, amount or nature of the Listed Claim and any Claim of a different classification or nature or in excess of the amount specified in the Listed Claim shall be forever barred and extinguished. **IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CREDITOR AND WILL BE FINAL AND BINDING ON THE CREDITOR FOR ALL PURPOSES.**

C. Monitor Contact Information

The Monitor can be contacted at the following address to request a Claim Document Package or for any other notices or enquiries with respect to the Claims Procedure:

Grant Thornton Limited, Court Appointed CCAA Monitor of Toys “R” Us
(Canada) Ltd. Toys “R” Us (Canada) Ltee
Attention: Toys “R” Us CCAA Claims
11th Floor, 200 King Street West
Toronto, Ontario
M5H 3T4

Telephone: 1-855-747-2648
E-mail: toysrusclaims@ca.gt.com

DATED at Toronto, Ontario this _____ day of _____, 2018.

Grant Thornton Limited

SCHEDULE "C"

PROOF OF CLAIM

**Toys "R" Us (Canada) Ltd. Toys "R" Us (Canada) Ltee (the "Applicant") and/or its
Directors or Officers**

Please read carefully the enclosed Instruction Letter for completing this Proof of Claim.

I. PARTICULARS OF CREDITOR:

1. Full Legal Name of Creditor:

_____ (the "Creditor").

2. Full Mailing Address of the Creditor:

3. Telephone Number: _____

4. E-Mail Address: _____

5. Facsimile Number: _____

6. Attention (*Contact Person*): _____

7. Have you acquired this Claim by assignment?

Yes: No: (*if yes, attach documents evidencing assignment*)

If Yes, Full Legal Name of Original Creditor(s): _____

II. PROOF OF CLAIM:

1. I, _____

(name of Creditor or Representative of the Creditor), of

_____ do hereby certify:

(city and province)

(a) that I [*check (✓) one*]

am the Creditor; OR

am _____ *(state position or title) of*

_____;

(name of Creditor)

(b) that I have knowledge of all the circumstances connected with the Claim referred to below;

(c) that the Applicant and/or the Directors/Officers of the Applicant were and still are indebted to the Creditor as follows:

(Claims in a foreign currency are to be converted to Canadian Dollars at the Bank of Canada daily average exchange rate for September 19, 2017. The Canadian Dollar/U.S. Dollar daily average exchange rate on that date was CDN\$1.2277 / USD\$1.00.)

(i) PRE-FILING CLAIMS AGAINST THE APPLICANT:

\$ _____ *(insert \$ value of claim) CAD.*

(ii) RESTRUCTURING PERIOD CLAIMS AGAINST THE APPLICANT:

\$ _____ *(insert \$ value of claim)* CAD.

(iii) DIRECTOR/OFFICER CLAIMS AGAINST THE DIRECTORS/OFFICERS OF THE APPLICANT:

\$ _____ *(insert \$ value of claim)* CAD.

(iv) TOTAL CLAIM:

\$ _____ *(insert total of (i), (ii) and (iii) above)* CAD.

III. NATURE OF CLAIM

(check (✓) one and complete appropriate category)

(a) UNSECURED CLAIM OF \$ _____. In respect of this debt, I do not hold any security and: *(check (✓) appropriate description)*

(i) Regarding the amount of \$ _____, I do not claim a right to a priority.

(ii) Regarding the amount of \$ _____, I claim a right to a priority under section 136 of the Bankruptcy and Insolvency Act (Canada) (the "BIA") or would claim such a priority if this Proof of Claim were being filed in accordance with the BIA. *(Set out on an attached sheet details to support any priority claim.)*

(b) SECURED CLAIM OF \$ _____. In respect of this debt, I hold security valued at \$ _____, particulars of which are attached to this Proof of Claim form. *(Give full particulars of the security, including the date on*

which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

IV. PARTICULARS OF CLAIM

The particulars of the undersigned's total Claim (including Prefiling Claims, Restructuring Period Claims and Director/Officer Claims) are attached.

(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) which has guaranteed the Claim, particulars and copies of any security and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed. If a claim is made against any Directors or Officers, specify the applicable Directors or Officers and the legal basis for the Claim against them.)

V. FILING OF CLAIM

For **Prefiling Claims and all Director/Officer Claims**, this Proof of Claim must be received by the Monitor **before 5:00 p.m. (Toronto Time) on April 6, 2018** (the "**Claims Bar Date**").

For **Restructuring Period Claims**, this Proof of Claim must be received by the Monitor **before 5:00 p.m. (Toronto Time) on the date that is the later of: (i) the Claims Bar Date and (ii) forty-five (45) days after the date on which the Monitor sends a Claim Document Package with respect to a Restructuring Period Claim** (the "**Restructuring Period Claims Bar Date**").

In both cases, completed forms must be delivered by prepaid ordinary mail, courier, personal delivery or electronic transmission at the following address:

Grant Thornton Limited, Court Appointed CCAA Monitor of Toys "R" Us
(Canada) Ltd. Toys "R" Us (Canada) Ltee
Attention: Toys "R" Us CCAA Claims
11th Floor, 200 King Street West
Toronto, Ontario
M5H 3T4

Telephone: 1-855-747-2648
E-mail: toysrusclaims@ca.gt.com

(Failure to file your Proof of Claim as directed by the Claims Bar Date or Restructuring Period Claims Bar Date, as applicable, will result in your

Claim being extinguished and barred and in you being prevented from making or enforcing a Claim against the Applicant or Director/Officer, as applicable.)

Dated at _____ this _____ day of _____, 2018.

Signature of Creditor

SCHEDULE "D"

CLAIM STATEMENT

Toys "R" Us (Canada) Ltd. Toys "R" Us (Canada) Ltee
(the "Applicant")

Claim Reference Number: [Insert Claim Reference Number]

To: [Insert Name of Known Creditor] (the "Creditor")

[Insert Address of Known Creditor]

This Claim Statement is delivered to the Creditor, as a Known Creditor of Toys "R" Us (Canada) Ltd. Toys "R" Us (Canada) Ltee (the "**Applicant**"), pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) dated January 25, 2018 (the "**Claims Procedure Order**") in proceedings in respect of the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended. Pursuant to the Claims Procedure Order, the Court-appointed Monitor of the Applicant, Grant Thornton Limited (the "**Monitor**"), has been directed to assist the Applicant in conducting a claims procedure with respect to claims against the Applicant and its present or former Directors and Officers in accordance with the terms of the Claims Procedure Order. Unless otherwise defined, all capitalized terms used herein have the meanings given to those terms in the Claims Procedure Order.

According to the books, records and other relevant information in the possession of the Applicant, the Claim of the Creditor is set out in the table below (the "**Listed Claim**"):

Classification of Claim	Amount of Claim ^{1,2}	Nature of Claim
[Pre-Filing Claim / Restructuring Period Claim]	[Insert amount of Claim]	[Unsecured Claim / Unsecured Priority Claim / Secured Claim]

¹ Amount is in Canadian dollars. Claims in a foreign currency have been converted to Canadian dollars at the Bank of Canada daily average exchange rate for September 19, 2017. The Canadian dollar/U.S. dollar daily average exchange rate for that date was CDN\$1.2277 / USD\$1.00.

² If applicable, additional information with respect to the Listed Claim is provided in a schedule to this Claim Statement.

If the Listed Claim accurately reflects the Claim that the Creditor has in respect of the Applicant (including any Director/Officer Claim), you are not required to take any further action or to file a Proof of Claim with the Monitor in the Claims Procedure Order.

If the Creditor wishes to dispute the classification, amount and/or nature of the Listed Claim or to assert an additional Claim in relation to the Applicant other than the Listed Claim, the Creditor must complete the enclosed Notice of Dispute of Claim Statement and deliver it to the Monitor such that it is received by the Monitor by no later than 5:00 p.m. (Toronto time) on April 6, 2018 (the “**Claims Bar Date**”) or, solely in respect of a Restructuring Period Claim, by 5:00 p.m. (Toronto time) on the day that is the later of (i) the Claims Bar Date, and (ii) forty-five (45) days after the date on which the Monitor delivered the Claim Document Package to the Creditor (the “**Restructuring Period Claims Bar Date**”).

If a completed Notice of Dispute of Claim Statement in respect of the Listed Claim is not received by the Monitor by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, the Creditor shall be forever barred from disputing the classification, amount or nature of the Listed Claim and any Claim of a different classification or nature or in excess of the amount specified in the Listed Claim shall be forever barred and extinguished. **IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CREDITOR AND WILL BE FINAL AND BINDING ON THE CREDITOR FOR ALL PURPOSES.**

Creditors requiring further information or Claim documentation, or who wish to submit a Notice of Dispute of Claim Statement, may contact the Monitor at the following address:

Grant Thornton Limited, Court Appointed CCAA Monitor of Toys “R” Us
(Canada) Ltd. Toys “R” Us (Canada) Ltee
Attention: Toys “R” Us CCAA Claims
11th Floor, 200 King Street West
Toronto, Ontario
M5H 3T4

Telephone: 1-855-747-2648
E-mail: toysrusclaims@ca.gt.com

Dated at _____ this _____ day of _____, 2018.

SCHEDULE "E"

NOTICE OF DISPUTE OF CLAIM STATEMENT

**Toys "R" Us (Canada) Ltd. Toys "R" Us (Canada) Ltee
(the "Applicant")**

Capitalized terms not defined herein have the meanings given to them in the Order of the Ontario Superior Court of Justice dated January 25, 2018 (the "Claims Procedure Order") or the Claim Statement.

I. PARTICULARS OF CREDITOR

Claim Reference Number: [Insert Claim Reference Number listed on Claim Statement] (the "Claim Statement").

**Full Legal Name of
Creditor**

**Full Mailing Address of
Creditor**

Telephone Number:

Email Address

**Attention (Contact
Person)**

Have you acquired this Claim by assignment?

Yes: No: *(if yes, attach documents evidencing assignment)*

If Yes, Full Legal Name of Original Creditor(s): _____

II. DISPUTE OF CLAIM SET OUT IN CLAIM STATEMENT

The Creditor hereby disputes the classification, amount and/or nature of the Listed Claim set out in the Claim Statement and asserts the Claim(s) as set out in the following table:

Grant Thornton Limited, Court Appointed CCAA Monitor of Toys “R” Us
(Canada) Ltd. Toys “R” Us (Canada) Ltee
Attention: Toys “R” Us CCAA Claims
11th Floor, 200 King Street West
Toronto, Ontario
M5H 3T4

Telephone: 1-855-747-2648
E-mail: toysrusclaims@ca.gt.com

If a completed Notice of Dispute of Claim Statement in respect of the Listed Claim is not received by the Monitor by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, the Creditor shall be forever barred from disputing the classification, amount or nature of the Listed Claim and any Claim of a different classification or nature or in excess of the amount specified in the Listed Claim shall be forever barred and extinguished. **IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CREDITOR AND WILL BE FINAL AND BINDING ON THE CREDITOR FOR ALL PURPOSES.**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TOYS "R" US (CANADA) LTD. TOYS "R" US (CANADA) LTEE**

Court File No. CV-17-00582960-00CL

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceeding commenced at Toronto

CLAIMS PROCEDURE ORDER

GOODMANS LLP

Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7

Brian F. Empey LSO#: 30640G
bempey@goodmans.ca

Melaney Wagner LSO#: 44063B
mwagner@goodmans.ca

Christopher Armstrong LSO#: 55148B
carmstrong@goodmans.ca

Bradley Wiffen LSO#: 64279L
bwiffen@goodmans.ca

Tel: (416) 979-2211
Fax: (416) 979-1234

Lawyers for the Applicant

TAB 6

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)
REGIONAL SENIOR JUSTICE MORAWETZ)
WEDNESDAY THE 24th
DAY OF APRIL, 2019



IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

(the "Applicants")

ORDER
(CLAIMS PROCEDURE ORDER)

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), was heard this day at 330 University Avenue, Toronto, Ontario by way of Court Call.

ON READING the Notice of Motion of the Applicants, the affidavit of Adrian Frankum sworn April 17, 2019 and the third report of FTI Consulting Canada Inc. ("**FTI**") in its capacity as monitor of the Applicants and Payless ShoeSource Canada LP (collectively, the "**Payless Canada Entities**") dated April 18, 2019, and on hearing the submissions of counsel for the Payless Canada Entities, FTI in its capacity as court-appointed monitor ("**Monitor**"), and such other parties as were present by Court Call, no one else appearing although duly served as appears from the affidavit of service of Taschina Ashmeade sworn April 18, 2019 filed;

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time and method for service and notice of this Motion is hereby abridged and validated and this Motion is properly returnable today without further service or notice thereof.

2. **THIS COURT ORDERS** that, for the purposes of this Order (the "**Claims Procedure Order**"), in addition to terms defined elsewhere herein, the following terms shall have the following meanings:

- (a) "**Additional WEPPA Claim**" has the meaning set forth in paragraph 23 of this Claims Procedure Order;
- (b) "**Affiliate**" means, in relation to a party, a body corporate;
 - (i) which is directly or indirectly controlled by such party; or
 - (ii) which directly or indirectly controls such party; or
 - (iii) which is, directly or indirectly, controlled by a body corporate that also, directly or indirectly controls such party.

For the purpose of this definition, "**control**" of a body corporate means the direct or indirect power to direct, administer and dictate policies or management of such body corporate, it being understood and agreed that control of a body corporate can be exercised without direct or indirect ownership of fifty percent (50%) or more of its voting shares, provided always that the ownership of the right to exercise fifty percent (50%) or more of the voting rights of a given body corporate shall be deemed to be effective control hereunder. For the avoidance of doubt, the joint venture partners of the U.S. Debtors shall not be "Affiliates" for purposes of this Order;

- (c) "**Amended Claim Statement**" has the meaning set forth in paragraph 21 of this Claims Procedure Order
- (d) "**Assessments**" means Claims of Her Majesty the Queen in Right of Canada or of any province or territory or municipality or any other taxation authority in any Canadian or foreign jurisdiction, including, without limitation, amounts which may arise or have arisen under any notice of assessment, notice of reassessment,

notice of objection, notice of appeal, audit, investigation, demand or similar request from any taxation authority;

- (e) **"Business Day"** means a day, other than a Saturday, Sunday or statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (f) **"CCAA Proceedings"** means these proceedings in respect of the Payless Canada Entities pursuant to the CCAA;
- (g) **"Chapter 11 Claims Procedure"** means the claims process approved by the U.S. Bankruptcy Court pursuant to an order granted April 23, 2019 to be conducted within the U.S. Proceedings in respect of the U.S. Debtors other than the Payless Canada Entities;
- (h) **"Chapter 11 Proof of Claim"** means a proof of claim against any of the Payless Canada Entities filed in the Chapter 11 Claims Procedure;
- (i) **"Claim"** means:
 - (i) any right or claim of any Person against any of the Payless Canada Entities, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind of any of the Payless Canada Entities in existence on the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, by surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts that existed prior to the Filing Date and any other claims that would have been claims provable in bankruptcy had such Payless Canada Entity become bankrupt on the Filing Date, including for greater certainty any Equity Claim and any claim against any of the Payless Canada Entities for indemnification by any Director or Officer in respect of a Director/Officer

Claim (but excluding any such claim for indemnification that is covered by the Directors' Charge (as defined in the Initial Order)), in each case, where such monies remain unpaid as of the date hereof (each, a "**Prefiling Claim**", and collectively, the "**Prefiling Claims**");

- (ii) any right or claim of any Person against any of the Payless Canada Entities in connection with any indebtedness, liability or obligation of any kind whatsoever owed by any of the Payless Canada Entities to such Person arising out of (A) the restructuring, disclaimer, rescission, termination or breach by any of the Payless Canada Entities on or after the Filing Date of any contract, lease or other agreement or arrangement whether written or oral or (B) the termination of employment with any of the Payless Canada Entities on or after the Filing Date, whether arising by contract, under statute or otherwise (each, a "**Restructuring Period Claim**", and collectively, the "**Restructuring Period Claims**"); and
- (iii) any right or claim of any Person against one or more of the Directors and/or Officers howsoever arising, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer (each a "**Director/Officer Claim**", and collectively, the "**Director/Officer Claims**"),

including any Claim arising through subrogation against any Payless Canada Entity or Director or Officer, provided however, that in any case "Claim" shall not include an Excluded Claim;

- (j) **"Claim Document Package"** means a document package that contains a copy of the Instruction Letter, the Notice to Claimants, a Claim Statement and Notice of Dispute of Claim Statement (in respect of a document package delivered to a Listed Claimant), a Proof of Claim (in respect of a document package delivered to a Claimant other than a Listed Claimant), and such other materials as the Monitor and the Payless Canada Entities may consider appropriate or desirable;
- (k) **"Claim Statement"** means a General Claim Statement, Employee Claim Statement or Landlord Claim Statement, substantially in the form attached hereto as Schedule "D-1", Schedule "D-2" or Schedule "D-3", as applicable;
- (l) **"Claimant"** means any Person having or asserting a Claim;
- (m) **"Claims Bar Date"** means 11:59 p.m. (Central Time) on June 7, 2019, or such later date as may be ordered by the Court;
- (n) **"Claims Procedure"** means the procedures outlined in this Claims Procedure Order in connection with the solicitation and assertion of Claims against any of the Payless Canada Entities or the Directors or Officers or any of them, as amended or supplemented by further order of the Court;
- (o) **"Court"** means the Ontario Superior Court of Justice (Commercial List);
- (p) **"D&O Indemnity Claim"** means any existing or future right of any Director or Officer against any of the Payless Canada Entities which arose or arises as a result of a Listed Claim or any Person filing a Proof of Claim in respect of such Director or Officer for which such Director or Officer is entitled to be indemnified by the Payless Canada Entities;
- (q) **"Directors"** means all current and former directors (or their estates) of any of the Payless Canada Entities, in such capacity, or persons who may be deemed to be or have been, whether by statute, operation of law or otherwise, Directors, and **"Director"** means any one of them;
- (r) **"Employee Claim Statement"** means an Employee Claim Statement substantially in the form attached hereto as Schedule "D-2";
- (s) **"Equity Claim"** has the meaning set forth in Section 2(1) of the CCAA;

- (t) **"Excluded Claim"** means:
 - (i) any Claim secured by any of the Charges (as that term is defined in the Initial Order);
 - (ii) any Claim of a U.S. Debtor or other Affiliate of the U.S. Debtors; and
 - (iii) and for greater certainty, shall include any Excluded Claim arising through subrogation;
- (u) **"Filing Date"** means February 19, 2019;
- (v) **"General Claim Statement"** means a General Claim substantially in the form attached hereto as Schedule "D-1";
- (w) **"Initial Order"** means the Initial Order under the CCAA dated February 19, 2019, as amended, restated or varied from time to time;
- (x) **"Instruction Letter"** means the instruction letter to Claimants, in substantially the form attached as Schedule "A" hereto, regarding completion by Claimants of the Proof of Claim and the Notice of Dispute of Claim Statement;
- (y) **"Landlord Claim Statement"** means a Landlord Claim Statement substantially in the form attached hereto as Schedule "D-3";
- (z) **"Listed Claim"** has the meaning set forth in paragraph 18 of this Claims Procedure Order or on Schedule D-1, Scheduled D-2 or Schedule D-3 hereto, as applicable;
- (aa) **"Listed Claimants"** means a Claimants to whom a General Claim Statement, Employee Claim Statement or a Landlord Claim Statement is delivered pursuant to paragraph 18 of this Claims Procedure Order;
- (bb) **"Known Claimants"** means with respect to any of the Payless Canada Entities, or the Directors or Officers or any of them:
 - (i) those Claimants that the books and records of any of the Payless Canada Entities disclose were owed monies by any of the Payless Canada Entities as of the Filing Date, where such monies remain unpaid in full or in part as of the date hereof;

- (ii) any Person who commenced a legal proceeding against any of the Payless Canada Entities or one or more Directors or Officers in respect of a Claim, which legal proceeding was commenced and served prior to the Filing Date;
 - (iii) any Person who has filed a Chapter 11 Proof of Claim as of the date of this Claims Procedure Order; and
 - (iv) any other Claimant of whom the Payless Canada Entities have knowledge as at the date of this Claims Procedure Order and for whom the Payless Canada Entities have a current address or other contact information;
- (cc) **“Meeting”** means a meeting of the Claimants of the Payless Canada Entities called for the purpose of considering and voting in respect of a Plan, if any;
- (dd) **“Monitor”** has the meaning set out in the recitals hereto;
- (ee) **“Monitor’s Website”** means the website maintained by the Monitor at <http://cfcanada.fticonsulting.com/paylesscanada/> ;
- (ff) **“Notice of Dispute of Claim Statement”** means a notice in substantially the form attached hereto as Schedule “E”;
- (gg) **“Notice to Claimants”** means the notice to Claimants for publication in substantially the form attached as Schedule “B” hereto;
- (hh) **“Officers”** means all current and former officers (or their estates) of any of the Payless Canada Entities, in such capacity, or persons who may be deemed to be or have been, whether by statute, operation of law or otherwise, Officers and **“Officer”** means any one of them;
- (ii) **“Payless Canada Entities”** means Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc., and Payless ShoeSource Canada LP and each a **“Payless Canada Entity”**;
- (jj) **“Person”** means any individual, partnership, limited partnership, joint venture, trust, corporation, unincorporated organization, government or agency or instrumentality thereof, or any other corporate, executive, legislative, judicial,

regulatory or administrative entity howsoever designated or constituted, including, without limitation, any present or former shareholder, supplier, customer, employee, agent, client, contractor, lender, lessor, landlord, sub-landlord, tenant, sub-tenant, licensor, licensee, partner or advisor;

- (kk) **"Plan"** means any plan of compromise or arrangement or plan of reorganization filed by or in respect of any or all of the Payless Canada Entities, as may be amended, supplemented or restated from time to time in accordance with the terms thereof;
- (ll) **"Prime Clerk"** means Prime Clerk LLC, the U.S. Debtors' notice and claims agent in the U.S. Proceedings;
- (mm) **"Proof of Claim"** means a proof of claim form in substantially the form attached hereto as Schedule "C";
- (nn) **"Restructuring Period Claims Bar Date"** means, in respect of a Restructuring Period Claim, 11:59 p.m. (Central Time) on the date that is the later of (i) the Claims Bar Date and (ii) thirty (30) days after the date on which the Monitor sends a Claim Document Package with respect to a Restructuring Period Claim to a Claimant;
- (oo) **"Service List"** means the service list maintained by the Monitor in respect of these CCAA Proceedings;
- (pp) **"U.S. Bankruptcy Court"** means the United States Bankruptcy Court for the Eastern District of Missouri;
- (qq) **"U.S. Debtors"** means Payless Holdings LLC; Payless Intermediate Holdings LLC; WBG-PSS Holdings LLC; Payless Inc.; Payless Finance, Inc.; Collective Brands Services, Inc.; PSS Delaware Company 4, Inc.; Shoe Sourcing, Inc.; Payless ShoeSource, Inc.; Eastborough, Inc.; Payless Purchasing Services, Inc.; Payless ShoeSource Merchandising, Inc.; Payless Gold Value CO, Inc.; Payless ShoeSource Distribution, Inc.; Payless ShoeSource Worldwide, Inc.; Payless NYC, Inc.; Payless ShoeSource of Puerto Rico, Inc.; Payless Collective GP, LLC; Collective Licensing, L.P.; Collective Licensing International LLC; Clinch, LLC; Collective Brands Franchising Services, LLC; Payless International Franchising, LLC; PSS Canada, Inc.; Payless ShoeSource Canada Inc.; Payless ShoeSource

Canada GP Inc.; and Payless ShoeSource Canada LP and such other entities as are or may be debtors for purposes of the U.S. Proceedings;

- (rr) **"U.S. Proceedings"** means the proceedings commenced on February 18, 2019 by the U.S. Debtors under chapter 11 of title 11 of the United States Code in the U.S. Bankruptcy Court; and
- (ss) **"WEPPA"** means the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1.

GENERAL PROVISIONS

3. **THIS COURT ORDERS** that all references to time herein shall mean Toronto time and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.
4. **THIS COURT ORDERS** that all references to the word "including" shall mean "including without limitation".
5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.
6. **THIS COURT ORDERS** that the Claims Procedure and the forms of Notice to Claimants, Instruction Letter, Proof of Claim, General Claim Statement, Employee Claim Statement, Landlord Claim Statement, and Notice of Dispute of Claim Statement are hereby approved and, if applicable, arrangements shall be made for French language translations of such forms. Notwithstanding the foregoing, the Payless Canada Entities with the consent of the Monitor may, from time to time, make non-substantive changes to the forms as the Payless Canada Entities may consider necessary or desirable.
7. **THIS COURT ORDERS** that the Payless Canada Entities and the Monitor are hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may waive strict compliance with the requirements of this Claims Procedure Order as to completion, execution and submission of such forms and to request any further documentation from a Claimant that the Payless Canada Entities or the Monitor may require.
8. **THIS COURT ORDERS** that all Claims shall be denominated in Canadian dollars. Any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of

Canada daily average exchange rate on the Filing Date, which for United States dollar is USD 1.328:CAD 1.

9. **THIS COURT ORDERS** that there shall be no presumption of validity or deeming of the amount due in respect of amounts claimed in any Assessment.

10. **THIS COURT ORDERS** that copies of all forms delivered hereunder, as applicable, shall be maintained by the Monitor. The Monitor shall promptly provide copies of all Proofs of Claim and Notices of Dispute of Claim Statement received by the Monitor in connection with the Claims Procedure to counsel for the Payless Canada Entities, Cassels Brock & Blackwell LLP, by email to Taschina Ashmeade (tashmeade@casselsbrock.com).

ROLE OF THE MONITOR

11. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA, the Initial Order and any other orders of the Court in the CCAA Proceedings, shall assist the Payless Canada Entities in the administration of the Claims Procedure provided for herein and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Procedure Order.

12. **THIS COURT ORDERS** that the Monitor shall (i) have all protections afforded to it by the CCAA, this Claims Procedure Order, the Initial Order, any other Orders of the Court in the CCAA Proceedings and other applicable law in connection with its activities in respect of this Claims Procedure Order, including the stay of proceedings in its favour provided pursuant to the Initial Order; and (ii) incur no liability or obligation as a result of carrying out the provisions of this Claims Procedure Order, including in respect of its exercise of discretion as to the completion, execution or time of delivery of any documents to be delivered hereunder, other than in respect of gross negligence or wilful misconduct.

13. **THIS COURT ORDERS** that the Payless Canada Entities, the Officers, the Directors and their respective employees, agents and representatives and any other Person given notice of this Claims Procedure Order shall fully cooperate with the Monitor in the exercise of its powers and the discharge of its duties and obligations under this Claims Procedure Order.

NOTICE TO CLAIMANTS

14. **THIS COURT ORDERS** that:

- (a) the Monitor shall, not later than five (5) Business Days following the granting of the Claims Procedure Order, deliver on behalf of the Payless Canada Entities to each of the Known Claimants a copy of the Claim Document Package;
- (b) the Monitor shall cause to be published on or before May 1, 2019, the Notice to Claimants in the following newspapers: (i) *The Globe and Mail* (National Edition); and (ii) *Le Devoir*;
- (c) the Monitor shall post a copy of this Claims Procedure Order, the Applicants' Motion Record in respect of this Claims Procedure Order, and the Claim Document Package on the Monitor's Website;
- (d) the Monitor shall deliver as soon as reasonably possible following receipt of a request therefor, a copy of the Claim Document Package to any Person claiming to be a Claimant and requesting such material in writing; and
- (e) any notices of disclaimer or resiliation delivered to Claimants by the Payless Canada Entities or the Monitor after the date of this Order shall be accompanied by a Claim Document Package and upon becoming aware of any other circumstance giving rise to a Restructuring Period Claim, the Monitor shall send a Claim Document Package to the Claimant or may direct the Claimant to the documents posted on the Monitor's Website in respect of such Restructuring Period Claim.

15. **THIS COURT ORDERS** that the Monitor shall be entitled to rely on the accuracy and completeness of the information obtained from the books and records of the Payless Canada Entities regarding the Known Claimants. For greater certainty, the Monitor shall have no liability in respect of the information provided to it or otherwise obtained by it regarding the Known Claimants and shall not be required to conduct any independent inquiry and investigation with respect to that information.

PROOFS OF CLAIM

16. **THIS COURT ORDERS** that subject to paragraphs 18 to 22 below, to be effective, every Claimant asserting a Claim against any of the Payless Canada Entities or the Directors or Officers or any of them shall set out its aggregate Claim in a Proof of Claim, including supporting documentation, and deliver that Proof of Claim to the Monitor so that it is actually

received by the Monitor by no later than the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable.

17. **THIS COURT ORDERS** that if a Chapter 11 Proof of Claim is inadvertently filed in respect of any of the Payless Canada Entities and such Chapter 11 Proof of Claim would have been timely filed in accordance with the Chapter 11 Claims Procedure if such procedure applied to it, such Chapter 11 Proof of Claim will be deemed to be a Proof of Claim that has been timely delivered to the Monitor in accordance with the Claims Procedure. If in respect of any of the Payless Canada Entities (i) a Claimant has delivered a Proof of Claim to the Monitor in accordance with the Claims Procedure and has also filed a Chapter 11 Proof of Claim, the Proof of Claim delivered in accordance with the Claims Procedure shall govern, and (ii) a Claim Statement has been delivered to a Claimant and such Claimant has also filed a Chapter 11 Proof of Claim, the Claim Statement and the procedures related thereto specified in paragraphs 18 to 22 shall govern.

CLAIM STATEMENT

18. **THIS COURT ORDERS** that the Payless Canada Entities may elect, in consultation with the Monitor, to deliver a Claim Statement to Known Claimants by requesting that the Monitor include such Claim Statement in the Claim Document Package delivered to such Known Claimant pursuant to paragraph 14. Such Claim Statement shall be in substantially the form attached hereto as Schedule "D-1", Schedule "D-2", or Schedule "D-3" as applicable, and shall specify the classification, amount and nature of such Known Claimant's Claim as determined by the Payless Canada Entities, in consultation with the Monitor, based on the books and records of the Payless Canada Entities (the "**Listed Claim**").

19. **THIS COURT ORDERS** that any Claimant who does not dispute the classification, amount or nature of the Listed Claim set forth in the Claim Statement delivered to such Claimant is not required to take any further action and the Claim of such Claimant shall, subject to paragraph 21, be deemed to be the Listed Claim.

20. **THIS COURT ORDERS** that any Claimant who wishes to dispute the classification, amount and/or nature of the Listed Claim set forth in the Claim Statement delivered to such Claimant or to assert an additional Claim in relation to the Payless Canada Entities other than the Listed Claim shall be required to deliver a Notice of Dispute of Claim Statement to the

Monitor so that it is actually received by the Monitor by no later than the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable.

21. **THIS COURT ORDERS** that if, after the date on which a Claim Statement is initially delivered to a Claimant, the Payless Canada Entities, in consultation with the Monitor, determines that it is appropriate to change the classification, amount or nature of the Listed Claim set forth in such Claim Statement, the Monitor shall cause an amended Claim Statement (an "**Amended Claim Statement**") to be delivered to such Claimant, which Amended Claim Statement and the revised Listed Claim specified therein shall thereafter supersede any previous Claim Statement delivered to such Claimant. If the Claimant wishes to dispute the classification, amount and/or nature of the Listed Claim set forth in the Amended Claim Statement, such Claimant shall be required to deliver a Notice of Dispute of Claim Statement so that it is actually received by the Monitor on or before the later of (i) the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, and (ii) thirty (30) days after the date on which the Amended Claim Statement is delivered to the Claimant.

22. **THIS COURT ORDERS** that any Claimant that does not deliver a Notice of Dispute of Claim Statement in respect of a Claim Statement or an Amended Claim Statement, if applicable, pursuant to paragraphs 20 and 21, as applicable, shall be forever barred from disputing the classification, amount and/or nature of the Listed Claim set forth in the Claim Statement or Amended Claim Statement, as applicable, and any Claim of a different classification or nature or in excess of the amount specified in the Claim Statement or Amended Claim Statement, as applicable, shall be forever barred and extinguished.

23. **THIS COURT ORDERS** that, notwithstanding anything contained in this Order and given that the Payless Canada Entities are not subject to a bankruptcy or receivership proceeding at this time, any Claimant that does not deliver a Notice of Dispute of Claim Statement in connection with an Employee Claim Statement, shall not be barred from claiming additional amounts from Her Majesty in right of Canada or the Minister of National Revenue in respect of his or her entitlement to any future amounts claimable under WEPPA (an "**Additional WEPPA Claim**") should WEPPA apply, provided that in no circumstances shall any Person other than Her Majesty in right of Canada or the Minister of National Revenue have any liability whatsoever for any Additional WEPPA Claim.

D&O INDEMNITY CLAIMS

24. **THIS COURT ORDERS** that to the extent that any Director/Officer Claim is filed in accordance with this Claims Procedure or a Listed Claim includes a Director/Officer Claim, a corresponding D&O Indemnity Claim shall be deemed to have been timely filed in respect of each of each Director/Officer Claim. For the avoidance of doubt, Directors and Officers shall not be required take any action or to file Proof of Claim in respect of such D&O Indemnity Claim.

CLAIMS BARRED

25. **THIS COURT ORDERS** that, subject to paragraphs 18 to 22, any Person that does not deliver a Proof of Claim in respect of a Claim in the manner required by this Claims Procedure Order so that it is actually received by the Monitor on or before the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable:

- (a) shall not be entitled to attend or vote at a Meeting in respect of such Claim;
- (b) shall not be entitled to receive any distribution in respect of such Claim pursuant to a Plan or otherwise;
- (c) shall not be entitled to any further notice in the CCAA Proceedings (unless it has otherwise sought to be included on the Service List); and
- (d) shall be and is hereby forever barred from making or enforcing such Claim against the Payless Canada Entities, or the Directors or Officers or any of them, and such Claim shall be and is hereby extinguished without any further act or notification.

For greater certainty, this paragraph shall not apply to Excluded Claims and the rights of any Person (including the Payless Canada Entities) with respect to Excluded Claims are expressly reserved.

SET-OFF

26. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall affect any right of set-off that any of the Payless Canada Entities may have against any Person.

TRANSFER OF CLAIMS

27. **THIS COURT ORDERS** that if the holder of a Claim transfers or assigns the whole of such Claim to another Person, neither the Monitor nor the Payless Canada Entities shall be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until written notice of such transfer or assignment, together with evidence satisfactory to the Monitor, in its sole discretion, of such transfer or assignment, has been received by the Monitor and the Monitor has provided written confirmation acknowledging the transfer or assignment of such Claim, and thereafter such transferee or assignee shall for the purposes hereof constitute the "Claimant" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Claims Procedure Order prior to receiving written confirmation by the Monitor acknowledging such assignment or transfer. After the Monitor has delivered a written confirmation acknowledging the notice of the transfer or assignment of a Claim, the Payless Canada Entities and the Monitor shall thereafter be required only to deal with the transferee or assignee and not the original holder of the Claim. A transferee or assignee of a Claim takes the Claim subject to any defences and rights of set-off to which the Payless Canada Entities may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to the Payless Canada Entities. Reference to transfer in this Claims Procedure Order includes a transfer or assignment whether absolute or intended as security.

28. **THIS COURT ORDERS** that if a Claimant or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Monitor as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Payless Canada Entities and the Monitor shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Claimant may, by notice in writing delivered to the Monitor, direct that subsequent dealings in respect of such Claim, but only as a whole, shall be dealt with by a specified Person and in such event, such Person shall be bound

by any notices given or steps taken in respect of such Claim with such Claimant or in accordance with the provisions of this Claims Procedure Order.

DETERMINATION OF CLAIMS

29. **THIS COURT ORDERS** that, except as contemplated by paragraphs 19 and 22, the applicable procedures for reviewing and determining Claims, if any, shall be established by further Order of the Court.

SERVICE AND NOTICE

30. **THIS COURT ORDERS** that the Payless Canada Entities and the Monitor may, unless otherwise specified by this Claims Procedure Order, serve and deliver or cause to be served and delivered the Claim Document Package, any letters, notices or other documents to Claimants or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to such Persons or their counsel (including counsel of record in any ongoing litigation) at the physical or electronic address, as applicable, last shown on the books and records of the Payless Canada Entities or set out in such Claimant's Proof of Claim or Notice of Dispute of Claim Statement, if one has been filed. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within Canada, and the fifth Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

31. **THIS COURT ORDERS** that any notice or communication required to be provided or delivered by a Claimant to the Monitor under this Claims Procedure Order shall be in writing in substantially the form, if any, provided for in this Claims Procedure Order and will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery or email addressed to:

FTI Consulting Canada Inc. as Monitor of the Payless Canada Entities
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8

E-mail: paylesscanada@fticonsulting.com

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof before 5:00 p.m. on a Business Day or if delivered outside of normal business hours, the next Business Day.

32. **THIS COURT ORDERS** that the posting of materials on the Monitor's Website pursuant to paragraph 14(c), the publication of the Notice to Claimants and the mailing of the Claim Document Packages as set out in this Claims Procedure Order shall constitute good and sufficient notice to Claimants of the Claims Bar Date, the Restructuring Period Claims Bar Date and the other deadlines and procedures set forth herein, and that no other form of notice or service need be given or made on any Person, and no other document or material need be served on any Person in respect of the claims procedure described herein.

33. **THIS COURT ORDERS** that in the event that this Claims Procedure Order is subsequently amended by further Order of the Court, the Payless Canada Entities shall serve notice of such amendment on the Service List in these proceedings and the Monitor shall post such further Order on the Monitor's Website and such posting shall constitute adequate notice to all Persons of such amendment.

GENERAL

34. **THIS COURT ORDERS** that notwithstanding any other provisions of this Claims Procedure Order, the solicitation by the Monitor or the Payless Canada Entities of Proofs of Claim, the delivery of Claim Document Packages to Known Claimants, and the filing by any Person of any Proof of Claim or Notice of Dispute of Claim Statement shall not, for that reason only, grant any Person any standing in the CCAA Proceedings or rights under a Plan.

35. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall prejudice the rights and remedies of any Directors or Officers or other Persons under the Directors' Charge or any applicable insurance policy or prevent or bar any Person from seeking recourse against or payment from the Payless Canada Entities' insurance and any Director's or Officer's liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons, whether such recourse or payment is sought directly by the Person asserting a Claim from the insurer or derivatively through the Director or Officer or the Payless Canada Entities; provided, however, that nothing in this Claims Procedure Order shall create any rights in favour of such Person under any policies of insurance nor shall anything in this Claims Procedure Order limit, remove, modify or alter any defence to such Claim available to the insurer pursuant

to the provisions of any insurance policy or at law; and further provided that any Claim or portion thereof for which the Person receives payment directly from, or confirmation that the Person is covered by, the Payless Canada Entities' insurance or any Director's or Officer's liability insurance or other liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons shall not be recoverable as against the Payless Canada Entities or Director or Officer, as applicable.

36. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall constitute or be deemed to constitute an allocation or assignment of Claims into particular classes for the purpose of the Plan and, for greater certainty, the treatment of Claims, or any other claims and the classification of creditors for voting and distribution purposes, shall be subject to the terms of a Plan or further Order of this Court.

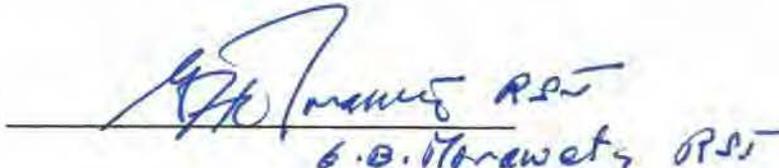
37. **THIS COURT ORDERS** that the Payless Canada Entities or the Monitor may from time to time apply to this Court to amend, vary, supplement or replace this Claims Procedure Order or for advice and directions concerning the discharge of their respective powers and duties under this Claims Procedure Order or the interpretation or application of this Claims Procedure Order.

38. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or outside Canada to give effect to this Claims Procedure Order and to assist the Payless Canada Entities, the Monitor and their respective agents in carrying out the terms of this Claims Procedure Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Payless Canada Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Claims Procedure Order, to grant representative status to the Payless ShoeSource Canada Inc. in any foreign proceeding, or to assist the Payless Canada Entities and the Monitor and their respective agents in carrying out the terms of this Claims Procedure Order.

39. **THIS COURT ORDERS** that this Claims Procedure Order and all of its provisions are effective as of 12:01 a.m. Toronto Time on the date of this Claims Procedure Order.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

APR 24 2019


G. B. Morawetz R.S.J.

PER / PAR: 

SCHEDULE "A"

INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE

**Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc.,
and Payless ShoeSource Canada LP
(the "Payless Canada Entities") and/or their Directors or Officers**

A. CLAIMS PROCEDURE

By Order of the Ontario Superior Court of Justice (Commercial List) made April 24, 2019 (the "**Claims Procedure Order**"), the Court-appointed Monitor of the Payless Canada Entities, FTI Consulting Canada Inc. (in such capacity, the "**Monitor**"), has been authorized to assist the Payless Canada Entities in conducting a claims procedure (the "**Claims Procedure**") with respect to claims against the Payless Canada Entities and their present or former Directors and Officers ("**Directors/Officers**") in accordance with the terms of the Claims Procedure Order.

A similar claims process has also been established by the U.S. Bankruptcy Court with respect to the U.S. Debtors other than the Payless Canada Entities (the "**Chapter 11 Claims Procedure**"). The Order of the U.S. Bankruptcy Court granted in respect of the Chapter 11 Claims Procedure provides that it does not apply to the Payless Canada Entities or claims against the Payless Canada Entities, other than certain limited matters relating to notice and coordination. The Claims Procedure Order governs all claims against the Payless Canada Entities.

Unless otherwise defined, all capitalized terms used herein shall have the meanings given to those terms in the Claims Procedure Order.

The Claims Procedure Order, the Claim Document Package, additional Proofs of Claim and related materials may be accessed from the Monitor's Website at <http://cfcanada.fticonsulting.com/paylesscanada/>.

This letter provides instructions for responding to or completing the Proof of Claim or a Notice of Dispute of Claim Statement. Reference should be made to the Claims Procedure Order for a complete description of the Claims Procedure.

The Claims Procedure is intended for any Person with any Claims of any kind or nature whatsoever against the Payless Canada Entities or the Directors/Officers of the Payless Canada Entities, whether liquidated, unliquidated, contingent or otherwise. Please review the enclosed material for the complete definitions of "Claim", "Prefiling Claim", "Restructuring Period Claim" and "Director/Officer Claim" to which the Claims Procedure applies.

All notices and enquiries with respect to the Claims Procedure should be addressed to:

FTI Consulting Canada Inc. as Monitor of the Payless Canada Entities
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8
Phone: 416 649 8096
Toll Free: 1 855 718 5255

Fax: 416 649 8101

E-mail: paylesscanada@fticonsulting.com

B. FOR CLAIMANTS SUBMITTING A PROOF OF CLAIM

Unless you are a Listed Claimant (as defined below), if you believe that you have a Claim against the Payless Canada Entities or the Directors or Officers of any of the Payless Canada Entities, you must file a Proof of Claim with the Monitor.

If a Chapter 11 Proof of Claim relating to the Payless Canada Entities is inadvertently filed in accordance with the Chapter 11 Claims Procedure (including by the claims bar dates specified therein) as if such procedure otherwise applied to the Payless Canada Entities, the Chapter 11 Proof of Claim will be deemed to have been filed with the Monitor in accordance with the Claims Procedure. If both a Proof of Claim and Chapter 11 Proof of Claim are timely filed, the Proof of Claim delivered in accordance with the Claims Procedure shall govern.

All **Proofs of Claim for Prefiling Claims** (i.e., Claims against the Payless Canada Entities arising prior to the Filing Date) and all **Director/Officer Claims** must be received by the Monitor **before 11:59 p.m. (Central Time) on June 7, 2019** (the "**Claims Bar Date**").

All **Proofs of Claim for Restructuring Period Claims** (i.e. Claims against the Payless Canada Entities arising on or after the Filing Date) must be received by the Monitor **before 11:59 p.m. (Central Time) on the date that is the later of (i) the Claims Bar Date and (ii) thirty (30) days after the date on which the Monitor sends a Claim Document Package with respect to a Restructuring Period Claim** (the "**Restructuring Period Claims Bar Date**").

PROOFS OF CLAIM MUST BE RECEIVED BY THE CLAIMS BAR DATE OR RESTRUCTURING PERIOD CLAIMS BAR DATE, AS APPLICABLE, OR THE APPLICABLE CLAIM WILL BE FOREVER BARRED AND EXTINGUISHED. If you are required to file a Proof of Claim pursuant to the Claims Procedure but do not file a Proof of Claim in respect of a Claim by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, you shall not be entitled to vote at any Meeting regarding a Plan or participate in any distribution under a Plan or otherwise in respect of such Claims.

All Claims denominated in foreign currency shall be converted to Canadian dollars at the Bank of Canada daily average exchange rate on the date of the Initial Order.

Additional Proof of Claim forms can be obtained by contacting the Monitor at the telephone numbers and address indicated above and providing particulars as to your name, address and facsimile number or email mail address. Additional Proofs of Claim and related materials may be accessed from the Monitor's Website at <http://cfcanada.fticonsulting.com/paylesscanada/>.

C. FOR CLAIMANTS WHO RECEIVE A CLAIM STATEMENT

Certain Known Claimants of the Payless Canada Entities (each a "**Listed Claimant**") will receive a Claim Statement from the Monitor specifying the classification, amount and nature of such Claimant's Claim as determined by the Payless Canada Entities, in consultation with the Monitor, based on the books and records of the Payless Canada Entities (the "**Listed Claim**").

If you receive a Claim Statement and you do not dispute the classification, amount or nature of the Listed Claim, you are not required to take any further action or to file a Proof of Claim with the Monitor in the Claims Procedure Order.

If you wish to dispute the classification, amount and/or nature of the Listed Claim set forth in the Claim Statement or to assert an additional Claim in relation to the Payless Canada Entities other than the Listed Claim, you are required to deliver a Notice of Dispute of Claim Statement to the Monitor so that it is actually received by the Monitor by no later than the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable.

If a completed Notice of Dispute of Claim Statement in respect of a Listed Claim is not received by the Monitor by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, the Claimant shall be forever barred from disputing the classification, amount or nature of the Listed Claim and any Claim of a different classification or nature or in excess of the amount specified in the Listed Claim shall be forever barred and extinguished. **IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CLAIMANT AND WILL BE FINAL AND BINDING ON THE CLAIMANT FOR ALL PURPOSES.**

DATED at Toronto, Ontario this _____ day of _____, 2019.

FTI Consulting Canada Inc.,
solely in its capacity as Monitor of
the Payless Canada Entities, and not
in its personal capacity.

SCHEDULE "B"

NOTICE TO CLAIMANTS

**Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc.,
and Payless ShoeSource Canada LP
(the "Payless Canada Entities") and/or their Directors or Officers**

RE: NOTICE OF CLAIMS PROCEDURE AND CLAIMS BAR DATE

This notice is being published pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) dated April 24, 2019 (the "**Claims Procedure Order**") in proceedings in respect of the Payless Canada Entities pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). The Court has ordered that the Court-appointed Monitor of the Payless Canada Entities, FTI Consulting Canada Inc. (in such capacity, the "**Monitor**"), assist the Payless Canada Entities with conducting a claims procedure (the "**Claims Procedure**") with respect to claims against the Payless Canada Entities and their present and former Directors and Officers ("**Directors/Officers**"). The Monitor is required to send Claim Document Packages to the Payless Canada Entities' Known Claimants. All capitalized terms herein shall have the meanings given to those terms in the Claims Procedure Order.

The Claims Procedure Order, the Claim Document Package, additional Proofs of Claim and related materials may be accessed from the Monitor's Website at <http://cfcanada.fticonsulting.com/paylesscanada/>.

A. Submission of Proof of Claim

With the exception of Listed Claimants (as defined below), all persons wishing to assert a Claim against the Payless Canada Entities or the Directors/Officers must file a Proof of Claim with the Monitor.

THE CLAIMS BAR DATE is 11:59 p.m. (Central Time) on June 7, 2019. Proofs of Claim in respect of Prefiling Claims and Director/Officer Claims must be completed and filed with the Monitor on or before the Claims Bar Date.

THE RESTRUCTURING PERIOD CLAIMS BAR DATE is 11:59 p.m. (Central Time) on the date that is the later of (i) the Claims Bar Date and (ii) thirty (30) days after the date on which the Monitor sends a Claim Document Package with respect to a Restructuring Period Claim (the "Restructuring Period Claims Bar Date"). Proofs of Claim in respect of Restructuring Period Claims must be completed and filed with the Monitor on or before the Restructuring Period Claims Bar Date.

PROOFS OF CLAIM MUST BE RECEIVED BY THE MONITOR BY THE CLAIMS BAR DATE OR RESTRUCTURING PERIOD CLAIMS BAR DATE, AS APPLICABLE, OR THE CLAIM WILL BE FOREVER BARRED AND EXTINGUISHED. If you are required to file a Proof of Claim pursuant to the Claims Procedure but do not file a Proof of Claim in respect of a Claim by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, you shall not

be entitled to vote at any Meeting regarding a Plan or participate in any distribution under a Plan, if any, or otherwise in respect of such Claims.

Reference should be made to the enclosed material for the complete definitions of "Claim", "Prefiling Claim", "Restructuring Period Claim" and "Director/Officer Claim" to which the Claims Procedure applies.

B. Listed Claimants Receiving a Claim Statement

Certain Known Claimants of the Payless Canada Entities (each a "**Listed Claimant**") will receive a Claim Statement from the Monitor specifying the classification, amount and nature of such party's Claim as determined by the Payless Canada Entities, in consultation with the Monitor, based on the books and records of the Payless Canada Entities (the "**Listed Claim**").

If you receive a Claim Statement and you do not dispute the classification, amount or nature of the Listed Claim, you are not required to take any further action or to file a Proof of Claim with the Monitor in the Claims Procedure Order.

If you wish to dispute the classification, amount and/or nature of the Listed Claim set forth in the Claim Statement or to assert an additional Claim in relation to any of the Payless Canada Entities other than the Listed Claim, you are required to deliver a Notice of Dispute of Claim Statement to the Monitor so that it is received by the Monitor by no later than the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable.

If a completed Notice of Dispute of Claim Statement in respect of a Listed Claim is not received by the Monitor by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, the Claimant shall be forever barred from disputing the classification, amount or nature of the Listed Claim and any Claim of a different classification or nature or in excess of the amount specified in the Listed Claim shall be forever barred and extinguished. **IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CLAIMANT AND WILL BE FINAL AND BINDING ON THE CLAIMANT FOR ALL PURPOSES.**

C. Monitor Contact Information

The Monitor can be contacted at the following address to request a Claim Document Package or for any other notices or enquiries with respect to the Claims Procedure:

FTI Consulting Canada Inc. as Monitor of the Payless Canada Entities
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8
Phone: 416 649 8096
Toll Free: 1 855 718 5255
Fax: 416 649 8101
E-mail: paylesscanada@fticonsulting.com

DATED at Toronto, Ontario this _____ day of _____, _____ 2019.

FTI Consulting Canada Inc.,
solely in its capacity as Monitor of

the Payless Canada Entities, and not in its personal capacity.

SCHEDULE "C"

PROOF OF CLAIM

**Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc.,
and Payless ShoeSource Canada LP
(the "Payless Canada Entities") and/or their Directors or Officers**

Please read carefully the enclosed Instruction Letter for completing this Proof of Claim. All capitalized terms not defined herein have the meanings given to such terms in the Claims Procedure Order dated April 24, 2019.

I. PARTICULARS OF CLAIMANT:

1. 1. Full Legal Name of Claimant:
_____ (the "Claimant")

2. Full Mailing Address of the Claimant:

3. Telephone Number: _____

4. E-Mail Address: _____

5. Facsimile Number: _____

6. Attention (*Contact Person*): _____

7. Have you acquired this Claim by assignment?

Yes: No: (*if yes, attach documents evidencing assignment*)

If Yes, Full Legal Name of Original Claimant(s):

II. PROOF OF CLAIM:

1. I, _____
(*name of Claimant or Representative of the Claimant*), of _____
_____ do hereby certify:
(*city and province*)

- (a) that I [check (✓) one]
- am the Claimant; OR
- am _____ (state position or title) of

(name of Claimant)

- (b) that I have knowledge of all the circumstances connected with the Claim referred to below;
- (c) that one or more of the Payless Canada Entities and/or the Directors/Officers of the Payless Canada Entities were and still are indebted to the Claimant as follows:¹

Debtor	Prefiling Claim Amount	Secured, Priority Unsecured, or Unsecured	Value of Security, if any:
Payless ShoeSource Canada Inc.			
Payless ShoeSource Canada GP Inc.			
Payless ShoeSource Canada LP			
Directors and Officers of the Payless Canada Entities			
_____ (insert names above)			

Debtor	Restructuring Period Claim Amount	Secured, Priority Unsecured, or Unsecured	Value of Security, if any:
Payless ShoeSource Canada Inc.			
Payless ShoeSource Canada GP Inc.			
Payless ShoeSource Canada LP			
Directors and Officers of the Payless Canada Entities			
_____ (insert names above)			

¹ (Claims in a foreign currency are to be converted to Canadian Dollars at the Bank of Canada daily average exchange rate for February 19, 2019. The Canadian Dollar/U.S. Dollar daily average exchange rate on that date was CAD\$1/ USD\$1.323.)

III. PARTICULARS OF CLAIM

The particulars of the undersigned's total Claim (including Prefiling Claims, Restructuring Period Claims and Director/Officer Claims) are attached.

(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) which has guaranteed the Claim, particulars and copies of any security and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed. Include the relevant store location and number if applicable. If a Claim is made against any Directors or Officers, specify the applicable Directors or Officers and the legal basis for the Claim against them.)

IV. FILING OF CLAIM

For **Prefiling Claims** and all **Director/Officer Claims**, this Proof of Claim must be received by the Monitor **before 11:59 p.m. (Central Time) on June 7, 2019** (the **"Claims Bar Date"**).

For **Restructuring Period Claims**, this Proof of Claim must be received by the Monitor **before 11:59 p.m. (Central Time) on the date that is the later of: (i) the Claims Bar Date and (ii) thirty (30) days after the date on which the Monitor sends a Claim Document Package with respect to a Restructuring Period Claim** (the **"Restructuring Period Claims Bar Date"**).

In both cases, completed forms must be delivered by prepaid ordinary mail, courier, personal delivery or electronic transmission at the following address:

FTI Consulting Canada Inc. as Monitor of the Payless Canada Entities
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8
Phone: 416 649 8096
Toll Free: 1 855 718 5255
Fax: 416 649 8101

E-mail: paylesscanada@fticonsulting.com

Failure to file your Proof of Claim as directed by the Claims Bar Date or Restructuring Period Claims Bar Date, as applicable, will result in your Claim being extinguished and barred and in you being prevented from making or enforcing a Claim against the applicable Payless Canada Entities or Director/Officer, as applicable.

Dated at _____ this _____ day of _____, 2019.

Signature of Claimant

SCHEDULE "D-1"

GENERAL CLAIM STATEMENT

(for Prefiling Claims and Restructuring Period Claims)

**Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc.,
and Payless ShoeSource Canada LP
(the "Payless Canada Entities") and/or their Directors or Officers**

Claim Reference Number: [Insert Claim Reference Number]
Store Number (if applicable): [Insert Store Number, if applicable]
To: [Insert Name of Known Claimant] (the
"Claimant")
[Insert Address of Known Claimant]

This General Claim Statement is delivered to the Claimant, as a Known Claimant of one or more of the Payless Canada Entities and/or their Directors or Officers as noted below, pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) dated April 24, 2019 (the "**Claims Procedure Order**") in proceedings in respect of the Payless Canada Entities pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). Pursuant to the Claims Procedure Order, the Court-appointed Monitor of the Payless Canada Entities, FTI Consulting Canada Inc. (in such capacity, the "**Monitor**"), has been directed to assist the Payless Canada Entities in conducting a claims procedure (the "**Claims Procedure**") with respect to claims against the Payless Canada Entities and their present or former Directors and Officers in accordance with the terms of the Claims Procedure Order. Unless otherwise defined, all capitalized terms used herein have the meanings given to those terms in the Claims Procedure Order.

According to the books, records and other relevant information in the possession of the Payless Canada Entities, the Claim of the Claimant is set out in the table below (the "**Listed Claim**"):

Debtor(s)	Classification of Claim	Amount of Claim^{1,2}	Nature of Claim
[name of Payless Canada Entity or Director/Officer]	[Prefiling Claim / Restructuring Period Claim]	[Insert amount of Claim]	[Unsecured Claim / Unsecured Priority Claim / Secured Claim]

¹ Amount is in Canadian dollars. Claims in a foreign currency have been converted to Canadian dollars at the Bank of Canada daily average exchange rate for February 19, 2019. The Canadian dollar/U.S. dollar daily average exchange rate for that date was CAD\$1/ USD\$1.323.

² If applicable, additional information with respect to the Listed Claim is provided in a schedule to this Claim Statement.

If the Listed Claim accurately reflects the Claim that the Claimant has in respect of such Payless Canada Entity(ies) (or any Director/Officer Claim), you are not required to take any further action or to file a Proof of Claim with the Monitor in the Claims Procedure Order.

If the Claimant wishes to dispute the classification, amount and/or nature of the Listed Claim or to assert an additional Claim against any of the Payless Canada Entities or the Directors or Officers other than the Listed Claim (including any Restructuring Period Claim), the Claimant must complete the enclosed Notice of Dispute of Claim Statement and deliver it to the Monitor such that it is received by the Monitor by no later than **11:59 p.m. (Central Time)** on June 7, 2019 (the “**Claims Bar Date**”) or, solely in respect of a Restructuring Period Claim, by **11:59 p.m. (Central Time)** on the day that is the later of (i) the Claims Bar Date, and (ii) thirty (30) days after the date on which the Monitor delivered the Claim Document Package to the Claimant (the “**Restructuring Period Claims Bar Date**”).

If a completed Notice of Dispute of Claim Statement in respect of the Listed Claim is not received by the Monitor by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, the Claimant shall be forever barred from disputing the classification, amount or nature of the Listed Claim and any Claim of a different classification or nature or in excess of the amount specified in the Listed Claim shall be forever barred and extinguished. **IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE GENERAL CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CLAIMANT AND WILL BE FINAL AND BINDING ON THE CLAIMANT FOR ALL PURPOSES.**

Claimants requiring further information or Claim documentation, or who wish to submit a Notice of Dispute of Claim Statement, may contact the Monitor at the following address:

FTI Consulting Canada Inc. as Monitor of the Payless Canada Entities
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8
Phone: 416 649 8096
Toll Free: 1 855 718 5255
Fax: 416 649 8101

E-mail: paylesscanada@fticonsulting.com

Dated at _____ this _____ day of _____, 2019.

FTI Consulting Canada Inc.,
solely in its capacity as Monitor of
the Payless Canada Entities, and not
in its personal capacity

SCHEDULE "D-2"

EMPLOYEE CLAIM STATEMENT

(for Prefiling Claims and Restructuring Period Claims)

**Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc.,
and Payless ShoeSource Canada LP
(the "Payless Canada Entities") and/or their Directors or Officers**

Claim Reference Number: [Insert Claim Reference Number]
Store Number (if applicable): [Insert Store Number, if applicable]
To: [Insert Name of Known Claimant] (the
"Claimant")
[Insert Address of Known Claimant]

This Employee Claim Statement is delivered to the Claimant, as a Known Claimant of one or more of the Payless Canada Entities and/or their Directors or Officers as noted below, pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) dated April 24, 2019 (the "**Claims Procedure Order**") in proceedings in respect of the Payless Canada Entities pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). Pursuant to the Claims Procedure Order, the Court-appointed Monitor of the Payless Canada Entities, FTI Consulting Canada Inc. (in such capacity, the "**Monitor**"), has been directed to assist the Payless Canada Entities in conducting a claims procedure (the "**Claims Procedure**") with respect to claims against the Payless Canada Entities and their present or former Directors and Officers in accordance with the terms of the Claims Procedure Order. Unless otherwise defined, all capitalized terms used herein have the meanings given to those terms in the Claims Procedure Order.

According to the books, records and other relevant information in the possession of the Payless Canada Entities, the Claim of the Claimant is set out in the table below (the "**Listed Claim**"):

Debtor(s)	Classification of Claim	Amount of Claim^{1, 2}	Nature of Claim
[name of Payless Canada Entity or Director/Officer]	[Prefiling Claim / Restructuring Period Claim]	[Insert amount of Claim]	[Unsecured Claim / Unsecured Priority Claim / Secured Claim]

¹ Amount is in Canadian dollars. Claims in a foreign currency have been converted to Canadian dollars at the Bank of Canada daily average exchange rate for February 19, 2019. The Canadian dollar/U.S. dollar daily average exchange rate for that date was CAD\$1/ USD\$1.323.

² If applicable, additional information with respect to the Listed Claim is provided in a schedule to this Claim Statement.

If the Listed Claim accurately reflects the Claim that the Claimant has in respect of such Payless Canada Entity(ies) (or any Director/Officer Claim), you are not required to take any further action or to file a Proof of Claim with the Monitor in the Claims Procedure Order.

Please note that the Listed Claim is calculated based on your statutory entitlement to termination and severance pay.

If the Claimant wishes to dispute the classification, amount and/or nature of the Listed Claim or to assert an additional Claim (based on common law, contract or otherwise) against any of the Payless Canada Entities or the Directors or Officers other than the Listed Claim, the Claimant must complete the enclosed Notice of Dispute of Claim Statement and deliver it to the Monitor such that it is received by the Monitor by no later than 11:59 p.m. (Central Time) on June 7, 2019 (the "Claims Bar Date") or, solely in respect of a Restructuring Period Claim, by 11:59 p.m. (Central Time) on the day that is the later of (i) the Claims Bar Date, and (ii) thirty (30) days after the date on which the Monitor delivered the Claim Document Package to the Claimant (the "Restructuring Period Claims Bar Date").

If a completed Notice of Dispute of Claim Statement in respect of the Listed Claim is not received by the Monitor by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, the Claimant shall be forever barred from disputing the classification, amount or nature of the Listed Claim and any Claim of a different classification or nature or in excess of the amount specified in the Listed Claim shall be forever barred and extinguished. **IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE EMPLOYEE CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CLAIMANT AND WILL BE FINAL AND BINDING ON THE CLAIMANT FOR ALL PURPOSES.**

Claimants requiring further information or Claim documentation, or who wish to submit a Notice of Dispute of Claim Statement, may contact the Monitor at the following address:

FTI Consulting Canada Inc. as Monitor of the Payless Canada Entities
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8
Phone: 416 649 8096
Toll Free: 1 855 718 5255
Fax: 416 649 8101

E-mail: paylesscanada@fticonsulting.com

Dated at _____ this _____ day of _____, 2019.

FTI Consulting Canada Inc.,
solely in its capacity as Monitor of
the Payless Canada Entities, and not
in its personal capacity

SCHEDULE "D-3"

LANDLORD CLAIM STATEMENT

(for Prefiling Claims and Restructuring Period Claims)

**Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc.,
and Payless ShoeSource Canada LP
(the "Payless Canada Entities") and/or their Directors or Officers**

Claim Reference Number: [Insert Claim Reference Number]
Store Number (if applicable): [Insert Store Number, if applicable]
To: [Insert Name of Known Claimant] (the
"Claimant")
[Insert Address of Known Claimant]

This Landlord Claim Statement is delivered to the Claimant, as a Known Claimant of one or more of the Payless Canada Entities and/or their Directors or Officers as noted below, pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) dated April 24, 2019 (the "**Claims Procedure Order**") in proceedings in respect of the Payless Canada Entities pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). Pursuant to the Claims Procedure Order, the Court-appointed Monitor of the Payless Canada Entities, FTI Consulting Canada Inc. (in such capacity, the "**Monitor**"), has been directed to assist the Payless Canada Entities in conducting a claims procedure (the "**Claims Procedure**") with respect to claims against the Payless Canada Entities and their present or former Directors and Officers in accordance with the terms of the Claims Procedure Order. Unless otherwise defined, all capitalized terms used herein have the meanings given to those terms in the Claims Procedure Order.

According to the books, records and other relevant information in the possession of the Payless Canada Entities, the Claim of the Claimant is set out in the table below (the "**Listed Claim**"):

Debtor(s)	Classification of Claim	Amount of Claim^{1, 2}	Nature of Claim
[name of Payless Canada Entity or Director/Officer]	[Prefiling Claim / Restructuring Period Claim]	[Insert amount of Claim]	[Unsecured Claim / Unsecured Priority Claim / Secured Claim]

¹ Amount is in Canadian dollars. Claims in a foreign currency have been converted to Canadian dollars at the Bank of Canada daily average exchange rate for February 19, 2019. The Canadian dollar/U.S. dollar daily average exchange rate for that date was CAD\$1/ USD\$1.323.

² If applicable, additional information with respect to the Listed Claim is provided in a schedule to this Claim Statement.

If the Listed Claim accurately reflects the Claim that the Claimant has in respect of such Payless Canada Entity(ies) (or any Director/Officer Claim), you are not required to take any further action or to file a Proof of Claim with the Monitor in the Claims Procedure Order.

Please note that the Listed Claim is only representative of your Prefiling Claim and that the Listed Claim does not list any Restructuring Period Claim you may have. If you have a Restructuring Period Claim, you must file a Notice of Dispute of Claim Statement and include such claim.

If the Claimant wishes to dispute the classification, amount and/or nature of the Listed Claim or to assert an additional Claim against any of the Payless Canada Entities or the Directors or Officers other than the Listed Claim (including any Restructuring Period Claim), the Claimant must complete the enclosed Notice of Dispute of Claim Statement and deliver it to the Monitor such that it is received by the Monitor by no later than **11:59 p.m. (Central Time)** on June 7, 2019 (the “**Claims Bar Date**”) or, solely in respect of a Restructuring Period Claim, by **11:59 p.m. (Central Time)** on the day that is the later of (i) the Claims Bar Date, and (ii) thirty (30) days after the date on which the Monitor delivered the Claim Document Package to the Claimant (the “**Restructuring Period Claims Bar Date**”).

If a completed Notice of Dispute of Claim Statement in respect of the Listed Claim is not received by the Monitor by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, the Claimant shall be forever barred from disputing the classification, amount or nature of the Listed Claim and any Claim of a different classification or nature or in excess of the amount specified in the Listed Claim shall be forever barred and extinguished. **IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE LANDLORD CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CLAIMANT AND WILL BE FINAL AND BINDING ON THE CLAIMANT FOR ALL PURPOSES.**

Claimants requiring further information or Claim documentation, or who wish to submit a Notice of Dispute of Claim Statement, may contact the Monitor at the following address:

FTI Consulting Canada Inc. as Monitor of the Payless Canada Entities
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8
Phone: 416 649 8096
Toll Free: 1 855 718 5255
Fax: 416 649 8101

E-mail: paylesscanada@fticonsulting.com

Dated at _____ this _____ day of _____, 2019.

FTI Consulting Canada Inc.,
solely in its capacity as Monitor of
the Payless Canada Entities, and not
in its personal capacity

SCHEDULE "E"

NOTICE OF DISPUTE OF CLAIM STATEMENT

**Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc.,
and Payless ShoeSource Canada LP
(the "Payless Canada Entities") and/or their Directors or Officers**

Capitalized terms not defined herein have the meanings given to them in the Order of the Ontario Superior Court of Justice (Commercial List) dated April 24, 2019 (the "Claims Procedure Order") or the Claim Statement.

I. PARTICULARS OF CLAIMANT

Claim Reference Number: [Insert Claim Reference Number listed on Claim Statement] (the "Claim Statement").

Full Legal Name of Claimant: _____

Full Mailing Address of Claimant: _____

Telephone Number: _____

Email Address: _____

Attention (Contact Person): _____

Have you acquired this Claim by assignment?

Yes: No: (if yes, attach documents evidencing assignment)

If Yes, Full Legal Name of Original Claimant(s): _____

II. DISPUTE OF CLAIM SET OUT IN CLAIM STATEMENT

The Claimant hereby disputes the classification, amount and/or nature of the Listed Claim set out in the Claim Statement and asserts the Claim(s) as set out in the following table:

	Classification of Claim	Amount of Claim	Nature of Claim
Name of Debtor or Director/Officer	[Prefiling Claim / Restructuring Period Claim/Director/Officer Claim]	[Insert amount of Claim]	[Unsecured Claim / Unsecured Priority Claim / Secured Claim]

III. REASONS FOR DISPUTE

Provide full particulars below as to the basis for the Claimant's dispute of the Listed Claim as set out in the Claim Statement and provide supporting documentation. This includes, without limitation, amounts, description of transaction(s) or agreement(s) giving rise to the Claim, the date and number of all invoices and supporting documentation, and particulars of all credits, discounts, rebates and similar items claimed. The particulars provided must support the value of the Claim as stated by the Claimant in the table above.

Dated this _____ day of _____, 2019.

Signature of Claimant or its Authorized Signatory

This Notice of Dispute of Claim Statement **MUST** be delivered to the Monitor at the below address such that it is received by the Monitor by no later than **11:59 p.m. (Central Time) on June 7, 2019** (the "**Claims Bar Date**") or, solely in respect of a Restructuring Period Claim, by **11:59 p.m. (Central Time)** on the day that is the later of (i) the Claims Bar Date, and (ii) thirty (30) days after the date on which the Monitor delivered the Claim Document Package to the Claimant (the "**Restructuring Period Claims Bar Date**");

FTI Consulting Canada Inc. as Monitor of the Payless Canada Entities
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8
Phone: 416 649 8096
Toll Free: 1 855 718 5255

Fax: 416 649 8101

E-mail: paylesscanada@fticonsulting.com

If a completed Notice of Dispute of Claim Statement in respect of the Listed Claim is not received by the Monitor by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, the Claimant shall be forever barred from disputing the classification, amount or nature of the Listed Claim and any Claim of a different classification or nature or in excess of the amount specified in the Listed Claim shall be forever barred and extinguished. **IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CLAIMANT AND WILL BE FINAL AND BINDING ON THE CLAIMANT FOR ALL PURPOSES.**

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**ORDER
(CLAIMS PROCEDURE ORDER)**

Cassels Brock & Blackwell LLP

2100 Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2

Ryan Jacobs LSO#: 59510J
Tel: 416. 860.6465
Fax: 416. 640.3189
rjacobs@casselsbrock.com

Jane Dietrich LSO#: 49302U
Tel: 416. 860.5223
Fax: 416. 640.3144
jdietrich@casselsbrock.com

Natalie E. Levine LSO#: 64980K
Tel: 416. 860.6568
Fax: 416. 640.3207
nlevine@casselsbrock.com

*Lawyers for Payless ShoeSource Canada Inc., Payless
ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP*

TAB 7

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR.) WEDNESDAY, THE 15th
)
JUSTICE WILTON-SIEGEL) DAY OF MARCH, 2017



IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT WITH RESPECT TO
U. S. STEEL CANADA INC.
(the "**Applicant**")

SUPPLEMENTARY CLAIMS PROCESS ORDER

THIS MOTION, made by U. S. Steel Canada Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order directing a supplementary claims process to identify, determine and resolve (i) claims against Directors and Officers (as defined below) and (ii) claims of certain creditors of the Applicant holding claims excluded from the application of the Order of this Court dated November 13, 2014 (the "**Claims Process Order**") for the purposes of a vote to be held in respect of a CCAA Plan (as defined below), was heard this day in Toronto, Ontario.

ON READING the affidavit of William E. Aziz sworn March 10, 2017 (the "**Aziz Affidavit**") and the Thirty-Seventh Report of Ernst & Young Inc. in its capacity as the Monitor of the Applicant (the "**Monitor**") dated March 13, 2017, and the affidavit of service of Emilia Moon de Kemp dated March 13, 2017, and on hearing the submissions of counsel for the Applicant, the Monitor and any such other counsel as were present:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS AND INTERPRETATION

2. **THIS COURT ORDERS AND DECLARES** that this Order shall supplement the Claims Process Order, which shall continue in full force and effect, subject to any modification hereof, and, subject to paragraph 20, nothing herein shall extend or be deemed to extend the time period for asserting any Claim or revive or otherwise affect any Claim that has been barred or extinguished pursuant to the Claims Process Order or other order of this Court. For greater certainty, to the extent of any discrepancy between this Order and the Claims Process Order, this Order shall govern.

3. **THIS COURT ORDERS AND DECLARES** that all capitalized terms not otherwise defined herein shall have the same meanings as ascribed in the Claims Process Order.

4. **THIS COURT ORDERS AND DECLARES** that the following terms shall have the following meanings ascribed thereto:

- (a) “Administrator” means U. S. Steel Canada Inc. in its capacity as administrator of certain non-USW retirement plans;
- (b) “Cash Conservation and Business Preservation Order” means the Order of this Court dated October 28, 2015;
- (c) “Claim” has the meaning ascribed in the Claims Process Order and for the purposes of this Order includes, notwithstanding the Excluded Claims set out in the Claims Process Order, a Non-USW OPEB Claim, a Non-USW Pension Claim, a Non-USW Supplemental Pension Claim, and a Non-USW Employee Restructuring Claim;
- (d) “Director” means any former or present director of the Applicant or any Person of similar position or any other Person who by applicable law is deemed to be or is treated similarly to a director of the Applicant or who currently manages or

supervises the management of the business and affairs of the Applicant or did so in the past.

- (e) “D&O Claim” means, as against any Director or Officer or Responsible Person, any and all demands, claims (including claims for contribution or indemnity), actions, causes of action, counterclaims, suits, debts, sums of money, liabilities, accounts, covenants, damages, judgments, orders (including orders for injunctive relief or specific performance and compliance orders), expenses, executions, encumbrances and recoveries on account of any liability, obligation, demand or cause of action of whatever nature that any creditor or other Person has or may be entitled to assert (including for, in respect of or arising out of environmental matters, pensions or post-employment benefits or alleged wrongful or oppressive conduct, misrepresentation, fraud or breach of fiduciary duty), whether known or unknown, matured or unmatured, contingent or actual, direct, indirect or derivative, at common law, in equity or under statute, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing, matter or occurrence existing or taking place at or prior to the Effective Time that in any way relate to or arise out of or in connection with (i) any Claims; (ii) the assets, obligations, business or affairs of the Applicant or any of the other members of the USSC Group, (iii) the administration or management of the pension plans of the Applicant or the assets thereof, or (iv) the CCAA Proceedings or any matter or transaction involving any of the members of the USSC Group occurring in or in connection with the CCAA Proceedings;
- (f) “D&O Claims Bar Date” means 5:00 p.m. Eastern Time on April 20, 2017;
- (g) “D&O Proof of Claim” means the proof of claim in substantially the form attached hereto as Schedule “E”, to be completed and filed by a Person setting forth its D&O Claim and which shall include all supporting documentation in respect of such D&O Claim;
- (h) “Effective Time” has the meaning ascribed to it in the CCAA Plan to be filed by the Applicant in this CCAA Proceeding;

- (i) “Mercer” means Mercer (Canada) Limited, the actuary retained by the Applicant for the purposes of these CCAA proceedings;
- (j) “Non-USW Employee” means any current or former employee of the USSC Group who is not represented by the USW.
- (k) “Non-USW Employee Restructuring Claim” means a Restructuring Claim of a Non-USW Employee arising as a result of the termination of employment of such Non-USW Employee by the Applicant or the suspension of Salary Continuance Payments pursuant to the Cash Conservation and Business Preservation Order;
- (l) “Non-USW Employee Restructuring Claims Bar Date” means the later of 21 Business Days after the date on which the Monitor sends a Notice of Non-USW Employee Restructuring Claim or 5:00 p.m. Eastern Time on April 20, 2017;
- (m) “Non-USW OPEB Claim” means a Claim of a Non-USW Employee (whether brought by the Non-USW Employee or by Representative Counsel on his or her behalf) and his or her dependents, heirs, administrators or assigns as at the Filing Date in respect of the coverage provided under the Applicant’s post-employment health and welfare benefit plans, including life insurance, health and dental benefits (but excluding pensions and other retirement payments) to Non-USW Employees, eligible spouses and dependents and surviving spouses of deceased Non-USW Employees;
- (n) “Non-USW OPEB Claims Report” means the actuarial valuation report to be prepared by Mercer, in consultation with USSC, the Monitor, Representative Counsel and Segal, and any amendments thereto, in connection with the Non-USW OPEB Claims;
- (o) “Non-USW Pension Claim” means a Claim of the Administrator in respect of the following retirement plans:
 - (i) the U. S. Steel Canada Inc. Retirement Plan for Salaried Employees at Hamilton Works (FSCO Registration No. 0338509);
 - (ii) the U. S. Steel Canada Inc. Retirement Plan for Salaried Employees at Lake Erie Works (FSCO Registration No. 0698753); and

- (iii) the U. S. Steel Canada Inc. Retirement Plan for Employees at the Pickle Line Department of Lake Erie Works (FSCO Registration No. 1206457);

which, for greater certainty, includes claims in respect of any contributions, obligations, deficits or deficiencies relating to such plans;

- (p) “Non-USW Pension Actuarial Report” means the most recent actuarial report prepared by the plan actuary, on behalf of the Administrator, in respect of each of the retirement plans referred to in subparagraph 4(n) as filed with the Financial Services Commission of Ontario;
- (q) “Non-USW Supplemental Pension Claims” means a Claim arising in respect of the provision of or an obligation to provide pension benefits to current and former Non-USW Employees and their beneficiaries pursuant to the retirement benefit contracts for specified members funded pursuant to a retirement compensation arrangement trust and the non-registered unfunded retirement benefit contracts for specified retired members, retiring allowance arrangements for former Stelpipe union members, and special retiring allowances for certain retired members and beneficiaries;
- (r) “Notice of Non-USW Employee Restructuring Claim” means the notice substantially in the form attached as Schedule “D”.
- (s) “Notice of Non-USW Supplemental Pension Claim” means the notice substantially in the form attached as Schedule “C”.
- (t) “Officer” means any former or present officer of the Applicant or any Person of similar position or any other Person who by applicable law is deemed to be or is treated similarly to an officer of the Applicant or that currently manages or supervises the management of the business and affairs of the Applicant or did so in the past.
- (u) “Opt Out Individuals” has the meaning ascribed in the Representative Counsel Appointment Order.
- (v) “Representative Counsel Appointment Order” means the order dated October 8, 2014 appointing certain representatives of the Non-USW Employees;

- (w) “Responsible Person” means any Director or Officer and any Person who, prior to the Effective Time, was requested to act, and who is acting or did or does act or is deemed to be treated by applicable law to be acting or have acted, as a director, officer, or Person of a similar position of another entity in which the Applicant has a direct or indirect interest;
- (x) “Salary Continuance Payments” has the meaning ascribed in the Cash Conservation and Business Preservation Order.
- (y) “Segal” means The Segal Group Inc., the actuary retained by the Non-USW Employees and Representative Counsel for the purpose of these CCAA proceedings;
- (z) “Supplementary Claims Process” means the process outlined in this Order, including the Schedules;
- (aa) “Supplementary Restructuring Claims Bar Date” means, in respect of Restructuring Claims arising on or after the date of this Order, 5:00 p.m. Eastern Time on a date that is 30 days after the date on which the Monitor sends a Proof of Claim Document Package with respect to a Restructuring Claim.
- (bb) “USSC Group” means the Applicant and its subsidiaries;
- (cc) “USW” means United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Applied Industrial and Service Workers International Union, USW Local 1005, USW Local 8782 and USW Local 8782(b).
- (dd) “Voting Value” means the amount deemed under this Order to be the value of such Claim for the purposes of a vote in the Creditors’ Meeting on a CCAA Plan and for no other purpose. For greater certainty, the Voting Value shall not be deemed to be the value of such Claim for the purposes of any distribution under a CCAA Plan unless otherwise determined in accordance with this Order.

NOTICE

5. **THIS COURT ORDERS** that the filing of any document or the giving of any notice in accordance with this Order by counsel on behalf of a Person shall satisfy the requirements set

out herein, including for greater certainty, by Representative Counsel on behalf of a Non-USW Employee.

6. **THIS COURT ORDERS** that:

- (a) the Monitor shall, as soon as practicable following the making of this Order send to each Non-USW Employee who is represented by Representative Counsel pursuant to the Representative Counsel Appointment Order and to any Opt-Out Individuals a notice substantially in the form attached as Schedule “A”; and
- (b) The Monitor shall, as soon as practicable following the making of this Order, post on the Monitor’s Website a copy of the this Order and the attached schedules substantially in the form approved hereunder; and
- (c) The Monitor shall as soon as practicable following the making of this Order, cause to be published in (i) The Globe and Mail newspaper (National Edition), (ii) the Hamilton Spectator, (iii) the Simcoe Reformer, (iv) the Wall Street Journal (National Edition), and (v) the Pittsburgh Post-Gazette for one day the notices substantially in the form attached as Schedules “A” and “B”.

7. **THIS COURT ORDERS** that, except as otherwise set out in this Order or any other orders of the Court, neither the Monitor nor Applicant is under any obligation to send or provide notice to any Person holding a Claim or a D&O Claim, and without limitation, neither the Monitor nor the Applicant shall have any obligation to send or provide notice to any Person having a security interest in a Claim (including the holder of a security interest created by way of a pledge or a security interest created by way of an assignment of a Claim) and all persons shall be bound by any notices delivered in accordance with this Order, whether or not they received actual notice, and any steps taken in respect of any Claim in accordance with this Order.

NON-USW PENSION CLAIMS

8. **THIS COURT ORDERS** that, solely for the purpose of determining the Voting Value of the Non-USW Pension Claims, the Applicant shall deliver copies of the Non-USW Pension

Actuarial Reports to Segal and Representative Counsel by no later than March 17, 2017, and that the wind up deficits set out in each Non-USW Pension Actuarial Report shall be deemed to be the Voting Value of the related Non-USW Pension Claims.

NON-USW OPEB CLAIMS

9. **THIS COURT ORDERS** that, solely for the purpose of determining the Voting Value of the Non-USW OPEB Claims:

- (a) Mercer shall prepare, in consultation with USSC, the Monitor, and Segal, a Non-USW OPEB Claims Report indicating the value of the Non-USW OPEB Claims on an aggregate basis and shall deliver the Non-USW OPEB Claims Report to the Applicant, Monitor, Segal, and Representative Counsel no later than March 21, 2017;
- (b) no later than March 31, 2017, Representative Counsel shall notify the Monitor and Applicant, in writing, of any error in or disagreement with the valuations set out in the Non-USW OPEB Claims Report;
- (c) if any errors or disagreements are identified in respect of the valuations set out in the Non-USW OPEB Claims Report, Mercer, in consultation with Segal, shall work as expeditiously as possible to resolve such error or disagreement and Mercer shall prepare a revised Non-USW OPEB Claims Report and deliver it to the Monitor, Applicant, and Representative Counsel by no later than April 7, 2017. If the error or disagreement cannot be resolved, the parties may seek further direction of this Court.

10. **THIS COURT ORDERS** that the Non-USW OPEB Claims determined in accordance with this Order and for which no motion for directions has been made in accordance with paragraph 9 shall be deemed to be the Voting Value of the Non-USW OPEB Claims.

NON-USW SUPPLEMENTAL PENSION CLAIMS

11. **THIS COURT ORDERS** that all Non-USW Supplemental Pension Claims shall be subject to the Supplementary Claims Process set forth in this Order, notwithstanding their treatment as Excluded Claims under the Claims Process Order. Nothing in this Order shall

extend any bar date or alter, amend, or revive any Non-USW Supplemental Pension Claim barred under any prior orders of this Court.

12. **THIS COURT ORDERS** that:

- (a) no later than March 17, 2017, Mercer and Segal shall consult with each other and determine an appropriate actuarial methodology for the calculation of Non-USW Supplemental Pension Claims;
- (b) no later than March 24, 2017, Mercer shall prepare, in consultation with Segal, and deliver to the Monitor and Applicant a schedule stating, on an individual basis, the value of the Non-USW Supplemental Pension Claims and the factual data used to arrive at the valuation;
- (c) no later than March 29, 2017, the Monitor shall send a Notice of Non-USW Supplemental Pension Claim substantially in the form attached as Schedule "C" stating the value of the individual's Non-USW Supplemental Pension Claim, the basis on which the individual's Non-USW Supplemental Pension Claim was calculated and any individual information relevant to the calculation of the Non-USW Supplemental Pension Claim amount:
 - (i) to the Opt-Out Individuals holding Non-USW Supplemental Pension Claims, by mail or if available, email; and
 - (ii) to Representative Counsel on behalf of each known Claimant holding a Non-USW Supplemental Pension Claim (other than the Opt-Out Individuals). As soon as practicable thereafter, Representative Counsel shall send the Notice of Non-USW Supplemental Pension Claim to each known Claimant holding a Non-USW Supplemental Pension Claim (other than the Opt-Out Individuals) by mail or if available, email;
- (d) no later than April 20, 2017:
 - (i) any Claimant represented by Representative Counsel wishing to dispute the factual data used to calculate his or her Non-USW Supplemental

Pension Claim, as set out in his or her Notice of Non-USW Supplemental Pension Claim shall notify Representative Counsel. Representative Counsel shall forthwith seek to have the error or disagreement corrected or resolved. In the event such error or disagreement cannot be resolved, the parties may seek the further direction of this Court; and

- (ii) any Opt-Out Individual wishing to dispute the factual data used to calculate his or her Non-USW Supplemental Pension Claim, as set out in his or her Notice of Non-USW Supplemental Pension Claim shall notify the Monitor. The Monitor shall forthwith seek to have the error or disagreement corrected or resolved. In the event such error or disagreement cannot be resolved, the parties may seek the further direction of the Court.

13. **THIS COURT ORDERS** that the value of any Non-USW Supplemental Pension Claims that are resolved, undisputed, or finally determined by the Court pursuant to paragraph 12 shall be final and binding, shall be the Voting Value of such Non-USW Supplemental Pension Claims and shall form such Claimant's Non-USW Supplemental Pension Claim for the purposes of any distributions under the CCAA Plan and such Claimant shall be forever barred from asserting any additional Non-USW Supplemental Pension Claims or claiming any additional amounts in respect thereof.

14. **THIS COURT ORDERS** that if Mercer and Segal are unable to agree on an appropriate actuarial methodology for the calculation of Non-USW Supplemental Pension Claims in accordance with paragraph 12, the aggregate value of the Non-USW Supplemental Pension Claims shall be calculated by Mercer (notwithstanding any dispute or disagreement by Segal over the actuarial methodology used) and such value shall be stated in each Claimant's Notice of Non-USW Supplemental Pension Claim and is deemed to be the Voting Value of such Non-USW Supplemental Pension Claim. For greater certainty, Non-USW Supplemental Pension Claims calculated in this manner shall be subject to final determination for the purposes of any distributions under the CCAA.

NON-USW EMPLOYEE RESTRUCTURING CLAIMS

15. **THIS COURT ORDERS** that all Non-USW Employee Restructuring Claims shall be subject to the Supplementary Claims Process set forth in this Order, notwithstanding their treatment as Excluded Claims under the Claims Process Order. Nothing in this Order shall extend any bar date or alter, amend, or revive any Non-USW Employee Restructuring Claim barred under any prior orders of this Court.

16. **THIS COURT ORDERS** that:

- (a) no later than March 17, 2017, the Monitor shall send to Representative Counsel on behalf of each known Claimant holding a Non-USW Employee Restructuring Claim, according to a schedule to be provided by the Applicant to the Monitor, a Notice of Non-USW Employee Restructuring Claim substantially in the form attached as Schedule "D" setting out the amount of the individual's Non-USW Employee Restructuring Claim;
- (b) no later than March 22, 2017, Representative Counsel shall send the Notice of Non-USW Employee Restructuring Claim to each known Claimant by mail or if available, email. The amount set out in such Claimant's Notice of Non-USW Employee Restructuring Claim shall be deemed to be the Voting Value of such Non-USW Employee Restructuring Claim;
- (c) on or prior to the Non-USW Employee Restructuring Claims Bar Date, any Claimant disputing the value or individual information of the Non-USW Employee Restructuring Claim as determined by the Applicant and set out in his or her Notice of Non-USW Employee Restructuring Claim form shall notify Representative Counsel of such dispute and file a Notice of Dispute with the Monitor, failing which the amount of the Non-USW Employee Restructuring Claim set out in his or her Notice of Non-USW Employee Restructuring Claim shall be final and binding and shall form such Claimant's Non-USW Employee Restructuring Claim for the purposes of any distributions under the CCAA Plan and such Claimant shall be forever barred from asserting any additional Non-USW Employee Restructuring Claims or claiming any additional amounts in respect thereof.

PROOFS OF CLAIM TO BE FILED - D&O CLAIMS

17. **THIS COURT ORDERS** that all Persons holding a D&O Claim shall file a D&O Proof of Claim on or before the D&O Claims Bar Date.

18. **THIS COURT ORDERS** that all D&O Proofs of Claim filed shall be reviewed by the Monitor as expediently as possible in consultation with the applicable Director, Officer and Responsible Person and their counsel. If matters cannot be addressed in a satisfactory manner, the parties or the applicable Director, Officer or Responsible Person may seek the further direction of this Court.

19. **THIS COURT ORDERS** that any Person that does not file a D&O Proof of Claim in respect of a D&O Claim as provided for herein such that the D&O Proof of Claim is received by the Monitor on or before the D&O Claims Bar Date, as applicable, (a) shall be and is hereby forever barred from making or enforcing such D&O Claim against the Directors and Officers and Responsible Persons and all such D&O Claims shall be forever extinguished; and (b) shall not be entitled to any further notice in, and shall not be entitled to participate as a Claimant or creditor in, the CCAA Proceedings in respect of such D&O Claim.

LATE FILED CLAIMS

20. **THIS COURT ORDERS** that any Proofs of Claim filed after the Claims Bar Date specified in the Claims Process Order but before March 1, 2017 shall be deemed to have been filed by the Claims Bar Date and are not barred or extinguished and shall be reviewed by the Monitor in consultation with the Applicant and determined in accordance with the procedures set out in the Claims Process Order.

RESTRUCTURING CLAIMS

21. **THIS COURT ORDERS** that, notwithstanding the treatment of Restructuring Claims in the Claims Process Order, all Restructuring Claims arising on or after the date of this Order shall be subject to the Supplementary Claims Process and, except as otherwise stated in this Order:

- (a) all Proofs of Claim in respect of such Restructuring Claims shall be filed with the Monitor on or before the Supplementary Restructuring Claims Bar Date;

- (b) any Restructuring Claims filed in accordance with this Order shall be reviewed by the Monitor in consultation with the Applicant and determined in accordance with the Procedures set out in the Claims Process Order; and
- (c) any Person that does not file a Proof of Claim in respect of such Restructuring Claim as provided for herein (i) shall be and is hereby forever barred from making or enforcing such Restructuring Claim against the Applicant and all such Restructuring Claims shall forever be extinguished, (ii) shall not be entitled to vote such Restructuring Claim at the Creditors' Meeting in respect of the CCAA Plan or to receive any distribution thereunder in respect of such Restructuring Claim, and (iii) shall not be entitled to any further notice in, and shall not be entitled to participate as a Claimant or creditor in, the CCAA Proceedings in respect of such Restructuring Claim.

W. Chan - LMS

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAR 15 2017

PER / PAR: *W*

SCHEDULE "A"

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO
U. S. STEEL CANADA INC. (the "USSC")

NOTICE TO CURRENT AND FORMER NON-USW EMPLOYEES OF U. S. Steel Canada Inc. ("USSC") and its subsidiaries

RE: NOTICE OF SUPPLEMENTARY CLAIMS PROCESS FOR USSC PURSUANT TO THE *COMPANIES' CREDITORS ARRANGEMENT ACT* ("CCAA")

NOTICE IS HEREBY GIVEN pursuant to an order of the Superior Court of Justice of Ontario (the "Court") dated • (the "Supplementary Claims Process Order") that the Court has ordered a procedure for the filing and determination of certain claims relating to USSC. The Supplementary Claims Process Order sets out a procedure for the determination and filing of certain claims in advance of a Creditors' Meeting. Notice of the Creditors' Meeting and its location and time will be communicated separately.

A copy of the Supplementary Claims Process Order is published on the website of Ernst & Young Inc., the Court-appointed monitor (the "Monitor") of USSC at www.ey.com/ca/ussc. It is also posted on the website of Koskie Minsky LLP, the court-appointed Representative Counsel to all non-USW employees and retirees at <https://kmlaw.ca/cases/usscrepcounsel>.

You are affected by the Supplementary Claims Process Order if you are a present or former employee of USSC and its subsidiaries who is not a member of or represented by the United Steelworkers of America ("Non-USW Employees") in one of the following categories:

- a) Non-USW Employees who are beneficiaries under the U. S. Steel Canada Inc. Retirement Plan for Salaried Employees at Hamilton Works (FSCO Registration No. 0338509); the U. S. Steel Canada Inc. Retirement Plan for Salaried Employees at Lake Erie Works (FSCO Registration No. 0698753); and the U. S. Steel Canada Inc. Retirement Plan for Employees at the Pickle Line Department of Lake Erie Works (FSCO Registration No. 1206457) (the "Non-USW Pension Plans");
- b) Non-USW Employees and their dependents, heirs, administrators or assigns who are beneficiaries under USSC's post-employment benefit plans; and
- c) any Non-USW Employee with a claim related to the cessation of their employment.

IF YOU ARE A NON-USW EMPLOYEE OR RETIREE ENTITLED TO BENEFITS UNDER A REGISTERED PENSION AND/OR HEALTH BENEFIT PLAN, you are not

required to file a Proof of Claim. The value of the plan claims will be calculated on an actuarial basis by USSC's actuary in consultation with the actuary retained by Representative Counsel on behalf of Non-USW Employees. If you have any questions about the determination of Non-USW Pension Claims and/or Non-USW OPEB Claims, please contact Representative Counsel (please contact the Monitor if you are an Opt Out Individual not represented by Representative Counsel).

IF YOU ARE A NON-USW EMPLOYEE OR RETIREE ENTITLED TO BENEFITS UNDER A SUPPLEMENTAL PENSION ARRANGEMENT

you are not required to file a Proof of Claim. The value of your claim will be calculated on an actuarial basis by USSC's actuary in consultation with the actuary retained by Representative Counsel on behalf of the non-USW employees. A Notice of Non-USW Supplemental Pension Claim will be sent to you and will state the actuarial value of your individual Non-USW Supplemental Pension Claim. If there is an error or disagreement regarding the factual data used in the calculation of your claim and: **(A) you have not opted-out of representation by Koskie Minsky LLP as Representative Counsel**, you are required to contact Representative Counsel no later than April 20, 2017; or **(B) you are an Opt Out Individual who is not represented by Representative Counsel**, you are required to contact the Monitor no later than April 20, 2017, failing which your claim shall be as stated in the Notice of Non-USW Supplemental Pension Claim and you shall be forever barred from asserting any additional claims or claiming any additional amounts in respect thereof. If there is an error or disagreement regarding the factual data used in the calculation of your claim and you are an Opt-Out Individual, you are required to contact the Monitor no later than April 17, 2017, failing which your claim shall be as stated in the Notice of Non-USW Supplemental Pension Claim and you shall be forever barred from asserting any additional claims or claiming any additional amounts in respect thereof.

IF YOU ARE A NON-USW EMPLOYEE WITH A CLAIM RELATING TO UNPAID TERMINATION AND SEVERANCE AMOUNTS OR UNPAID SALARY CONTINUANCE PAYMENTS

you are not required to file a Proof of Claim. You will be sent a Notice of Restructuring Claim indicating the value of your claim. If there is an error or disagreement regarding your claim, you are required to contact Representative Counsel as soon as possible and file a Notice of Dispute by 5:00 p.m. Eastern Time the later of 21 business days after the date on which the Monitor sent the Notice of Non-USW Employee Restructuring Claim or April 20, 2017, failing which your claim shall be as stated in the Notice of Non-USW Employee Restructuring Claim and you shall be forever barred from asserting any additional claims or claiming any additional amounts in respect thereof.

Contact Information

If you are a Non-USW Employee who has not opted out of representation by Representative Counsel and have any questions regarding the process described above, please contact Representative Counsel at 1-866-777-6341 or at usscrepcounsel@kmlaw.ca or the Monitor at the Monitor's Hotline at 1-844-941-7764.

If you are an Opt-Out Individual pursuant to the Representative Counsel Appointment Order dated October 8, 2014 and have any questions regarding the process described above, please contact your counsel or call the Monitor's Hotline at 1-844-941-7764.

SCHEDULE "B"

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT WITH RESPECT TO
U. S. STEEL CANADA INC. (the "USSC")

NOTICE TO CLAIMANTS

**RE: NOTICE OF A CLAIMS PROCESS IN RESPECT OF DIRECTORS AND
OFFICERS OF U. S. STEEL CANADA INC.**

NOTICE IS HEREBY GIVEN pursuant to an order of the Superior Court of Justice of Ontario (the "Court") dated • (the "Supplementary Claims Process Order") that the Court has ordered a procedure for the filing of claims against any present or former Directors and Officers of USSC and Responsible Persons. A copy of the Supplementary Claims Process Order is published on the website of Ernst & Young Inc., the Court-appointed monitor (the "Monitor") of USSC at www.ey.com/ca/ussc.

TAKE NOTICE that all persons who assert a D&O Claim (as defined in the Supplementary Claims Process Order) **must file a D&O Proof of Claim with the Monitor on or before 5:00 p.m. Eastern Time on April 20, 2017** by sending a completed D&O Proof of Claim to the Monitor by, registered mail, courier, personal delivery or electronic transmission at the address of the Monitor listed below.

D&O Proof of Claim forms may be obtained from the Monitor's website or by contacting the Monitor by telephone or email at the address of the Monitor listed below.

IF YOUR PROOF OF CLAIM IS NOT RECEIVED BY THE MONITOR BY THE D&O CLAIMS BAR DATE, YOUR CLAIM AGAINST THE DIRECTORS AND OFFICERS OF USSC AND RESPONSIBLE PERSONS WILL BE BARRED AND EXTINGUISHED FOREVER.

Address of the Monitor:

Ernst & Young Inc.
Monitor of USSC
222 Bay St., P.O. Box 251
Toronto-Dominion Centre
Toronto, ON M5K 1J7
Attention: USSC Monitor
Fax: 1-416-943-2887
Tel: 1-844-941-7764
e-mail: ussc.monitor@ca.ey.com

SCHEDULE "C"

[DATE]

[NAME]

[ADDRESS1]

[ADDRESS2]

[ADDRESS3]

PERSONAL AND CONFIDENTIAL

Canadian CCAA Notice of Supplemental Pension Claim of Non-USW Employee

On September 16, 2014, U. S. Steel Canada Inc. ("USSC", formerly Stelco) applied for and was granted protection under the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA") by the Ontario Superior Court of Justice (Commercial List) (the "Court"). Pursuant to an Order, as amended (the "Initial Order") of the Court dated September 16, 2014, Ernst & Young Inc. (the "Monitor") was appointed Monitor of the Applicant in the CCAA proceedings.

In connection with a plan of compromise, arrangement and reorganization proposed by USSC (the "CCAA Plan"), an Order of the Court dated • (the "Supplementary Claims Process Order") established a claims process to, among other things, identify and resolve claims current and former employees and retirees of USSC who are not represented by the United Steelworkers Union, for the purposes of the CCAA Plan. Defined terms not defined herein have the meanings set out in the Supplementary Claims Process Order, a copy of which can be found on the Monitor's website at www.ey.com/ca/ussc.

USSC's records indicate that you have a Non-USW Supplemental Pension Claim against USSC as a result of your employment at USSC and your participation in a supplemental pension arrangement with USSC. The lump sum equivalent of this benefit has been actuarially valued in accordance with the Supplementary Claims Process Order, based on assumptions and a valuation methodology that was agreed upon by your Representative Counsel, Koskie Minsky LLP, and their actuary, the Segal Group Inc., and has been determined to be the amount as set out below.

Note that the claim amount below is in respect of your Non-USW Supplemental Pension Claim only and does not include any other claims that you may have, and which are dealt with separately under the Claims Process Order and Supplementary Claims Process Order.

Claim Type	Claim Amount (CAD)
Non-USW Supplemental Pension Claim	\$ •

Pursuant to the Supplementary Claims Process Order, the individual information relevant to the calculation of this Non-USW Supplemental Pension Claim amount has been included in the

attached *Schedule A* for your review. Please carefully review the information contained in Schedule A and follow the directions outlined therein for any changes or corrections.

If the personal information is correct, then you do not need to take any additional steps in connection with proving your Non-USW Supplemental Pension Claim and the amount of your Non-USW Supplemental Pension Claim set out in the table above will be deemed to be correct and complete in all respects for the purposes of the CCAA Plan and receiving distributions thereunder. If you disagree with the personal information, then please follow Step 2 as set out in the attached Schedule "A".

If you have any questions, please contact:

- Monitor at 1-844-941-7764 or 416-941-7764 or email the Monitor at ussc.monitor@ca.ey.com
- Court-appointed Non-USW Employees and Retirees Representative Counsel, Koskie Minsky LLP, at 1-866-777-6341 or email at usscrepcounsel@kmlaw.ca

SCHEDULE A – Non-USW Supplemental Pension Claim Personal Information

The Non-USW Supplemental Pension Claim amount set out in the previous page will only be modified if you submit corrections to the personal information that USSC has on file for you that are listed below to your Representative Counsel **and** those corrections are accepted.

Line #	Description	Details per USSC's Records
1		
2		
3		
4		

After reviewing the above table:

1. If you AGREE with all of the personal information in the table above, you do not need to do anything further and you do not need to return a copy of this form. The amount of the claim in the table on the previous page will be deemed to be correct and complete in all respects and will constitute your Non-USW Supplemental Pension Claim against USSC for all purposes.
2. If you have any CHANGES OR CORRECTIONS to the personal information in the table above, you must contact your Court-appointed Representative Counsel, Koskie Minsky LLP (or if you are an Opt-Out Individual, you must contact the Monitor) to discuss the details of your changes or corrections so that they can seek to have the issue corrected or resolved.

Representative Counsel can be reached as follows:

- Phone: 1-866-777-6341
- E-mail: usscrepcounsel@kmlaw.ca

The Monitor can be reached as follows:

- Phone: 1-844-941-7764
- E-mail: ussc.monitor@ca.ey.com

If the changes to your information are accepted, and result in a change to your Non-USW Supplemental Pension Claim amount, a Revised Proof of Claim will be generated and mailed to you.

If you do not return any changes by **April 20, 2017**, then in accordance with the Supplementary Claims Process Order the information in the table above will be deemed to be correct and complete in all respects and the amount of the claim in the above table will be deemed to constitute your Non-USW Supplemental Pension Claim against USSC for all purposes.

SCHEDULE "D"

[DATE]

[NAME]

[ADDRESS1]

[ADDRESS2]

[ADDRESS3]

PERSONAL AND CONFIDENTIAL

Canadian CCAA Notice of Non-USW Employee Restructuring Claim

On September 16, 2014, U. S. Steel Canada Inc. ("USSC") applied for and was granted protection under the Companies' Creditors Arrangement Act (Canada) (the "CCAA") by the Ontario Superior Court of Justice (Commercial List) (the "Court"). Pursuant to an Order, as amended (the "Initial Order") of the Court dated September 16, 2014, Ernst & Young Inc. (the "Monitor") was appointed Monitor of the Applicant in the CCAA proceedings.

In connection with a plan of compromise, arrangement and reorganization proposed by USSC (the "CCAA Plan"), an Order of the Court dated • (the "Supplementary Claims Process Order") established a claims process to, among other things, identify and resolve claims of current and former employees of USSC who are not represented by the United Steelworkers Union, for the purposes of the CCAA Plan. Defined terms not defined herein have the meanings set out in the Supplementary Claims Process Order, a copy of which can be found on the Monitor's website at www.ey.com/ca/ussc.

U.S. Steel Canada Inc.'s records indicate that you have a Non-USW Employee Restructuring Claim against USSC as a result of the termination of your employment at USSC. In accordance with the Supplementary Claims Process Order, this notice is to inform you that the Monitor, in conjunction with USSC, has determined that you have an unsecured claim as set out below:

Claim Type	Claim Amount (CAD)
Non-USW Employee Restructuring Claim: Termination and Severance	\$ •

The methodology and assumptions applied in the valuation of the above claim were agreed upon between USSC and your Court-appointed Representative Counsel and take into consideration the requirements under the Ontario Employment Standards Act.

If you wish to dispute the value of this claim, then please contact your Court-appointed Representative Counsel, Koskie Minsky LLP, to discuss the details of your dispute and have a Dispute Notice filed. Your Representative Counsel can be reached as follows:

- Phone: 1-866-777-6341
- E-mail: usscrepcounsel@kmlaw.ca

ALL DISPUTE NOTICES MUST BE FILED WITH THE MONITOR NO LATER THAN THE LATER OF 21 DAYS AFTER THE DATE ON WHICH THE MONITOR SENT

THE NOTICE OF NON-USW EMPLOYEE RESTRUCTURING CLAIM OR APRIL 20, 2017, FAILING WHICH THE AMOUNT OF YOUR CLAIM WILL BE AS STATED IN THIS NOTICE OF NON-USW EMPLOYEE RESTRUCTURING CLAIM AND YOU WILL BE FOREVER BARRED FROM ASSERTING ANY ADDITIONAL CLAIMS OR ANY ADDITIONAL AMOUNTS IN RESPECT THEREOF.

If you do not wish to dispute the value of this claim, then you do not need to take any action at this time. The amount of the claim in the table above will be deemed to be correct and complete in all respects and will constitute your Non-USW Employee Restructuring Claim for all purposes.

The amount set out above is in respect of your Non-USW Employee Restructuring Claim only and does not reflect any other claims you may have as a current or former employee of USSC, which are dealt with separately under the Claims Process Order.

For any other questions, please contact the Monitor at 1-844-941-7764 or 416-941-7764 or email at ussc.monitor@ca.ey.com

Schedule "E"

Canadian CCAA Proof of Claim against DIRECTOR OR OFFICER OR RESPONSIBLE PERSON

re: **U. S. Steel Canada Inc.**

1 Name of the Debtor						
U. S. Steel Canada Inc.						
2 Original Creditor Identification (the "Creditor")						
Legal Name of Creditor				Name of Contact		
Address				Phone #		
				Fax #		
City	Prov / State	Postal/Zip code	E-mail			
3 Assignee, if claim has been assigned						
Full Legal Name of Assignee				Name of Contact		
Address				Phone #		
				Fax #		
City	Prov / State	Postal/Zip code	E-mail			
4 Amount of Claim						
The Director(s) / Officer(s) / Responsible Person(s) of the Debtor was/were and still is/are indebted to the Creditor as follows:				For those claims you are making against a Director or Officer or Responsible Person, check the box below and list the Director(s), Officer(s) and/or Responsible Person(s) against whom you assert your claim		
<i>Claims will be recorded as "Unsecured" unless the "Secured" box is checked</i>			<i>(Check only if applicable)</i>			
Currency (e.g. CAD,USD)	Original Currency Amount	Restructuring				
		<input type="checkbox"/>				<input type="checkbox"/>
		<input type="checkbox"/>				<input type="checkbox"/>
		<input type="checkbox"/>		<input type="checkbox"/>		
		<input type="checkbox"/>		<input type="checkbox"/>		
5 Documentation						
Provide all particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, amount of invoices, particulars of all credits, discounts, etc. claimed, name of any guarantor which has guaranteed the Claim, description of the security, if any, granted by the Director(s)/Officer(s)/Responsible Person(s) of the Debtor to the Creditor and estimated value of such security, and any other supporting documentation.						
6 Certification						
I hereby certify that:				This space reserved for use by the Monitor		
<ul style="list-style-type: none"> • I am the Creditor, or authorized Representative of the Creditor. • I have knowledge of all the circumstances connected with this Claim. • The Creditor asserts this claim against the Director(s), Officer(s) and/or Responsible Person(s) of the Debtor as indicated above. • Complete documentation in support of this claim is attached. 						
Signature		Name				
		Title				
Dated		Signed at				
7 Filing of Claim						
This Proof of Claim must be received by the Monitor by no later than 5:00 p.m. (prevailing time in Toronto, Ontario, Canada) on April 20, 2017, by ordinary mail, courier, personal delivery or electronic or digital transmission at the following address:				Ernst & Young Inc., Monitor of USSC 222 Bay St., P.O.Box 251 Toronto-Dominion Centre Toronto, ON M5K 1J7 Attention: Mr. David Saldanha		
				Fax: 1-416-943-2887 Tel: 1-844-941-7764 e-mail: ussc.monitor@ca.ey.com		

IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH
RESPECT TO U. S. STEEL CANADA INC.

Court File No. CV-14-10695-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding Commenced at Toronto

**ORDER
(Supplementary Claims Process Order)**

McCarthy Tétrault LLP

Toronto Dominion Bank Tower
Toronto, ON M5K 1E6
Fax: (416) 868-0673

James Gage LSUC#: 346761

Tel: (416) 601-7539

Email: jgage@mccarthy.ca

Paul Steep LSUC#: 21869L

Tel: (416) 601-7998

Email: psteep@mccarthy.ca

Heather Meredith LSUC#: 48354R

Tel: (416) 601- 8342

Email: hmeredith@mccarthy.ca

Sharon Kour LSUC#: 58328D

Tel: (416) 601-8305

Email: skour@mccarthy.ca

Lawyers for U. S. Steel Canada Inc.

TAB 8



Court File No. CV-19-00628233-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) THURSDAY, THE 28th
JUSTICE HAINEY) DAY OF MAY, 2020

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF FOREVER XXI ULC

Applicant

CLAIMS PROCEDURE ORDER

THIS MOTION, made by Forever XXI ULC (“**F21 Canada**”), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the “**CCAA**”) for an order, *inter alia*, establishing a claims procedure for the identification and quantification of certain claims against (i) F21 Canada and (ii) the current and former directors and officers of F21 Canada, was heard this day by video conference at Toronto, Ontario.

ON READING the Notice of Motion of F21 Canada, the Affidavit of Bradley Sell sworn May 21, 2020 including the exhibits thereto, the Sixth Report of PricewaterhouseCoopers Inc., in its capacity as Monitor (the “**Monitor**”) dated May 25, 2020, and on hearing the submissions of respective counsel for F21 Canada, the Monitor, and such other counsel as were present, no one else appearing although duly served as appears from the Affidavits of Service of Karin Sachar and Francesca Del Rizzo sworn May 21, 23 and 25, 2020, respectively:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS AND INTERPRETATION

2. THIS COURT ORDERS that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Initial Order in these proceedings dated September 29, 2019 as may be amended, restated, supplemented and/or modified from time to time (the “**Initial Order**”).

3. For the purposes of this Order the following terms shall have the following meanings:

- (a) “**Assessments**” means Claims of Her Majesty the Queen in Right of Canada or of any Province or Territory or Municipality or any other taxation authority in any Canadian or foreign jurisdiction, including, without limitation, amounts which may arise or have arisen under any notice of assessment, notice of objection, notice of reassessment, notice of appeal, audit, investigation, demand or similar request from any taxation authority;
- (b) “**Business Day**” means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (c) “**CCAA Proceedings**” means the CCAA proceedings commenced by F21 Canada in the Court under Court File No. CV-19-00628233-00CL;
- (d) “**Claim**” means:

- (i) any right or claim of any Person against F21 Canada, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of F21 Canada in existence on the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessments and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against F21 Canada with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts that existed prior to the Filing Date, including for greater certainty any Equity Claim and any claim against F21 Canada for indemnification by any Director or Officer in respect of a Prefiling D&O Claim (each, a “**Prefiling Claim**”, and collectively, the “**Prefiling Claims**”);
- (ii) any right or claim of any Person against F21 Canada in connection with any indebtedness, liability or obligation of any kind whatsoever owed by F21 Canada to such Person arising out of the restructuring, disclaimer, resiliation, termination or breach by F21 Canada on or after the Filing Date of any contract, lease or other agreement whether written or oral (each, a “**Restructuring Period Claim**”, and collectively, the “**Restructuring Period Claims**”);

- (iii) any right or claim of any Person against one or more of the Directors and/or Officers arising based in whole or in part on facts that existed prior to the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessments and any right or ability of any Person to advance a claim for contribution, indemnity or otherwise against any of the Directors and/or Officers with respect to any matter, action, cause or chose in action, whether existing at present or arising or commenced in the future, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer (each a “**Prefiling D&O Claim**”, and collectively, the “**Prefiling D&O Claims**”); and
- (iv) any right or claim of any Person against one or more of the Directors and/or Officers arising after the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessments and any right or ability of any Person to advance a claim for contribution, indemnity or otherwise against any of the Directors and/or Officers with respect to any matter, action, cause or chose in action, whether existing at present or arising or

commenced in the future, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer (each a “**Restructuring Period D&O Claim**”, and collectively, the “**Restructuring Period D&O Claims**”);

provided, however, that in any case “**Claim**” shall not include an Excluded Claim, but for greater certainty, shall include any Claim arising through subrogation against F21 Canada or any Director or Officer;

- (e) “**Claimant**” means (a) a Person asserting a Prefiling Claim or a Restructuring Period Claim against F21 Canada, and (b) a Person asserting a D&O Claim against any of the Directors or Officers of F21 Canada;
- (f) “**Claims Bar Date**” means 5:00 p.m. on June 30, 2020;
- (g) “**Claims Officer**” means the individual(s) designated by the Court pursuant to paragraph 35 of this Order;
- (h) “**Claims Process**” means the procedures outlined in this Order in connection with the assertion of Claims against F21 Canada and/or the Directors and Officers;
- (i) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (j) “**D&O Claim**” means any Prefiling D&O Claim and any Restructuring Period D&O Claim, and “**D&O Claims**” means, collectively, the Prefiling D&O Claims and the Restructuring Period D&O Claims;

- (k) **“D&O Claim Instruction Letter”** means the letter containing instructions for completing the D&O Proof of Claim form, substantially in the form attached as Schedule “H” hereto;
- (l) **“D&O Proof of Claim”** means the proof of claim referred to herein to be filed by Claimants in connection with any D&O Claim, substantially in the form attached as Schedule “I” hereto, which shall include all available supporting documentation in respect of such D&O Claim;
- (m) **“Director”** means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of F21 Canada, in such capacity;
- (n) **“Employee”** means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a current or former employee of F21 Canada whether on a full-time, part-time or temporary basis, other than a Director or Officer, including any individuals on disability leave, parental leave or other absence;
- (o) **“Equity Claim”** has the meaning set forth in section 2(1) of the CCAA;
- (p) **“Excluded Claim”** means any right or claim that would otherwise be a Claim that is a:
- (i) Claim secured by the Administration Charge and any indemnity claims of Directors and Officers that are secured by the Directors’ Charge;
 - (ii) Claim enumerated in sections 5.1(2) and 19(2) of the CCAA;

- (iii) Claim of Forever 21 Global B.V. on account of the refund cheque issued to Forever 21 Global B.V., received by F21 Canada on December 17, 2019 and held by F21 Canada, in the amount of \$5,055,000, on account of withholding taxes paid by F21 Canada under the *Income Tax Act* (Canada) with respect to certain transactions entered into between Forever 21 Global, B.V. and F21 Canada; and
- (iv) Claim in respect of a Gift Card;
- (q) “**Filing Date**” means September 29, 2019;
- (r) “**General Claims Package**” means the document package which shall be disseminated by the Monitor in accordance with the terms of this Order to any potential Claimant that requests to submit a claim in the Claims Process not covered by any Notice of Claim, and shall consist of a Proof of Claim form, a Proof of Claim Instruction Letter, a D&O Proof of Claim form, a D&O Claim Instruction Letter, and such other materials as the Monitor, in consultation with F21 Canada, may consider appropriate;
- (s) “**Gift Card**” means a valid gift card with a balance of funds remaining thereon as of the Filing Date, issued in respect of F21 Canada;
- (t) “**Intercompany Claimant**” means any affiliated company, partnership, or other corporate entity of F21 Canada, including without limitation, Forever 21, Inc., Forever 21 Logistics, LLC, Forever 21 Retail, Inc. and Forever 21 Global B.V., and any valid assignee thereof, including F21 OpCo, LLC;

- (u) **“Known Claim”** means all of the following Claims against F21 Canada, which Claims shall be deemed to be accepted for voting and distribution purposes unless otherwise disputed by a Known Claimant in accordance with the procedures outlined herein:
- (i) Claims of Landlords in respect of amounts owing under any real property lease or occupancy agreement for any of F21 Canada’s leased premises as of the Filing Date;
 - (ii) Claims of Employees who were employed as at the Filing Date in respect of the termination of such Employees’ employment, including for termination and severance pay, calculated in accordance with applicable employment standards legislation;
 - (iii) Claims of Forever 21, Inc., Forever 21 Logistics, LLC and Forever 21 Retail, Inc. against F21 Canada in respect of inventory, purchases, shared services and other chargeable amounts which Claims have been assigned, transferred and conveyed to F21 OpCo, LLC; and
 - (iv) Claims of all other Known Claimants existing against F21 Canada as of the Filing Date, including trade creditors of F21 Canada;
- based on the books and records of F21 Canada and any negotiations with such Known Claimants regarding the amounts owed by F21 Canada to such Known Claimants;
- (v) **“Known Claimant”** means any Person known to F21 Canada as having a valid Claim against F21 Canada based on the books and records of F21 Canada, including

without limitation certain Employees, Landlords, Intercompany Claimants, and trade creditors;

- (w) **“Known Claims Package”** means the document package which shall be disseminated by the Monitor to any Known Claimant in accordance with the terms of this Order and shall consist of the Known Claimant’s Notice of Claim, a Notice of Dispute of Claim form, and such other materials as the Monitor, in consultation with F21 Canada, may consider appropriate;
- (x) **“Landlord”** means a landlord under any real property lease or occupancy agreement for any of F21 Canada’s leased premises as of the Filing Date;
- (y) **“Meeting”** means a meeting of the creditors of F21 Canada called for the purpose of considering and voting in respect of a Plan;
- (z) **“Meeting Order”** means an Order under the CCAA that, among other things, sets the date for the Meeting, as same may be amended, restated or varied from time to time;
- (aa) **“Monitor’s Website”** means www.pwc.com/ca/forever21;
- (bb) **“Notice of Claim”** means the notice prepared by F21 Canada, in consultation with the Monitor, to be disseminated by the Monitor to all Known Claimants, which notice shall state the amount of such Known Claimant’s Known Claim for voting and distribution purposes, and which notice shall be substantially in the form attached as Schedule “F” hereto;

- (cc) **“Notice of Dispute of Claim”** means the notice, substantially in the form attached as Schedule “G” hereto, which may be delivered to the Monitor by a Known Claimant disputing a Notice of Claim, with reasons for its dispute;
- (dd) **“Notice of Dispute of Revision or Disallowance”** means the notice, substantially in the form attached as Schedule “E” hereto, which may be delivered to the Monitor by a Claimant disputing a Notice of Revision or Disallowance received by such Claimant;
- (ee) **“Notice of Revision or Disallowance”** means the notice, substantially in the form attached as Schedule “D” hereto, which may be delivered by the Monitor to a Claimant revising or disallowing, in part or in whole, a Claim submitted by such Claimant in a Proof of Claim or D&O Proof of Claim for voting and/or distribution purposes;
- (ff) **“Notice to Claimants”** means the notice for publication by the Monitor as described in paragraph 16 herein, substantially in the form attached as Schedule “A” hereto;
- (gg) **“Officer”** means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of F21 Canada, in such capacity;
- (hh) **“Order”** means this Claims Procedure Order;
- (ii) **“Person”** means any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust (including a real estate

investment trust), unincorporated organization, joint venture, government or any agency or instrumentality thereof or any other entity;

- (jj) **“Plan”** means the proposed plan of compromise or arrangement filed in respect of F21 Canada pursuant to the CCAA as the same may be amended, supplemented or restated from time to time in accordance with the terms thereof;
- (kk) **“Proof of Claim”** means the proof of claim referred to herein to be filed by any Claimant in respect of any Prefiling Claim and Restructuring Period Claim for which such Claimant has not received a Notice of Claim, substantially in the form attached as Schedule “C” hereto, which shall include all available supporting documentation in respect of such Claim; and
- (ll) **“Proof of Claim Instruction Letter”** means the letter containing instructions for completing the Proof of Claim form, substantially in the form attached as Schedule “B” hereto.

4. THIS COURT ORDERS that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein, and any reference to an event occurring on a day that is not a Business Day shall mean the next following day that is a Business Day.

5. THIS COURT ORDERS that all references to the word “including” shall mean “including without limitation”, all references to the singular herein include the plural, the plural include the singular, and any gender includes all genders.

GENERAL PROVISIONS

6. THIS COURT ORDERS that any Claim denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon exchange rate in effect at the Filing Date.

7. THIS COURT ORDERS that notwithstanding any other provisions of this Order, the solicitation by the Monitor of Proofs of Claim and D&O Proofs of Claim, the delivery by the Monitor of Notices of Claim, and the filing by any Claimant of any Proof of Claim or D&O Proof of Claim shall not, for that reason only, grant any Person any rights, including without limitation, in respect of the nature, quantum and priority of its Claims or its standing in the CCAA Proceedings, except as specifically set out in this Order.

8. THIS COURT ORDERS that the Monitor, in consultation with F21 Canada and the applicable Directors and Officers in respect of any D&O Claim, is hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which any forms delivered hereunder are completed and executed and the time in which they are submitted, and may, where the Monitor, in consultation with F21 Canada and the applicable Directors and Officers in respect of any D&O Claim, is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Order, including in respect of the completion, execution and time of delivery of such forms; provided that it is recognized and understood that certain Claims may be contingent in nature and therefore may not contain particulars of such Claims that are not yet known as at the time they are filed.

9. THIS COURT ORDERS that amounts claimed in Assessments shall be subject to this Order and there shall be no presumption of validity or deeming of the amount due in respect of the Claim set out in any Assessment.

MONITOR'S ROLE

10. THIS COURT ORDERS that, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA, the Initial Order and any other orders of the Court in the CCAA Proceedings, the Monitor is hereby authorized, directed and empowered to implement the Claims Process set out herein and to take such other actions and fulfill such other roles as are authorized by this Order or incidental thereto.

11. THIS COURT ORDERS that the Monitor: (i) shall have all of the protections given to it by the CCAA, the Initial Order, any other orders of the Court in the CCAA Proceedings, and this Order, or as an officer of the Court, including the stay of proceedings in its favour; (ii) shall incur no liability or obligation as a result of the carrying out of the provisions of this Order, other than in respect of its gross negligence or wilful misconduct; (iii) shall be entitled to rely on the books and records of F21 Canada and any information provided by F21 Canada, all without independent investigation; (iv) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information; and (v) may seek such assistance as may be reasonably required to carry out its duties and obligations pursuant to this Order from F21 Canada or any of its affiliated companies, partnerships, or other corporate entities, including making such inquiries and obtaining such records and information as it deems appropriate in connection with the Claims Process.

12. THIS COURT ORDERS that F21 Canada and its current and former shareholders, Officers, Directors, employees, agents and representatives shall fully cooperate with the Monitor in the exercise of its powers and discharge of its duties and obligations under this Order.

NOTICE TO CLAIMANTS

13. THIS COURT ORDERS that as soon as practicable, but no later than 5:00 p.m. on June 2, 2020, the Monitor shall cause a Known Claims Package to be sent to every Known Claimant, as evidenced by the books and records of F21 Canada, at their respective last known municipal or e-mail addresses as recorded in F21 Canada's books and records. The Monitor and F21 Canada shall specify in the Notice of Claim included in the Known Claims Package the Known Claimant's Claim as valued by F21 Canada, in consultation with the Monitor, based on the books and records of F21 Canada, for voting and distribution purposes.
14. THIS COURT ORDERS that as soon as practicable, but no later than 5:00 p.m. on June 2, 2020, the Monitor shall cause a General Claims Package to be sent to each Person that appears on the Service List or has requested a Proof of Claim and any Person known to F21 Canada or the Monitor as potentially asserting a Claim that is not a Known Claim.
15. THIS COURT ORDERS that the Monitor shall cause the Notice to Claimants to be published once in *The Globe and Mail* (National Edition) as soon as practicable after the date of this Order.
16. THIS COURT ORDERS that the Monitor shall cause the Notice to Claimants and the General Claims Package to be posted to the Monitor's Website as soon as practicable after the date of this Order.
17. THIS COURT ORDERS that to the extent any Claimant requests documents or information relating to the Claims Process prior to the Claims Bar Date or if F21 Canada and the Monitor become aware of any further Claims, the Monitor shall forthwith send such Claimant a General Claims Package or Known Claims Package, as appropriate, direct such Claimant to the

documents posted on the Monitor's Website, or otherwise respond to the request for documents or information as the Monitor, in consultation with F21 Canada, may consider appropriate in the circumstances.

18. THIS COURT ORDERS that the Claims Process and the forms of Notice to Claimants, Proof of Claim Instruction Letter, D&O Claim Instruction Letter, Notice of Claim, Proof of Claim, D&O Proof of Claim, Notice of Revision or Disallowance, Notice of Dispute of Revision or Disallowance, and Notice of Dispute of Claim are hereby approved. Notwithstanding the foregoing, the Monitor may, from time to time, make minor non-substantive changes to the forms as the Monitor, in its sole discretion, may consider necessary or desirable.

19. THIS COURT ORDERS that the sending of the Known Claims Package and the General Claims Package to the applicable Persons as described above, and the publication of the Notice to Claimants, each in accordance with this Order, and the completion of the other requirements of this Order, shall constitute good and sufficient service and delivery of notice of this Order and the Claims Bar Date on all Persons who may be entitled to receive notice and who may wish to assert a Claim, and no other notice or service need be given or made and no other document or material need be sent to or served upon any Person in respect of this Order.

CLAIMS PROCEDURE FOR KNOWN CLAIMS

(A) Known Claims

20. THIS COURT ORDERS that if a Known Claimant wishes to dispute the amount of its Known Claim as set out in the Notice of Claim, the Known Claimant shall deliver to the Monitor a Notice of Dispute of Claim which must be received by the Monitor by no later than the Claims Bar Date. Such Known Claimant shall specify therein the details of the dispute with respect to its

Claim and shall specify whether it disputes the determination of the Claim for voting and/or distribution purposes.

21. THIS COURT ORDERS that if a Known Claimant does not deliver to the Monitor a completed Notice of Dispute of Claim such that it is received by the Monitor by the Claims Bar Date disputing its Claims as set out in the Notice of Claim for voting and/or distribution purposes, then (a) such Known Claimant shall be deemed to have accepted the valuation of the Known Claimant's Claims as set out in the Notice of Claim for both voting and distribution purposes, and (b) any and all of the Known Claimant's rights to dispute the Claims as determined in the Notice of Claim or to otherwise assert or pursue such Claims other than as they are determined in the Notice of Claim shall be forever extinguished and barred without further act or notification. A Known Claimant may accept a determination of a Claim for voting purposes as set out in the Notice of Claim and dispute the determination of the Claim for distribution purposes provided that it does so in its Notice of Dispute of Claim and such Notice of Dispute of Claim is received by the Monitor by the Claims Bar Date. A determination of a Claim of a Known Claimant for voting purposes does not in any way affect and is without prejudice to the process to determine such Known Claimant's Claim for distribution purposes.

(B) Adjudication and Resolution of Claims

22. THIS COURT ORDERS that the Monitor, in consultation with F21 Canada, shall review all Notices of Dispute of Claim received on or before the Claims Bar Date. If the Monitor disagrees with the amount or priority of the Claim as set out in the Notice of Dispute of Claim, the Monitor shall, in consultation with F21 Canada, attempt to resolve such dispute and settle the purported Claim with the Known Claimant for voting and/or distribution purposes. In the event that a dispute is not settled within a time period or in a manner satisfactory to the Monitor, in consultation with

F21 Canada, the Monitor shall refer the dispute raised in the Notice of Dispute of Claim to a Claims Officer or the Court for adjudication at its election and shall send written notice of such election to the Known Claimant. In the event that the Monitor is not able to settle a disputed Known Claim for voting purposes by the date on which a vote is held at any Meeting, the ability of such Known Claimant to vote its disputed Claim shall be governed by the Meeting Order.

CLAIMS PROCEDURE FOR GENERAL CLAIMS

(A) Prefiling Claims and Prefiling D&O Claims

23. THIS COURT ORDERS that any Claimant that intends to assert a Prefiling Claim or a Prefiling D&O Claim that is not captured in any Notice of Claim sent to such Claimant shall file a Proof of Claim or D&O Proof of Claim, as applicable, with the Monitor on or before the Claims Bar Date. For the avoidance of doubt, a Proof of Claim or D&O Proof of Claim, as applicable, must be filed with the Monitor by every Claimant in respect of every Prefiling Claim or Prefiling D&O Claim that is not captured in any Notice of Claim, regardless of whether or not a legal proceeding in respect of such Prefiling Claim or Prefiling D&O Claim has been previously commenced.

(B) Restructuring Period Claims

24. THIS COURT ORDERS that upon becoming aware of a circumstance giving rise to a Restructuring Period Claim, the Monitor shall send a General Claims Package to the Claimant in respect of such Restructuring Period Claim in the manner provided for herein.

25. THIS COURT ORDERS that any Claimant that intends to assert a Restructuring Period Claim or Restructuring Period D&O Claim that is not captured in any Notice of Claim sent to such Claimant shall file a Proof of Claim or D&O Proof of Claim, as applicable, with the Monitor on or before the Claims Bar Date. For the avoidance of doubt, a Proof of Claim or D&O Proof of

Claim must be filed with the Monitor by every Claimant in respect of every Restructuring Period Claim or Restructuring Period D&O Claim that is not captured in any Notice of Claim, regardless of whether or not a legal proceeding in respect of such Restructuring Period Claim or Restructuring Period D&O Claim has been previously commenced.

(C) Claims Bar Date

26. THIS COURT ORDERS that any Claimant (other than any Known Claimant in respect of its Known Claim as set out in a Notice of Claim) that does not file a Proof of Claim or D&O Proof of Claim in accordance with paragraphs 23 to 25, as applicable, so that such Proof of Claim or D&O Proof of Claim is actually received by the Monitor on or before the Claims Bar Date, or such later date as the Court may otherwise direct:

- (a) be and is hereby forever barred, estopped and enjoined from asserting or enforcing any such Claim against F21 Canada and all such Claims shall be forever extinguished;
- (b) will not be permitted to vote at any Meeting on account of such Claim(s);
- (c) will not be entitled to receive further notice with respect to the Claims Process or these proceedings unless the Monitor and/or F21 Canada become aware that such Claimant may have a separate Claim or Claims pursuant to which the potential Claimant is permitted to participate in the Claims Process; and
- (d) will not be permitted to participate in any distribution under the Plan on account of such Claim(s).

(D) Adjudication and Resolution of Claims

27. THIS COURT ORDERS that the Monitor, in consultation with F21 Canada, shall review all Proofs of Claim and D&O Proofs of Claim received on or before the Claims Bar Date, and shall accept, revise or reject each Claim set out therein for voting and/or distribution purposes. With respect to a D&O Claim set out in a D&O Proof of Claim, the Monitor shall, in consultation with F21 Canada and the applicable Directors and Officers named in respect of such D&O Claim, accept, revise or reject such D&O Claim, provided that the Monitor shall not accept or revise any portion of a D&O Claim absent consent of the applicable Directors and Officers or further Order of the Court.

28. THIS COURT ORDERS that if the Monitor disagrees with the amount of the Claim as set out in any Proof of Claim or D&O Proof of Claim filed in accordance with paragraph 26 herein, the Monitor shall, in consultation with F21 Canada and the applicable Directors and Officers, attempt to resolve such dispute and settle the purported Claim with the Claimant for voting and/or distribution purposes.

29. THIS COURT ORDERS that if the Monitor intends to revise or reject a Claim that has been filed in accordance with paragraph 26 herein for voting purposes (and distribution purposes if the Monitor elects to do so), the Monitor shall notify the Claimant who has delivered such Proof of Claim or D&O Proof of Claim, as applicable, that such Claim has been revised or rejected for voting purposes (and distribution purposes, if applicable), and the reasons therefor, by sending a Notice of Revision or Disallowance by no later than July 13, 2020, unless otherwise ordered by this Court. For greater certainty, if a Notice of Revision or Disallowance has not been sent by the Monitor to a Claimant by July 13, 2020, such Claimant's Claim as set out in its Proof of Claim or D&O Proof of Claim shall be deemed to have been accepted by the Monitor for voting purposes

in the amount filed by such Claimant, unless otherwise ordered by the Court. For voting purposes, any Claimant who disputes a Notice of Revision or Disallowance sent pursuant to this paragraph 29 shall contact the Monitor as soon as possible and the Monitor shall attempt to negotiate and settle the purported Claim with the Claimant for voting purposes prior to any Meeting. In the event that the Monitor is not able to settle a Claim for voting purposes by the date on which a vote is held at any Meeting, the ability of such Claimant to vote its disputed Claim shall be governed by the Meeting Order. A determination of a Claim for voting purposes does not in any way affect and is without prejudice to the process to determine such Claimant's Claim for distribution purposes.

30. THIS COURT ORDERS that if the Monitor intends to revise or reject a Claim that has been filed in accordance with paragraph 26 herein for distribution purposes, the Monitor shall notify each Claimant who has delivered such Proof of Claim or D&O Proof of Claim (and who did not receive a Notice of Revision or Disallowance for distribution purposes pursuant to paragraph 29 herein) that such Claim has been revised or rejected for distribution purposes, and the reasons therefor, by sending a Notice of Revision or Disallowance by no later than July 31, 2020, unless otherwise ordered by this Court. For greater certainty, if a Notice of Revision or Disallowance has not been sent by the Monitor to a Claimant by July 31, 2020, such Claimant's Claim as set out in its Proof of Claim or D&O Proof of Claim shall be deemed to have been accepted by the Monitor for distribution purposes in the amount filed by such Claimant, unless otherwise ordered by the Court.

31. THIS COURT ORDERS that any Claimant who intends to dispute a Notice of Revision or Disallowance sent pursuant to paragraphs 29 or 30 above with respect to a Claim for distribution purposes shall deliver a completed Notice of Dispute of Revision or Disallowance, along with the

reasons for its dispute, to the Monitor by no later than thirty (30) days after the date on which the Claimant is deemed to receive the Notice of Revision or Disallowance.

32. THIS COURT ORDERS that, where a Claimant that receives a Notice of Revision or Disallowance pursuant to paragraphs 29 or 30 above does not file a Notice of Dispute of Revision or Disallowance by the time set out in paragraph 31 above, then such Claimant's Claim for distribution purposes shall be deemed to be as determined in the Notice of Revision or Disallowance and any and all of the Claimant's rights to dispute the Claim as determined in the Notice of Revision or Disallowance or to otherwise assert or pursue such Claim other than as determined in the Notice of Revision or Disallowance for distribution purposes shall be forever extinguished and barred without further act or notification.

33. THIS COURT ORDERS that upon receipt of a Notice of Dispute of Revision or Disallowance in respect of a Claim, the Monitor shall attempt to resolve such dispute and settle the purported Claim with the Claimant, and in the event that a dispute raised in a Notice of Dispute of Revision or Disallowance is not settled within a time period or in a manner satisfactory to the Monitor, in consultation with F21 Canada and the applicable Directors and Officers in respect of any D&O Claim, the Monitor shall, at its election, refer the dispute raised in the Notice of Dispute of Revision or Disallowance to a Claims Officer or the Court for adjudication.

34. THIS COURT ORDERS that the Monitor, in consultation with F21 Canada and the applicable Directors and Officers in respect of any D&O Claim, may refer any Claim to a Claims Officer or the Court for adjudication at its election by sending written notice to the applicable parties at any time.

CLAIMS OFFICERS

35. THIS COURT ORDERS that Mr. Kevin McElcheran, and such other Persons as may be appointed by the Court from time to time on a motion by F21 Canada or the Monitor, be and are hereby appointed as the Claims Officers for the Claims Process.
36. THIS COURT ORDERS that the decision as to whether a disputed Claim should be adjudicated by the Court or a Claims Officer shall be in the sole discretion of the Monitor.
37. THIS COURT ORDERS that a Claims Officer shall determine the validity and amount of disputed Claims in accordance with this Order and to the extent necessary may determine whether any Claim or part thereof constitutes an Excluded Claim and shall provide written reasons. A Claims Officer shall determine all procedural matters which may arise in respect of his or her determination of these matters, including the manner in which any evidence may be adduced. A Claims Officer shall have the discretion to mediate any dispute that is referred to such Claims Officer at its election. A Claims Officer shall also have the discretion to determine by whom and to what extent the costs of any hearing or mediation before a Claims Officer shall be paid.
38. THIS COURT ORDERS that the Monitor, the Claimant, F21 Canada and/or the applicable Directors and Officers in respect of any D&O Claim may, within ten (10) days of such party receiving notice of a Claims Officer's determination of the value of a Claimant's Claim, appeal such determination or any other matter determined by the Claims Officer in accordance with paragraph 37 or otherwise to the Court by filing a notice of appeal, and the appeal shall be initially returnable for scheduling purposes within ten (10) days of filing such notice of appeal.
39. THIS COURT ORDERS that if no party appeals the determination of value of a Claim by a Claims Officer within the time set out in paragraph 38 above, the decision of the Claims Officer

in determining the value of the Claimant's Claim shall be final and binding upon F21 Canada, the applicable Directors and Officers in respect of any D&O Claim, the Monitor and the Claimant, and there shall be no further right of appeal, review or recourse to the Court from the Claims Officer's final determination of a Claim.

NOTICE OF TRANSFEREES

40. THIS COURT ORDERS that from the date of this Order until seven (7) days prior to the date fixed by the Court for the first distribution in the CCAA Proceedings or any other proceeding, including a bankruptcy, to the extent required, leave is hereby granted to permit a Claimant to provide notice to the Monitor of assignment or transfer of a Claim to any third party, and that no assignment or transfer of a partial Claim shall be permitted.

41. THIS COURT ORDERS that subject to the terms of any subsequent Order of this Court, if, after the Filing Date, the holder of a Claim transfers or assigns the whole of such Claim to another Person, neither the Monitor nor F21 Canada shall be obligated to give notice to or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until written notice of such transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received and acknowledged by the Monitor in writing and thereafter such transferee or assignee shall, for the purposes hereof, constitute the "Claimant" in respect of such Claim or D&O Claim and the Monitor shall thereafter only be required to deal with such transferee or assignee and not the original Claimant. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken or not taken in respect of such Claim in accordance with this Order prior to receipt and acknowledgement by the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any rights of set-off to which F21 Canada and/or the applicable Directors and Officers

may be entitled with respect to such Claim. A transferee or assignee of a Claim shall not be entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to F21 Canada and/or the applicable Directors and Officers.

42. THIS COURT ORDERS that no transfer or assignment shall be effective for voting purposes at any Meeting unless sufficient notice and evidence of such transfer or assignment has been received by the Monitor no later than 5:00 p.m. on the date that is seven (7) days prior to the date fixed by the Court for any Meeting, failing which the original Claimant shall have all applicable rights as the "Claimant" with respect to such Claim as if no transfer or assignment of the Claim had occurred.

SERVICE AND NOTICE

43. THIS COURT ORDERS that the Monitor may, unless otherwise specified by this Order, serve and deliver or cause to be served and delivered the Known Claims Package, the General Claims Package, and any letters, notices or other documents, to the appropriate Claimants or any other interested Persons by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to such Persons at the physical or electronic address, as applicable, last shown on the books and records of F21 Canada or, where applicable, as set out in such Claimant's Proof of Claim or D&O Proof of Claim. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by facsimile

transmission or email by 5:00 p.m. on a Business Day, on such Business Day, and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

44. THIS COURT ORDERS that any notice or communication required to be provided or delivered by a Claimant to the Monitor under this Order shall be in writing in substantially the form, if any, provided for in this Order and will be sufficiently given only if delivered by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email addressed to:

PricewaterhouseCoopers Inc., LIT
Monitor of Forever XXI ULC
18 York Street, Suite 2600
Toronto, Ontario
M5J 0B2

Attention: Tammy Muradova
Email: cmt_processing@ca.pwc.com
Fax: (416) 814-3219

Any such notice or communication delivered by a Claimant shall be deemed received upon actual receipt by the Monitor thereof during normal business hours on a Business Day, or if delivered outside of normal business hours, the next Business Day.

45. THIS COURT ORDERS that if, during any period during which notices or other communications are being given pursuant to this Order, a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary or registered mail and then not received shall not, absent further Order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Order.

MISCELLANEOUS

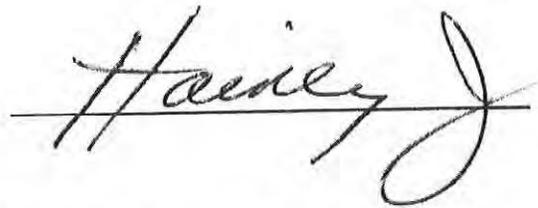
46. THIS COURT ORDERS that the Monitor may from time to time apply to this Court to extend the time for any action which the Monitor is required to take if reasonably required to carry out its duties and obligations pursuant to this Order and for advice and directions concerning the discharge of its powers and duties under this Order or the interpretation or application of this Order.

47. THIS COURT ORDERS that nothing in this Order shall prejudice the rights and remedies of any Directors or Officers or other Persons under the Directors' Charge or any applicable insurance policy or prevent or bar any Person from seeking recourse against or payment from F21 Canada's insurance and any Director's or Officer's liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons, whether such recourse or payment is sought directly by the Person asserting a Claim from the insurer or derivatively through the Director or Officer or F21 Canada; provided, however, that nothing in this Order shall create any rights in favour of such Person under any policies of insurance nor shall anything in this Order limit, remove, modify or alter any defence to such Claim available to the insurer pursuant to the provisions of any insurance policy or at law; and further provided that any Claim or portion thereof for which the Person receives payment directly from, or confirmation that he or she is covered by, F21 Canada's insurance or any Director's or Officer's liability insurance or other liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons shall not be recoverable as against F21 Canada or the Director or Officer, as applicable.

48. THIS COURT ORDERS that this Order shall have full force and effect in all provinces and territories in Canada.

49. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada or in the United States of

America, to give effect to this Order and to assist F21 Canada, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to F21 Canada and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist F21 Canada and the Monitor and their respective agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAY 29 2020

PER / PAR:



SCHEDULE "A"

NOTICE TO CLAIMANTS
OF FOREVER XXI ULC

RE: NOTICE OF CLAIMS PROCESS FOR FOREVER XXI ULC PURSUANT TO THE COMPANIES' CREDITORS ARRANGEMENT ACT (the "CCAA")

PLEASE TAKE NOTICE that on May 28, 2020, the Ontario Superior Court of Justice (Commercial List) issued an order (the "**Claims Procedure Order**") in the CCAA proceedings of Forever XXI ULC (the "**Applicant**"), requiring that all Persons who assert a Claim (capitalized terms used in this notice and not otherwise defined have the meaning ascribed to them in the Claims Procedure Order) against the Applicant, whether unliquidated, contingent or otherwise, and all Persons who assert a claim against the Directors and/or Officers of the Applicant (as defined in the Claims Procedure Order, a "**D&O Claim**"), in each case other than any Known Claimant in respect of its Known Claim as set out in any Notice of Claim, **must file a Proof of Claim (with respect to Claims against Forever XXI ULC) or D&O Proof of Claim (with respect to D&O Claims) with PricewaterhouseCoopers Inc. as Court-appointed monitor of the Applicant (in such capacity and not in its personal or corporate capacity, the "Monitor") on or before 5:00 p.m. (Toronto time) on June 30, 2020 (the "Claims Bar Date")**, by sending the Proof of Claim or D&O Proof of Claim to the Monitor by prepaid ordinary mail, registered mail, courier, personal delivery or electronic transmission at the following address:

PricewaterhouseCoopers Inc., LIT
Monitor of Forever XXI ULC
18 York Street, Suite 2600
Toronto, Ontario
M5J 0B2

Attention: Tammy Muradova
Email: cmt_processing@ca.pwc.com
Fax: 416 814 3219

Pursuant to the Claims Procedure Order, Known Claims Packages will be sent to all Known Claimants on or before June 2, 2020, which Known Claims Packages will contain a Notice of Claim that specifies each Known Claimant's Claim for voting and distribution purposes as valued by F21 Canada, in consultation with the Monitor, based on the books and records of F21 Canada.

The Monitor will also send or cause to be sent, on or before June 2, 2020, a General Claims Package (that will include the form of Proof of Claim and D&O Proof of Claim) to each Person that appears on the Service List or has requested a Proof of Claim and any Person known to F21 Canada or the Monitor as potentially asserting a Claim that is not a Known Claim.

Claimants may also obtain the Claims Procedure Order and a General Claims Package from the Monitor's website at www.pwc.com/ca/forever21, or by contacting the Monitor by telephone at 1-888-444-1193.

Only Proofs of Claim and D&O Proofs of Claim actually received by the Monitor on or before 5:00 p.m. (Toronto time) on June 30, 2020 will be considered filed by the Claims Bar Date. **It is your responsibility to ensure that the Monitor receives your Proof of Claim or D&O Proof of Claim by the Claims Bar Date if you wish to assert any Claim that is not a Known Claim.**

If you have received a Notice of Claim, your Claim will be deemed to be accepted at the amount specified therein for voting and distribution purposes, and you do not need to take any further steps with respect to such Claim unless you disagree with the amount specified therein. If you wish to dispute your Claim as specified in your Notice of Claim, you must file a Notice of Dispute of Claim with the Monitor on or before the Claims Bar Date. Notices of Dispute of Claim must be actually received by the Monitor on or before 5:00 p.m. (Toronto time) on June 30, 2020 to be considered filed by the Claims Bar Date. **It is your responsibility to ensure that the Monitor receives your Notice of Dispute of Claim if you wish to dispute the Claim as listed in your Notice of Claim.**

CLAIMS (THAT ARE NOT KNOWN CLAIMS) AND D&O CLAIMS WHICH ARE NOT RECEIVED BY THE CLAIMS BAR DATE WILL BE BARRED AND EXTINGUISHED FOREVER.

DATED this ● day of ●, 2020.

SCHEDULE "B"

PROOF OF CLAIM INSTRUCTION LETTER

This instruction letter has been prepared to assist Claimants in filling out the Proof of Claim form for Claims against Forever XXI ULC. If you have any additional questions regarding completion of the Proof of Claim, please consult the Monitor's website at www.pwc.com/ca/forever21 or contact the Monitor, whose contact information is set out below.

If you have received a Notice of Claim, your Claim will be deemed to be accepted at the amount specified therein for voting and distribution purposes, and you do not need to take any further steps with respect to such Claim unless you disagree with the amount specified therein.

A Proof of Claim package is intended only to be used by Claimants who wish to assert a Claim and have not received a Notice of Claim.

Additional copies of the Proof of Claim may be found at the Monitor's website address noted above.

Please note that this is a guide only, and that in the event of any inconsistency between the terms of this guide and the terms of the Claims Procedure Order made on May 28, 2020 (the "Claims Procedure Order"), the terms of the Claims Procedure Order will govern.

SECTION 1A - ORIGINAL CLAIMANT

1. A separate Proof of Claim must be filed by each legal entity or person asserting a claim against Forever XXI ULC.
2. The Claimant shall include any and all Claims that it asserts against Forever XXI ULC in a single Proof of Claim filed, except for Claims described in any Notice of Claim sent to such Claimant by the Monitor. **Claims included in a Proof of Claim that are already covered by such Claimant's Notice of Claim will not be accepted by the Monitor.** Any Claimant who wishes to dispute any Claim set out in a Notice of Claim shall file a Notice of Dispute of Claim in respect of such Claim.
3. The full legal name of the Claimant must be provided.
4. If the Claimant operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.
5. If the Claim has been assigned or transferred to another party, Section 1B must also be completed.
6. Unless the Claim is assigned or transferred, all future correspondence, notices, etc., regarding the Claim will be directed to the address and contact indicated in this section.

SECTION 1B - ASSIGNEE

7. If the Claimant has assigned or otherwise transferred its Claim, then Section 1B must be completed.

8. The full legal name of the Assignee must be provided.
9. If the Assignee operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.
10. If the Monitor, in consultation with Forever XXI ULC, is satisfied that an assignment or transfer has occurred, all future correspondence, notices, etc., regarding the Claim will be directed to the Assignee at the address and contact indicated in this section.

SECTION 2 - AMOUNT OF CLAIM OF CLAIMANT AGAINST DEBTOR

11. Indicate the amount Forever XXI ULC was and still is indebted to the Claimant in the Amount of Claim column, including interest, if applicable, up to and including September 28, 2019.

Currency

12. The amount of the Claim must be provided in the currency in which it arose.
13. Indicate the appropriate currency in the Currency column.
14. If the Claim is denominated in multiple currencies, use a separate line to indicate the Claim amount in each such currency. If there are insufficient lines to record these amounts, attach a separate schedule indicating the required information.
15. If necessary, currency will be converted in accordance with the Claims Procedure Order.

Unsecured Claim

16. Check this box ONLY if the Claim recorded on that line is an unsecured claim.

Secured Claim

17. Check this box ONLY if the Claim recorded on that line is a secured claim.

SECTION 3 - DOCUMENTATION

18. Attach to the Proof of Claim form all particulars of the Claim and all available supporting documentation, including amount, and description of transaction(s) or agreement(s), or legal breach(es) giving rise to the Claim, including any claim assignment/transfer agreement or similar document, if applicable and amount of invoices, particulars of all credits, discounts, etc., claimed, description of the security, if any, granted by Forever XXI ULC to the Claimant and estimated value of such security.

SECTION 4 - CERTIFICATION

19. The person signing the Proof of Claim should:
 - (a) be the Claimant or an authorized representative of the Claimant;
 - (b) have knowledge of all the circumstances connected with this Claim;

- (c) assert the Claim against Forever XXI ULC as set out in the Proof of Claim and certify all available supporting documentation is attached; and
 - (d) have a witness to its certification.
20. By signing and submitting the Proof of Claim, the Claimant is asserting the Claim against Forever XXI ULC.

SECTION 5 - FILING OF CLAIM

21. **The Proof of Claim must be received by the Monitor on or before 5:00 p.m. (Toronto time) on June 30, 2020 (the "Claims Bar Date") by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email at the following address:**

**PricewaterhouseCoopers Inc., LIT
Monitor of Forever XXI ULC
18 York Street, Suite 2600
Toronto, Ontario
M5J 0B2**

**Attention: Tammy Muradova
Email: cmt_processing@ca.pwc.com
Fax: (416) 814-3219**

Failure to file your Proof of Claim so that it is actually received by the Monitor on or before 5:00 p.m. on the Claims Bar Date will result in your claim being barred and you will be prevented from making or enforcing a Claim against Forever XXI ULC (except for any Claim outlined in any Notice of Claim that may have been addressed to you). In addition, you shall not be entitled to further notice of and shall not be entitled to participate as a creditor in the CCAA proceedings of Forever XXI ULC.

SCHEDULE "C"
PROOF OF CLAIM FORM FOR CLAIMS AGAINST
FOREVER XXI ULC

DEBTOR: FOREVER XXI ULC

1A. Original Claimant (the "Claimant")

Legal Name of Claimant:	_____	Name of Contact	_____
Address	_____	Title	_____
_____	_____	Phone #	_____
_____	_____	Fax #	_____
City _____	Prov /State _____	Email	_____
Postal/Zip Code	_____		

1B. Assignee, if claim has been assigned

Legal Name of Assignee:	_____	Name of Contact	_____
Address	_____	Title	_____
_____	_____	Phone #	_____
_____	_____	Fax #	_____
City _____	Prov /State _____	Email	_____
Postal/Zip Code	_____		

2. Amount of Claim

The Debtor was and still is indebted to the Claimant as follows:

Prefiling Claims

Currency	Amount of Prefiling Claim <i>(including interest, if applicable, up to and including September 28, 2019)</i>	Unsecured Claim	Secured Claim
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

Restructuring Period Claims

Currency	Amount of Restructuring Period Claim	Unsecured Claim	Secured Claim
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

3. Documentation

Provide all particulars of the Claim and all available supporting documentation, including amount, and description of transaction(s) or agreement(s), or legal breach(es) giving rise to the Claim, including any claims assignment/transfer agreement or similar document, if applicable, and amount of invoices, particulars of all credits, discounts, etc., claimed, description of the security, if any, granted by Forever XXI ULC to the Claimant and estimated value of such security.

4. Certification

I hereby certify that:

1. I am the Claimant or an authorized representative of the Claimant.
2. I have knowledge of all the circumstances connected with this Claim.
3. The Claimant asserts this Claim against the Debtor as set out above.
4. All available documentation in support of this Claim is attached.

Signature: _____ Name: _____ Title: _____	Witness: _____ (signature) _____ (print)
Dated at _____ this _____ day of _____, 2020.	

5. Filing of Claim

This Proof of Claim must be received by the Monitor on or before 5:00 p.m. (Toronto time) on June 30, 2020 by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email at the following address:

**PricewaterhouseCoopers Inc., LIT
Monitor of Forever XXI ULC
18 York Street, Suite 2600
Toronto, Ontario
M5J 0B2**

**Attention: Tammy Muradova
Email: cmt_processing@ca.pwc.com
Fax: (416) 814-3219**

For more information see www.pwc.com/ca/forever21, or contact the Monitor by telephone at 1-888-444-1193.

SCHEDULE "D"

NOTICE OF REVISION OR DISALLOWANCE

**For Persons that have asserted Claims against Forever XXI ULC and/or
D&O Claims against the Directors and/or Officers of Forever XXI ULC**

Claims Reference Number: _____

To: _____
(the "Claimant")

Capitalized terms not defined in this Notice of Revision or Disallowance have the meaning ascribed to them in the Order of the Ontario Superior Court of Justice (Commercial List) in the CCAA proceedings of Forever XXI ULC dated May 28, 2020 (the "Claims Procedure Order").

Pursuant to the Claims Procedure Order, the Monitor hereby gives you notice that it has reviewed your Proof of Claim or D&O Proof of Claim and has revised or disallowed all or part of your purported Claim set out therein for voting and/or distribution purposes. Subject to further dispute by you in accordance with the Claims Procedure Order, your Claim will be as follows:

Prefiling Claims

	Amount as submitted		Amount allowed by Monitor for voting purposes:	Amount allowed by Monitor for distribution purposes:
	Currency			
A. Unsecured		\$	\$	\$
B. Secured		\$	\$	\$
C. D&O Claim		\$	\$	\$
D. Total Claim		\$	\$	\$

Restructuring Period Claims

	Amount as submitted		Amount allowed by Monitor for voting purposes:	Amount allowed by Monitor for distribution purposes:
	Currency			
A. Unsecured		\$	\$	\$
B. Secured		\$	\$	\$
C. D&O Claim		\$	\$	\$
D. Total Claim		\$	\$	\$

Reasons for Revision or Disallowance:

SERVICE OF DISPUTE NOTICES

If you disagree with the amount of your Claim specified herein for voting purposes, you should contact the Monitor as soon as possible at the address specified below to attempt to resolve and settle your Claim for voting purposes. In the event that the Monitor is not able to settle a Claim for voting purposes prior to the date set for any Meeting, your Claim for voting purposes shall be as set out in this Notice of Revision or Disallowance, and shall be recorded as a Disputed Voting Claim in accordance with the Meeting Order dated May 28, 2020. A determination of your Claim for voting purposes does not in any way affect and is without prejudice to the process to determine your Claim for distribution purposes.

If you intend to dispute your Claim specified in this Notice of Revision or Disallowance for distribution purposes, you must, no later than 5:00 p.m. (prevailing time in Toronto) on the day that is thirty (30) calendar days after this Notice of Revision or Disallowance is deemed to have been received by you (in accordance with the Claims Procedure Order), deliver a Notice of Dispute of Revision or Disallowance to the Monitor by ordinary prepaid mail, registered mail, courier, personal delivery, facsimile transmission or email to the following address:

PricewaterhouseCoopers Inc., LIT
Monitor of Forever XXI ULC
18 York Street, Suite 2600
Toronto, Ontario
M5J 0B2

Attention: Tammy Muradova
Email: cmt_processing@ca.pwc.com
Fax: (416) 814-3219

In accordance with the Claims Procedure Order, notices shall be deemed to be received by the Monitor upon actual receipt thereof by the Monitor during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.

The form of Notice of Dispute of Revision or Disallowance is enclosed and can also be accessed on the Monitor's website at www.pwc.com/ca/forever21.

IF YOU FAIL TO FILE A NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU FOR DISTRIBUTION PURPOSES.

DATED this day of , 2020.

PRICEWATERHOUSECOOPERS INC., LIT, solely in its capacity as Court-appointed Monitor of Forever XXI ULC, and not in its personal or corporate capacity

Per: _____

For more information see www.pwc.com/ca/forever21, or contact the Monitor by telephone at 1-888-444-1193.

SCHEDULE "E"

NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE

**With respect to Claims against Forever XXI ULC and/or
D&O Claims against the Directors and/or Officers of Forever XXI ULC**

(with respect to Claims for Distribution Purposes only)

Claims Reference Number: _____

1. Particulars of Claimant:

Full Legal Name of Claimant (include trade name, if different)

(the "Claimant")

Full Mailing Address of the Claimant:

Other Contact Information of the Claimant:

Telephone Number: _____

Email Address: _____

Facsimile Number: _____

Attention (Contact Person): _____

Particulars of original Claimant from whom you acquired the Claim or D&O Claim (if applicable):

Have you acquired this purported Claim by assignment?

Yes: No:

If yes and if not already provided, attach documents evidencing assignment.

Full Legal Name of original Claimant(s): _____

Dispute of Revision or Disallowance of Claim:

The Claimant hereby disagrees with the value of its Claim as set out in the Notice of Revision or Disallowance for distribution purposes and asserts a Claim as follows:

Prefiling Claims

	Currency	Amount allowed by Monitor in the Notice of Revision or Disallowance for distribution purposes:	Amounts claimed by Claimant for distribution purposes: ¹
A. Unsecured		\$	\$
B. Secured		\$	\$
C. D&O Claim		\$	\$
D. Total Claim		\$	\$

Restructuring Period Claims

	Currency	Amount allowed by Monitor in the Notice of Revision or Disallowance for distribution purposes:	Amounts claimed by Claimant for distribution purposes: ²
A. Unsecured		\$	\$
B. Secured		\$	\$
C. D&O Claim		\$	\$
D. Total Claim		\$	\$

Note: This Notice of Dispute of Revision or Disallowance relates only to any disputes with respect to your Claim **for distribution purposes** as set out in a Notice of Revision or Disallowance. If you disagree with the amount of your Claim specified in a Notice of Revision or Disallowance for voting purposes, you should contact the Monitor as soon as possible to attempt to resolve and settle your Claim for voting purposes. In the event that the Monitor is not able to settle a Claim for voting purposes prior to the date set for any Meeting, your Claim for voting purposes shall be as set out in the Notice of Revision or Disallowance, and shall be recorded as a Disputed Voting Claim in accordance with the Meeting Order dated May 28, 2020. A determination of your Claim for voting purposes does not in any way affect and is without prejudice to the process to determine your Claim for distribution purposes.

Reasons for Dispute:

Please describe the reasons and basis for your dispute of the amount allowed by the Monitor in the Notice of Revision or Disallowance for distribution purposes. You may attach a

¹ If necessary, currency will be converted in accordance with the Claims Procedure Order.

² If necessary, currency will be converted in accordance with the Claims Procedure Order.

separate schedule if more space is required. Provide all applicable documentation supporting your dispute.

Signature of Claimant: _____	Witness: _____
Name: _____	(signature)
Title: _____	(print)
Dated at _____ this _____ day of _____, 2020.	

SCHEDULE "F"
NOTICE OF CLAIM

(Letterhead of the Monitor)

●, 2020

[Name]
[Address]

Dear ●:

Re: Known Claims in the CCAA Proceedings of Forever XXI ULC (Court File: CV-19-00628233-00CL)

Amount of Known Claim against Forever XXI ULC has been assessed as a claim in the amount of \$● CAD

As you know, Forever XXI ULC (the "**Applicant**") filed for and was granted creditor protection under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**"), pursuant to an order (the "**Initial Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") (the "**CCAA Proceedings**"). Pursuant to the Initial Order, the Court appointed PricewaterhouseCoopers Inc. as monitor of the Applicant to, among other things, oversee the CCAA Proceedings (in such capacity and not in its personal or corporate capacity, the "**Monitor**"). A copy of the Initial Order and other information relating to the CCAA Proceedings has been posted to www.pwc.com/ca/forever21 (the "**Monitor's Website**").

The purpose of this Notice of Claim is to inform you about your claim in the claims process approved by the Court on May 28, 2020 (the "**Claims Process**"). The Claims Process governs the process for the identification and quantification of certain claims against Forever XXI ULC and its directors and officers in the CCAA Proceedings. All terms used but not defined in this Notice of Claim shall have the meanings ascribed thereto in the Claims Procedure Order of the Court dated May 28, 2020 (the "**Claims Procedure Order**"). In the event of any inconsistency between the terms of this Notice of Claim and the terms of the Claims Procedure Order, the terms of the Claims Procedure Order will govern.

Claims Process

Under the Claims Procedure Order, the Monitor is required to send a notice prepared by the Applicant, in consultation with the Monitor, to each Known Claimant outlining the quantum of their Known Claim that the Monitor is prepared to allow for voting and distribution purposes in the Claims Process ("**Notice of Claim**").

This Notice of Claim contains the full amount of your Known Claim against the Applicant that the Monitor will allow as an accepted Claim for voting and distribution purposes in the Claims Process, based on the books and records of the Applicant and any negotiations that the

Applicant and/or the Monitor has had with you regarding the amounts owed by the Applicant to you.

Your total claim has been assessed by Forever XXI ULC, in consultation with the Monitor, as follows:

Your Known Claim against Forever XXI ULC has been assessed as a claim in the amount of \$● CAD. Details of your claim are set out in the attached schedule.

If you agree with Forever XXI ULC's assessment of your claim, you need not take any further action.

IF YOU WISH TO DISPUTE THE ASSESSMENT OF YOUR CLAIM, YOU MUST TAKE THE STEPS OUTLINED BELOW.

Disagreement with Assessment:

If you disagree with the assessment of your claim set out in this Notice of Claim, you must complete and return to the Monitor a completed Notice of Dispute of Claim asserting a claim in a different amount supported by appropriate documentation. A blank Notice of Dispute of Claim form is enclosed. The Notice of Dispute of Claim with supporting documentation disputing the within assessment of your claim **must be received by the Monitor no later than 5:00 p.m. (Toronto time) on June 30, 2020 (the "Claims Bar Date")**.

If no such Notice of Dispute of Claim is received by the Monitor by the Claims Bar Date, the amount of your claim will be, subject to further order of the Court, conclusively deemed to be as shown in this Notice of Claim for voting and distribution purposes.

The Notice of Dispute of Claim should be delivered by registered mail, personal delivery, courier, facsimile transmission or email (in PDF format) to:

PricewaterhouseCoopers Inc., LIT
Monitor of Forever XXI ULC
18 York Street, Suite 2600
Toronto, Ontario
M5J 0B2

Attention: Tammy Muradova
Email: cmt_processing@ca.pwc.com
Fax: (416) 814-3219

Important Deadlines:

If you do not file a Notice of Dispute of Claim by June 30, 2020, you will have no further right to dispute your claim against Forever XXI ULC, as assessed by Forever XXI ULC in consultation with the Monitor, and you will be barred from filing any such dispute in the future.

In addition, if you believe you have any claims against Forever XXI ULC or any of its Directors and/or Officers that are not captured in this Notice of Claim, you must submit a Proof of Claim or D&O Proof of Claim by the Claims Bar Date. Copies of the Proof of Claim and D&O Proof of Claim forms may be found at the Monitor's Website. **Claims against Forever XXI ULC and D&O Claims (that are not Known Claims) which are not received by the Claims Bar Date will be barred and extinguished forever.**

More Information:

If you have questions regarding the foregoing, you may contact the Monitor at 1-888-444-1193 or cmt_processing@ca.pwc.com.

Yours truly,

SCHEDULE "G"

NOTICE OF DISPUTE OF CLAIM

With respect to Forever XXI ULC

Claims Reference Number: _____

1. Particulars of Claimant:

Full Legal Name of Claimant (include trade name, if applicable)

(the "Claimant")

Full Mailing Address of the Claimant:

Other Contact Information of the Claimant:

Telephone Number: _____

Email Address: _____

Facsimile Number: _____

Attention (Contact Person): _____

Particulars of original Known Claimant from whom you acquired the Claim (if applicable):

Have you acquired this purported Claim from a Known Claimant by assignment?

Yes:

No:

If yes and if not already provided, attach documents evidencing assignment.

Full Legal Name of original Known Claimant: _____

Dispute of Notice of Claim:

The Claimant hereby disagrees with the value of its Claim as set out in the Notice of Claim and asserts a Claim as follows:

	Currency	Amount in Notice of Claim:	Amount claimed by Known Claimant for voting purposes:³	Amount claimed by Known Claimant for distribution purposes:⁴
Total Claim		\$	\$	\$

Reasons for Dispute:

Please describe the reasons and basis for your dispute of the amount set out in your Notice of Claim. You may attach a separate schedule if more space is required. Provide all applicable documentation supporting your dispute.

Signature of Claimant: _____	Witness: _____
Name: _____	(signature)
Title: _____	(print)
Dated at _____ this _____ day of _____, 2020.	

³ If necessary, currency will be converted in accordance with the Claims Procedure Order.

⁴ If necessary, currency will be converted in accordance with the Claims Procedure Order.

SCHEDULE "H"

CLAIMANT'S GUIDE TO COMPLETING THE D&O PROOF OF CLAIM FORM FOR CLAIMS AGAINST DIRECTORS AND/OR OFFICERS OF FOREVER XXI ULC

This Guide has been prepared to assist Claimants in filling out the D&O Proof of Claim form for claims against the Directors and/or Officers of Forever XXI ULC (the "**Applicant**"). If you have any additional questions regarding completion of the D&O Proof of Claim, please consult the Monitor's website at www.pwc.com/ca/forever21 or contact the Monitor, whose contact information is set out below.

The D&O Proof of Claim form is ONLY for Claimants asserting a claim against any Directors and/or Officers of the Applicant, and NOT for claims against Forever XXI ULC itself. For claims against Forever XXI ULC that are not covered in any Notice of Claim, please use the form titled "Proof of Claim Form for Claims Against Forever XXI ULC", which is available on the Monitor's website at www.pwc.com/ca/forever21.

Additional copies of the D&O Proof of Claim form may be found at the Monitor's website address noted above.

Please note that this is a guide only, and that in the event of any inconsistency between the terms of this guide and the terms of the Claims Procedure Order made on May 28, 2020 (the "**Claims Procedure Order**"), the terms of the Claims Procedure Order will govern.

SECTION 1. - DEBTOR

1. The full name of all of the Applicant's Directors or Officers against whom the Claim is asserted must be listed.

SECTION 2A. - ORIGINAL CLAIMANT

1. A separate D&O Proof of Claim must be filed by each legal entity or person asserting a claim against the Applicant's Directors or Officers.
2. The Claimant shall include any and all D&O Claims that it asserts against the Applicant's Directors or Officers in a single D&O Proof of Claim.
3. The full legal name of the Claimant must be provided.
4. If the Claimant operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.
5. If the claim has been assigned or transferred to another party, Section 2B, described below, must also be completed.
6. Unless the claim is assigned or transferred, all future correspondence, notices, etc., regarding the claim will be directed to the address and contact indicated in this section.

SECTION 2B. - ASSIGNEE

7. If the Claimant has assigned or otherwise transferred its claim, then Section 2B must be completed.
8. The full legal name of the Assignee must be provided.
9. If the Assignee operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.
10. If the Monitor, in consultation with the Applicant, is satisfied that an assignment or transfer has occurred, all future correspondence, notices, etc., regarding the claim will be directed to the Assignee at the address and contact indicated in this section.

SECTION 2. - AMOUNT OF CLAIM OF CLAIMANT AGAINST DEBTOR

11. Indicate the amount the Director(s) and/or Officer(s) was/were and still is/are indebted to the Claimant in the Amount of Claim column, including interest, if applicable, up to and including September 28, 2019.

Currency

12. The amount of the claim must be provided in the currency in which it arose.
13. Indicate the appropriate currency in the Currency column.
14. If the claim is denominated in multiple currencies, use a separate line to indicate the claim amount in each such currency. If there are insufficient lines to record these amounts, attach a separate schedule indicating the required information.
15. If necessary, currency will be converted in accordance with the Claims Procedure Order.

DOCUMENTATION

16. Attach to the D&O Proof of Claim form all particulars of the claim and all available supporting documentation, including amount and description of transaction(s) or agreement(s) or legal breach(es) giving rise to the claim.

CERTIFICATION

17. The person signing the D&O Proof of Claim should:
 - (a) be the Claimant or an authorized representative of the Claimant;
 - (b) have knowledge of all of the circumstances connected with this claim;
 - (c) assert the claim against the Debtor(s) as set out in the D&O Proof of Claim and certify all available supporting documentation is attached; and
 - (d) have a witness to its certification.

18. By signing and submitting the D&O Proof of Claim, the Claimant is asserting the claim against the Debtor(s) specified therein.

FILING OF CLAIM

19. The D&O Proof of Claim must be received by the Monitor on or before 5:00 p.m. (Toronto time) on June 30, 2020 (the "Claims Bar Date") by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email at the following address:

PricewaterhouseCoopers Inc., LIT
Forever XXI ULC
18 York Street, Suite 2600
Toronto, Ontario
M5J 0B2

Attention: Tammy Muradova
Email: cmt_processing@ca.pwc.com
Fax: (416) 814-3219

Failure to file your D&O Proof of Claim so that it is actually received by the Monitor on or before 5:00 p.m. on the Claims Bar Date will result in your claim being barred and you will be prevented from making or enforcing a claim against the Directors and Officers of Forever XXI ULC. In addition, you shall not be entitled to further notice of and shall not be entitled to participate as a creditor in the Applicant's CCAA proceedings.

SCHEDULE "I"

**PROOF OF CLAIM FORM FOR CLAIMS AGAINST
DIRECTORS OR OFFICERS OF FOREVER XXI ULC (the "D&O Proof of Claim")**

This form is to be used only by Claimants asserting a claim against any Directors and/or Officers of Forever XXI ULC (the "Applicant") and NOT for claims against Forever XXI ULC itself. For claims against Forever XXI ULC that are not covered in any Notice of Claim, please use the form titled "Proof of Claim Form for Claims Against Forever XXI ULC", which is available on the Monitor's website at www.pwc.com/ca/forever21.

1. Name of Officer(s) and/or Director(s) (the "Debtor(s))

Debtor(s): _____

2A. Original Claimant (the "Claimant")

Legal Name of Claimant:	_____	Name of Contact	_____
Address	_____	Title	_____
	_____	Phone #	_____
	_____	Fax #	_____
City _____	Prov /State _____	Email	_____
Postal/Zip Code	_____		

2B. Assignee, if claim has been assigned

Legal Name of Assignee:	_____	Name of Contact	_____
Address	_____	Title	_____
	_____	Phone #	_____
	_____	Fax #	_____
City _____	Prov /State _____	Email	_____
Postal/Zip Code	_____		

Filing of Claim

This D&O Proof of Claim must be received by the Monitor on or before 5:00 p.m. (Toronto time) on June 30, 2020 by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email at the following address:

**PricewaterhouseCoopers Inc., LIT
Forever XXI ULC
18 York Street, Suite 2600
Toronto, Ontario
M5J 0B2**

**Attention: Tammy Muradova
Email: cmt_processing@ca.pwc.com
Fax: (416) 814-3219**

For more information see www.pwc.com/ca/forever21, or contact the Monitor by telephone at 1-888-444-1193.

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

Court File No: CV-19-00628233-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF FOREVER XXI ULC**

ONTARIO

**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

CLAIMS PROCEDURE ORDER

OSLER, HOSKIN & HARCOURT LLP
100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto ON M5X 1B8

Tracy C. Sandler – LSO# 32443N
Email: tsandler@osler.com

Jeremy Dacks – LSO# 41851R
Email: jdacks@osler.com

Karin Sachar – LSO# 59944E
Email: ksachar@osler.com

Tel: 416.362.2111
Fax: 416.862.6666

Lawyers for the Applicant

TAB 9

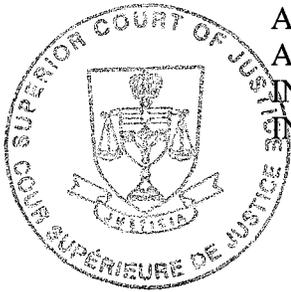
**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) MONDAY, THE 12th DAY
)
MADAM JUSTICE PEPALL) OF APRIL, 2010

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF CANWEST PUBLISHING
INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS
INC. AND CANWEST (CANADA) INC.

APPLICANTS



CLAIMS PROCEDURE ORDER

THIS MOTION made by Canwest Publishing Inc./Publications Canwest Inc. (“**CPI**”), Canwest Books Inc. and Canwest (Canada) Inc. (the “**Applicants**”) and Canwest Limited Partnership (“**Canwest LP**”, collectively and together with the Applicants, the “**LP Entities**”, and each an “**LP Entity**”), for an order establishing a claims procedure for the identification and quantification of certain claims against the LP Entities was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Affidavit of Douglas E.J. Lamb sworn April 6, 2010, the Sixth Report of FTI Consulting Canada Inc. in its capacity as Court-appointed monitor of the LP Entities (the “**Monitor**”) and on hearing from counsel for the LP Entities, the Monitor, The Bank of Nova Scotia in its capacity as Administrative Agent (the “**Agent**”) for the LP Senior Lenders (as defined below), court-appointed counsel for the representatives of the salaried employees and retirees and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service, filed.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record herein be and is hereby abridged and that the motion is properly returnable today and service upon any interested party other than those parties served is hereby dispensed with.

DEFINITIONS AND INTERPRETATION

2. **THIS COURT ORDERS** that, for the purposes of this Order establishing a claims process for the LP Entities (the “**LP Claims Procedure Order**”), in addition to terms defined elsewhere herein, the following terms shall have the following meanings:
 - (a) “**Assessments**” means Claims of Her Majesty the Queen in Right of Canada or of any Province or Territory or Municipality or any other taxation authority in any Canadian or foreign jurisdiction, including, without limitation, amounts which may arise or have arisen under any notice of assessment, notice of appeal, audit, investigation, demand or similar request from any taxation authority;
 - (b) “**Business Day**” means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
 - (c) “**Calendar Day**” means a day, including Saturday, Sunday and any statutory holidays in the Province of Ontario, Canada;
 - (d) “**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
 - (e) “**CCAA Proceeding**” means the proceeding commenced by the LP Entities in the Court at Toronto under Court File No. CV-10-8533-00CL;
 - (f) “**Claim**” means:
 - (i) any right or claim of any Person against one or more of the LP Entities, whether or not asserted, in connection with any indebtedness, liability or

obligation of any kind whatsoever of one or more of the LP Entities in existence on the Filing Date, and any accrued interest thereon and costs payable in respect thereof to and including the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts which existed prior to the Filing Date, and includes any other claims that would have been claims provable in bankruptcy had the applicable LP Entity become bankrupt on the Filing Date (each, a “**Prefiling Claim**”, and collectively, the “**Prefiling Claims**”); and

- (ii) any right or claim of any Person against one or more of the LP Entities in connection with any indebtedness, liability or obligation of any kind whatsoever owed by one or more of the LP Entities to such Person arising out of the restructuring, disclaimer, resiliation, termination or breach on or after the Filing Date of any contract, lease or other agreement whether written or oral and whether such restructuring, disclaimer, resiliation, termination or breach took place or takes place before or after the date of this LP Claims Procedure Order (each, a “**Restructuring Period Claim**”, and collectively, the “**Restructuring Period Claims**”)

other than Excluded Claims;

- (g) “**Claims Officer**” means the individuals designated by the Court pursuant to paragraph 11 of this LP Claims Procedure Order and such other Persons as may be designated by the LP Entities and consented to by the Monitor;

- (h) “**Court**” means the Superior Court of Justice (Commercial List) in the City of Toronto in the Province of Ontario;
- (i) “**Director**” means anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of any of the Applicants;
- (j) “**Distribution Claim**” means the amount of the Claim of a Creditor to the extent that such claim is finally determined for distribution purposes, in the event that an LP Plan is filed, in accordance with the provisions of this LP Claims Procedure Order and the CCAA;
- (k) “**Excluded Claim**” means (i) claims secured by any of the Charges as defined in the Initial Order, (ii) any claim against a Director or Officer of the LP Entities, (iii) Insured Claims, (iv) with the exception of SERA Claims and Termination and Severance Claims (as defined herein), all claims by current or former employees of the LP Entities, including both unionized and non-unionized employees, arising out of the employment of such employees or former employees by the LP Entities including, without limitation, Grievance Claims and Pension Claims (as defined herein), (v) all claims by the LP Senior Lenders (as defined herein), (vi) all claims of the LP DIP Lenders against the LP Entities pursuant to the LP DIP Definitive Documents, (vii) Intercompany Claims, and (viii) all claims of The Bank of Nova Scotia arising from the provision of cash management services to the LP Entities;
- (l) “**Filing Date**” means January 8, 2010;
- (m) “**Grievance**” means all grievances filed by bargaining agents (the “**Unions**”) representing unionized employees of the LP Entities, or their members, under applicable collective bargaining agreements;
- (n) “**Initial Order**” means the Initial Order of the Honourable Madam Justice Pepall made January 8, 2010, as amended, restated or varied from time to time;
- (o) “**Insured Claim**” means that portion of a Claim arising from a cause of action for

which the applicable LP Entities are insured to the extent that such claim, or portion thereof, is insured;

- (p) “**Intercompany Claim**” means any claim by Canwest Global Communications Corp. (“**Canwest Global**”) or an affiliate or subsidiary of Canwest Global against one or more of the LP Entities including, for greater certainty, a claim by an LP Entity against another LP Entity;
- (q) “**LP Claims Bar Date**” means 5:00 p.m. on May 7, 2010;
- (r) “**LP Claims Package**” means the materials to be provided by the LP Entities to Persons who may have a Claim which materials shall consist of a blank LP Proof of Claim, an LP Proof of Claim Instruction Letter, and such other materials as the LP Entities may consider appropriate or desirable;
- (s) “**LP Claims Process**” means the call for claims process to be administered by the LP Entities with the assistance of the Monitor pursuant to the terms of this Order;
- (t) “**LP CRA**” means CRS Inc. in its capacity as the court-appointed Chief Restructuring Advisor of the LP Entities;
- (u) “**LP Creditor**” means any Person having a Claim including, without limitation and for greater certainty, the LP Noteholders, the LP Subordinated Lenders, the transferee or assignee of a transferred Claim that is recognized as an LP Creditor in accordance with paragraph 38 hereof or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;
- (v) “**LP Hedging Creditor**” means the various counterparties to certain foreign currency, interest rate and commodity hedging agreements with the LP Entities whose obligations rank *pari passu* to the claims of the LP Secured Lenders (as defined below);
- (w) “**LP Note Indenture**” means the note indenture dated July 13, 2007 with CanWest MediaWorks Limited Partnership as issuer, CanWest MediaWorks Publications Inc. and Canwest Books Inc. as guarantors, the Bank of New York as

U.S. Trustee, and BNY Trust Company of Canada as Canadian Trustee that was entered into in connection with the issuance of US\$400 million of senior subordinated notes that bear interest at 9.25%;

- (x) **“LP Notes”** means the US\$400 million of senior subordinated notes that bear interest at 9.25% that were issued pursuant to the LP Note Indenture;
- (y) **“LP Noteholders”** means the holders of the LP Notes;
- (z) **“LP Notice of Dispute of Revision or Disallowance”** means the notice referred to in paragraph 28 hereof, substantially in the form attached as Schedule “E” hereto, which may be delivered to the Monitor by an LP Creditor disputing an LP Notice of Revision or Disallowance, with reasons for its dispute;
- (aa) **“LP Notice of Revision or Disallowance”** means the notice referred to in paragraphs 26 and 27 hereof, substantially in the form of Schedule “D” advising an LP Creditor that the LP Entities have revised or rejected all or part of such LP Creditor’s Claim as set out in its LP Proof of Claim;
- (bb) **“LP Notice to Creditors”** means the notice for publication by the LP Entities or the Monitor as described in paragraph 16 hereof, substantially in the form attached hereto as Schedule “A”, calling for any and all Claims of LP Creditors;
- (cc) **“LP Plan”** means, as further defined in the Initial Order, any proposed plan of compromise or arrangement that may be filed by any or all of the LP Entities (in consultation with the Monitor and the LP CRA) pursuant to the CCAA as the same may be amended, supplemented or restated from time to time in accordance with the terms thereof other than the LP Senior Lenders’ CCAA Plan;
- (dd) **“LP Proof of Claim”** means the Proof of Claim referred to in paragraphs 22, 23 and 24 hereof to be filed by LP Creditors, in order to establish a Claim, substantially in the form attached hereto as Schedule “C”;
- (ee) **“LP Proof of Claim Instruction Letter”** means the instruction letter to LP Creditors, substantially in the form attached as Schedule “B” hereto, regarding the

completion of an LP Proof of Claim and the claims procedure described herein and stating the amount of the Claim of the particular LP Creditor receiving the LP Proof of Claim Instruction Letter, as evidenced by the books and records of the LP Entities;

- (ff) **“LP Restructuring Period Claims Bar Date”** means 5:00 p.m. on the day that is 21 Calendar Days after an LP Creditor with a Restructuring Period Claim is deemed to have received the LP Claims Package pursuant to paragraph 39 of this Order.
- (gg) **“LP Secured Lenders”** means the syndicate of lenders from time to time party to the credit agreement dated as of July 10, 2007 between CanWest MediaWorks Limited Partnership, The Bank of Nova Scotia, as Administrative Agent, the LP Secured Lenders and CanWest MediaWorks (Canada) Inc., CanWest MediaWorks Publications Inc. and Canwest Books Inc., as guarantors;
- (hh) **“LP Senior Lenders”** means the LP Hedging Creditors and the LP Secured Lenders;
- (ii) **“LP Senior Lenders’ CCAA Plan”** means the plan of compromise or arrangement between the LP Entities and the LP Senior Lenders that was accepted for filing by this Honourable Court pursuant to the Initial Order and was approved by the LP Senior Lenders at a meeting on January 27, 2010;
- (jj) **“LP Senior Lenders’ Claims”** means the claims of the LP Senior Lenders as determined pursuant to the LP Senior Lenders’ Claim Procedure (as described below);
- (kk) **“LP Senior Lenders’ Claims Procedure”** means the claims procedure approved in the Initial Order by which the LP Senior Lenders’ Claims were determined in the context of the LP Senior Lenders’ CCAA Plan;
- (ll) **“LP Senior Subordinated Credit Agreement”** means the senior subordinated credit agreement dated as of July 10, 2007 between CanWest MediaWorks

Limited Partnership, the Subordinated Agent, the LP Subordinated Lenders, and CanWest MediaWorks (Canada) Inc., CanWest MediaWorks Publications Inc. and Canwest Books Inc., as guarantors;

- (mm) “**LP Subordinated Lenders**” means the syndicate of lenders that are parties to the LP Senior Subordinated Credit Agreement;
- (nn) “**Meeting**” means any meeting of LP Creditors called for the purpose of considering and voting in respect of an LP Plan, if one is filed;
- (oo) “**Monitor**” means FTI Consulting Canada Inc., as court-appointed Monitor in the CCAA proceeding of the LP Entities;
- (pp) “**Officer**” means anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of any of the Applicants;
- (qq) “**Pension Claim**” means any claim under the pension plans of the LP Entities as identified in the Initial Order Affidavit;
- (rr) “**Person**” means any individual, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, government or any agency or instrumentality thereof or any other entity;
- (ss) “**Prefiling Claim**” has the meaning ascribed to that term in paragraph 2(f)(i) of this LP Claims Procedure Order;
- (tt) “**Restructuring Period Claim**” has the meaning ascribed to that term in paragraph 2(f)(ii) of this LP Claims Procedure Order;
- (uu) “**SERA Claim**” means any claim by a current or former employee of the LP Entities for payments or benefits arising out of a Southam Executive Retirement Arrangement (a “**SERA**”) that were discontinued after the Filing Date;

- (vv) “**SISP**” means the Sale and Investor Solicitation Process being carried out pursuant to the terms of the SISP Procedures;
 - (ww) “**SISP Procedures**” means the Procedures for the Sale and Investor Solicitation Process, as amended, in the form attached as Schedule “A” to the Stay Extension Order and Order Amending the Initial Order and the Procedures for the Sale and Investor Solicitation Process that was issued by this Honourable Court on February 2, 2010;
 - (xx) “**Subordinated Agent**” means The Bank of Nova Scotia, as Administrative Agent under the LP Senior Subordinated Credit Agreement;
 - (yy) “**Termination and Severance Claim**” means any claim by a former employee of the LP Entities with an effective date of termination on or before January 8, 2010 who was in receipt of salary continuance from the LP Entities that has been discontinued as a result of the commencement of the LP Entities’ CCAA proceeding;
 - (zz) “**Trustees**” means the Bank of New York as U.S. Trustee and BNY Trust Company of Canada as Canadian Trustee under the LP Note Indenture;
 - (aaa) “**Voting Claim**” means the amount of the Claim of an LP Creditor to the extent that such claim has been finally determined for voting at a Meeting, in accordance with the provisions of this LP Claims Procedure Order, and the CCAA.
3. **THIS COURT ORDERS** that all capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Initial Order.
 4. **THIS COURT ORDERS** that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.
 5. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.

6. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

GENERAL PROVISIONS

7. **THIS COURT ORDERS** that the LP Entities and the Monitor are hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed and the time in which they are submitted, and may, where they are satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this LP Claims Procedure Order, including in respect of completion, execution and time of delivery of such forms and request any further documentation from an LP Creditor that the LP Entities or the Monitor may require in order to enable them to determine the validity of a Claim.
8. **THIS COURT ORDERS** that any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon exchange rate in effect at the Filing Date. U.S. dollar denominated claims shall be converted at the Bank of Canada Canadian/U.S. dollar noon exchange rate in effect at the Filing Date, which rate was CDN\$1.0344:\$1 U.S.
9. **THIS COURT ORDERS** that interest and penalties that would otherwise accrue after the Filing Date shall not be included in any Claim.
10. **THIS COURT ORDERS** that copies of all forms delivered by or to an LP Creditor hereunder, as applicable, and determinations of Claims by a Claims Officer or the Court, as the case may be, shall be maintained by the LP Entities and, subject to further order of the Court, such LP Creditor will be entitled to have access thereto by appointment during normal business hours on written request to the LP Entities or the Monitor.

CLAIMS OFFICER

11. **THIS COURT ORDERS** that The Honourable Edward Saunders, The Honourable Coulter Osborne and such other Persons as may be appointed by the Court from time to time on application of the LP Entities (in consultation with the LP CRA), or such other

Persons designated by the LP Entities (in consultation with the LP CRA) and consented to by the Monitor, be and they are hereby appointed as Claims Officers for the claims procedure described herein.

12. **THIS COURT ORDERS** that, subject to the discretion of the Court, a Claims Officer shall determine the validity and amount of disputed Claims in accordance with this LP Claims Procedure Order and to the extent necessary may determine whether any Claim or part thereof constitutes an Excluded Claim. A Claims Officer shall determine all procedural matters which may arise in respect of his or her determination of these matters, including the manner in which any evidence may be adduced. A Claims Officer shall have the discretion to determine by whom and to what extent the costs of any hearing before a Claims Officer shall be paid.
13. **THIS COURT ORDERS** that the Claims Officers shall be entitled to reasonable compensation for the performance of their obligations set out in this Claims Order on the basis of the hourly rate customarily charged by the Claims Officers in performing comparable functions to those set out in this Claims Order and any disbursements incurred in connection therewith. The fees and expenses of the Claims Officers shall be borne by the LP Entities and shall be paid by the LP Entities forthwith upon receipt of each invoice tendered by the Claims Officers.
14. **THIS COURT ORDERS** that, notwithstanding anything to the contrary herein, an LP Entity may in its sole discretion refer an LP Creditor's Claim for resolution to a Claims Officer or the Court for voting and/or distribution purposes, where in the LP Entity's view such a referral is preferable or necessary for the resolution of the valuation of the Claim.

MONITOR'S ROLE

15. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and under the Initial Order, shall assist the LP Entities in connection with the administration of the claims procedure provided for herein, including the determination of Claims of LP Creditors and the referral of a

particular Claim to a Claims Officer, as requested by the LP Entities from time to time, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this LP Claims Procedure Order.

NOTICE OF CLAIMS

16. **THIS COURT ORDERS** that forthwith after the date of this LP Claims Procedure Order and in any event on or before April 20, 2010, the LP Entities or the Monitor shall publish the LP Notice to Creditors, for at least two (2) Business Days in the *National Post, The Globe and Mail* (National Edition), *La Presse* and *The Wall Street Journal*.
17. **THIS COURT ORDERS** that the Monitor shall send an LP Claims Package to each LP Creditor with a Claim (other than a Restructuring Period Claim) as evidenced by the books and records of the LP Entities in accordance with paragraph 39 before 11:59 p.m. on April 16, 2010. The LP Proof of Claim Instruction Letter for each such LP Creditor shall provide general information and instructions in respect of the filing of Claims. The LP Claims Package as sent to LP Creditors will also include an individualized letter setting forth the amount of the Claim of such LP Creditor as evidenced by the books and records of the LP Entities.
18. **THIS COURT ORDERS** that the LP Entities are authorized to send an LP Claims Package to the Trustees and that the LP Entities shall not be required to send LP Claims Packages to the individual LP Noteholders.
19. **THIS COURT ORDERS** that the LP Entities are authorized to send an LP Claims Package to the Subordinated Agent and that the LP Entities shall not be required to send LP Claims Packages to the individual LP Subordinated Lenders.
20. **THIS COURT ORDERS** that the Monitor shall send forthwith an LP Claims Package to any LP Creditor of the LP Entities that requests such documents.

NOTICE OF RESTRUCTURING PERIOD CLAIMS

21. **THIS COURT ORDERS** that the LP Entities shall deliver an LP Claims Package to each LP Creditor with a Restructuring Period Claim, as soon as practicable after the LP

Entities have knowledge of the Restructuring Period Claim and, in any event, no later than 31 Calendar Days before the date of any Meeting.

FILING OF PROOFS OF CLAIM

22. **THIS COURT ORDERS** that any LP Creditor asserting a Claim against the LP Entities shall file an LP Proof of Claim with the Monitor on or before the LP Claims Bar Date or the LP Restructuring Period Claims Bar Date, as applicable.
23. **THIS COURT ORDERS** that the Trustees are authorized to file one or more LP Proofs of Claim on or before the LP Claims Bar Date on behalf of all of the LP Noteholders indicating that amount owing on an aggregate basis for all of the LP Notes. Notwithstanding any other provisions in this Order, the LP Noteholders are not required to file individual LP Proofs of Claim in respect of claims relating solely to the debt evidenced by the LP Notes.
24. **THIS COURT ORDERS** that the Subordinated Agent is hereby authorized to file one or more LP Proofs of Claim on or before the LP Claims Bar Date on behalf of all of the LP Subordinated Lenders, indicating that amount owing on an aggregate basis under the LP Senior Subordinated Credit Agreement. Notwithstanding any other provisions in this Order, the LP Subordinated Lenders are not required to file individual LP Proofs of Claim in respect of claims relating solely to the obligations under the LP Senior Subordinated Credit Agreement.
25. **THIS COURT ORDERS** that any LP Creditor that does not file an LP Proof of Claim as provided for in paragraph 22 herein so that such LP Proof of Claim is received by the Monitor on or before the LP Claims Bar Date or the LP Restructuring Period Claims Bar Date, as applicable, or such later date as the Monitor and the Applicants may agree in writing or the Court may otherwise agree:
 - (a) shall be and is hereby forever barred from making or enforcing any Claim against the LP Entities and the Claim shall be forever extinguished;

- (b) shall not be entitled to further notice of any action taken by the LP Entities pursuant to this Order; and
- (c) shall not be entitled to participate as an LP Creditor in these proceedings.

ADJUDICATION OF CLAIMS

26. **THIS COURT ORDERS** that provided that the LP Claims Process has not been suspended pursuant to paragraph 34 herein, the LP Entities shall, with the assistance of the Monitor and in consultation with the LP CRA, review all LP Proofs of Claim received by the LP Claims Bar Date or the LP Restructuring Period Claims Bar Date, as applicable, and shall accept, revise or reject each Claim. If the LP Entities intend to revise or reject a Claim, other than a Restructuring Period Claim, the LP Entities shall by no later than 11:59 p.m. on the later of (i) May 28, 2010 or (ii) the date exactly three weeks after the Monitor posts notice on its website that a determination to proceed with the adjudication of claims has been made pursuant to paragraph 34 herein, or such other date as may be agreed to by the Monitor, notify each LP Creditor who has delivered an LP Proof of Claim whether such LP Creditor's Claim as set out therein has been revised or rejected and the reasons therefor, by sending an LP Notice of Revision or Disallowance. If the LP Entities intend to revise or reject a Restructuring Period Claim, the LP Entities shall by no later than 14 Calendar Days after the LP Restructuring Period Claims Bar Date, or such other date as may be agreed to by the Monitor, notify each LP Creditor who has delivered an LP Proof of Claim in respect of a Restructuring Period Claim whether such LP Creditor's Claim as set out therein has been revised or rejected and the reasons therefore, by sending an LP Notice of Revision or Disallowance. Where the LP Entities do not send by such dates, or such other dates as may be agreed to by the Monitor, an LP Notice of Revision or Disallowance to an LP Creditor, the LP Entities shall be deemed to have accepted such LP Creditor's Claim in the amount set out in that LP Creditor's LP Proof of Claim.
27. **THIS COURT ORDER** that, where the LP Entities intend to revise or reject an LP Proof of Claim filed by the Trustees on behalf of the LP Noteholders or an LP Proof of Claim filed by the Subordinated Agent on behalf of the LP Subordinated Lenders, the LP

Entities shall send the LP Notice of Revision or Disallowance to the Trustees or the Subordinated Agent, as applicable.

28. **THIS COURT ORDERS** that, except in the case of an LP Creditor with a Restructuring Period Claim, any LP Creditor, and in the case of the LP Noteholders and the LP Subordinated Lenders, the Trustees and the Subordinated Agent, respectively, who intends to dispute an LP Notice of Revision or Disallowance sent pursuant to the immediately preceding paragraphs shall deliver an LP Notice of Dispute of Revision or Disallowance to the Monitor before the later of (i) June 11, 2010 or (ii) the date exactly five weeks after the Monitor posts notice on its website that a determination has been made to proceed with the adjudication of claims pursuant to paragraph 34 herein, or such other date as may be agreed to by the Monitor. In the case of an LP Creditor with a Restructuring Period Claim, such LP Creditor shall deliver an LP Notice of Dispute of Revision or Disallowance within ten (10) Calendar Days of the date that the Notice of Revision or Disallowance is deemed to have been received pursuant to paragraph 39 of this Order.

RESOLUTION OF CLAIMS

29. **THIS COURT ORDERS** that where an LP Creditor that receives an LP Notice of Revision or Disallowance pursuant to paragraphs 26 and 27 above does not file an LP Notice of Dispute of Revision or Disallowance by the time set out in paragraph 28 above, such LP Creditor's Claim shall be deemed to be as set out in the LP Notice of Revision or Disallowance.
30. **THIS COURT ORDERS** that in the event that an LP Entity, with the assistance of the Monitor and in consultation with the LP CRA, is unable to resolve a dispute regarding any Claim with an LP Creditor, the LP Entity or the LP Creditor shall so notify the Monitor, and the LP Creditor or the LP Entity, as the case may be. The decision as to whether the LP Creditor's Claim should be adjudicated by the Court or a Claims Officer shall be in the sole discretion of the LP Entity. To the extent a Claim is referred under this paragraph to the Court or a Claims Officer, the Court or a Claims Officer, as the case may be, shall resolve the dispute between the LP Entity and such LP Creditor, and in any

event, it is anticipated that the Court or a Claims Officer shall, by no later than eight (8) Calendar Days prior to the date of any Meeting, notify the LP Entity, the LP Creditor and the Monitor of the determination of the value of the LP Creditor's Claim.

31. **THIS COURT ORDERS** that where the value of an LP Creditor's Voting Claim has not been finally determined by the Court or the Claims Officer by the date of a Meeting, if any, the relevant LP Entity shall (in consultation with the LP CRA) either:
- (a) accept the LP Creditor's determination of the value of the Voting Claim as set out in the applicable LP Notice of Dispute of Revision or Disallowance only for the purposes of voting and conduct the vote of the Creditors on that basis subject to a final determination of such LP Creditor's Voting Claim, and in such case the Monitor shall record separately the value of such LP Creditor's Voting Claim and whether such LP Creditor voted in favour of or against the LP Plan;
 - (b) adjourn the Meeting until a final determination of the Voting Claim(s) is made; or
 - (c) deal with the matter as the Court may otherwise direct or as the LP Entities, the Monitor and the LP Creditor may otherwise agree.
32. **THIS COURT ORDERS** that either an LP Creditor or an LP Entity may, within seven (7) Calendar Days of notification of a Claims Officer's determination in respect of an LP Creditor's Claim, appeal such determination to the Court by filing a notice of appeal, and the appeal shall be initially returnable within ten (10) Calendar Days of the filing of such notice of appeal, such appeal to be an appeal based on the record before the Claims Officer and not a hearing de novo.
33. **THIS COURT ORDERS** that if neither party appeals the determination of a Claim by a Claims Officer within the time set out in paragraph 32 above, the decision of the Claims Officer in determining the value of an LP Creditor's Claim shall be final and binding upon the relevant LP Entity, the Monitor and the LP Creditor and there shall be no further right of appeal, review or recourse to the Court from the Claims Officer's final

determination of a Claim.

SUSPENSION OF THE CLAIMS PROCESS

34. **THIS COURT ORDERS** that no steps for the purposes of adjudicating or resolving the Claims (as described in paragraphs 26 through 32 herein) shall be taken unless:
- (a) Phase 2 of the SISP is completed and the Monitor, the LP CRA, the LP Entities and the Agent make a determination that such steps are reasonably required to close the Successful Bid (as defined in the SISP Procedures);
 - (b) after the closing of the Successful Bid (or such earlier date as may be agreed to by the Monitor, the LP CRA, the LP Entities and the Agent), the Monitor, the LP CRA and the LP Entities make a determination that the resolution of Claims is reasonably required to facilitate a distribution of proceeds from such Successful Bid; or
 - (c) directed by further Order of the Court.
35. **THIS COURT ORDERS** that if a determination is made under paragraph 34 above, the Monitor shall as soon as reasonably possible thereafter post notice of such determination on the website maintained for this proceeding at: <http://cfcanada.fticonsulting.com/clp>, and such posting shall constitute notice of such determination.

SET-OFF

36. **THIS COURT ORDERS** that the LP Entities may set-off (whether by way of legal, equitable or contractual set-off) against payments or other distributions to be made pursuant to the LP Plan to any LP Creditor, any claims of any nature whatsoever that any of the LP Entities may have against such LP Creditor, however, neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the LP Entities of any such claim that the LP Entities may have against such LP Creditor.

NOTICE OF TRANSFEREES

37. **THIS COURT ORDERS** that leave is hereby granted from the date of this LP Claims Procedure Order until ten (10) Business Days prior to the date fixed by the Court for any Meeting to permit an LP Creditor to provide notice of assignment or transfer of a Claim to the Monitor.
38. **THIS COURT ORDERS** that if, after the Filing Date, the holder of a Claim transfers or assigns the whole of such Claim to another Person, neither the Monitor nor the LP Entities shall be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received and acknowledged by the relevant LP Entity and the Monitor in writing and thereafter such transferee or assignee shall for the purposes hereof constitute the "Creditor" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this LP Claims Procedure Order prior to receipt and acknowledgement by the relevant LP Entity and the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any rights of set-off to which an LP Entity may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to any of the LP Entities. No transfer or assignment shall be received for voting purposes unless such transfer shall have been received by the Monitor no later than ten (10) Business Days prior to the date to be fixed by the Court for the Meeting, failing which the original transferor shall have all applicable rights as the "Creditor" with respect to such Claim as if no transfer of the Claim had occurred. Reference to transfer in this LP Claims Procedure Order includes a transfer or assignment whether absolute or intended as security.

SERVICE AND NOTICES

39. **THIS COURT ORDERS** that the LP Entities and the Monitor may, unless otherwise specified by this LP Claims Procedure Order, serve and deliver the LP Claims Package, any letters, notices or other documents to LP Creditors or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to such Persons at the physical or electronic address, as applicable, last shown on the books and records of the LP Entities or set out in such LP Creditor's LP Proof of Claim. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by facsimile transmission or email by 6:00 p.m. on a Business Day, on such Business Day and if delivered after 6:00 p.m. or other than on a Business Day, on the following Business Day.
40. **THIS COURT ORDERS** that any notice or communication required to be provided or delivered by an LP Creditor to the Monitor or the LP Entities under this LP Claims Procedure Order shall be in writing in substantially the form, if any, provided for in this LP Claims Procedure Order and will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email addressed to:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing Inc./Publications Canwest Inc. et al
Claims Process
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON
M5K 1G8

Attention: Pamela Luthra
Telephone: 1 888- 310-7627
Fax: 416-649-8101
Email: CanwestLP@fticonsulting.com

Any such notice or communication delivered by an LP Creditor shall be deemed to be received upon actual receipt by the Monitor thereof during normal business hours on a

Business Day or if delivered outside of normal business hours, the next Business Day.

41. **THIS COURT ORDERS** that if during any period during which notices or other communications are being given pursuant to this LP Claims Procedure Order a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary mail and then not received shall not, absent further Order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this LP Claims Procedure Order.
42. **THIS COURT ORDERS** that in the event that this LP Claims Procedure Order is later amended by further Order of the Court, the LP Entities or the Monitor may post such further Order on the Monitor's website and such posting shall constitute adequate notice to LP Creditors of such amended claims procedure.

MISCELLANEOUS

43. **THIS COURT ORDERS** that notwithstanding any other provisions of this LP Claims Procedure Order, the solicitation by the Monitor or the LP Entities of LP Proofs of Claim, and the filing by any LP Creditor of any LP Proof of Claim shall not, for that reason only, grant any person any standing in these proceedings or rights under any proposed LP Plan.
44. **THIS COURT ORDERS** that nothing in this LP Claims Procedure Order shall (i) constitute or be deemed to constitute an allocation or assignment of Claims or Excluded Claims by the LP Entities into particular affected or unaffected classes for the purpose of an LP Plan; or (ii) authorize or require the LP Entities to file an LP Plan.
45. **THIS COURT ORDERS** that in the event that no LP Plan is approved by this Court, the LP Claims Bar Date or LP Restructuring Claims Bar Date, as the case may be, shall be of no effect in any subsequent proceeding or distribution with respect to any and all Claims made by LP Creditors.
46. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court or any

judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada pursuant to section 17 of the CCAA) and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial regulatory body of the United States and the states or other subdivisions of the United States and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this LP Claims Procedure Order.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

APR 12 2010

PER / PAR: 

SCHEDULE "A"

NOTICE TO CREDITORS OF Canwest Publishing Inc./Publications Canwest Inc., Canwest Books Inc., Canwest (Canada) Inc. (collectively, the "Applicants") and Canwest Limited Partnership ("Canwest LP" and, together with the Applicants, the "LP Entities")

RE: NOTICE OF CLAIMS PROCEDURE AND CLAIMS BAR DATE IN COMPANIES' CREDITORS ARRANGEMENT ACT ("CCAA") PROCEEDINGS

NOTICE IS HEREBY GIVEN that pursuant to an Order of the Ontario Superior Court of Justice made April 12, 2010 (the "Order"), a claims procedure was approved for the determination of certain claims against the LP Entities.

PLEASE TAKE NOTICE that the claims procedure applies only to Claims of Creditors described in the Order. No other claims are being compromised. A copy of the Order and other public information concerning the CCAA Proceedings can be found at the Monitor's website: <http://cfcanada.fticonsulting.com/clp>.

THE LP CLAIMS BAR DATE is **5:00 p.m. (Toronto Time) on May 7, 2010** or, if you have a Restructuring Period Claim, 21 days after you are deemed to have received the LP Claims Package pursuant to the Order. Any creditor who has not received an LP Claims Package and who believes that it has a Claim against one or more of the LP Entities must contact the Monitor in order to obtain an LP Proof of Claim. LP Proofs of Claim must be filed with the Monitor on or before the LP Claims Bar Date or the LP Restructuring Period Claims Bar Date, as the case may be.

HOLDERS OF CLAIMS that do not file an LP Proof of Claim by the LP Claims Bar Date or the LP Restructuring Period Claims Bar Date, as the case may be, shall not be entitled to vote at any meeting of creditors regarding any plan of compromise or arrangement proposed by

the LP Entities or participate in any distribution under such plan, and any Claims such Creditor may have against any of the LP Entities shall be forever extinguished and barred.

FORMER EMPLOYEES WITH SERA CLAIMS OR TERMINATION AND SEVERANCE CLAIMS, as defined in the Order, may contact Court-appointed representative counsel for further information at CSER@nelligan.ca or 1-888-565-9912.

CREDITORS REQUIRING INFORMATION or claim documentation may contact the Monitor at the following address or facsimile:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing Inc./Publications Canwest Inc. et al
Claims Process
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON
M5K 1G8

Attention: Pamela Luthra
Telephone: 1 888- 310-7627
Fax: 416-649-8101
Email: **CanwestLP@fticonsulting.com**

SCHEDULE "B"

**LP PROOF OF CLAIM INSTRUCTION LETTER
FOR THE CLAIMS PROCEDURE FOR LP CREDITORS OF
CANWEST PUBLISHING INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS
INC., CANWEST (CANADA) INC. AND CANWEST LIMITED
PARTNERSHIP/CANWEST SOCIETE EN COMMANDITE (collectively, the "LP
ENTITIES")**

**PLEASE NOTE THAT THIS IS A SEPARATE AND DISTINCT CLAIMS PROCESS
FROM THE CLAIMS PROCESS GOVERNING THE CMI ENTITIES. ALL
CREDITORS THAT BELIEVE THEY HAVE A CLAIM AGAINST CANWEST
PUBLISHING INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS INC.,
CANWEST (CANADA) INC. AND CANWEST LIMITED PARTNERSHIP/CANWEST
SOCIETE EN COMMANDITE MUST FILE A PROOF OF CLAIM FORM**

LP CLAIMS PROCESS

By Order of the Honourable Madam Justice Pepall dated April 12, 2010 (as may be amended from time to time, the "Order") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "CCAA"), the LP Entities have been authorized to conduct a claims process (the "LP Claims Process") pursuant to a claims procedure (the "Claims Procedure"). A copy of the Order and other public information concerning these proceedings can be obtained from the website of FTI Consulting Canada Inc., the Court-appointed Monitor of the LP Entities, at <http://cfcanada.fticonsulting.com/clp>.

This letter provides general instructions for completing the LP Proof of Claim forms. As of the date of this instruction letter, the LP Entities have not yet filed, and may never file, a plan of arrangement or compromise with their unsecured creditors pursuant to the CCAA. Capitalized terms not defined within this instruction letter shall have the meanings ascribed to them in the Order.

The LP Claims Process is intended for any Person with a claim of any kind or nature whatsoever, other than an Excluded Claim, arising on or prior to January 8, 2010, whether unliquidated, contingent or otherwise. In addition, the LP Claims Process is intended for any Person with any Claim arising after January 8, 2010 against any or all of the LP Entities as the result of the restructuring, disclaimer, resiliation, termination or breach of any contract, lease or other type of agreement. Please review the Order for the complete definitions of Claim, Prefiling Claim, Restructuring Period Claim, and Excluded Claim.

All notices and inquiries with respect to the LP Claims Process and the Claims Procedure should be directed to the Monitor by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing Inc./Publications Canwest Inc. et al

Claims Process
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON
M5K 1G8
Attention: Pamela Luthra

Telephone: 1 888- 310-7627
Fax: 416-649-8101
Email: CanwestLP@fticonsulting.com

YOU MUST FILE A PROOF OF CLAIM BY THE CLAIMS BAR DATE OR THE LP RESTRUCTURING PERIOD CLAIMS BAR DATE, AS MAY THE CASE MAY BE, IN ORDER TO ESTABLISH YOUR CLAIM. THE LP CLAIMS BAR DATE is 5:00 p.m. (Toronto Time) on May 7, 2010 or, IF YOU HAVE A RESTRUCTURING PERIOD CLAIM, THE LP RESTRUCTURING CLAIMS BAR DATE IS 21 DAYS AFTER YOU ARE DEEMED TO HAVE RECEIVED THE LP CLAIMS PACKAGE PURSUANT TO THE ORDER, unless the Monitor and the LP Entities agree in writing or the Court Orders that the LP Proof of Claim be accepted after that date. IF YOU DO NOT FILE AN LP PROOF OF CLAIM BY THE LP CLAIMS BAR DATE OR THE LP RESTRUCTURING PERIOD CLAIMS BAR DATE, AS THE CASE MAY BE, you will not be entitled to vote at any meeting of creditors regarding any plan of compromise or arrangement proposed by the LP Entities or participate in any distribution under such plan, and any Claims you may have against any of the LP Entities will be forever extinguished and barred.

Claims denominated in a foreign currency other than U.S. dollars shall be converted to Canadian dollars at the Bank of Canada noon exchange rate in effect at the Filing Date. U.S. dollar denominated claims shall be converted at the Bank of Canada Canadian/U.S.dollar noon exchange rate in effect at the Filing Date which rate was Cdn \$1.0344: \$1 U.S.

NOTE THAT, SUBJECT TO FURTHER ORDER OF THE COURT, THERE WILL BE NO ADJUDICATION OR RESOLUTION OF THE CLAIMS UNLESS THE MONITOR GIVES NOTICE THAT SUCH ADJUDICATION OR RESOLUTION IS REQUIRED.
Please refer to the Order for further details.

If you decide to submit a LP Proof of Claim and the LP Entities disagree with the value or status that you have ascribed to your Claim, or the validity of your Claim as set out in your LP Proof of Claim, and such disagreement cannot be resolved consensually, you will receive an LP Notice of Revision or Disallowance from the LP Entities (as set out in paragraph 22 of the Claims Procedure Order).

ADDITIONAL FORMS

Additional LP Proof of Claim forms can be obtained from the Monitor's website at <http://cfcanada.fticonsulting.com/clp> or by contacting the Monitor and providing the particulars as to your name, address, facsimile number, email address and contact person. Once the LP Entities have this information, you will receive, as soon as practicable, additional LP Proof of Claim forms.

SCHEDULE "C"

Court File No. CV-10-8533-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF CANWEST PUBLISHING
INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS
INC. AND CANWEST (CANADA) INC.

APPLICANTS

LP PROOF OF CLAIM

1. PARTICULARS OF CREDITOR:

(a) Full Legal Name of Creditor:

_____ (the "Creditor").

(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of Claim for divisions of the same Creditor.)

(b) Full Mailing Address of Creditor:

(c) *Telephone Number of Creditor: _____

(d) *Facsimile Number of Creditor: _____

(e) *E-mail Address of Creditor: _____

(f) *Attention (Contact Person): _____

(g) Has the Claim been sold or assigned by Creditor to another party?

Yes _____ No _____ (If yes please completed section 5)

***In order to ensure that all claims are processed in an expedited manner you must provide one (1) or more of your telephone number, fax number or email address.**

2. PROOF OF CLAIM

THE UNDERSIGNED CERTIFIES AS FOLLOWS:

- (a) That I am a Creditor of/hold the position of _____ of the Creditor and have knowledge of all the circumstances connected with the Claim described herein;
- (b) That I have knowledge of all the circumstances connected with the Claim described and set out below;
- (c) That the LP Entity was and still is indebted to the Creditor as follows (*Claims denominated in a foreign currency other than U.S. dollars shall be converted to Canadian dollars at the Bank of Canada noon exchange rate in effect at the Filing Date. U.S. dollar denominated claims shall be converted at the Bank of Canada Canadian/U.S.dollar noon exchange rate in effect at the Filing Date which rate was Cdn \$1.0344: \$1 U.S.*)

	Prefiling Claims	Restructuring Period Claims	Total Claims
Canwest Publishing Inc./ Publications Canwest Inc.	\$	\$	\$
Canwest Books Inc.	\$	\$	\$
Canwest (Canada) Inc.	\$	\$	\$
Canwest Limited Partnership	\$	\$	\$
Total Claims	\$	\$	\$

3. **NATURE OF CLAIM**

(CHECK AND COMPLETE APPROPRIATE CATEGORY)

Unsecured Claim of \$ _____

Secured Claim of \$ _____

In respect of this debt, I hold security over the assets of the LP Entity valued at \$ _____, the particulars of which security and value are attached to this Proof of Claim form.

(Give full particulars of the security, including the date on which the security was given, the value that you ascribe to the assets charged by your security and the basis for such valuation, and attach a copy of the security documents evidencing the security.)

4. **PARTICULARS OF CLAIM:**

The Particulars of the undersigned's total Claim are attached.

(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) that has guaranteed the Claim, and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed).

5. **PARTICULARS OF ASSIGNEE(S) (only to be completed if your claim has been sold or assigned to another party):**

(a) Full Legal Name of Assignee(s) of Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

(the "Assignee(s)")

Amount of Total Claim Assigned \$ _____

Amount of Total Claim Not Assigned \$ _____

Total Amount of Claim \$ _____
(should equal "Total Claim" as entered in Section 2)

(b) Full Mailing Address of Assignee(s):

(c) Telephone Number of Assignee(s): _____

(d) Facsimile Number of Assignee(s): _____

(e) Attention (Contact Person): _____

6. **FILING OF CLAIM**

This LP Proof of Claim must be returned to and received by the Monitor by **5:00 p.m. (Toronto Time) on May 7, 2010** or, **IF YOU HAVE A RESTRUCTURING PERIOD CLAIM, 21 DAYS AFTER YOU ARE DEEMED TO HAVE RECEIVED THE LP CLAIMS PACKAGE PURSUANT TO THE ORDER** (unless the Monitor and the LP Entities agree in writing or the Court Orders that the LP Proof of Claim be accepted after that date) at the following address:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing
Inc./Publications Canwest Inc. et al
Claims Process
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON
M5K 1G8

Attention: Pamela Luthra

Telephone: 1 888- 310-7627

Fax: 416-649-8101

Email: **CanwestLP@fticonsulting.com**

Dated at _____ this _____ day of _____, 2010.

Per: _____

SCHEDULE "D"

Court File No. CV-10-8533-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF CANWEST PUBLISHING
INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS
INC. AND CANWEST (CANADA) INC.

APPLICANTS

LP NOTICE OF REVISION OR DISALLOWANCE

TO: [insert name and address of creditor]

The LP Entities have disallowed in full or in part, your Claim, as set out in your LP Proof of Claim, as set out below:

Prefiling Claim:

Claim Against	Claim per Proof of Claim	Allowed Amount	Disallowed Amount
Canwest Publishing Inc./ Publications Canwest Inc.	\$	\$	\$
Canwest Books Inc.	\$	\$	\$
Canwest (Canada) Inc.	\$	\$	\$
Canwest Limited Partnership	\$	\$	\$
Total	\$	\$	\$

Restructuring Period Claim:

Claim Against	Claim per Proof of Claim	Allowed Amount	Disallowed Amount
Canwest Publishing Inc./ Publications Canwest Inc.	\$	\$	\$
Canwest Books Inc.	\$	\$	\$
Canwest (Canada) Inc.	\$	\$	\$
Canwest Limited Partnership	\$	\$	\$
Total	\$	\$	\$

REASONS FOR DISALLOWANCE:

IF YOU INTEND TO DISPUTE THIS NOTICE OF REVISION OR DISALLOWANCE:

IN THE CASE OF AN LP CREDITOR WITH A PREFILING CLAIM, you must, no later than **5:00 p.m. (Toronto Time)** before the later of:

- (i) June 11, 2010 or
- (ii) the date exactly five weeks after the Monitor posts notice on its website that a determination has been made to proceed with the adjudication of claims pursuant to the Order, or such other date as may be agreed to by the Monitor,

notify the Monitor of such intent by delivering an LP Notice of Dispute of Revision or Disallowance (a copy of which can be found on the Monitor's website at <http://cfcanada.fticonsulting.com/clp>) in accordance with the LP Claims Procedure Order to the following address or facsimile:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing Inc./Publications Canwest Inc. et al
Claims Process
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON
M5K 1G8

Attention: Pamela Luthra

Telephone: 1 888- 310-7627
Fax: 416-649-8101
Email: **CanwestLP@fticonsulting.com**

IN THE CASE OF AN LP CREDITOR WITH A RESTRUCTURING PERIOD CLAIM, you must, no later than **5:00 p.m. (Toronto Time)** before the date that is ten (10) Calendar Days after the date that you are deemed to have received the Notice of Revision or Disallowance pursuant to paragraph 34 of the Order notify the Monitor of such intent by delivering an LP Notice of Dispute of Revision or Disallowance in accordance with the LP Claims Procedure Order to the following address or facsimile:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing Inc./Publications Canwest Inc. et al
Claims Process
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON
M5K 1G8

Attention: Pamela Luthra
Telephone: 1 888- 310-7627
Fax: 416-649-8101
Email: **CanwestLP@fticonsulting.com**

If you do not deliver an LP Notice of Dispute of Revision or Disallowance (a copy of which can be found on the Monitor's website at <http://cfcanda.fticonsulting.com/clp>) by the time and date set out above, as applicable, the value of your Claim shall be deemed to be as set out in this LP Notice of Revision or Disallowance.

DATE

SCHEDULE "E"

Court File No. CV-10-8533-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF CANWEST PUBLISHING
INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS
INC. AND CANWEST (CANADA) INC.

APPLICANTS

LP NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE

7. PARTICULARS OF CREDITOR:

- (a) Full Legal Name of Creditor: _____
- (b) Full Mailing Address of Creditor: _____

- (c) *Telephone Number of Creditor: _____
- (d) *Facsimile Number of Creditor: _____
- (e) *E-mail Address of Creditor: _____
- (f) Attention (Contact Person): _____

***In order to ensure that all claims are processed in an expedited manner you must provide one (1) or more of your telephone number, fax number or email address.**

8. **PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by assignment? Yes No

(if yes, attach documents evidencing assignment)

(b) Full Legal Name of original creditor(s): _____

9. **DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM FOR VOTING AND/OR DISTRIBUTION PURPOSES:**

We hereby disagree with the value of our Claim as set out in the LP Notice of Revision or Disallowance dated _____, as set out below:

PreFiling Claim:

Claim Against	Claim per LP Notice of Revision or Disallowance	Claim per Creditor
Canwest Publishing Inc./ Publications Canwest Inc.	\$	\$
Canwest Books Inc.	\$	\$
Canwest (Canada) Inc.	\$	\$
Canwest Limited Partnership	\$	\$
Total	\$	\$

Restructuring Period Claim:

Claim Against	Claim per LP Notice of Revision or Disallowance	Claim per Creditor
Canwest Publishing Inc./ Publications Canwest Inc.	\$	\$
Canwest Books Inc.	\$	\$
Canwest (Canada) Inc.	\$	\$
Canwest Limited Partnership	\$	\$
Total	\$	\$

10. **REASONS FOR DISPUTE:**

(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) that has guaranteed the Claim, and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed.)

If you intend to dispute an LP Notice of Revision or Disallowance, you must,

IN THE CASE OF AN LP CREDITOR WITH A PREFILING CLAIM, no later than **5:00 p.m. (Toronto Time)** before the later of:

- (i) June 11, 2010 or
- (ii) the date exactly five weeks after the Monitor posts notice on its website that a determination has been made to proceed with the adjudication of claims pursuant to the Order,

notify the Monitor of such intent by delivering an LP Notice of Dispute of Revision or Disallowance in accordance with the LP Claims Procedure Order to the following address or facsimile:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing
Inc./Publications Canwest Inc. et al
Claims Process
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON
M5K 1G8

Attention: Pamela Luthra

Telephone: 1 888- 310-7627

Fax: 416-649-8101

Email: CanwestLP@fticonsulting.com

IN THE CASE OF AN LP CREDITOR WITH A RESTRUCTURING PERIOD CLAIM, you must, no later than **5:00 p.m. (Toronto Time)** before the date that is ten (10) Calendar Days after the date that you are deemed to have received the Notice of Revision or Disallowance pursuant to paragraph 34 of the Order notify the Monitor of such intent by delivering an LP Notice of Dispute of Revision or Disallowance in accordance with the LP Claims Procedure Order to the following address or facsimile:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing
Inc./Publications Canwest Inc. et al
Claims Process
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON
M5K 1G8

Attention: Pamela Luthra

Telephone: 1 888- 310-7627
Fax: 416-649-8101
Email: **CanwestLP@fticonsulting.com**

If you do not deliver an LP Notice of Dispute of Revision or Disallowance by the time and date set out above, as applicable, the value of your Claim shall be deemed to be as set out in the LP Notice of Revision or Disallowance.

Dated at _____ this _____ day of _____, 2010.

Per: _____

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985, c.C-36,
AS AMENDED

Court File No: CV-10-8533-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANWEST
PUBLISHING INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS INC. AND
CANWEST (CANADA) INC.

APPLICANTS

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

CLAIMS PROCEDURE ORDER

OSLER, HOSKIN & HARCOURT LLP
Box 50, 1 First Canadian Place
Toronto, Ontario, Canada M5X 1B8

Lyndon A.J. Barnes (LSUC#: 13350D)
Tel: (416) 862-6679

Alexander Cobb (LSUC#: 45363F)
Tel: (416) 862-5964

Elizabeth Allen Putnam (LSUC#53194L)
Tel: (416) 862-6835
Fax: (416) 862-6666

Lawyers for the Applicants

F. 1117119

TAB 10



Court File No. CV-14-10781-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**THE HONOURABLE REGIONAL
SENIOR JUSTICE MORAWETZ**

**WEDNESDAY, THE 3RD DAY
OF DECEMBER, 2014**

**IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF
CLINE MINING CORPORATION, NEW ELK COAL COMPANY LLC AND
NORTH CENTRAL ENERGY COMPANY**

CLAIMS PROCEDURE ORDER

THIS MOTION made by Cline Mining Corporation ("**Cline**"), New Elk Coal Company LLC ("**New Elk**") and North Central Energy Company ("**North Central**" and, together with Cline and New Elk, the "**Applicants**"), for an order establishing a claims procedure for the identification and quantification of certain claims against the Applicants and their directors and officers was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Affidavit of Matthew Goldfarb sworn December 2, 2014 (the "**Goldfarb Affidavit**") and the Pre-Filing Report of FTI Consulting Canada Inc. in its capacity as proposed Court-appointed monitor of the Applicants (the "**Monitor**"), and on hearing from counsel for the Applicants, the Monitor, and Marret Asset Management Inc. (on behalf of the beneficial holders of the Secured Notes (as defined below), in

such capacity “**Marret**”) and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service, filed.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record herein be and is hereby abridged and that the motion is properly returnable today and service upon any interested party other than those parties served is hereby dispensed with.

DEFINITIONS AND INTERPRETATION

2. **THIS COURT ORDERS** that, for the purposes of this Order (the “**Claims Procedure Order**”), in addition to terms defined elsewhere herein, the following terms shall have the following meanings:
 - (a) “**2011 Notes**” means the 10% senior secured notes due June 15, 2014 issued by Cline pursuant to the 2011 Indenture;
 - (b) “**2011 Indenture**” means the note indenture dated December 13, 2011 that was entered into between Cline, Marret and the 2011 Trustee in connection with the issuance of the 2011 Notes, as amended from time to time;
 - (c) “**2011 Trustee**” means Computershare Trust Company of Canada, in its capacity as trustee under the 2011 Indenture;
 - (d) “**2013 Notes**” means the 10% senior secured convertible notes due June 15, 2014 issued by Cline pursuant to the 2013 Indenture;

- (e) **“2013 Indenture”** means the note indenture dated July 8, 2013 that was entered into between Cline, Marret and the 2013 Trustee in connection with the issuance of the 2013 Notes, as amended from time to time;
- (f) **“2013 Trustee”** means Computershare Trust Company of Canada, in its capacity as trustee under the 2013 Indenture;
- (g) **“Affected Secured Claims”** means all Claims against one or more of the Applicants that are secured by a valid security interest over assets or property of the Applicants that are not (i) Unaffected Claims, (ii) Affected Unsecured Claims or (iii) Equity Claims; and for greater certainty, the claims comprising the Secured Noteholders Allowed Secured Claim are Affected Secured Claims;
- (h) **“Affected Secured Creditor”** means the holder of an Affected Secured Claim in respect of and to the extent of such Affected Secured Claim, whether a Known Creditor or an Unknown Creditor;
- (i) **“Affected Unsecured Claims”** means all Claims against one or more of the Applicants that are not secured by a valid security interest over assets or property of the Applicants and that are not (i) Unaffected Claims, (ii) Affected Secured Claims or (iii) Equity Claims; and for greater certainty, “Affected Unsecured Claims” includes the Claims comprising the Secured Noteholders Allowed Unsecured Claim, any Marret Unsecured Claim and any portion of an Affected Secured Claim in respect of which there is a deficiency in the realizable value of the security held in respect of such Claim relative to the amount of such Claim,

and for the purpose of this Order only (and not for purposes of the Plan or the Meetings Order), “Affected Unsecured Claims” includes WARN Act Claims;

- (j) “**Affected Unsecured Creditor**” means the holder of an Affected Unsecured Claim in respect of and to the extent of such Affected Unsecured Claim, whether a Known Creditor or an Unknown Creditor;
- (k) “**Assessments**” means Claims of Her Majesty the Queen in Right of Canada or of any Province or Territory or Municipality or any other taxation authority in any Canadian or foreign jurisdiction, including, without limitation, amounts which may arise or have arisen under any notice of assessment, notice of reassessment, notice of appeal, audit, investigation, demand or similar request from any taxation authority;
- (l) “**Business Day**” means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario and New York, New York;
- (m) “**Calendar Day**” means a day, including Saturday, Sunday and any statutory holidays in the Province of Ontario, Canada;
- (n) “**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
- (o) “**CCAA Proceedings**” means the within proceedings commenced by the Applicants under the CCAA;
- (p) “**Claim**” means:

- (i) any right or claim of any Person against any of the Applicants, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of any such Applicant in existence on the Filing Date, and costs payable in respect thereof to and including the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts that existed prior to the Filing Date and any other claims that would have been claims provable in bankruptcy had such Applicant become bankrupt on the Filing Date, including for greater certainty any Equity Claim and any claim against any of the Applicants for indemnification by any Director or Officer in respect of a Director/Officer Claim (but excluding any such claim for indemnification that is covered by the Directors' Charge (as defined in the Initial Order)) (each, a **"Prefiling Claim"**, and collectively, the **"Prefiling Claims"**);
- (ii) any right or claim of any Person against any of the Applicants in connection with any indebtedness, liability or obligation of any kind

whatsoever owed by any such Applicant to such Person arising out of the restructuring, disclaimer, resiliation, termination or breach by such Applicant on or after the Filing Date of any contract, lease or other agreement whether written or oral and includes any other right or claim that is to be treated as a Restructuring Period Claim under the Plan (each, a “**Restructuring Period Claim**”, and collectively, the “**Restructuring Period Claims**”); and

- (iii) any right or claim of any Person against one or more of the Directors and/or Officers howsoever arising, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer (each a “**Director/Officer Claim**”, and collectively, the “**Director/Officer Claims**”),

in each case other than any Unaffected Claim;

- (q) “**Claims Bar Date**” means 5:00 p.m. on January 13, 2015.

- (r) **“Claims Package”** means the materials to be provided to Persons who may have a Claim in accordance with this Claims Procedure Order, which materials shall include:
- (i) in the case of a Known Creditor, a Notice of Claim, a Notice of Dispute of Claim, an Instruction Letter, and such other materials as the Applicants, with the consent of the Monitor, may consider appropriate or desirable; or
 - (ii) in the case of an Unknown Creditor, a blank Proof of Claim and Proof of Claim Instruction Letter, and such other materials as the Applicants, with the consent of the Monitor, may consider appropriate or desirable.
- (s) **“Claims Schedule”** means a list of all known secured and unsecured Creditors with Claims against one or more of the Applicants prepared and updated from time to time by the Applicants, with the assistance of the Monitor, showing the name, last known address, last known facsimile number, and last known email address of each such Creditor (except that where such Creditor is represented by counsel known by the Applicants, the address, facsimile number, and email address of such counsel may be substituted) and the amount of each such Creditor’s Claim against the applicable Applicants as valued by the Applicants;
- (t) **“Class Action Counsel”** means counsel to James Gerard Jr. and Michael Cox, on behalf of themselves and all others who are alleged to be similarly situated in the WARN Act Class Action;
- (u) **“Court”** means the Superior Court of Justice (Commercial List) in the City of Toronto in the Province of Ontario;

- (v) “**Creditor**” means any Person having a Claim and includes, without limitation, the transferee or assignee of a Claim transferred and recognized as a Creditor in accordance with paragraph 44 hereof or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;
- (w) “**Directors**” means all current and former directors (or their estates) of the Applicants, in such capacity, and “**Director**” means any one of them;
- (x) “**Disputed Claim**” means a Disputed Voting Claim or a Disputed Distribution Claim;
- (y) “**Disputed Director/Officer Claim**” means a Director/Officer Claim that is validly disputed in accordance with the Claims Procedure Order and that remains subject to adjudication in accordance with this Claims Procedure Order;
- (z) “**Disputed Distribution Claim**” means an Affected Unsecured Claim or an Affected Secured Claim (including a contingent Affected Unsecured Claim or a contingent Affected Secured Claim that may crystallize upon the occurrence of an event or events occurring after the date of the Initial Order) or such portion thereof which is not barred by any provision of this Order, which has not been allowed as a Distribution Claim, which is validly disputed for distribution purposes in accordance with this Claims Procedure Order and which remains subject to adjudication for distribution purposes in accordance with this Claims Procedure Order;
- (aa) “**Disputed Voting Claim**” means an Affected Unsecured Claim or an Affected Secured Claim (including a contingent Affected Unsecured Claim or a contingent

Affected Secured Claim that may crystallize upon the occurrence of an event or events occurring after the date of the Initial Order) or such portion thereof which is not barred by any provision of this Order, which has not been allowed as a Voting Claim, which is validly disputed for voting purposes in accordance with this Claims Procedure Order and which remains subject to adjudication for voting purposes in accordance with this Claims Procedure Order;

- (bb) **“Distribution Claim”** means any Claim against the Applicants, or such portion thereof, that is not barred by any provision of this Order and which has been finally accepted and determined for distribution purposes in accordance with this Claims Procedure Order and the CCAA;
- (cc) **“Equity Claim”** has the meaning set forth in Section 2(1) of the CCAA;
- (dd) **“Filing Date”** means the date of the Initial Order;
- (ee) **“Government Authority”** means any federal, provincial, state or local government, agency or instrumentality thereof or similar entity, howsoever designated or constituted exercising executive, legislative, judicial, regulatory or administrative functions in Canada, the United States, or elsewhere;
- (ff) **“Initial Order”** means the Initial Order under the CCAA dated December 3, 2014, as amended, restated or varied from time to time;
- (gg) **“Instruction Letter”** means the instruction letter to Known Creditors, substantially in the form attached as Schedule “B” hereto, regarding the Notice of

Claim, completion of a Notice of Dispute of Claim by a Known Creditor and the claims procedure described herein;

- (hh) **“Known Creditor”** means an Affected Unsecured Creditor or an Affected Secured Creditor whose Claim against one or more of the Applicants is known to the Applicants as of the date of this Claims Procedure Order and whose Affected Unsecured Claim or Affected Secured Claim is included in the Claims Schedule, other than a Secured Noteholder in respect of its applicable portion of the Secured Noteholders Allowed Claim, and for greater certainty shall not include a WARN Act Plaintiff in respect of a WARN Act Claim;
- (ii) **“Marret”** has the meaning set forth in the preamble of this Order;
- (jj) **“Marret Unsecured Claim”** means any proven Claims of Marret, in its individual corporate capacity and not on behalf of the Secured Noteholders, against one or more of the Applicants, including any secured Claims of Marret, in such capacity, in respect of which there is a deficiency in the realizable value of the security held by Marret relative to the amount of such secured Claim;
- (kk) **“Meetings”**, and each a **“Meeting”**, means a meeting of the Creditors of the Applicants called for the purpose of considering and voting in respect of a Plan;
- (ll) **“Meetings Order”** means the Order under the CCAA dated December 3, 2014 that, among other things, sets the date for the Meetings, as same may be amended, restated or varied from time to time;

- (mm) **“Notice of Claim”** means the notice referred to in paragraph 18 hereof, substantially in the form attached hereto as Schedule “C”, advising each Known Creditor of its Claim against the Applicants as determined by the Applicants based on the books and records of the Applicants;
- (nn) **“Notice of Dispute of Claim”** means the notice referred to in paragraph 19 hereof, substantially in the form attached as Schedule “D” hereto, which must be delivered to the Monitor by any Known Creditor wishing to dispute a Notice of Claim, with reasons for its dispute;
- (oo) **“Notice of Dispute of Revision or Disallowance”** means the notice referred to in paragraph 27 or 39 hereof, as applicable, substantially in the form attached as Schedule “F” hereto, which must be delivered to the Monitor by any Unknown Creditor or a Person asserting a Director/Officer Claim wishing to dispute a Notice of Revision or Disallowance, with reasons for its dispute;
- (pp) **“Notice of Revision or Disallowance”** means the notice referred to in paragraph 26 or paragraph 38 hereof, as applicable, substantially in the form of Schedule “E” advising an Unknown Creditor or a Person asserting a Director/Officer Claim that the Applicants, with the consent of the Monitor, have revised or rejected all or part of such Unknown Creditor’s Claim set out in its Proof of Claim;
- (qq) **“Notice to Creditors”** means the notice for publication by the Monitor as described in paragraph 17 hereof, substantially in the form attached hereto as Schedule “A”;

- (rr) **“Officers”** means all current and former officers (or their estates) of the Applicants, in such capacity, and **“Officer”** means any one of them;
- (ss) **“Person”** means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union, Government Authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status;
- (tt) **“Plan”** means the plan of compromise and arrangement to be filed by the Applicants pursuant to the CCAA as the same may be amended, supplemented or restated from time to time in accordance with the terms thereof;
- (uu) **“Plan Implementation Date”** shall have the meaning ascribed thereto in the Plan;
- (vv) **“Prefiling Claim”** has the meaning ascribed to that term in paragraph 2(p)(i) of this Claims Procedure Order;
- (ww) **“Proof of Claim”** means the Proof of Claim referred to in paragraph 24 hereof to be filed by Unknown Creditors, substantially in the form attached hereto as Schedule “H”;
- (xx) **“Proof of Claim Instruction Letter”** means the instruction letter to Unknown Creditors, substantially in the form attached as Schedule “G” hereto, regarding the completion of a Proof of Claim by an Unknown Creditor;

- (yy) “**Restructuring Period Claim**” has the meaning ascribed to that term in paragraph 2(p)(ii) of this Claims Procedure Order;
- (zz) “**Restructuring Period Claims Bar Date**” means seven (7) Calendar Days after termination, repudiation or resiliation of the applicable agreement or other event giving rise to the applicable Restructuring Period Claim;
- (aaa) “**Secured Noteholder**” means a registered or beneficial holder of Secured Notes in that capacity, and, for greater certainty, does not include former registered or beneficial holders of Secured Notes;
- (bbb) “**Secured Noteholders Allowed Claim**” has the meaning ascribed thereto in paragraph 14 hereof;
- (ccc) “**Secured Noteholders Allowed Secured Claim**” has the meaning ascribed thereto in paragraph 15 hereof;
- (ddd) “**Secured Noteholders Allowed Unsecured Claim**” has the meaning ascribed thereto in paragraph 15 hereof;
- (eee) “**Secured Notes**” means the 2011 Notes and the 2013 Notes;
- (fff) “**Unaffected Claims**” and each an “**Unaffected Claim**” shall have the meaning ascribed thereto in the Plan;
- (ggg) “**Unknown Creditor**” means an Affected Unsecured Creditor or Affected Secured Creditor other than (i) the Secured Noteholders in respect of the Secured Noteholders Allowed Claim and (ii) any Known Creditor with respect to its Claim

against the Applicants included in the Claims Schedule and set out in a Notice of Claim, but includes any Secured Noteholder and any Known Creditor asserting any other Claim against the Applicants, and for greater certainty includes the WARN Act Plaintiffs in respect of any WARN Act Claims;

- (hhh) **“Voting Claim”** means any Claim of a Creditor against the Applicants, or such portion thereof, that is not barred by any provision of this Order and which has been finally accepted and determined for voting at a Meeting, in accordance with the provisions of this Claims Procedure Order and the CCAA.
- (iii) **“WARN Act”** means the U.S. federal Worker Adjustment and Retraining Notification Act of 1988 (29 U.S.C. §§ 2101 – 2109);
- (jjj) **“WARN Act Claims”** means the Claims advanced by the WARN Act Plaintiffs in the WARN Act Class Action and any other Claims of individuals similarly situated to the WARN Act Plaintiffs that may be asserted against any of the Applicants pursuant to the WARN Act;
- (kkk) **“WARN Act Class Action”** means the class action lawsuit filed against Cline and New Elk by the WARN Act Plaintiffs in the United States District Court for the District of Colorado, Case Number 1:13-CV-00277, as amended; and
- (lll) **“WARN Act Plaintiffs”** means the plaintiffs in the WARN Act Class Action and all others who are alleged in the WARN Act Class Action to be similarly situated, and any other individual who is similarly situated to the plaintiffs in the WARN Act Class Action who asserts Claims against any of the Applicants pursuant to the WARN Act.

3. **THIS COURT ORDERS** that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.
4. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.
5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

GENERAL PROVISIONS

6. **THIS COURT ORDERS** that the Applicants and the Monitor are hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may, where they are satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Claims Procedure Order as to completion and execution of such forms and to request any further documentation from a Creditor that the Applicants or the Monitor may require in order to enable them to determine the validity of a Claim.
7. **THIS COURT ORDERS** that all Claims shall be denominated in Canadian dollars. Any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon exchange rate in effect on the Filing Date. For greater certainty, U.S. dollar denominated claims shall be converted at the Bank of Canada Canadian/U.S. dollar noon exchange rate in effect on the Filing Date.

8. **THIS COURT ORDERS** that, unless otherwise agreed by the Applicants, interest and penalties that would otherwise accrue after the Filing Date shall not be included in any Claim.
9. **THIS COURT ORDERS** that copies of all forms delivered hereunder, as applicable, and determinations of Claims by the Court shall be maintained by the Monitor.
10. **THIS COURT ORDERS** that, notwithstanding anything to the contrary herein, the Applicants may, with the consent of the Monitor, refer any Affected Unsecured Creditor's Claim, Affected Secured Creditor's Claim or Director/Officer Claim for resolution to the Court, where in the Applicants' view such a referral is preferable or necessary for the resolution or determination of the Claim.
11. **THIS COURT ORDERS** that the Applicants may, with the consent of the Monitor, apply to this Court for an Order appointing a claims officer to resolve Disputed Claims and/or Disputed Director/Officer Claims on such terms and in accordance with such process as may be ordered by this Court.

MONITOR'S ROLE

12. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and under the Initial Order, shall assist the Applicants in connection with the administration of the claims procedure provided for herein, including the determination of Claims of Creditors, if applicable, and the referral of a particular Claim to the Court, as requested by the Applicants from time to time, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Procedure Order.

CLAIMS PROCEDURE FOR SECURED NOTEHOLDERS

13. **THIS COURT ORDERS** that neither the Applicants nor the Monitor shall be required to send to a Secured Noteholder a Notice of Claim and neither the Secured Noteholders, the 2011 Trustee nor the 2013 Trustee shall be required to file a Proof of Claim in respect of Claims pertaining to the Secured Notes.

14. **THIS COURT ORDERS AND DECLARES** that the aggregate of all amounts owing directly by Cline under the 2011 Indenture and the 2013 Indenture and the guarantees executed by New Elk and North Central in respect of the Secured Notes (including, in each case, principal and accrued interest thereon) up to the Filing Date (the “**Secured Noteholders Allowed Claim**”) shall be determined by the Applicants, with the consent of Marret, and shall be referenced in the Plan. In the event that the Applicants and Marret are unable to agree on the amount of the Secured Noteholders Allowed Claim, any of such parties shall be entitled to apply to this Court concerning the determination of the Secured Noteholders Allowed Claim.

15. **THIS COURT ORDERS** that, for purposes of this Claims Procedure Order, the Meetings Order and the Plan, the Secured Noteholders Allowed Claim shall be allowed for both voting and distribution purposes against the Applicants as follows:
 - (a) an amount to be agreed by the Applicants and Marret, which amount shall be referenced in the Plan, shall be allowed as Affected Secured Claims against the Applicants (collectively the “**Secured Noteholders Allowed Secured Claim**”);
and

- (b) an amount to be agreed by the Applicants and Marret, which amount shall be referenced in the Plan, shall be allowed as Affected Unsecured Claims against the Applicants (collectively the “**Secured Noteholders Allowed Unsecured Claim**”),

provided that the foregoing treatment of the Secured Noteholders Allowed Claim shall be without prejudice to the right of the Secured Noteholders, Marret, the 2011 Trustee or the 2013 Trustee to treat the full amount of the Secured Noteholders Allowed Claim as a secured Claim for any purpose other than voting at the Meetings or receiving distributions under the Plan, as applicable. In the event that the Applicants and Marret are unable to agree on the amount of the Secured Noteholders Allowed Secured Claim or the Secured Noteholders Allowed Unsecured Claim, any of such parties shall be entitled to apply to this Court concerning the determination of such Claims.

16. **THIS COURT ORDERS** that the Claims comprising the Secured Noteholders Allowed Secured Claim and the Secured Noteholders Allowed Unsecured Claim shall constitute Voting Claims and Distribution Claims for the purpose of voting on and receiving distributions pursuant to the Plan.

NOTICE TO CREDITORS

17. **THIS COURT ORDERS** that forthwith after the date of this Claims Procedure Order the Monitor shall publish the Notice to Creditors, for at least two (2) Business Days in The Globe and Mail (National Edition), the Denver Post and the Pueblo Chieftain.

CLAIMS PROCEDURE FOR KNOWN CREDITORS

(i) Notice of Claims

18. **THIS COURT ORDERS** that the Monitor shall send a Claims Package to each of the Known Creditors by prepaid ordinary mail to the address as shown on the Claims Schedule before 11:59 p.m. on the date that is five (5) Business Days after the date hereof. The Monitor shall specify in the Notice of Claim the Known Creditor's Claim against the Applicants for voting and distribution purposes as determined by the Applicants based on the books and records of the Applicants.

(ii) Adjudication of Claims against the Applicants

19. **THIS COURT ORDERS** that if a Known Creditor wishes to dispute the amount of the Claim as set out in the Notice of Claim, the Known Creditor shall deliver to the Monitor a Notice of Dispute of Claim which must be received by the Monitor by no later than the Claims Bar Date. Such Known Creditor shall specify therein the details of the dispute with respect to its Claim and shall specify whether it disputes the determination of the Claim for voting and/or distribution purposes.

20. **THIS COURT ORDERS** that if a Known Creditor does not deliver to the Monitor a completed Notice of Dispute of Claim such that it is received by the Monitor by the Claims Bar Date disputing its Claims as determined in the Notice of Claim for voting and distribution purposes, then (a) such Known Creditor shall be deemed to have accepted the valuation of the Known Creditor's Claims as set out in the Notice of Claim, (b) such Known Creditor's Claim as determined in the Notice of Claim shall be treated as both a Voting Claim and a Distribution Claim, and (c) any and all of the Known Creditor's rights to dispute the Claims as determined in the Notice of Claim or to otherwise assert or

pursue such Claims other than as they are determined in the Notice of Claim shall be forever extinguished and barred without further act or notification. A Known Creditor may accept a determination of a Claim for voting purposes as set out in the Notice of Claim and dispute the determination of the Claim for distribution purposes provided that it does so in its Notice of Dispute of Claim and such Notice of Dispute of Claim is received by the Monitor by the Claims Bar Date. A determination of a Voting Claim of a Known Creditor does not in any way affect and is without prejudice to the process to determine such Known Creditor's Distribution Claim.

(iii) Resolution of Claims against the Applicants

21. **THIS COURT ORDERS** that in the event that the Applicants, with the assistance of the Monitor, are unable to resolve a dispute regarding any Disputed Voting Claim with a Known Creditor, the Applicants shall so notify the Monitor and the Known Creditor. Thereafter, the Disputed Voting Claim shall be referred to the Court for resolution or to such alternative dispute resolution as may be ordered by the Court or as agreed to by the Monitor, the Applicants and the applicable Creditor; provided, however that to the extent a Claim is referred under this paragraph to the Court or an alternative dispute resolution, it shall be on the basis that the Claim against the Applicants shall be resolved or adjudicated both for voting and distribution purposes (and that it shall remain open to the parties to agree that the Creditor's Voting Claim may be settled by the Known Creditor and the Applicants without prejudice to a future determination of the Creditor's Distribution Claim). The Court or an alternative dispute resolution, as the case may be, shall resolve the dispute between the Applicants and the Known Creditor.

22. **THIS COURT ORDERS** that where the Known Creditor's Disputed Voting Claim has not been finally determined in accordance with this Claims Procedure Order by the date on which a vote is held at a Meeting, the ability of such Known Creditor to vote its Disputed Voting Claim and the effect of casting any such vote shall be governed by the Meetings Order.
23. **THIS COURT ORDERS** that in the event that the Applicants, with the assistance of the Monitor, are unable to resolve a dispute with a Known Creditor regarding any Distribution Claim, the Applicants shall so notify the Monitor and the Known Creditor. Thereafter, the Disputed Distribution Claim shall be referred to the Court for resolution or to such alternative dispute resolution as may be ordered by the Court or as agreed to by the Monitor, the Applicants and the applicable Creditor. The Court or an alternative dispute resolution, as the case may be, shall resolve the dispute between the Applicants and such Known Creditor.

CLAIMS PROCEDURE FOR UNKNOWN CREDITORS

(i) Proof of Claim

24. **THIS COURT ORDERS** that the Monitor shall send a Claims Package to any Unknown Creditor who makes a request therefor prior to the Claims Bar Date. With respect to any WARN Act Plaintiff, the Monitor shall have satisfied the obligations referred to in the foregoing sentence once it has provided a Claims Package to Class Action Counsel. Any Unknown Creditor that wishes to assert a Claim must file a completed Proof of Claim such that it is received by the Monitor by no later than the Claims Bar Date.

25. **THIS COURT ORDERS** that, notwithstanding anything to the contrary in paragraphs 24 and 26 hereof, the following shall apply with respect to any Restructuring Period Claims:

- (a) any notices of disclaimer or resiliation delivered to Creditors by the Applicants or the Monitor after the Filing Date shall be accompanied by a Claims Package;
- (b) the Monitor shall send a Claims Package to any Creditor who makes a request therefor in respect of a Restructuring Period Claim prior to the Restructuring Period Claims Bar Date;
- (c) any Creditor that wishes to assert a Restructuring Period Claim must return a completed Proof of Claim to the Monitor such that it is received by the Monitor by no later than 5:00 p.m. on the Restructuring Period Claims Bar Date;
- (d) any Creditor that does not return a Proof of Claim to the Monitor by 5:00 p.m. on the Restructuring Period Claims Bar Date shall not be entitled to attend or vote at any Meeting and shall not be entitled to receive any distribution from any Plan in respect of Restructuring Period Claims and any and all Restructuring Period Claims of such Creditor shall be forever extinguished and barred without any further act or notification.

(ii) Adjudication of Claims against the Applicants

26. **THIS COURT ORDERS** that any Unknown Creditor that does not file a Proof of Claim such that it is received by the Monitor by the Claims Bar Date with respect to any Claim against the Applicants shall not be entitled to attend or vote at any Meeting and shall not be entitled to receive any distribution from any Plan in respect of such Claims and any

and all such Claims of such Unknown Creditor shall be forever extinguished and barred without any further act or notification and irrespective of whether or not such Unknown Creditor received a Claims Package.

27. **THIS COURT ORDERS** that the Applicants, with the assistance of the Monitor, shall review all Proofs of Claim received by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, and shall accept, revise or reject each Claim against the Applicants set out therein for voting and/or distribution purposes. The Monitor shall notify each Unknown Creditor who has delivered a Proof of Claim by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, as to whether such Unknown Creditor's Claim against the Applicants as set out therein has been revised or rejected for voting purposes (and/or for distribution purposes if the Applicants elect to do so), and the reasons therefor, by sending a Notice of Revision or Disallowance.
28. **THIS COURT ORDERS** that any Unknown Creditor who wishes to dispute a Notice of Revision or Disallowance sent pursuant to the immediately preceding paragraph shall deliver a Notice of Dispute of Revision or Disallowance to the Monitor such that it is received by no later than 5:00 p.m. on the date that is seven (7) Calendar Days after the date of delivery to the applicable Unknown Creditor of the Notice of Revision or Disallowance. Such Unknown Creditor shall specify therein the details of the dispute with respect to its Claim and shall specify whether it disputes the determination of the Claim for voting and/or distribution purposes, as applicable.
29. **THIS COURT ORDERS** that where an Unknown Creditor that receives a Notice of Revision or Disallowance pursuant to paragraph 27 above does not file a Notice of Dispute of Revision or Disallowance by the time set out in paragraph 28 above, then such

Unknown Creditor's Voting Claim (and Distribution Claim if the Notice of Revision or Disallowance also dealt with the Distribution Claim) shall be deemed to be as determined in the Notice of Revision or Disallowance and any and all of the Unknown Creditor's rights to dispute the Claim(s) as determined in the Notice of Revision or Disallowance or to otherwise assert or pursue such Claims other than as they are determined in the Notice of Revision or Disallowance, in each case for voting purposes and distribution purposes (if the Notice of Revision or Disallowance dealt with the Distribution Claim), shall be forever extinguished and barred without further act or notification. An Unknown Creditor may accept a determination of a Claim for voting purposes as set out in the Notice of Revision and Disallowance and may dispute the determination of the Claim for distribution purposes, provided that it does so in its Notice of Dispute of Revision or Disallowance and such Notice of Dispute of Revision or Disallowance is received by the Monitor by the date and time set forth in paragraph 28. A determination of a Voting Claim of an Unknown Creditor does not in any way affect and is without prejudice to the process to determine such Unknown Creditor's Distribution Claim.

30. **THIS COURT ORDERS** that the Applicants, with the assistance of the Monitor, shall review and consider the Proofs of Claim filed in accordance with this Claims Procedure Order in order to determine the Distribution Claims of Unknown Creditors. The Applicants shall notify each Unknown Creditor who filed a Proof of Claim and who did not receive a Notice of Revision or Disallowance for distribution purposes pursuant to paragraph 27 herein as to whether such Unknown Creditor's Claim as set out in such Unknown Creditor's Proof of Claim has been revised or rejected for distribution purposes, and the reasons therefor, by delivery of a Notice of Revision or Disallowance.

31. **THIS COURT ORDERS** that any Unknown Creditor who wishes to dispute a Notice of Revision or Disallowance for distribution purposes sent pursuant to the immediately preceding paragraph shall deliver a Notice of Dispute of Revision or Disallowance to the Monitor such that it is received by the Monitor by no later than 5:00 p.m. on the date that is seven (7) Calendar Days after the date of delivery to the applicable Unknown Creditor of the Notice of Revision or Disallowance referred to in paragraph 30.

32. **THIS COURT ORDERS** that where an Unknown Creditor that receives a Notice of Revision or Disallowance pursuant to paragraph 30 above does not file a Notice of Dispute of Revision or Disallowance for distribution purposes by the time set out in paragraph 31 above, the value of such Unknown Creditor's Distribution Claim shall be deemed to be as set out in the Notice of Revision or Disallowance for distribution purposes and any and all of the Unknown Creditor's rights to dispute the Distribution Claim as valued on the Notice of Revision or Disallowance or to otherwise assert or pursue such Distribution Claim in an amount that exceeds the amount set forth on the Notice of Revision or Disallowance shall be forever extinguished and barred without further act or notification.

(iii) Resolution of Claims against the Applicants

33. **THIS COURT ORDERS** that in the event that the Applicants, with the assistance of the Monitor, are unable to resolve a dispute regarding any Disputed Voting Claim with an Unknown Creditor, the Applicants shall so notify the Monitor and the Unknown Creditor. Thereafter, the Disputed Voting Claim shall be referred to the Court for resolution or to such alternative dispute resolution as may be ordered by the Court or as agreed to by the Monitor, the Applicants and the applicable Creditor; provided, however that to the extent

a Claim is referred under this paragraph to the Court or an alternative dispute resolution, it shall be on the basis that the value of the Claim shall be resolved or adjudicated both for voting and distribution purposes (and that it shall remain open to the parties to agree that the Creditor's Voting Claim may be settled by the Unknown Creditor and the Applicants without prejudice to a future hearing by the Court or an alternative dispute resolution to determine the Creditor's Distribution Claim in accordance with paragraph 35 hereof). The Court or an alternative dispute resolution, as the case may be, shall resolve the dispute between the Applicants and the Unknown Creditor.

34. **THIS COURT ORDERS** that where the value of an Unknown Creditor's Voting Claim has not been finally determined by the date of the Meetings, the ability of such Unknown Creditor to vote its Disputed Voting Claim and the effect of casting any such vote shall be governed by the Meetings Order.

35. **THIS COURT ORDERS** that in the event that the Applicants, with the assistance of the Monitor, are unable to resolve a dispute regarding any Distribution Claim with an Unknown Creditor, the Applicants shall so notify the Monitor and the Unknown Creditor. Thereafter, the Disputed Distribution Claim shall be referred to the Court for resolution or to such alternative dispute resolution as may be ordered by the Court or as agreed to by the Monitor, the Applicants and the applicable Creditor. The Court or an alternative dispute resolution, as the case may be, shall resolve the dispute between the Applicants and the Unknown Creditor.

(iv) Adjudication of Director/Officer Claims

36. **THIS COURT ORDERS** that, for greater certainty, the procedures in paragraphs 18 to 35 shall not apply to adjudication of Director/Officer Claims.

37. **THIS COURT ORDERS** that if a Person does not file a Proof of Claim with the Monitor such that it is received by the Monitor by the Claims Bar Date with respect to a Director/Officer Claim, any and all such Claims of such Person shall be forever extinguished and barred without any further act or notification and irrespective of whether or not such Person received a Claims Package, the Directors and Officers shall have no liability whatsoever in respect of such Director/Officer Claims.
38. **THIS COURT ORDERS** that the Applicants, with the assistance of the Monitor, shall review all Proofs of Claim received by the Claims Bar Date in respect of Director/Officer Claims and shall accept, revise or reject each Director/Officer Claim set out therein. The Monitor shall provide copies of Proofs of Claim in respect of Director/Officer Claims to any counsel to a Director or Officer upon such request being made. The Monitor, with the consent of the Applicants, shall notify each Person who has delivered a Proof of Claim by the Claims Bar Date in respect of Director/Officer Claims as to whether such Person's Claim as set out therein has been revised or rejected and the reasons therefor, by sending a Notice of Revision or Disallowance. The Monitor shall provide a copy of such Notice of Revision or Disallowance to any counsel to a Director or Officer.
39. **THIS COURT ORDERS** that any Person who wishes to dispute a Notice of Revision or Disallowance sent pursuant to the immediately preceding paragraph shall deliver a Notice of Dispute of Revision or Disallowance to the Monitor such that it is received by the Monitor by no later than 5:00 p.m. on the date that is seven (7) Calendar Days after the date of delivery to the applicable Person of the Notice of Revision or Disallowance. The Monitor shall provide a copy of such Notice of Dispute of Revision or Disallowance to any counsel to a Director or Officer upon such request being made.

40. **THIS COURT ORDERS** that where a Person that receives a Notice of Revision or Disallowance pursuant to paragraph 38 above does not file a Notice of Dispute of Revision or Disallowance by the time set out in paragraph 39 above, such Person's Director/Officer Claim shall be deemed to be as determined in the Notice of Revision or Disallowance and any and all of such Person's rights to dispute the Director/Officer Claim(s) as determined in the Notice of Revision or Disallowance or to otherwise assert or pursue such Director/Officer Claims other than as they are determined in the Notice of Revision or Disallowance shall be forever extinguished and barred without further act or notification.

(v) **Resolution of Director/Officer Claims**

41. **THIS COURT ORDERS** that in the event that the Applicants determine that it is necessary to finally determine the amount of a Director/Officer Claim and the Applicants, with the assistance of the Monitor and the consent of the applicable Directors and Officers, are unable to resolve a dispute regarding such Director/Officer Claim with the Person asserting such Director/Officer Claim, the Applicants shall so notify the Monitor and such Person. Thereafter, the Disputed Director/Officer Claim shall be referred to the Court for resolution or to such alternative dispute resolution as may be ordered by the Court or as agreed to by the Monitor, the Applicants and the applicable Person. The Court or an alternative dispute resolution, as the case may be, shall resolve the dispute.

WARN ACT CLAIMS

42. **THIS COURT ORDERS** that, notwithstanding anything to the contrary herein, for purposes of the matters set out in this Order, in respect of the WARN Act Class Action and any WARN Act Claims:

- (a) the WARN Act Plaintiffs shall be treated as Unknown Creditors in accordance with paragraphs 24 to 35 of this Order (and, for greater certainty, the WARN Act Plaintiffs shall not be treated as Known Creditors);
- (b) Class Action Counsel shall be entitled to file Proofs of Claim, Notices of Dispute of Revision and Disallowance, receive service and delivery of Claims Packages and other materials in these proceedings and otherwise deal with the Applicants, the Monitor and their respective counsel in respect of the matters described in this Order on behalf of the WARN Act Plaintiffs, provided that the ability of Class Action Counsel to vote at any Meeting of the WARN Act Plaintiffs Class (as defined in the Meetings Order) shall be governed by the Meetings Order; and
- (c) the Applicants shall be permitted to accept any duly filed WARN Act Claims as Voting Claims for the limited purpose of allowing such Claims to be voted at a Meeting of the WARN Act Plaintiffs Class (as defined in the Meetings Order) without prejudice to the determination of such Claims as Voting Claims and/or Distribution Claims for any other purpose.

SET-OFF

43. **THIS COURT ORDERS** that the Applicants may set-off (whether by way of legal, equitable or contractual set-off) against payments, obligations or other distributions to be made pursuant to or in connection with the Plan to any Creditor, any claims of any nature whatsoever that the Applicants may have against such Creditor; however, neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Applicants of any such claim that the Applicants may have against such Creditor.

NOTICE OF TRANSFEREES

44. **THIS COURT ORDERS** that if, after the Filing Date, the holder of a Claim transfers or assigns the whole of such Claim to another Person, neither the Monitor nor the Applicants shall be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received and acknowledged by the Applicants and the Monitor in writing and thereafter such transferee or assignee shall for the purposes hereof constitute the “Creditor” in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Claims Procedure Order prior to receipt and acknowledgement by the Applicants and the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any rights of set-off to which the Applicants may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to the Applicants. The effect of a transfer or assignment of a Claim for purposes of voting at any Meeting shall be governed by the Meetings Order. Reference to transfer in this Claims Procedure Order includes a transfer or assignment whether absolute or intended as security.
45. **THIS COURT ORDERS** that, subject to any restrictions contained in Applicable Laws, a Creditor (other than a Secured Noteholder) may transfer or assign the whole of its Claim after the Meetings provided that the Applicants or the Monitor shall not be obliged

to make distributions to any such transferee or assignee or otherwise deal with such transferee or assignee as a Creditor in respect thereof unless and until actual notice of the transfer or assignment, together with satisfactory evidence of such transfer or assignment and such other documentation as the Applicants and the Monitor may reasonably require, has been received by the Applicants and the Monitor on or before the Plan Implementation Date, or such other date as the Monitor may agree, failing which the original transferor shall have all applicable rights as the "Creditor" with respect to such Claim as if no transfer of the Claim had occurred. Thereafter, such transferee or assignee shall, for all purposes in accordance with the Claims Procedure Order constitute the Creditor in respect of the transferred or assigned Claim and shall be bound by notices given and steps taken in respect of such Claim. For greater certainty, the Applicants shall not recognize partial transfers or assignments of Claims.

46. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall restrict Secured Noteholders who have beneficial ownership of a Claim in respect of Secured Notes from transferring or assigning such Claim, in whole or in part, in connection with a transfer of such Secured Noteholders' Secured Notes, provided that if such transfer or assignment occurs after any applicable record date, the Applicants, the Monitor and their agents shall have no obligation to deal with such transferee or assignee as a Creditor in respect thereof for purposes of dealing with any matter in respect of which such record date was set, and the Applicants, the Monitor and their agents shall be entitled deal with the Secured Noteholder who beneficially owned such Secured Notes as of such record date in respect of any such matter. Secured Noteholders who assign or acquire their Claims after the Plan Implementation Date shall be wholly responsible for ensuring that

plan distributions intended to be included within such assignments are in fact delivered to the assignee and that neither the Applicants, the Monitor, CDS, the 2011 Trustee, the 2013 Trustee, nor their agents, as applicable, shall have any liability in connection therewith.

SERVICE AND NOTICES

47. **THIS COURT ORDERS** that the Applicants and the Monitor may, unless otherwise specified by this Claims Procedure Order, serve and deliver the Claims Package, any letters, notices or other documents to Creditors or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to such Persons at the physical or electronic address, as applicable, last shown on the books and records of the Applicants or set out in such Creditor's Proof of Claim. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.
48. **THIS COURT ORDERS** that any notice or communication required to be provided or delivered by a Creditor to the Monitor or the Applicants under this Claims Procedure Order shall be in writing in substantially the form, if any, provided for in this Claims Procedure Order and will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery or email addressed to:

If to the Applicants:

c/o Cline Mining Corporation
161 Bay Street, 26th Floor,
Toronto, ON M5J 2S1
Attention: Matthew Goldfarb, Chief Restructuring Officer
Email: mgoldfarb@clinemining.com

With a copy to:

Goodmans LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7
Attention: Robert Chadwick / Logan Willis / Bradley Wiffen
Fax: (416) 979-1234
Email: rchadwick@goodmans.ca / lwillis@goodmans.ca /
bwiffen@goodmans.ca

If to the Monitor:

FTI Consulting Canada Inc., Court-appointed Monitor of Cline Mining
Corporation, New Elk Coal Company LLC and North Central Energy Company
Claims Process

79 Wellington Street West
TD South Tower
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8
Attention: Pamela Luthra
Fax: (416) 649.8101
Email: cline@fticonsulting.com

With a copy to:

Osler, Hoskin & Harcourt LLP
100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto ON M5X 1B8
Attention: Mark Wasserman / Michael De Lellis
Fax: (416) 862 6666
Email: mwasserman@osler.com / mdelellis@osler.com

Any such notice or communication delivered by a Creditor shall be deemed to be received upon actual receipt by the Monitor thereof during normal business hours on a Business Day or if delivered outside of normal business hours, the next Business Day.

49. **THIS COURT ORDERS** that if during any period during which notices or other communications are being given pursuant to this Claims Procedure Order a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary mail and then not received shall not, absent further Order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Claims Procedure Order.
50. **THIS COURT ORDERS** that in the event that this Claims Procedure Order is later amended by further Order of the Court, the Applicants or the Monitor may post such further Order on the Monitor's website and such posting shall constitute adequate notice to Creditors of such amended claims procedure.

MISCELLANEOUS

51. **THIS COURT ORDERS** that notwithstanding any other provisions of this Claims Procedure Order, the solicitation by the Monitor or the Applicants of Proofs of Claim, the delivery of a Notice of Claim, and the filing by any Person of any Proof of Claim shall not, for that reason only, grant any Person any standing in these proceedings or rights under any proposed Plan.

52. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall constitute or be deemed to constitute an allocation or assignment of Claims into particular classes for the purpose of a Plan and, for greater certainty, the treatment of Claims, or any other claims and the classification of Creditors for voting and distribution purposes shall be subject to the terms of any proposed Plan, the Meetings Order or further Order of this Court.
53. **THIS COURT ORDERS** that, except as expressly provided herein, the determination of Claims pursuant to this Order shall apply for all purposes unless otherwise further ordered by the Court.
54. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary, supplement or replace this Order or for advice and directions concerning the discharge of their respective powers and duties under this Order or the interpretation or application of this Order.
55. **THIS COURT ORDERS** that any interested party, other than the Applicants or the Monitor, that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court on a date to be set by this Court upon the granting of this Order (the "**Comeback Date**"), and any such interested party shall give notice to any other party or parties likely to be affected by the order sought in advance of the Comeback Date.
56. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

57. **THIS COURT REQUESTS** the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any Federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.



ENTREED AMINSORIT A TORONTO
CN / BOOK NO.
LE / DANS LE REGISTRE NO.

DEC 3 - 2014



SCHEDULE "A"

**NOTICE TO CREDITORS OF Cline Mining Corporation, New Elk Coal Company LLC
and North Central Energy Company (the "Applicants")
and/or their Directors or Officers**

**RE: NOTICE OF CLAIMS BAR DATE IN COMPANIES' CREDITORS
ARRANGEMENT ACT ("CCAA") PROCEEDINGS**

NOTICE IS HEREBY GIVEN that pursuant to an Order of the Ontario Superior Court of Justice made December 3, 2014 (the "**Order**"), a claims procedure has been commenced for the purpose of identifying and determining all claims against the Applicants and the Directors and Officers of the Applicants that are to be affected in the Applicants' Plan of Compromise and Arrangement under the CCAA.

PLEASE TAKE NOTICE that the claims procedure applies only to the Claims described in the Order. A copy of the Order and other public information concerning CCAA Proceedings in respect of the Applicants can be found at the following website: <http://cfcanada.fliconsulting.com/cline>. Any creditor, other than a Secured Noteholder, who has not received a Notice of Claim and who believes that he or she has a Claim against the Applicants or a Director or Officer under the Order must contact the Monitor in order to obtain a Proof of Claim form.

THE CLAIMS BAR DATE is 5:00 p.m. (Toronto Time) on January 13, 2015. Proofs of Claim in respect of Prefiling Claims and Director/Officer Claims must be completed and filed with the Monitor on or before the Claims Bar Date.

THE RESTRUCTURING PERIOD CLAIMS BAR DATE is 5:00pm (Toronto Time) on the date that is seven (7) Calendar Days after termination, repudiation or resiliation of the agreement or other event giving rise to the Restructuring Period Claim. Proofs of Claim in respect of Restructuring Period Claims must be completed and filed with the Monitor on or before the Restructuring Period Claims Bar Date.

HOLDERS OF CLAIMS who have not received a Notice of Claim and who do not file a Proof of Claim by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, shall not be entitled to vote at any meeting of creditors regarding the plan of compromise and arrangement being proposed by the Applicants or to participate in any distribution under such plan, and any Claims such creditor may have against the Applicants and/or any of the Directors or Officers of the Applicants shall be forever extinguished and barred.

CREDITORS REQUIRING INFORMATION or claim documentation may contact the Monitor at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission, email or telephone:

FTI Consulting Canada Inc., Court-appointed Monitor of Cline Mining Corporation, New Elk Coal Company LLC and North Central Energy Company
Claims Process

79 Wellington Street West
TD South Tower
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8
Attention: Pamela Luthra

Telephone (416) 649.8099 (Local Toronto)
(855) 398.7390 (Toll-Free)
Fax: (416) 649.8101
Email cline@fticonsulting.com

SCHEDULE "B"

INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE FOR KNOWN CREDITORS OF CLINE MINING CORPORATION, NEW ELK COAL COMPANY LLC AND NORTH CENTRAL ENERGY COMPANY (collectively, the "Applicants")

CLAIMS PROCEDURE

By Order of the Ontario Superior Court of Justice (Commercial List) dated December 3, 2014 (as such Order may be amended from time to time, the "**Claims Procedure Order**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "CCAA"), the Applicants and FTI Consulting Canada Inc., in its capacity as Court-appointed monitor of the Applicants (the "**Monitor**"), have been authorized to conduct a claims procedure (the "**Claims Procedure**"). A copy of the Claims Procedure Order and other public information concerning these proceedings can be obtained from the Monitor's website at <http://cfcanada.fticonsulting.com/cline>.

This letter provides general instructions for completing a Notice of Dispute of Claim form. Defined terms not defined within this instruction letter shall have the meaning ascribed thereto in the Claim Procedure Order.

The Claims Procedure is intended to identify and determine the amount of any claims against the Applicants or any or all of the Directors or Officers of the Applicants, whether unliquidated, contingent or otherwise, that are to be affected in the plan of compromise and arrangement being pursued by the Applicants under the CCAA. Please review the Claims Procedure Order for the full terms of the Claims Procedure.

All notices and inquiries with respect to the Claims Procedure should be directed to the Monitor by prepaid registered mail, courier, personal delivery, facsimile transmission, email, or telephone at the address below:

FTI Consulting Canada Inc., Court-appointed Monitor of Cline Mining Corporation, New Elk Coal Company LLC and North Central Energy Company

Claims Process

79 Wellington Street West
TD South Tower
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8
Attention: Pamela Luthra

Telephone (416) 649.8099 (Local Toronto)
(855) 398.7390 (Toll-Free)
Fax: (416) 649.8101
Email cline@fticonsulting.com

FOR CREDITORS DISPUTING A NOTICE OF CLAIM

If you have received a Notice of Claim and you dispute the determination of your Claims as set forth therein for voting and/or distribution purposes, you must file a Notice of Dispute of Claim form with the Monitor. All Notices of Dispute of Claim **must be received by the Monitor on or before 5:00 p.m. (Toronto Time) on January 13, 2015**. If a Notice of Dispute of Claim is not received on or before that time then you shall be deemed to have accepted the determination of your Claims as set out in the Notice of Claim for both voting and distribution purposes, and any and all of your rights to dispute such Claims as so valued or to otherwise assert or pursue such Claims in an amount that exceeds the amount set forth on the Notice of Claim shall be forever extinguished and barred without further act or notification.

If you believe you have any additional Claims other than the Claims set out in the Notice of Claim (including a Pre-Filing Claim, a Director/Officer Claim or a Restructuring Period Claim) you must file a Proof of Claim to assert any such additional Claims so that it is received by the Monitor by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, otherwise any such Claim shall be forever extinguished and barred without further act or notification.

All Claims shall be converted to Canadian dollars at the Bank of Canada Canadian Dollar noon exchange rate in effect at the date of the Initial Order. Claim amounts listed in the Notice of Claim are denominated in Canadian Dollars.

Additional Notices of Dispute of Claim forms and Proof of Claim forms can be obtained from the Monitor's website at <http://cfcanada.fticonsulting.com/cline> or by contacting the Monitor.

DATED this _____ day of _____, 2014.

SCHEDULE "C"

Court File No. CV-14-10781-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE
AND ARRANGEMENT OF CLINE MINING CORPORATION, NEW ELK COAL
COMPANY LLC AND NORTH CENTRAL ENERGY COMPANY**

NOTICE OF CLAIM

TO: [insert name and address of creditor]

This notice is issued pursuant to the Claims Procedure for Claims in respect of Cline Mining Corporation, New Elk Coal Company LLC and North Central Energy Company (the "**Applicants**"), and their Directors and Officers, which was approved by the Order of the Ontario Superior Court of Justice (Commercial List) granted December 3, 2014 in the CCAA Proceedings ("**Claims Procedure Order**"). Capitalized terms used herein are as defined in the Claims Procedure Order unless otherwise noted. A copy of the Claims Procedure Order can be obtained from the website of FTI Consulting Canada Inc., the Court-appointed Monitor of the Applicants, at <http://cfcanada.fticonsulting.com/cline>.

According to the books, records and other relevant information in the possession of the Applicants, your total Claim(s) are as follows:

Debtor	Type of Claim	Amount*	Secured/Unsecured
		\$	

* Amount is in Canadian Dollars. All Claims in an original currency other than Canadian Dollars are converted to Canadian Dollars using the Bank of Canada noon exchange rate on December 3, 2014.

If you agree that the foregoing determination accurately reflects your Claim(s) against the Applicants, you are not required to respond to this Notice of Claim. If you disagree with the determination of your Claim(s) against the Applicants as set out herein, you must deliver a

Notice of Dispute of Claim to the Monitor such that it is received by the Monitor by no later than **5:00 p.m. (Toronto Time) on January 13, 2015** (the “**Claims Bar Date**”).

You may accept the Claim(s) set out in this Notice of Claim for voting purposes without prejudice to your rights to dispute the Claim(s) for distribution purposes. If you fail to deliver a Notice of Dispute of Claim for voting and distribution purposes such that it is received by the Monitor by the Claims Bar Date, then you shall be deemed to have accepted your Claim(s) as set out in this Notice of Claim.

If you believe you have a Claim that has not been provided for in the Notice of Claim you received, including any additional Prefiling Claim, any Restructuring Period Claim or any Director/Officer Claims, you must contact the Monitor to request a Claims Package and you must complete a Proof of Claim form in respect of such Claim and deliver it to the Monitor at the address or facsimile noted below such that it is received by the Monitor by the Claims Bar Date (in respect of a Prefiling Claim or Director/Officer Claims) and by 5:00pm (Toronto Time) on the date that is seven (7) Calendar Days after termination, repudiation or resiliation of the agreement or other event giving rise to the Restructuring Period Claim (in respect of a Restructuring Period Claim) (the “**Restructuring Period Claims Bar Date**”). If you fail to deliver such Proof of Claim by such date, you shall not be entitled to vote at any Meeting of creditors regarding the plan of compromise and arrangement by the Applicants or participate in any distribution under such plan in respect of such Claim, and such Claim shall be forever extinguished and barred.

DATED at Toronto, this ____ day of December, 2014.

FTI Consulting Canada Inc., Court-appointed Monitor of Cline Mining Corporation, New Elk Coal Company LLC and North Central Energy Company

Claims Process

79 Wellington Street West
TD South Tower
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Pamela Luthra
Telephone (416) 649.8099 (Local Toronto)
(855) 398.7390 (Toll-Free)
Fax: (416) 649.8101
Email cline@fticonsulting.com

SCHEDULE "D"

Court File No. CV-14-10781-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE
AND ARRANGEMENT OF CLINE MINING CORPORATION, NEW ELK COAL
COMPANY LLC AND NORTH CENTRAL ENERGY COMPANY**

NOTICE OF DISPUTE OF CLAIM

1. PARTICULARS OF CREDITOR

(a) Full Legal Name of Creditor:

(b) Full Mailing Address of Creditor:

(c) Telephone Number of Creditor:

(d) Facsimile Number of Creditor:

(e) E-mail Address of Creditor:

(f) Attention (Contact Person):

2. **PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by assignment? Yes No
(if yes, attach documents evidencing assignment)

(b) Full Legal Name of original creditor(s): _____

3. **DISPUTE OF DETERMINATION OF CLAIM FOR VOTING AND/OR DISTRIBUTION PURPOSES:**

(Any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada Canadian Dollar noon exchange rate in effect as of the date of the Initial Order.)

We hereby disagree with the determination of our Claim as set out in the Notice of Claim dated _____, as set out below:

	As specified in Notice of Claim	Disputed for (check all that apply)	Claim asserted by Creditor
Claim against: Name of Applicant or Director/Officer			
Voting Claim			
Distribution Claim			
Secured or Unsecured?			

(Insert particulars of Claim per Notice of Claim and the value of your claim as asserted by you.)

4. **REASONS FOR DISPUTE:**

(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) which has guaranteed the Claim, particulars and copies of any security and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed. The particulars provided must support the description of the Claim as stated by you in item 3, above.)

This Notice of Dispute of Claim must be returned to and received by the Monitor by no later than **5:00 p.m. (Toronto Time) on January 13, 2015**, the Claims Bar Date, at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission or email:

FTI Consulting Canada Inc., Court-appointed Monitor of Cline Mining Corporation, New Elk Coal Company LLC and North Central Energy Company
Claims Process

79 Wellington Street West
TD South Tower
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8
Attention: Pamela Luthra
Telephone (416) 649.8099 (Local Toronto)
(855) 398.7390 (Toll-Free)
Fax: (416) 649.8101
Email cline@fticonsulting.com

Dated at _____ this _____ day of _____, 201____.

Subject to further dispute by you in accordance with the provisions of the Claims Procedure Order, your Claim will be allowed as follows:

Type of Claim allowed (Prefiling Claim, Restructuring Period Claim, WARN Act Claim or Director / Officer Claim):

_____.

	Amount	Secured or Unsecured?
Per Proof of Claim		
Revised / Rejected for Voting/Distribution		
Allowed as Revised for Voting / Distribution		

If you intend to dispute this Notice of Revision or Disallowance, you must notify the Monitor of such intent by delivery to the Monitor of a Notice of Dispute of Revision or Disallowance in accordance with the Claims Procedure Order such that it is received by the Monitor by no later than seven (7) Calendar Days after you receive such Notice of Revision or Disallowance at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission, email or telephone:

FTI Consulting Canada Inc., Court-appointed Monitor of Cline Mining Corporation, New Elk Coal Company LLC and North Central Energy Company
Claims Process

79 Wellington Street West
TD South Tower
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8
Attention: Pamela Luthra
Telephone (416) 649.8099 (Local Toronto)
(855) 398.7390 (Toll-Free)
Fax: (416) 649.8101
Email cline@fticonsulting.com

If you do not deliver a Notice of Dispute of Revision or Disallowance in accordance with the Claims Procedure Order, the value of your Claim shall be deemed to be as set out in this Notice of Revision or Disallowance.

DATED at Toronto, Ontario this _____ day of _____, 201__.

SCHEDULE "F"

Court File No. CV-14-10781-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE
AND ARRANGEMENT OF CLINE MINING CORPORATION, NEW ELK COAL
COMPANY LLC AND NORTH CENTRAL ENERGY COMPANY**

NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE

1. PARTICULARS OF CREDITOR

(a) Full Legal Name of Creditor:

(b) Full Mailing Address of Creditor:

(c) Telephone Number of Creditor:

(d) Facsimile Number of Creditor:

(e) E-mail Address of Creditor:

(f) Attention (Contact Person):

2. **PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by assignment? Yes No
(if yes, attach documents evidencing assignment)

(b) Full Legal Name of original creditor(s): _____

3. **DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM FOR VOTING AND/OR DISTRIBUTION PURPOSES:**

(Any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada Canadian Dollar noon exchange rate in effect as of the date of the Initial Order.)

We hereby disagree with the determination of our Claim as set out in the Notice of Revision or Disallowance dated _____, as set out below:

	As specified in Notice of Revision or Disallowance	Disputed for (check all that apply)	Claim asserted by Creditor
Claim against: Name of Applicant or Director/Officer			
Voting Claim			
Distribution Claim			
Secured or Unsecured?			

Is your claim a WARN Act Claim? Yes No

(Insert particulars of Claim per Notice of Revision or Disallowance, and the value of your Claim as asserted by you).

4. **REASONS FOR DISPUTE:**

(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) which has guaranteed the Claim, particulars and copies of any security, and amount of Claim allocated thereto, date and number of all invoices, particulars of all

credits, discounts, etc. claimed. The particulars provided must support the determination of the Claim as stated by you in item 3, above.)

If you intend to dispute the Notice of Revision or Disallowance, you must notify the Monitor of such intent by delivery to the Monitor of a Notice of Dispute of Revision or Disallowance in accordance with the Claims Procedure Order such that it is received by the Monitor by no later than seven (7) Calendar Days after you receive such Notice of Revision or Disallowance at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission, email or telephone:

FTI Consulting Canada Inc., Court-appointed Monitor of Cline Mining Corporation, New Elk Coal Company LLC and North Central Energy Company
Claims Process

79 Wellington Street West
TD South Tower
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8
Attention: Pamela Luthra
Telephone (416) 649.8099 (Local Toronto)
(855) 398.7390 (Toll-Free)
Fax: (416) 649.8101
Email cline@fticonsulting.com

Dated at _____ this _____ day of _____, 201 ____.

SCHEDULE "G"

PROOF OF CLAIM INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE FOR UNKNOWN CREDITORS OF CLINE MINING CORPORATION, NEW ELK COAL COMPANY LLC AND NORTH CENTRAL ENERGY COMPANY (the "Applicants")

CLAIMS PROCEDURE

By Order of the Ontario Superior Court of Justice (Commercial List) dated December 3, 2014 (the "CCAA Filing Date") (as such Order may be amended from time to time the "Claims Procedure Order") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "CCAA"), the Applicants and FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor of the Applicants (the "Monitor"), have been authorized to conduct a claims procedure (the "Claims Procedure"). A copy of the Claims Procedure Order and other public information concerning these proceedings can be obtained from the Monitor's website at: <http://cfcanada.fticonsulting.com/cline>.

This letter provides general instructions for completing a Proof of Claim form. Defined terms not defined within this instruction letter shall have the meaning ascribed thereto in the Claims Procedure Order.

The Claims Procedure is intended to identify and determine any claims against the Applicants and the Directors or Officers of the Applicants, whether unliquidated, contingent or otherwise, that are to be affected in the plan of compromise and arrangement being pursued by the Applicants under the CCAA. Please review the Claims Procedure Order for the full terms of the Claims Procedure.

All notices and inquiries with respect to the Claims Procedure should be directed to the Monitor by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below:

FTI Consulting Canada Inc., Court-appointed Monitor of Cline Mining Corporation, New Elk Coal Company LLC and North Central Energy Company

Claims Process

79 Wellington Street West

TD South Tower

Suite 2010, P.O. Box 104

Toronto, ON M5K 1G8

Attention: Pamela Luthra

Telephone (416) 649.8099 (Local Toronto)

(855) 398.7390 (Toll-Free)

Fax: (416) 649.8101

Email cline@fticonsulting.com

FOR CREDITORS SUBMITTING A PROOF OF CLAIM

If you believe that you have a Claim against the Applicants or a Director or Officer of the Applicants and you have not already received a Notice of Claim in respect of such Claim, you must complete and file a Proof of Claim form with the Monitor. All Proofs of Claim for Prefiling Claims (i.e. Claims against the Applicants arising prior to the CCAA Filing Date) and all Director/Officer Claims **must be received by the Monitor before 5:00 p.m. (Toronto Time) on January 13, 2015** (the “**Claims Bar Date**”), unless the Monitor and the Applicants agree in writing or the Court orders that the Proof of Claim be accepted after that date. If you do not file a Proof of Claim in respect of any such Claims by the Claims Bar Date, you shall not be entitled to vote at any meeting of creditors regarding the plan of compromise and arrangement being proposed by the Applicants or participate in any distribution under such plan in respect of such Claims and any such Claims shall be forever extinguished and barred.

All Proofs of Claim for Restructuring Period Claims (i.e. Claims against the Applicants arising on or after the CCAA Filing Date) **must be received by the Monitor on the date that is seven (7) Calendar Days after termination, repudiation or resiliation of the agreement or other event giving rise to the Restructuring Period Claim** (the “**Restructuring Period Claims Bar Date**”), unless the Monitor and the Applicants agree in writing or the Court orders that the Proof of Claim be accepted after that date. If you do not file a Proof of Claim in respect of any such Restructuring Period Claims by the Restructuring Period Claims Bar Date, you shall not be entitled to vote at any meeting of creditors regarding the plan of compromise and arrangement being proposed by the Applicants or participate in any distribution under such plan in respect of such Claims and any such Claims you may have against the Applicants and/or any of the Directors and Officers of the Applicants shall be forever extinguished and barred.

All Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada United States/Canadian Dollar noon exchange rate in effect as of the date of the Initial Order.

ADDITIONAL FORMS

Additional Proof of Claim forms can be obtained from the Monitor’s website at <http://cfcanada.fticonsulting.com/cline> or by contacting the Monitor.

DATED this _____ day of December, 2014.

SCHEDULE "H"

Court File No. CV-14-10781-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE
AND ARRANGEMENT OF CLINE MINING CORPORATION, NEW ELK COAL
COMPANY LLC AND NORTH CENTRAL ENERGY COMPANY**

PROOF OF CLAIM

1. PARTICULARS OF CREDITOR

(a) Full Legal Name of Creditor:

(b) Full Mailing Address of Creditor:

(c) Telephone Number of Creditor:

(d) Facsimile Number of Creditor:

(e) E-mail Address of Creditor:

(f) Attention (Contact Person):

2. **PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by assignment? Yes No
(if yes, attach documents evidencing assignment)

(b) Full Legal Name of original creditor(s): _____

3. **PROOF OF CLAIM**

THE UNDERSIGNED CERTIFIES AS FOLLOWS:

(a) That I am a Creditor of the Applicants / I hold the position of _____ of the Creditor;

(b) That I have knowledge of all the circumstances connected with the Claim described and set out below;

(c) The Applicants and/or the Director(s) or Officer(s) of the Applicants were and still are indebted to the Creditor as follows (*Any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada Canadian Dollar noon exchange rate in effect as of the date of the Initial Order.*)

(i) Name of Applicant(s) to which Claim Relates:

(ii) Prefiling Claims against the Applicants (not including WARN Act Claims):

\$ _____

(iii) Restructuring Period Claims against the Applicants:

\$ _____

(iv) Director/Officer Claims against the Directors and/or Officers of the Applicants:

\$ _____

(v) WARN Act Claims against the Applicants:

\$ _____

(vi) TOTAL CLAIM:

\$ _____ (Total of (ii), (iii), (iv) and (v))

4. NATURE OF CLAIM AGAINST THE APPLICANTS

(CHECK AND COMPLETE APPROPRIATE CATEGORY)

Unsecured Claim of \$ _____

Secured Claim of \$ _____

In respect of this debt, I hold security over the assets of the Applicants valued at \$ _____, the particulars of which security and value are attached to this Proof of Claim form.

(If the Claim is secured, provide full particulars of the security, including the date on which the security was given the value for which you ascribe to the assets charged by your security, the basis for such valuation and attach a copy of the security documents evidencing the security.)

5. PARTICULARS OF CLAIM:

The particulars of the undersigned's total Claim (including Prefiling Claims, Restructuring Period Claims, WARN Act Claims and Director/Officer Claims) are attached.

(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) which has guaranteed the Claim, particulars and copies of any security and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed. If a claim is made against any Directors or Officer, specify the applicable Directors or Officers and the legal basis for the Claim against them.)

6. FILING OF CLAIM

For Prefiling Claims, this Proof of Claim must be returned to and received by the Monitor by **5:00 p.m. (Toronto Time) on the Claims Bar Date (January 13, 2015)**.

For Restructuring Period Claims, Claim must be returned to and received by the Monitor by **5:00 p.m. (Toronto Time) on the date that is seven (7) Calendar Days after termination, repudiation or resiliation of the agreement or other event giving rise to the Restructuring Period Claim.**

In both cases, completed forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below to the Monitor at the following address:

FTI Consulting Canada Inc., Court-appointed Monitor of Cline Mining Corporation, New Elk Coal Company LLC and North Central Energy Company
Claims Process

79 Wellington Street West
TD South Tower
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8
Attention: Pamela Luthra
Telephone (416) 649.8099 (Local Toronto)
(855) 398.7390 (Toll-Free)
Fax: (416) 649.8101
Email cline@fticonsulting.com

Dated at _____ this _____ day of _____, 201__.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE AND
ARRANGEMENT OF CLINE MINING CORPORATION, NEW ELK COAL
COMPANY LLC AND NORTH CENTRAL ENERGY COMPANY

Court File No.: CV-14-10781-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

CLAIMS PROCEDURE ORDER

Goodmans LLP
Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Canada M5B 2M6

Robert J. Chadwick LSUC# 35165K
Logan Willis LSUC# 53894K
Bradley Wiffen LSUC# 64279L

Tel: 416.979.2211
Fax: 416.979.1234

Lawyers for the Applicants

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND
IN THE MATTER OF A PLAN OR COMPROMISE OR ARRANGEMENT OF ROBERTS COMPANY CANADA
LIMITED**

Court File No.: CV-20-00643158-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced in Toronto

**BOOK OF AUTHORITIES OF THE
APPLICANT**
(Claims Procedure Order)

BENNETT JONES LLP
Barristers and Solicitors
3400 One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Raj Sahni (LSO#: 42942U)
Tel: (416) 777-4804
Email: sahnir@bennettjones.com

Danish Afroz (LSO#: 65786B)
Tel: (416) 777-6124
Email: afrozd@bennettjones.com

Lawyers for the Applicant