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BUSINESS Canadian Judge Criticizes Nortel Lawyers for 'Shocking' Fees

Judge Calls Tactics in Fight Over \$7.3 Billion Raised in Sale of Nortel Businesses 'Huge Waste of Money'

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By PEG BRICKLEY May 8, 2014 3:37 p.m. ET

A Canadian judge Thursday blasted the lawyers involved in the fight over \$7.3 billion raised in the sale of Nortel Networks Inc.'s businesses, calling their tactics "a huge waste of money" and their fees "shocking."

Citing the interests of thousands of pensioners who lost benefits and pay in Nortel's 2009 collapse, Justice Frank Newbould threw out a series of motions arguing over what evidence is to be presented at a trial set to start Monday. The trial will determine how to split the proceeds of the sale of Nortel's businesses among the fallen technology giant's creditors around the globe.

At an expected cost of at least \$1 million a day, the trial is set to run for six weeks in the U.S. and Canada, two of the jurisdictions where Nortel has launched insolvency proceedings.

Attorneys have been preparing for the trial for a year, following failed efforts to reach a compromise that would have allowed Nortel Canada, Nortel U.S. and Nortel Europe to split up the money and pay off creditors without a court battle.

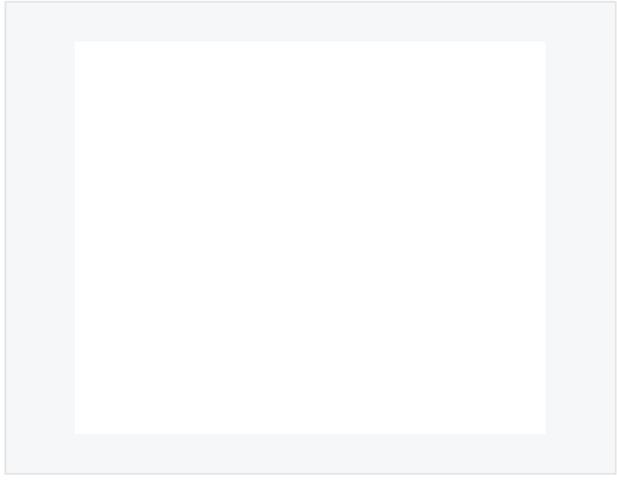
While the lawyers have been receiving their fees every month since the company's 2009 collapse, Nortel's creditors around the world, with a few exceptions, must wait until the end of the trial—and any appeals—to collect their share of the sale proceeds. That includes pensioners and former employees, as well as investors in Nortel's debt.

"The fees charged to date in this case are shocking, completely shocking," Justice Newbould said Thursday, speaking to lawyers in the Ontario Superior Court of Justice in Toronto and Wilmington, Del., bankruptcy court via videoconference.

The Nortel lawyers attending Thursday's hearing didn't respond in court to the judge's remarks. Lawyers for Nortel's U.S. unit couldn't be reached for comment after the hearing.

Dozens of professional firms working on the case have drawn more than \$1 billion combined from Nortel during the bankruptcy, and the spending has intensified as the trial approaches.

U.S. Bankruptcy Judge Kevin Gross, who participated in Thursday's joint hearing, concurred with Justice Newbould, his Canadian counterpart, in finding that most of the pretrial flurry of litigation could wait for the trial itself. Judge Gross also said he had reviewed most of the pretrial documents and saw nothing in need of confidential protection. Almost all of the documents filed in advance of the trial, from the briefs



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outlining the arguments to the evidence on the theories that will be pursued, were filed under seal.

The judges said Thursday that they would allow Nortel's corporate legal teams to keep the information under wraps until Monday, when some documents will be partially disclosed.

Nortel's lawyers sealed all the trial information, citing worries that the trial might expose confidential information of former business partners such as [Microsoft Corp.](#)

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and the alliance of technology companies that paid \$4.5 billion for Nortel's patent portfolio during the bankruptcy.

Not until recent weeks, after Justice Newbould raised questions about the blanket confidentiality, did Nortel's corporate attorneys reach out to [Microsoft](#) and the buyers of Nortel's businesses and patents, to open up discussions on what needed to be kept under wraps.

Even basic briefs that both judges said didn't expose confidential information have been kept secret and may only be partially revealed by the start of the trial.

"It is the most ludicrous way to run a trial that I have ever seen," said Mark Zigler, a lawyer for the Canadian creditors, said Thursday. He argued for immediate unsealing of trial briefs and affidavits, and fast action on the rest of the information, most of which, he said, was "ancient history." Mr. Zigler represents Canadian former employees and disabled workers.

Nortel's creditors outside the U.S. include a large contingent of former employees whose company benefits disappeared and whose incomes were slashed by the bankruptcy. Representatives of U.K. pensioners also are contending for a share of the cash, claiming Britain's social safety net shouldn't have to bear the full weight of Nortel's failure.

Distressed-debt investors have claims for about \$4 billion against Nortel, most of which attach first to the Canadian parent company. However, a decision that Nortel Canada gets all or most of the cash would mean the bondholders would have to share with the company's former Canadian employees, who also have large claims. Nortel U.S. guarantees the Canadian parent's bonds, so a ruling that sends much of the cash to Nortel U.S. would favor bondholders, who make up the majority of the U.S. company's creditor body.

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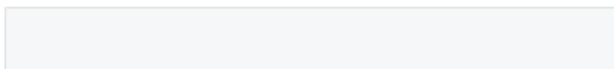
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