

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)

BETWEEN:

JENNIFER HOLLEY

APPLICANT

-and-

NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED, NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS INTERNATIONAL CORPORATION, NORTEL NETWORKS TECHNOLOGY CORPORATION, NORTEL NETWORKS INC. AND OTHER U.S. DEBTORS, ERNST & YOUNG INC. IN ITS CAPACITY AS MONITOR, OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF NORTEL NETWORKS INC. ET AL., AD HOC GROUP OF BONDHOLDERS, EMEA DEBTORS, CANADIAN FORMER EMPLOYEES AND DISABLED EMPLOYEES COURT APPOINTED REPRESENTATIVES, NORTEL CANADIAN CONTINUING EMPLOYEES COURT APPOINTED REPRESENTATIVES

RESPONDENTS

<p>MOTION TO EXPEDITE OF THE MONITOR AND CANADIAN DEBTORS (Pursuant to Rules 6(1) and 47 of the <i>Rules of the Supreme Court of Canada</i>)</p>
--

GOODMANS LLP
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Benjamin Zarnett
Jessica Kimmel
Peter Kolla

Tel: 416.979.2211
Fax: 416.979.1234
Email: bzarnett@goodmans.ca
jkimmel@goodmans.ca
pkolla@goodmans.ca

**Lawyers for Ernst & Young Inc., in its
capacity as Monitor**

**NORTON ROSE FULBRIGHT
CANADA LLP**
45 O'Connor Street, Suite 1500
Ottawa, ON K1P 1A4

Sally A. Gomery

Tel: 613.780.8604
Fax: 613.230.5459
Email: sally.gomery
@nortonrosefulbright.com

**Ottawa Agent for Ernst & Young Inc., in its
capacity as Monitor, and the Canadian
Debtors**

GOWLING WLG (CANADA) LLP

Barristers & Solicitors

1 First Canadian Place

100 King Street West, Suite 1600

Toronto, ON M5X 1G5

Derrick Tay

Jennifer Stam

Tel: 416.862.5697

Fax: 416.862.7661

Email: derrick.tay@gowlingwlg.com
jennifer.stam@gowlingwlg.com

Lawyers for the Canadian Debtors

**ORIGINAL THE REGISTRAR
TO:**

AND TO: JENNIFER HOLLEY
2034 River Road
Ompah, ON KOH 2J0

Tel: 613.479.2653
Email: jholley@xplornet.com

Self-represented leave applicant

AND TO: KOSKIE MINSKY LLP
20 Queen Street West, Suite 900
Toronto, ON M5H 3R3

**Mark Zigler
Susan Philpott
Barbara Walancik**

Tel: 416.977.8353
Fax: 416.977.3316
Email: mzigler@kmlaw.ca
sphilpott@kmlaw.ca
bwalancik@kmlaw.ca

**Lawyers for the Respondent,
Canadian Former Employees and
Disabled Employees through their
court appointed Representatives**

AND TO: NELLIGAN O'BRIEN PAYNE LLP
Suite 1500, 50 O'Connor Street
Ottawa, ON K1P 6L2

Janice Payne
Christopher C. Rootham

Tel: 613.231.8245
Fax: 613.788.3655
Email: janice.payne@nelligan.ca
christopher.rootham@nelligan.ca

SHIBLEY RIGHTON LLP
250 University Avenue, Suite 700
Toronto, ON M5H 3E5

Thomas McRae

Tel: 416.214.5200
Fax: 416.214.5400
Email: thomas.mcrae@shibleyrighton.com

**Lawyers for the Respondent, Nortel
Canadian Continuing Employees**

**AND TO: LAX O'SULLIVAN LISUS
GOTTLIEB LLP**
145 King St. West, Suite 2750
Toronto, ON M5H 1J8

Matthew Gottlieb
Paul Michell

Tel: 416.598.1744
Fax: 416.598.3730
Email: mgottlieb@counsel-toronto.com
pmichell@counsel-toronto.com

**Lawyers for the Respondent, EMEA
Debtors (other than Nortel Networks
S.A.)**

AND TO: TORYS LLP
79 Wellington St. West, Suite 3000
Box 270, TD Centre
Toronto, Ontario M5K 1N2

Shelia Block
Scott A. Bomhof
Andrew Gray
Adam M. Slavens
Jeremy Opolsky

Tel: 416.865.0040
Fax: 416.865.7380
Email: sblock@torys.com
sbomhof@torys.com
agray@torys.com
aslavens@torys.com
jopolsky@torys.com

**Lawyers for the Respondent, Nortel
Networks Inc. and the Other U.S.
Debtors**

**AND TO: CASSELS BROCK &
BLACKWELL LLP**
Suite 2100, Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2

R. Shayne Kukulowicz
Michael Wunder
Ryan Jacobs
Geoffrey B. Shaw

Tel: 416.869.5300
Fax: 416.360.8877
Email: skukulowicz@casselsbrock.com
mwunder@casselsbrock.com
rjacobs@casselsbrock.com
gshaw@casselsbrock.com

**Lawyers for the Respondent, Official
Committee of Unsecured Creditors of
Nortel Networks Inc. *et al.***

AND TO: BENNETT JONES LLP
1 First Canadian Place, Suite 3400
P.O. Box 130
Toronto, ON M5X 1A4

Richard Swan
S. Richard Orzy
Gavin Finlayson

Tel: 416.863.1200
Fax: 416.863.1716
Email: swanr@bennettjones.com
orzyr@bennettjones.com
finlaysong@bennettjones.com

**Lawyers for the Respondent, Ad Hoc
Group of Bondholders**

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SCC File No. 37562

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)

BETWEEN:

JENNIFER HOLLEY

APPLICANT

-and-

NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED, NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS INTERNATIONAL CORPORATION, NORTEL NETWORKS TECHNOLOGY CORPORATION, NORTEL NETWORKS INC. AND OTHER U.S. DEBTORS, ERNST & YOUNG INC. IN ITS CAPACITY AS MONITOR, OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF NORTEL NETWORKS INC. ET AL., AD HOC GROUP OF BONDHOLDERS, EMEA DEBTORS, CANADIAN FORMER EMPLOYEES AND DISABLED EMPLOYEES COURT APPOINTED REPRESENTATIVES, NORTEL CANADIAN CONTINUING EMPLOYEES COURT APPOINTED REPRESENTATIVES

RESPONDENTS

<p>NOTICE OF MOTION OF THE RESPONDENTS, ERNST & YOUNG INC. AND CANADIAN DEBTORS TO EXPEDITE THE APPLICATION FOR LEAVE TO APPEAL</p>
--

(Pursuant to Rules 6(1) and 47 of the *Rules of the Supreme Court of Canada*)

TAKE NOTICE that the Respondent, Ernst & Young Inc., the court appointed monitor (the “Monitor”) for Nortel Networks Corporation and certain of its direct and indirect Canadian subsidiaries (referred to collectively with Nortel Networks Corporation in the Courts below as, the “Canadian Debtors”), together with the Canadian Debtors, apply to a Judge under Rules 6(1) and 47 of the *Rules of the Supreme Court of Canada* (the “Rules”), for an order:

(a) abridging the time for the service and filing under Rule 27(1) of the *Rules* of any responses to the application for leave to appeal bearing SCC File No. 37562 (the “Leave Application”) to Friday, May 19, 2017;

(b) that the Leave Application shall be submitted to the Court for consideration under Rule 32 of the *Rules* on the earlier of Monday, May 29, 2017 or the filing of any reply, and determined as soon as possible thereafter by the Court;

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(c) if leave to appeal is granted, that:

(i) the date for the hearing of the appeal be expedited with an expedited schedule set for the delivery of materials required for the appeal; and

(ii) directions be provided, if necessary, for the parties to provide any submissions that would assist the Court in setting the hearing date and the schedule for the delivery of materials for the appeal; and

(d) such further and other relief as to this Honourable Court may seem just.

AND FURTHER TAKE NOTICE that the motion shall be made on the following grounds:

Overview

1. The Canadian Debtors filed for protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") in January 2009 and related Nortel entities made insolvency filings in the United States and Europe at the same time. The insolvency proceedings have been protracted and included, among other things, litigation in Canada and the U.S. regarding the allocation of the U.S. \$7.3 billion in sale proceeds (the "Sale Proceeds") held in escrow since the sale of the Nortel assets that occurred in the 2009-2011 period.
2. The Canadian Debtors have over 16,000 creditors (including former employees, pensioners, persons under disability and retirees) who have been waiting over 8 years for their distributions. First they waited while the Sale Proceeds were realized. Then they waited while the disagreement among the main Nortel estates and their creditor constituents in Canada, the U.S. and Europe over the allocation of the Sale Proceeds was resolved by decisions of the Ontario Superior Court (the "CCAA Court") and United States Bankruptcy Court for the District of Delaware (the "U.S. Court") following a 21-day cross-border trial. They then waited during appeals that were taken from those trial decisions, until a settlement was reached in October 2016. Since then, they have waited for a Plan of Arrangement to effect distributions to be approved.
3. The Plan of Arrangement was approved by the overwhelming majority of creditors (over 99% in both number and value of claims). It was approved by the CCAA Court on

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January 24, 2017, the objections of the only creditors who opposed—being Joseph Greg McAvoy and Jennifer Holley (the “LTD Objectors”)—having been overruled. However, the LTD Objectors’ application for leave to appeal to the Court of Appeal for Ontario (which was dismissed by that Court on March 13, 2017) and their stated intention to make an application for leave to appeal to this Court threatened to continue to hold up distributions. A Waiver and Reserve Agreement, entered into on April 26, 2017 and approved by the CCAA Court on May 1, 2017, has allowed the Plan of Arrangement and settlement to become effective and will result in distribution of most of the funds that become available to the Canadian Debtors, but requires \$44 million to be held until the resolution of this application brought by one of the LTD Objectors, Jennifer Holley (the “Leave Applicant”).

4. Given the length of time creditors have been waiting to receive their distributions, and that the \$44 million will not be available to creditors pending final resolution of the within leave application and any resulting appeal, this motion is brought to expedite these proceedings.

Recent Procedural History

5. Following the 21-day cross-border trial, in May 2015 the CCAA Court and the U.S. Court issued decisions with respect to the allocation of the Sale Proceeds. The Court of Appeal for Ontario refused leave to appeal from the CCAA Court’s decision, and leave to appeal to the Supreme Court of Canada was sought by certain parties (S.C.C. File No. 37117) but has now been discontinued as a result of the aforementioned settlement. The decision of the U.S. Court was also appealed by certain parties, who have also now consented to their appeals being dismissed.

The Settlement

6. Following extensive negotiations, on October 12, 2016, the Canadian Debtors, the Monitor, the Nortel U.S. and European estates and other key stakeholder groups around the world entered into a Settlement and Plans Support Agreement (the “SPSA”) which, among other things, contains the terms that will allow for the release of over U.S. \$4.15

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billion dollars of Sale Proceeds to the Canadian Debtors for distribution to their creditors in accordance with their entitlements.

7. As contemplated by the SPSA, the Canadian Debtors proposed a Plan of Arrangement (the “Plan”) to implement the SPSA and provide for the distribution of funds to creditors. The Plan contemplates unsecured creditors being treated on a *pro rata* or *pari passu* basis – that is, equally in accordance with their entitlements. The Plan was approved by an overwhelming majority of creditors with 99.97% in number and 99.24% in value voting to approve the Plan on January 17, 2017.
8. On January 24, 2017, the CCAA Court held a joint hearing with the U.S. Court. The CCAA Court sanctioned and approved the Plan (the “Sanction Order”) and granted an Order authorizing the release of Sale Proceeds from escrow (the “Canadian Escrow Release Order”), and the U.S. Court confirmed the corresponding U.S. plan of reorganization and also authorized the release of the Sale Proceeds from escrow.

The LTD Objectors’ Opposition

9. The LTD Objectors are two creditors of the Canadian Debtors and were the only parties who opposed the Orders before the CCAA Court. They opposed, among other things, the approval of the Plan and, in particular the *pari passu* treatment of unsecured creditors. They sought an “adjustment” to the Plan that would see additional amounts paid to the Canadian Debtors’ former long term disability (“LTD”) beneficiaries so that those creditors (including the Leave Applicant) would receive full payment of claims rather than the *pari passu* treatment all other unsecured creditors receive.
10. The CCAA Court overruled their objection, finding the Plan to be fair and reasonable.

The Ensuing Delays Arising from the Leave Applicant’s Leave to Appeal Proceedings

11. However, the SPSA and Plan could not be implemented and distributions to creditors could not commence because the LTD Objectors sought leave to appeal the Sanction Order and Canadian Escrow Release Order to the Court of Appeal for Ontario on February 14, 2017.

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12. The Monitor and Canadian Debtors moved to expedite the LTD Objectors' motion for leave to appeal, which the Court of Appeal for Ontario granted.
13. The Court of Appeal denied the motion for leave to appeal on March 13, 2017, within 27 days of it being commenced.
14. However, distributions to creditors could still not commence since the LTD Objectors' indicated the possibility of seeking leave to appeal to this Court, which one of them—the Leave Applicant—has now done.
15. As originally approved, one of the conditions to the Plan and SPSA being effected was that, by no later than August 31, 2017, the Sanction Order and Canadian Escrow Release Order had become "Final Orders" from which no appeal, leave to appeal or motion to alter or amend or for a re-hearing had been filed, and the time periods for seeking any such relief had elapsed. This condition would have required this application for leave to appeal and, if granted, any appeal to this Court to have been decided by August 31, 2017. Otherwise, certain parties could have sought to terminate the SPSA.

The Waiver and Reserve Agreement

16. The Monitor engaged in good faith negotiations with the U.S. and European Nortel debtors and various creditor constituents regarding these matters and on April 26, 2017, the Canadian Debtors, the U.S. and European Nortel debtors and Monitor entered into a Waiver and Reserve Agreement which establishes that a reserve is to be held by the Canadian Nortel estate in the amount of \$44 million (the "Appeal Reserve") in respect of any additional amounts that may be determined to be due to the Canadian Debtors' former LTD beneficiaries beyond *pro rata* distributions pursuant to the Plan. The Waiver and Reserve Agreement allowed the SPSA and the Plan to become effective notwithstanding that the Sanction Order and Canadian Escrow Release Order are not yet Final Orders.
17. The Waiver and Reserve Agreement was approved by the CCAA Court, with the consent of the LTD Objectors, by Order dated May 1, 2017, and by the U.S. Court on May 5, 2017. The Plan and SPSA became effective on May 8, 2017 and it is anticipated that initial distributions to creditors will be made in late June or early July 2017.

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18. However, the \$44 million Appeal Reserve must be held back from distributions pending the resolution of the Leave Applicant's application for leave and any resulting appeal.
19. The Waiver and Reserve Agreement and the Order approving it expressly reserved all of the parties' rights to continue to oppose any leave to appeal or appeal to the Supreme Court of Canada by the LTD Objectors and to otherwise challenge any claimed entitlement for payment or distribution from the Canadian estate beyond *pro rata* distributions.

The Need for Expedition

20. The Waiver and Reserve Agreement has served to relieve the immediate effect of the Leave Application which would have held up the distribution of more than U.S.\$7.3 billion of Sale Proceeds to the Nortel estates and subsequently to their creditors, the majority of which will flow to the benefit of creditors of the Canadian Debtors. However, Canadian retirees, pensioners, former employees and all other creditors will not receive their share of the \$44 million until the request of the Leave Applicant for the Appeal Reserve to be paid to the LTD beneficiaries is disposed of. The conclusion of the litigation over the entitlements to the \$44 million Appeal Reserve is important and significant to all creditors of the Canadian Debtors (including former employees, pensioners, persons under disability and retirees).
21. The Monitor expects the Canadian estate to make its first distribution to creditors in late June or early July of 2017. The next distribution is not yet planned. Expedited resolution of this Leave Application will assist in maximizing the distributions that can be made to creditors and potentially assist in those distributions being made earlier than they otherwise would be able to be made. In the endorsement approving the Waiver and Reserve Agreement, the CCAA Court urged that the leave to appeal application be dealt with as quickly as possible, observing that:

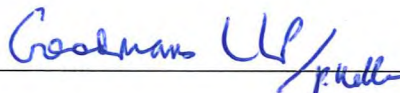
This insolvency has lasted far too long at far too much expense, which in the end comes out of the pockets of the retirees and other creditors including the long term disability claimants. I would urge the Supreme Court of Canada to deal with any leave to appeal as quickly as possible.

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22. Expediting the within Leave Application will assist in reducing any potential further delay in the distribution of the Appeal Reserve and otherwise assist in bringing conclusion in these long-running insolvency proceedings.
23. All other Respondents to the Leave Application consent to the relief sought herein.
24. In light of that aspect of the relief sought which is to abridge the time for any responses to the application for leave to appeal, the Court is being asked to hear and dispose of this motion on an expedited basis. In the meantime, the Respondents to the Leave Application intend to comply with the proposed abridged time for their responses.
25. The affidavit of Murray McDonald, sworn May 11, 2017, together with its exhibits.
26. Such further and other grounds as counsel may advise.

Dated at Toronto, Ontario this 16th day of May, 2017.

SIGNED BY



GOODMANS LLP

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

Benjamin Zarnett
Jessica Kimmel
Peter Kolla

Tel: 416.979.2211
Fax: 416.979.1234
Email: bzarnett@goodmans.ca
jkimmel@goodmans.ca
pkolla@goodmans.ca

**Lawyers for Ernst & Young Inc., in its
capacity as Monitor**

**NORTON ROSE FULBRIGHT
CANADA LLP**

45 O'Connor Street, Suite 1500
Ottawa, ON K1P 1A4

Sally A. Gomery

Tel: 613.780.8604
Fax: 613.230.5459
Email: sally.gomery
@nortonrosefulbright.com

**Ottawa Agent for Ernst & Young Inc., in its
capacity as Monitor, and the Canadian
Debtors**

- 8 -

GOWLING WLG (CANADA) LLP

Barristers & Solicitors

1 First Canadian Place

100 King Street West, Suite 1600

Toronto, ON M5X 1G5

Derrick Tay**Jennifer Stam**

Tel: 416.862.5697

Fax: 416.862.7661

Email: derrick.tay@gowlingwlg.com
jennifer.stam@gowlingwlg.com**Lawyers for the Canadian Debtors****ORIGINAL THE REGISTRAR****TO:****AND TO: JENNIFER HOLLEY**

2034 River Road

Ompah, ON KOH 2J0

Tel: 613.479.2653

Email: jholley@xplornet.com

Self-represented leave applicant

- 9 -

AND TO: KOSKIE MINSKY LLP
20 Queen Street West, Suite 900
Toronto, ON M5H 3R3

Mark Zigler
Susan Philpott
Barbara Walancik

Tel: 416.977.8353
Fax: 416.977.3316
Email: mzigler@kmlaw.ca
sphilpott@kmlaw.ca
bwalancik@kmlaw.ca

**Lawyers for the Respondent,
Canadian Former Employees and
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AND TO: NELLIGAN O'BRIEN PAYNE LLP
Suite 1500, 50 O'Connor Street
Ottawa, ON K1P 6L2

Janice Payne
Christopher C. Rootham

Tel: 613.231.8245
Fax: 613.788.3655
Email: janice.payne@nelligan.ca
Christopher.rootham@nelligan.ca

SHIBLEY RIGHTON LLP
250 University Avenue, Suite 700
Toronto, ON M5H 3E5

Thomas McRae

Tel: 416.214.5200
Fax: 416.214.5400
Email: thomas.mcrae@shibleyrighton.com

**Lawyers for the Respondent, Nortel
Canadian Continuing Employees**

- 10 -

**AND TO: LAX O'SULLIVAN LISUS
GOTTLIEB LLP**
145 King St. West, Suite 2750
Toronto, ON M5H 1J8

**Matthew Gottlieb
Paul Michell**

Tel: 416.598.1744
Fax: 416.598.3730
Email: mgottlieb@counsel-toronto.com
pmichell@counsel-toronto.com

**Lawyers for the Respondent, EMEA
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AND TO: TORYS LLP
79 Wellington St. West, Suite 3000
Box 270, TD Centre
Toronto, Ontario M5K 1N2

**Shelia Block
Scott A. Bomhof
Andrew Gray
Adam M. Slavens
Jeremy Opolsky**

Tel: 416.865.0040
Fax: 416.865.7380
Email: sblock@torys.com
sbomhof@torys.com
agray@torys.com
aslavens@torys.com
jopolsky@torys.com

**Lawyers for the Respondent, Nortel
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- 11 -

**AND TO: CASSELS BROCK &
BLACKWELL LLP**
Suite 2100, Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2

**R. Shayne Kukulowicz
Michael Wunder
Ryan Jacobs
Geoffrey B. Shaw**

Tel: 416.869.5300
Fax: 416.360.8877
Email: skukulowicz@casselsbrock.com
mwunder@casselsbrock.com
rjacobs@casselsbrock.com
gshaw@casselsbrock.com

**Lawyers for the Respondent, Official
Committee of Unsecured Creditors of
Nortel Networks Inc. *et al.***

AND TO: BENNETT JONES LLP
1 First Canadian Place, Suite 3400
P.O. Box 130
Toronto, ON M5X 1A4

**Richard Swan
S. Richard Orzy
Gavin Finlayson**

Tel: 416.863.1200
Fax: 416.863.1716
Email: swanr@bennettjones.com
orzyr@bennettjones.com
finlaysong@bennettjones.com

**Lawyers for the Respondent, Ad Hoc
Group of Bondholders**

NOTICE TO THE RESPONDENT TO THE MOTION: A respondent to the motion may serve and file a response to this motion within 10 days after service of the motion. If no response is filed within that time, the motion will be submitted for consideration to a judge or the Registrar, as the case may be.

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If the motion is served and filed with the application for leave to appeal, then the Respondent may serve and file the response to the motion with the response to the application for leave to appeal.

(In the case of an originating motion, include a copy of the judgment and reasons for judgment of the court appealed from and a copy of the certificate in Form 23A and, if applicable, a copy of the certificate in Form 23B.)

S.C.C. File No. 37562

IN THE SUPREME COURT OF CANADA
(On Appeal from the Court of Appeal for Ontario)

BETWEEN:

JENNIFER HOLLEY

APPLICANT

-and-

NORTEL NETWORKS CORPORATION ET AL.

RESPONDENTS

**NOTICE OF MOTION OF THE
RESPONDENTS MONITOR AND CANADIAN
DEBTORS TO EXPEDITE THE APPLICATION
FOR LEAVE TO APPEAL**

(Pursuant to Rules 6(1) and 47 of the
Rules of the Supreme Court of Canada)

GOODMANS LLP

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

**Benjamin Zarnett
Jessica Kimmel
Peter Kolla**

Tel: 416.979.2211
Fax: 416.979.1234
Email: bzarnett@goodmans.ca
jkimmel@goodmans.ca
pkolla@goodmans.ca

**Lawyers for Ernst & Young Inc.,
in its capacity as Monitor**

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SCC File No.

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)

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RESPONDENTS

AFFIDAVIT OF MURRAY MCDONALD

(Pursuant to Rule 47 of the <i>Rules of the Supreme Court of Canada</i>)

I, Murray McDonald, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the President of Ernst & Young Inc., the court appointed monitor (the “Monitor”) for Nortel Networks Corporation and certain of its direct and indirect Canadian subsidiaries (referred to collectively with Nortel Networks Corporation in the Courts below as, the “Canadian Debtors”), and, as such, have knowledge of the following matters.

Overview

2. The Canadian Debtors filed for protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”) in January 2009 and related Nortel entities made insolvency filings in the United States and Europe at the same time. The insolvency proceedings have been protracted and included, among other things, litigation in Canada and the

- 2 -

U.S. regarding the allocation of the U.S. \$7.3 billion in sale proceeds (the “Sale Proceeds”) held in escrow since the sale of the Nortel assets.

3. The Canadian Debtors have over 16,000 creditors (including former employees, pensioners, persons under disability and retirees) who have been waiting over 8 years for their distributions. First they waited while the Sale Proceeds were realized. Then they waited while the disagreement among the main Nortel estates and their creditor constituents in Canada, the U.S. and Europe over the allocation of the Sale Proceeds was resolved by decisions of the Ontario Superior Court (the “CCAA Court”) and United States Bankruptcy Court for the District of Delaware (the “U.S. Court”) following a 21-day cross-border trial. They then waited during appeals that were taken from those trial decisions, until a settlement was reached in October 2016. Since then, they have waited for a Plan of Arrangement to effect distributions to be approved.

4. The Plan of Arrangement was approved by the overwhelming majority of creditors (over 99% in both number and value of claims). It was approved by the CCAA Court on January 24, 2017, the objections of the only creditors who opposed—being Jennifer Holley and Joseph Greg McAvoy (the “LTD Objectors”)—having been overruled. However, the LTD Objectors’ application for leave to appeal to the Court of Appeal for Ontario (which was dismissed by that Court on March 13, 2017) and their stated intention to make an application for leave to appeal to this Court threatened to continue to hold up distributions. A Waiver and Reserve Agreement, entered into on April 26, 2017 and approved by the CCAA Court on May 1, 2017, has allowed the Plan of Arrangement and settlement to become effective and will result in distribution of most of the funds that become available to the Canadian Debtors, but requires \$44 million to be held until the resolution of this application brought by one of the LTD Objectors, Jennifer Holley (the “Leave Applicant”).

5. Given the length of time creditors have been waiting to receive their distributions, and that the \$44 million will not be available to creditors pending final resolution of the within leave application and any resulting appeal, this motion is brought to expedite these proceedings.

Recent Procedural History

6. Following the 21-day cross-border trial, in May 2015 the CCAA Court and the U.S. Court issued decisions with respect to the allocation of the Sale Proceeds. The Court of Appeal for Ontario refused leave to appeal from the CCAA Court's decision, and leave to appeal to the Supreme Court of Canada was sought by certain parties (S.C.C. File No. 37117) but has now been discontinued as a result of the aforementioned settlement. The decision of the U.S. Court was also appealed by certain parties who have also now consented to their appeals being dismissed.

The Settlement

7. Following extensive negotiations, on October 12, 2016, the Canadian Debtors, the Monitor, the Nortel U.S. and European estates and other key stakeholder groups around the world entered into a Settlement and Plans Support Agreement (the "SPSA"), which among other things, contains the terms that will allow for the release of over U.S. \$4.15 billion dollars of Sale Proceeds to the Canadian Debtors for distribution to their creditors in accordance with their entitlements. The SPSA is 145 pages in length with its annexes, and accordingly I am not attaching it to this affidavit but a copy is available on the Monitor's website at: <http://documentcentre.eycan.com/Pages/Overview.aspx?SID=89>.

8. As contemplated by the SPSA, the Canadian Debtors proposed a Plan of Arrangement (the "Plan") to implement the SPSA and provide for the distribution of funds to creditors. The Plan contemplates unsecured creditors being treated on a *pro rata* or *pari passu* basis – that is equally in accordance with their entitlements. The Plan was approved by an overwhelming majority of creditors with 99.97% in number and 99.24% in value voting to approve the Plan on January 17, 2017. The Plan is over 200 pages in length with its schedules and exhibit, and accordingly I am not attaching it to this affidavit but a copy is available on the Monitor's website at: <http://documentcentre.eycan.com/Pages/Overview.aspx?SID=89>.

9. On January 24, 2017, the CCAA Court held a joint hearing with the U.S. Court. The CCAA Court sanctioned and approved the Plan (the "Sanction Order") and granted an Order authorizing the release of Sale Proceeds from escrow (the "Canadian Escrow Release Order"), and the U.S. Court confirmed the corresponding U.S. plan of reorganization and also authorized

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the release of the Sale Proceeds from escrow. The Sanction Order is attached to this affidavit and marked as Exhibit “A” and the Canadian Escrow Release Order is attached to this affidavit and marked as Exhibit “B”. I note the Sanction Order is included as Tab 3 in the Leave Applicant’s record on her Leave Application. The CCAA Court’s endorsement was released on January 30, 2017 and is attached to this affidavit and marked as Exhibit “C”, and I note the endorsement is included as Tab 2 in the Leave Applicant’s record on her Leave Application.

The LTD Objectors’ Opposition

10. The LTD Objectors are two creditors of the Canadian Debtors and were the only parties who opposed the Orders before the CCAA Court. They opposed, among other things, the approval of the Plan and, in particular the *pari passu* treatment of unsecured creditors. They sought an “adjustment” to the Plan that would see additional amounts paid to the Canadian Debtors’ former long term disability (“LTD”) beneficiaries so that those creditors (including the Leave Applicant) would receive full payment of claims rather than *pari passu* treatment all other unsecured creditors receive.

11. The CCAA Court overruled their objection, finding the Plan to be fair and reasonable.

The Ensuing Delays Arising from the Leave Applicant’s Leave to Appeal Proceedings

12. However, the SPSA and Plan could not be implemented and distributions to creditors could not commence because the LTD Objectors sought leave to appeal the Sanction Order and Canadian Escrow Release Order to the Court of Appeal for Ontario on February 14, 2017.

13. The Monitor and Canadian Debtors moved to expedite the LTD Objectors’ motion for leave to appeal, which the Court of Appeal for Ontario granted on consent of the LTD Objectors. The Order of the Court of Appeal for Ontario dated February 17, 2017 expediting the leave to appeal is attached to this affidavit and marked as Exhibit “D”.

14. The Court of Appeal denied the motion for leave to appeal by Order dated March 13, 2017, within 27 days of it being commenced. The Order and related endorsement are attached to this affidavit and marked as Exhibits “E” and “F” respectively, and I note that Order and endorsement are included as Tabs 5 and 6 in the Leave Applicant’s record on her Leave Application.

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15. However, distributions to creditors could still not commence since the LTD Objectors indicated the possibility of seeking leave to appeal to this Court, which one of them—the Leave Applicant—has now done.

16. As originally approved, one of the conditions to the Plan and SPSA being effected was that, by no later than August 31, 2017, the Sanction Order and Canadian Escrow Release Order had become “Final Orders” from which no appeal, leave to appeal or motion to alter or amend or for a re-hearing had been filed, and the time periods for seeking any such relief had elapsed. This condition would have required this application for leave to appeal and, if granted, any appeal to this Court to have been decided by August 31, 2017. Otherwise certain parties could have sought to terminate the SPSA.

The Waiver and Reserve Agreement

17. The Monitor engaged in good faith negotiations with the U.S. and European Nortel debtors and various creditor constituents regarding these matters and on April 26, 2017, the Canadian Debtors, the U.S. and European Nortel debtors and Monitor entered into a Waiver and Reserve Agreement (the “Waiver and Reserve Agreement”), which is attached to this affidavit and marked as Exhibit “G” without its appendix.

18. The Waiver and Reserve Agreement establishes that a reserve is to be held by the Canadian Nortel estate in the amount of \$44 million (the “Appeal Reserve”) in respect of any additional amounts that may be determined to be due to the Canadian Debtors’ former LTD beneficiaries beyond *pro rata* distributions pursuant to the Plan. The Waiver and Reserve Agreement allowed the SPSA and the Plan to become effective notwithstanding that the Sanction Order and Canadian Escrow Release Order are not yet Final Orders.

19. The Waiver and Reserve Agreement was approved by the CCAA Court, with the consent of the LTD Objectors, by Order dated May 1, 2017, which is attached to this affidavit and marked as Exhibit “H” without its schedule which is a copy of the Waiver and Reserve Agreement. I note that Order is included as Tab 6 in the Leave Applicant’s record on her Leave Application. The Plan and SPSA became effective on May 8, 2017 and it is anticipated that initial distributions to creditors will be made in late June or early July 2017.

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20. However, the \$44 million Appeal Reserve must be held back from distributions pending the resolution of the Leave Applicant's application for leave and any resulting appeal.

21. The Waiver and Reserve Agreement at paragraph 2(d) and the Order approving it at paragraph 10 expressly reserved all of the parties' rights to continue to oppose any leave to appeal or appeal to the Supreme Court of Canada by the LTD Objectors and to otherwise challenge any claimed entitlement for payment or distribution from the Canadian estate beyond *pro rata* distributions.

The Need for Expedition

22. The Waiver and Reserve Agreement has served to relieve the immediate effect of this application for leave to appeal which would have held up the distribution of more than U.S. \$7.3 billion of Sale Proceeds to the Nortel estates and subsequently to their creditors, the majority of which will flow to the benefit of creditors of the Canadian Debtors. However, Canadian retirees, pensioners, former employees and all other creditors will not receive their share of the \$44 million until the request of the Leave Applicant for the Appeal Reserve to be paid to the LTD beneficiaries is disposed of. The conclusion of the litigation over the entitlements to the \$44 million Appeal Reserve is important and significant to all creditors of the Canadian Debtors (including former employees, pensioners, persons under disability and retirees).

23. As noted above, the Monitor expects the Canadian estate to make its first distribution to creditors in late June or early July of 2017. The next distribution is not yet planned. Expedited resolution of this Leave Application will assist in maximizing the distributions that can be made to creditors and potentially assist in those distributions being made earlier than they otherwise would be able to be made. I note that in its endorsement dated May 1, 2017 approving the Waiver and Reserve Agreement, which is attached to this affidavit and marked as Exhibit "I" along with an unofficial transcription thereof, the CCAA Court urged that the leave to appeal application be dealt with as quickly as possible, observing that:

This insolvency has lasted far too long at far too much expense, which in the end comes out of the pockets of the retirees and other creditors including the long term disability claimants. I would urge the Supreme Court of Canada to deal with any leave to appeal as quickly as possible.

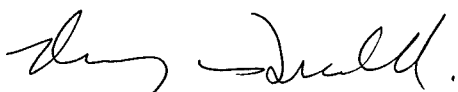
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24. Expediting the within Leave Application will assist in reducing any potential further delay in the distribution of the Appeal Reserve and otherwise assist in bringing conclusion to these long-running insolvency proceedings.

25. In light of that aspect of the relief sought which is to abridge the time for any responses to the application for leave to appeal, the Court is being asked to hear and dispose of this motion on an expedited basis.

SWORN before me at the City of Toronto,
in the Province of Ontario on the 11th day of
May, 2017



Commissioner for taking affidavits
Chris Armstrong

Murray McDonald

A

This is Exhibit "A" referred to in the
affidavit of Murray McDonald
sworn before me, this 11th
day of May 2017.


A Notary Public and Commissioner for Taking Affidavits

Chris Armstrong

Court File No. 09-CL-7950

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR. JUSTICE) NEWBOULD)	TUESDAY, THE 24 TH DAY OF JANUARY, 2017)
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**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
NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED,
NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS
INTERNATIONAL CORPORATION, NORTEL NETWORKS
TECHNOLOGY CORPORATION, NORTEL COMMUNICATIONS INC.,
ARCHITEL SYSTEMS CORPORATION AND NORTHERN TELECOM CANADA
LIMITED**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

SANCTION ORDER

THIS MOTION made by Nortel Networks Corporation ("NNC"), Nortel Networks Limited ("NNL"), Nortel Networks Technology Corporation, Nortel Networks Global Corporation, Nortel Networks International Corporation, Nortel Communications Inc., Architel Systems Corporation and Northern Telecom Canada Limited (collectively, the "**Canadian Debtors**") jointly with Ernst & Young Inc. in its capacity as monitor of the Canadian Debtors (the "**Monitor**") for the relief set out in the Notice of Motion dated January 20, 2017, including sanctioning the Plan of Compromise and Arrangement pursuant to the *Companies' Creditors Arrangement Act* concerning, affecting and involving the Canadian Debtors dated November 30, 2016 (as the same may be amended, varied or supplemented from time to time in accordance with the terms thereof, the "**Plan**") was heard this day at 330 University Avenue, Toronto, Ontario.

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ON READING the One Hundred and Thirty Fifth Report of the Monitor dated January 20, 2017 (the “**Report**”), the Forty Second Report of the Monitor dated March 30, 2010, and the Notice of Intention to Appear and Submission for Anticipated January 24, 2017 Fairness Hearing to Sanction the Nortel CCAA Plan from Greg McAvoy and Jennifer Holley (the “**LTD Objectors**”), and on hearing submissions of counsel for the Monitor and counsel for those other parties present and the LTD Objectors, no one appearing for any other person on the service list or otherwise served with the motion although duly served as appears from the affidavit of Christopher Armstrong sworn January 23, 2017, filed.

SERVICE

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

DEFINED TERMS, CURRENCY AND INTERPRETATION OF THIS ORDER

2. **THIS COURT ORDERS** that capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Plan.
3. **THIS COURT ORDERS** that, unless otherwise specified, all amounts referred to herein are in U.S. dollars.
4. **THIS COURT ORDERS** that for purposes of this Order the use of words in the singular or plural, or with a particular gender, including a definition, shall not limit the scope or exclude the application of any provision of this Order to such Person (or Persons) or circumstances as the context otherwise permits.
5. **THIS COURT ORDERS** that for purposes of this Order the words “includes” and “including” and similar terms of inclusion shall not, unless expressly modified by the words “only” or “solely”, be construed as terms of limitation, but rather shall mean “includes but is not limited to” and “including but not limited to”, so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive.

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6. **THIS COURTS ORDERS** that under this Order any reference to a statute or other enactment of parliament or a legislature or Governmental Entity includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation.

NOTICE AND MEETING

7. **THIS COURT ORDERS AND DECLARES** that there has been good and sufficient notice, service and delivery of the Meeting Materials (as defined in the Plan Filing and Meeting Order granted by this Court on December 1, 2016 (the “**Meeting Order**”)) and that the Meeting was duly called, convened, held and conducted, all in conformity with the CCAA and the Orders of this Court made in the CCAA Proceedings, including, without limitation, the Meeting Order.

SANCTION OF THE PLAN

8. **THIS COURT ORDERS AND DECLARES** that:
- (a) the Plan has been approved by the Required Majority of Affected Unsecured Creditors with Voting Claims as required by the Meeting Order and the Plan, and in conformity with the CCAA;
 - (b) the Canadian Debtors have complied with the provisions of the CCAA and the Orders of the Court made in the CCAA Proceedings in all respects;
 - (c) the Court is satisfied that the Canadian Debtors have not done or purported to do anything that is not authorized by the CCAA; and
 - (d) the Canadian Debtors have acted in good faith and with due diligence, and the Plan and the Settlement and Support Agreement incorporated therein are fair and reasonable.
9. **THIS COURT ORDERS** that the Plan is hereby sanctioned and approved pursuant to Section 6 of the CCAA.

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10. **THIS COURT ORDERS AND DECLARES** that the Plan and all associated steps, compromises, transactions, arrangements, agreements, releases and reorganizations effected thereby are approved, binding and effective, subject to the terms set out in the Plan, upon and with respect to the Canadian Debtors (including the Canadian Estate), all Affected Creditors, the Directors and Officers, any Person with a Released Director/Officer Claim, the Released Parties and all other Persons named or referred to in, or subject to, the Plan. The fact that this Order does not refer to a specific provision of the Plan shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Plan be approved in its entirety.

SUBSTANTIVE CONSOLIDATION OF CANADIAN DEBTORS

11. **THIS COURT ORDERS** that all assets and liabilities of the Canadian Debtors be and are hereby substantively consolidated into the Canadian Estate. Without limiting the generality of the foregoing provision, on the Plan Effective Date:
- (a) NNL shall be the corporate body through which the transactions and other steps involving the Canadian Estate contemplated by the Plan and the wind-down and continuing administration of the Canadian Estate shall be conducted, it being understood that each Other Canadian Debtor shall continue to exist and maintain its independent corporate form;
 - (b) all assets and rights of the Other Canadian Debtors (but excluding the Canadian Intercompany Claims) shall vest absolutely in NNL free and clear of any Claim, Post-Filing Claim or Encumbrance except for the obligations of the Canadian Debtors (including the Canadian Estate) pursuant to or recognized under the Plan;
 - (c) NNL is hereby appointed as attorney in fact of each of the Other Canadian Debtors, authorized to take all steps and actions necessary for and on behalf of the Other Canadian Debtors and to execute any and all documents and make

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any and all filings for and on behalf of each of the Other Canadian Debtors as may be necessary or desirable; and

- (d) subject to the qualifications under the Plan regarding Duplicative Claims, all Proven Affected Unsecured Claims (whether now existing or hereafter coming into existence) against the Other Canadian Debtors shall be deemed to be claims against NNL.

12. **THIS COURT ORDERS** that as a result of the substantive consolidation of the Canadian Debtors:

- (a) Each Canadian Registered Pension Plan shall only have one Proven Affected Unsecured Claim against the Canadian Estate in the respective amounts specified in Section 4.4 of the Plan;
- (b) Holders of Crossover Bonds that were issued by one Canadian Debtor and guaranteed by another Canadian Debtor shall only have one Proven Affected Unsecured Claim against the Canadian Estate in the aggregate respective amounts specified on Schedule "B" to the Plan;
- (c) Creditors shall not be permitted to have Duplicative Claims against the Canadian Estate; and
- (d) Creditors holding Proven Affected Unsecured Claims against more than one Canadian Debtor where such Proven Affected Unsecured Claims are based on separate and distinct underlying debts shall have one Proven Affected Unsecured Claim against the Canadian Estate in the aggregate amount of all such separate and distinct Proven Affected Unsecured Claims.

13. **THIS COURT ORDERS** that for purposes of the Plan, the Canadian Intercompany Claims shall be treated as Unaffected Claims and shall not be entitled to any distributions thereunder. Subject to the foregoing sentence and notwithstanding any other provision of the Plan or this Order, nothing in the Plan or this Order shall affect, impair or settle the Canadian Intercompany Claims and the

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Canadian Intercompany Claims shall remain in place unaffected by the Plan in all respects following the Plan Effective Date.

SETTLEMENT AND SUPPORT AGREEMENT

14. **THIS COURT ORDERS** that the Settlement and Support Agreement, including the resolution of the Allocation Dispute and the Settlement and Support Agreement Releases described therein, be and is hereby approved in its entirety. The fact that this Order does not describe or include any particular provision of the Settlement and Support Agreement shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Settlement and Support Agreement be approved in its entirety.
15. **THIS COURT ORDERS** that the execution and delivery of the Settlement and Support Agreement by the Canadian Debtors and the Monitor is hereby authorized and approved *nunc pro tunc* and the performance by the Canadian Debtors and the Monitor of their respective obligations thereunder is hereby approved. The Canadian Debtors and the Monitor are hereby authorized to take such steps and execute such additional documents as may be necessary or desirable to effectuate and implement the terms of the Settlement and Support Agreement.
16. **THIS COURTS ORDERS** that, without limiting the generality of paragraphs 14 and 15 hereof, on the Plan Effective Date the Canadian Debtors and Monitor be and are hereby authorized to take such steps as may be necessary to effect the following distributions from the Escrow Accounts, all in accordance with and subject to the terms of the Settlement and Support Agreement, including Section 2 thereof:
 - (a) payments of \$35,000,000 to NNL, and \$20,000,000 to NNI, shall be made from the Iceberg Escrow Account in satisfaction of the M&A Cost Reimbursement;

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- (b) payments of \$2,800,000 to NNI, and \$2,200,000 to NNUK, shall be made from the Iceberg Escrow Account in satisfaction of the Iceberg Amendment Fee; and
 - (c) after making the payments described in paragraphs (a) and (b) above, the Sale Proceeds shall be allocated and paid from the Escrow Accounts on and subject to the terms of the Settlement and Support Agreement as follows:
 - (i) Canadian Debtors: 57.1065%, being \$4,142,665,131 as at July 31, 2016;
 - (ii) U.S. Debtors: 24.350%, being \$1,766,417,002 as at July 31, 2016;
 - (iii) EMEA Debtors (excluding NNUK and NNSA): 1.4859%, being \$107,788,879 as at July 31, 2016;
 - (iv) NNUK: 14.0249%, being \$1,017,408,257 as at July 31, 2016, subject to adjustment as contemplated in Section 2(c)(v) of the Settlement and Support Agreement; and
 - (v) NNSA: \$220,000,000.
17. **THIS COURT ORDERS** that, for the avoidance of doubt, all distributions from the Escrow Accounts (including the specific amounts to be distributed to each of the Canadian Debtors, the U.S. Debtors and the EMEA Debtors) shall be strictly in accordance with the Settlement and Support Agreement. To the extent of any conflict between the provisions of the Settlement and Support Agreement, the Plan or this Order as relates to distributions from the Escrow Accounts, the provisions of the Settlement and Support Agreement shall govern in all respects.
18. **THIS COURT ORDERS** that within five (5) Business Days of the Plan Implementation Date the Canadian Estate shall make the following payments by wire transfer of immediately available funds in full satisfaction and discharge of the following:

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- (a) \$62,700,000 to NNI in full satisfaction of the Remaining Revolver Claim;
- (b) \$77,500,000 to NNI in full satisfaction of the payment contemplated by Section 4(e) of the Settlement and Support Agreement, which payment shall not be subject to set-off pursuant to Section 3.13 of the Plan.

19. **THIS COURT ORDERS** that the Settlement and Support Agreement Releases given and received by the Canadian Debtors and the Monitor be and are hereby authorized and approved. The Settlement and Support Agreement Releases shall be binding on and enure to the benefit of the Canadian Debtors (including the Canadian Estate), the Monitor, the other Settlement Parties, the Participating Creditors and their respective employees, officers, directors, agents, advisors, lawyers, successors and assigns and the directors and officers, both former and current, of any Nortel Group entity.

RELEASE OF CANADA ONLY SALE PROCEEDS AND UNAVAILABLE CASH

20. **THIS COURT ORDERS** that on the Plan Effective Date all amounts held by NNL pursuant to the Canada Only Sale Proceeds Orders or held as Unavailable Cash by the Canadian Debtors shall be released to the Canadian Estate without any restriction whatsoever, and shall be used to fund the distributions and reserves contemplated under the Plan.

CERTAIN ACCEPTED CLAIMS

21. **THIS COURT ORDERS** that the following Creditors shall have the following accepted claims against the Canadian Estate pursuant to the Plan:

- (a) The total Proven Affected Unsecured Claim of Morneau Shepell Ltd. as Administrator of the Canadian Registered Pension Plans on account of the Managerial Plan shall be CA\$1,368,644,000, and the total Proven Affected Unsecured Claim on account of the Negotiated Plan shall be CA\$520,835,000;

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- (b) The aggregate total of all Proven Affected Unsecured Claims on account of the Crossover Bonds shall be \$3,940,750,260, with the individual Proven Affected Unsecured Claims on account of the Crossover Bonds being as set forth on Schedule "B" to the Plan;
- (c) The Proven Affected Unsecured Claim on account of the NNCC Bonds shall be \$150,951,562;
- (d) UKPI shall have a single Proven Affected Unsecured Claim in the amount of £339,750,000 (being \$494,879,850 when converted to U.S. dollars in accordance with the Plan);
- (e) NNUK shall have a Proven Affected Unsecured Claim under the Plan in the amount of \$97,655,094, the amount of which may increase to \$122,655,094 solely in the circumstances set out in Section 2.2 of the EMEA Claims Settlement Agreement;
- (f) Nortel Networks SpA shall have a Proven Affected Unsecured Claim under the Plan in the amount of \$2,344,906; and
- (g) NNI shall have: (i) a Proven Affected Unsecured Claim under the Plan in the amount of \$2,000,000,000; and (ii) a Proven Priority Claim of \$62,700,000 on account of the Remaining Revolver Claim, which claims of NNI shall not be subject to set-off, off set, deduction, counterclaim, reduction, or challenge as to amount or validity.

NO DOUBLE-RECOVERY

22. **THIS COURT ORDERS** that no Creditor shall receive aggregate distributions from the Canadian Estate and any other Nortel Group entity on account of a Proven Affected Unsecured Claim and any related claim established against another Nortel Group entity (a "**Foreign Related Claim**") in excess of 100% of the amount of such Proven Affected Unsecured Claim. Subject to further Order of the CCAA Court, the Canadian Estate and Monitor are authorized to delay and/or withhold

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distributions to Creditors holding Foreign Related Claims pending receipt of documentation acceptable to the Monitor, acting reasonably, to allow it to confirm that a Creditor has not and will not receive amounts on account of its Proven Affected Unsecured Claim and any Foreign Related Claim in excess of 100% of the amount of such Proven Affected Unsecured Claim.

NO POST-FILING DATE INTEREST

23. **THIS COURT ORDERS** that no Post-Filing Date Interest will be included in any Proven Affected Unsecured Claims, Proven Priority Claims or any other Claims provable under the Plan, and no distributions will be made on account of Post-Filing Date Interest. For the avoidance of doubt, all claims for Post-Filing Date Interest shall be released, discharged and barred pursuant to the terms of the Plan and this Order.

PLAN IMPLEMENTATION

24. **THIS COURT ORDERS** that each of the Canadian Estate and the Monitor be and are hereby authorized and directed to perform their obligations and functions under the Plan, including the establishment of the Administrative Reserve and the Unresolved Claims Reserve, and to take all steps and actions and to do all things necessary or appropriate to implement the Plan in accordance with its terms and to enter into, execute, deliver, complete, implement and consummate all of the steps, transactions, distributions, disbursements, payments, deliveries, allocations, instruments and agreements contemplated pursuant to the Plan, and such steps and actions are hereby authorized, ratified and approved. None of the Canadian Debtors (including the Canadian Estate) or the Monitor shall incur any liability as a result of acting in accordance with the terms of the Plan and this Order, other than any liability arising out of the gross negligence or wilful misconduct of such parties.
25. **THIS COURT ORDERS AND DECLARES** that the Plan and all associated steps, compromises, settlements, transactions, arrangements, distributions and releases effected thereby are hereby approved, shall be deemed to be implemented

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and shall be binding and effective as of the Plan Effective Date or the Plan Implementation Date, as the case may be, in accordance with the terms of the Plan or at such other time, times or manner as may be set forth in the Plan in the sequence provided therein, and shall enure to the benefit of and be binding and effective upon the Canadian Debtors (including the Canadian Estate), all Affected Creditors, the Released Parties and all other Persons named or referred to in, or subject to, the Plan.

26. **THIS COURT ORDERS** that the Monitor be and is hereby authorized to execute and deliver or serve (as the case may be):

- (a) on the Plan Effective Date, the Plan Certificate relating to the Plan to the U.S. Debtors substantially in the form attached hereto as Schedule "A";
- (b) on the Plan Effective Date, the Plan Effectiveness Certificate to the service list in the CCAA Proceedings (the "**Service List**") substantially in the form attached hereto as Schedule "B"; and
- (c) on the Plan Implementation Date, the Plan Implementation Certificate to the Service List substantially in the form attached hereto as Schedule "C",

all on and subject to the terms contemplated by the Plan. The Monitor is hereby directed to file the Plan Effectiveness Certificate and the Plan Implementation Certificate with the Court as soon as reasonably practicable on or forthwith following the service of such certificate on the Service List and post copies of same on the Monitor's Website.

27. **THIS COURTS ORDERS** that, notwithstanding: (i) the pendency of the CCAA Proceedings; (ii) any applications for a bankruptcy, receivership or other order now or hereafter issued pursuant to the BIA, the CCAA or otherwise in respect of any of the Canadian Debtors and any bankruptcy, receivership or other order issued pursuant to any such applications; and (iii) any assignment in bankruptcy made or deemed to be made in respect of any of the Canadian Debtors, the transactions

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contemplated by the Plan and by the Settlement and Support Agreement shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Canadian Debtors or their assets and shall not be void or voidable by creditors of the Canadian Debtors, nor shall the Plan, the Settlement and Support Agreement or the payments and distributions contemplated pursuant thereto constitute nor be deemed to constitute a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA, CCAA or any other applicable federal or provincial legislation, nor shall the Plan or the Settlement and Support Agreement constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

28. **THIS COURT ORDERS AND DECLARES** that no shareholder approval is required in respect of the Canadian Debtors entry into or performance of the Plan, the Settlement and Support Agreement or any transaction, step or action contemplated by any of the foregoing or this Order and any such requirement for shareholder approval be and is hereby dispensed with.

COMPROMISE OF CLAIMS AND EFFECT OF PLAN

29. **THIS COURT ORDERS** that, on the Plan Effective Date, all Affected Claims shall be fully, finally, irrevocably and forever compromised, discharged, released, cancelled and barred with prejudice, and the ability of any Person to proceed against the Released Parties in respect of or relating to any Affected Claims shall be forever discharged, extinguished, released and restrained, and all proceedings with respect to, in connection with or relating to such Affected Claims shall permanently be stayed against the Released Parties, subject only to the right of Affected Creditors to seek to prove their claims pursuant to the Claims Orders and to receive distributions pursuant to the Plan in respect of their Affected Claims, in the manner and to the extent provided for in the Plan.
30. **THIS COURT ORDERS** that each Person named or referred to in, or subject to, the Plan shall be and is hereby deemed to have consented and agreed to all of the

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provisions in the Plan, in its entirety, and each Person named or referred to in, or subject to, the Plan shall be and is hereby deemed to have executed and delivered to the Canadian Debtors all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

31. **THIS COURT ORDERS** that, on the Plan Effective Date, subject to Section 7.2 of the Plan, all Released Claims shall be fully, finally, irrevocably and forever compromised, discharged, released, cancelled and barred with prejudice, and the ability of any Person to proceed against the Canadian Debtors (including the Canadian Estate), the Directors and Officers or any other Released Party in respect of or relating to any Affected Claims shall be forever discharged, extinguished, released and restrained, and all proceedings with respect to, in connection with or relating to such Affected Claims shall permanently be stayed against the Canadian Debtors, the Directors and Officers and any other Released Parties, subject only to the right of Affected Creditors to seek to prove their claims pursuant to the Claims Orders and to receive distributions pursuant to the Plan in respect of their Affected Claims, in the manner and to the extent provided for in the Plan.
32. **THIS COURT ORDERS** that nothing in the Plan shall be interpreted as extending or amending the Claims Orders or gives or shall be interpreted as giving any rights to any Person in respect of Claims or Post-Filing Claims that have been barred or extinguished pursuant to the Claims Orders. Any Affected Claim or Post-Filing Claim for which a Proof of Claim, dispute notice or other document has not been filed by the applicable bar date or other deadline established in accordance with the Claims Order, whether or not the holder of such Affected Claim or Post-Filing Claim has received actual notice of the Claims Order, shall be and is hereby forever barred, extinguished and released with prejudice. Without limiting the foregoing: (i) no Person shall be permitted to supplement, amend or assert any additional Claim or Post-Filing Claim, including a Compensation Claim, pursuant to an existing Proof of Claim, whether as to the nature and substance of any such claim or the amount of such claim and whether pursuant to a document authorized pursuant to a Claims Order, a pleading or other filing made in a claim dispute or otherwise; and

- 14 -

(ii) no Person (but excluding any current, whether active or inactive, employee of the Canadian Debtors) shall be permitted to file a Proof of Claim (whether in respect of a Claim, a Post-Filing Claim, or any other alleged liability of the Canadian Debtors or the Canadian Estate), in each case without the prior leave of this Court. To the extent any Person seeks to do either of the foregoing (i) or (ii), the Monitor shall notify such Person such act is a nullity and the sole recourse of such Person shall be to bring a motion before this Court to seek leave within seven (7) days of receiving such notice from the Monitor.

33. **THIS COURTS ORDERS** on the Plan Effective Date, the Plan shall be binding on all Equity Claimants and all Equity Claims shall be fully, finally, irrevocably and forever compromised, released, discharged and barred without any compensation of any kind whatsoever in accordance with the terms of the Plan.
34. **THIS COURT ORDERS** that notwithstanding paragraph 33 or any other provision of this Order or the Plan, NNC's common shares and NNL's preferred shares shall remain issued and outstanding following the Plan Effective Date.
35. **THIS COURT ORDERS AND DECLARES** that if, following the Plan Effective Date, a Bankruptcy Proceeding occurs in respect of the Canadian Debtors (or any of them or their assets, including the Canadian Estate), the Proven Affected Unsecured Claims compromised and released pursuant to the Plan and this Order shall be deemed to be reinstated in their full amounts solely for purposes of giving effect to any distributions to be made in such a Bankruptcy Proceeding, it being the intention that holders of Proven Affected Unsecured Claims under the Plan shall share rateably with holders of any additional claims (including any Post-Filing Claims) asserted against the Canadian Debtors (or any of them, including the Canadian Estate) in a Bankruptcy Proceeding, provided that any distributions made on account of Proven Affected Unsecured Claims pursuant to the Plan shall also be accounted for in any distributions in a Bankruptcy Proceeding. All Proven Affected Unsecured Claims pursuant to the Plan and the Claims Orders, including the claims set out in paragraph 21 hereof, shall be deemed to constitute proven claims in any

- 15 -

Bankruptcy Proceeding without any need for a Creditor to file an additional proof of claim in any such Bankruptcy Proceeding.

36. **THIS COURT ORDERS** that all Claims and Post-Filing Claims as finally resolved pursuant to the Claims Orders, including the claims set out in paragraph 21 hereof, shall be final and binding for all purposes in a Bankruptcy Proceeding without any ability on the part of any Creditor or any trustee in bankruptcy or receiver to further dispute, re-assert or re-litigate such claims in a Bankruptcy Proceeding.

CERTAIN DISTRIBUTION MATTERS

37. **THIS COURT ORDERS** that no Affected Unsecured Creditor shall be entitled to receive any distribution under the Plan with respect to an Unresolved Affected Unsecured Claim or any portion thereof unless and until, and then only to the extent that, such Claim is finally resolved in the manner set out in the applicable Claims Order and becomes a Proven Affected Unsecured Claim. Notwithstanding the foregoing: (i) NNUK shall be entitled to receive distributions under the Plan on account of the Proven NNUK Claim pending final resolution of the Contingent Additional NNUK Claim; and (ii) Compensation Creditors holding Unresolved Affected Unsecured Claims shall be entitled to receive distributions on account of such Unresolved Affected Unsecured Claims solely to the extent portions thereof have been admitted or proven pursuant to the Compensation Claims Procedure Order.
38. **THIS COURT ORDERS AND DECLARES** that the Canadian Estate shall be authorized, in connection with the making of any payment or distribution, and in connection with the taking of any step or transaction or performance of any function under or in connection with the Plan, to apply to any Governmental Entity for any consent, authorization, certificate or approval in connection therewith.
39. **THIS COURT ORDERS** that the Canadian Estate and any other Person facilitating distributions under the Plan shall be entitled to deduct and withhold

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from any distribution or payment to any Person pursuant to the Plan such amounts as may be required to be deducted or withheld with respect to such distribution or payment under the Canadian Tax Act or other Applicable Laws and to remit such amounts to the appropriate Taxing Authority or other Person entitled thereto. To the extent that amounts are so withheld or deducted and remitted to the appropriate Taxing Authority or other Person, such withheld or deducted amounts shall be treated for all purposes under the Plan as having been paid to such Person as the remainder of the distribution or payment in respect of which such withholding or deduction was made.

40. **THIS COURT ORDERS AND DECLARES** that any distributions, disbursements or payments made under the Plan (including, without limitation, distributions made to or for the benefit of the Affected Creditors and payments made on account of Proven Priority Claims) shall not constitute a “distribution” by any Person for the purposes of section 107 of the *Corporations Tax Act* (Ontario), section 22 of the *Retail Sales Tax Act* (Ontario), section 117 of the *Taxation Act*, 2007 (Ontario), section 34 of the *Income Tax Act* (British Columbia), section 104 of the *Social Service Tax Act* (British Columbia), section 49 of the *Alberta Corporate Tax Act*, section 22 of the *Income Tax Act* (Manitoba), section 73 of *The Tax Administration and Miscellaneous Taxes Act* (Manitoba), section 14 of *An Act respecting the Ministère du Revenu* (Quebec), section 85 of *The Income Tax Act*, 2000 (Saskatchewan), section 48 of *The Revenue and Financial Services Act* (Saskatchewan), section 56 of the *Income Tax Act* (Nova Scotia), section 159 of the *Canadian Tax Act*, section 270 of the *Excise Tax Act* (Canada), section 86 of the *Employment Insurance Act* (Canada), or any other similar federal, provincial or territorial tax legislation (collectively, the “**Tax Statutes**”), and the Canadian Estate, in making any such distributions, disbursements or payments, as applicable, is merely a disbursing agent under the Plan and is not exercising any discretion in making payments under the Plan and no Person is “distributing” such funds for the purpose of the Tax Statutes, and the Canadian Estate and any other Person, including the Monitor, shall not incur any liability under the Tax Statutes in respect

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of distributions, disbursements or payments made by it and the Canadian Estate, the Monitor and any other Person is hereby forever released, remised and discharged from any claims against it under or pursuant to the Tax Statutes or otherwise at law, arising in respect of or as a result of distributions, disbursements or payments made by it in accordance with the Plan and any claims of this nature are hereby forever barred.

CURRENCY MATTERS

41. **THIS COURT ORDERS** that distributions to Creditors holding CAD Claims shall be paid in Canadian dollars, and distributions to all other Creditors holding Proven Affected Unsecured Claims shall be paid in U.S. dollars, and that for purposes of determining the amount of Canadian dollars to be paid by the Canadian Estate on distributions on a CAD Claim, the amount of such distribution in U.S. dollars (i.e. the relevant Pro-Rata Share in U.S. dollars) shall be converted to Canadian dollars at the Applicable FX Rate.
42. **THIS COURT ORDERS** that the Canadian Estate and the Monitor shall be authorized to effect such exchange(s) of currency between Canadian dollars and U.S. dollars as may be necessary to effect the distributions and other payments (including in respect of the continuing administration of the Canadian Estate) contemplated pursuant to the Plan in the currency contemplated for such distributions or payments.

ESTABLISHMENT OF RESERVES

43. **THIS COURT ORDERS** that on the Plan Implementation Date, the Canadian Estate be and is hereby authorized and directed to establish the Administrative Reserve from Available Cash in the amount of \$155 million or such other amount as may be determined by the Monitor and approved by the Court.
44. **THIS COURT ORDERS** that:

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- (a) following the Plan Implementation Date and prior to the Initial Distribution Date, the Canadian Estate be and is hereby authorized and directed to establish the Unresolved Claims Reserve, including the individual claim reserve amounts (a "**Claim Reserve Amount**") specified at Appendix "H" to the One Hundred and Thirty Fifth Report for each Unresolved Affected Unsecured Claim specified therein;
 - (b) the maximum provable amount of any Unresolved Affected Unsecured Claim is hereby capped at the related Claim Reserve Amount and no holder of an Unresolved Affected Unsecured Claim shall be permitted to prove (or seek to prove) such claim for an amount in excess of the related Claim Reserve Amount or be entitled to a distribution pursuant to the Plan (or otherwise) on an Unresolved Affected Unsecured Claim in excess of the Pro-Rata Share applicable to the Claim Reserve Amount for such Unresolved Affected Unsecured Claim;
 - (c) the reserve for the Post-Filing Claim of The Northern Trust Company, Canada is hereby fixed at CA\$1 million, which amount shall constitute the maximum Post-Filing Claim that can be established by The Northern Trust Company, Canada; and
 - (d) the Monitor be at liberty to apply to this Court to address the Unresolved Claims Reserve to the extent any issues regarding reserves in respect of Unresolved Affected Unsecured Claims or Post-Filing Claims are not addressed to the satisfaction of the Monitor in its sole discretion.
45. **THIS COURT ORDERS** that neither the Canadian Estate nor the Monitor shall have any obligation to establish separate accounts or funds, or to otherwise segregate Available Cash, in respect of any of the Administrative Reserve, an Affected Unsecured Creditor Pool, the Unresolved Claims Reserve or any other reserve, cash pool, fund, payment or distribution contemplated under the Plan, provided that the Canadian Estate and the Monitor shall maintain appropriate

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records in respect of the calculation and determination of all such reserves and cash pools.

PLAN RELEASES AND INJUNCTIONS

46. **THIS COURT ORDERS** that the releases set forth in Article 7 of the Plan be and are hereby approved and on the Plan Effective Date the Released Parties be and are hereby fully, finally and irrevocably released and discharged from any and all Released Claims and all Released Claims shall be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, all to the fullest extent permitted by Applicable Law.
47. **THIS COURT ORDERS** that from and after the Plan Effective Date all Persons are permanently and forever barred, estopped, stayed and enjoined, with respect to any and all Released Claims, from: (i) commencing, conducting, continuing or making in any manner, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum) against the Released Parties; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Released Parties or their property; (iii) commencing, conducting, continuing or making in any manner, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes a claim or might reasonably be expected to make a claim, in any manner or forum, including by way of contribution or indemnity or other relief, against one or more of the Released Parties; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or Encumbrance of any kind against the Released Parties or their property; or (v) taking any actions to interfere with the implementation or consummation of the Plan.

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48. **THIS COURT ORDERS** that the releases provided for in Section 7.4 of the Plan be and are hereby authorized and approved.

CCAA CHARGES AND OTHER ENCUMBRANCES

49. **THIS COURT ORDERS** that on the Plan Effective Date each of the Charges (except for the Administration Charge) shall be and is hereby terminated, discharged, expunged and released, subject to, in the case of the Inter-company Charge (but solely to the extent it benefits NNI), payment of the Remaining Revolver Claim. For the avoidance of doubt, upon payment of the Remaining Revolver Claim, the Inter-company Charge shall be and is hereby terminated, discharged, expunged and released.
50. **THIS COURT ORDERS** that from and after the Plan Effective Date the Administration Charge shall continue as a first-ranking super-priority charge on the Property (as defined in the Initial Order) and the Canadian Estate's assets, undertakings and properties of every nature and kind whatsoever and wherever situated (including all proceeds thereof and including the Available Cash), ranking in priority to any other security interests, trusts, liens, charges or other Encumbrances in favour of any Person.
51. **THIS COURTS ORDERS** that on the Plan Effective Date all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system shall be expunged and discharged as against the Canadian Debtors (including the Canadian Estate) and all of the Property (as defined in the Initial Order).
52. **THIS COURT ORDERS** that on the Plan Effective Date all rights of the Directors and Officers pursuant to paragraphs 20 and 21 of the Initial Order be and are hereby released and discharged.

EXTENSION OF CCAA STAY AND ONGOING REPORTING TO THE COURT

53. **THIS COURT ORDERS** that, subject to further order of the Court, the Stay Period (as defined in the Initial Order) shall be and is hereby extended indefinitely. For the avoidance of doubt, the stay provided for in paragraphs 14 and 15 of the Initial Order and the other rights and protections afforded to the Canadian Debtors pursuant to the Initial Order shall extend to the Canadian Estate and the stay in favour of the Directors and Officers provided for in paragraph 19 of the Initial Order shall continue during the Stay Period notwithstanding the sanctioning of the Plan.
54. **THIS COURT ORDERS** that the Monitor shall serve on the Service List in the CCAA Proceedings and file with the Court a report on the progress of the continuing administration and wind-down of the Canadian Estate, including the implementation of the Plan, on no less than an annual basis.
55. **THIS COURT ORDERS AND DECLARES** that any obligation of the Monitor to provide cash flow forecasting or reconciliations and monthly claims reporting (whether pursuant to paragraph 11 of the Claims Resolution Order dated September 16, 2010, or any other agreement or order) shall cease as at the Plan Effective Date, provided that the Monitor shall provide cash flow reporting and claims reporting in the reports contemplated in the foregoing paragraph.
56. **THIS COURT ORDERS** that, for the avoidance of doubt, the Cross-Border Protocol and the Cross-Border Claims Protocol shall each remain in full force and effect in accordance with their respective terms.

CESSATION OF TOLLING

57. **THIS COURT ORDERS AND DECLARES** that the tolling of any Claims, Director/Officer Claims or other claims or rights pursuant to prior orders of this Court shall cease on the Plan Effective Date, without prejudice to the rights of Affected Unsecured Creditors with Proven Affected Unsecured Claims (whether

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now existing or hereafter coming into existence) to receive all distributions contemplated by the Plan.

TERMINATION OF HARDSHIP PROCESS

58. **THIS COURTS ORDERS** that on the Plan Effective Date the Hardship Process shall be and is hereby terminated and that all remaining amounts, if any, relating to the Hardship Process shall become Available Cash.

STAKEHOLDER ADVISOR FEE ARRANGEMENTS

59. **THIS COURT ORDERS** that on the Plan Implementation Date the Bondholder Advisor Fee Letter shall be and is hereby terminated and the Canadian Debtors (including the Canadian Estate) shall have no obligation to pay any fees and expenses of the advisors to the Bondholder Group from and after the Plan Implementation Date.
60. **THIS COURT ORDERS** that from and after the Plan Implementation Date, the fees and expenses of Court Appointed Representative Counsel shall no longer be borne by the Canadian Estate and instead shall be borne by the Compensation Creditors on the terms contemplated by Section 10.2(b) of the Plan. Notwithstanding the foregoing, the Canadian Estate shall pay the reasonable fees and expenses of Koskie Minsky LLP and their financial advisor for providing certain services relating to the Plan and distributions thereunder to Compensation Creditors for the twelve (12) month period following the Plan Implementation Date to a maximum of CA\$1.5 million on the terms that have been agreed to in writing between the Canadian Estate, the Monitor, Koskie Minsky LLP and their financial advisor.
61. **THIS COURT ORDERS** that the obligation of the Canadian Debtors to pay the fees and expenses of counsel to the Directors and Officers (whether pursuant to the Initial Order or otherwise) shall terminate on the Plan Implementation Date and the Canadian Debtors (including the Canadian Estate) shall have no obligation to pay

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any fees and expenses of counsel to the Directors and Officers from and after the Plan Implementation Date.

THE MONITOR

62. **THIS COURT ORDERS** that from and after the Plan Effective Date the administration and wind-down of the Canadian Estate will continue to be conducted by the Monitor pursuant to the Monitor's Powers Orders and the Plan and the Monitor shall be and is hereby authorized to continue such administration and wind-down, including, without limitation, to undertake the matters contemplated pursuant to Section 10.1 of the Plan.
63. **THIS COURT ORDERS** that, for the avoidance of doubt: (i) the Monitor shall continue to have all of the powers and protections granted to it by the Plan, the CCAA, the Monitor's Powers Orders and any other Order made in the CCAA Proceedings; and (ii) the Canadian Estate shall be an "Applicant" or "Canadian Debtor" for purposes of construing the Monitor's Powers Orders and any other Order made in the CCAA Proceedings.
64. **THIS COURT ORDERS** that, without limiting the provisions of the Monitor's Powers Orders or any other Order granted in the CCAA Proceedings, the Canadian Estate shall remain in possession and control of the Property (as defined in the Initial Order) and the Monitor shall not take possession or be deemed to be in possession and/or control of the Property.
65. **THIS COURT ORDERS AND DECLARES** that: (i) in carrying out the terms of this Order and the Plan, the Monitor shall have all the protections given to it by the CCAA, the Monitor's Powers Orders and any other order of this Court, including the stay of proceedings and other protections pursuant to paragraphs 14 and 15 of the Initial Order, in its favour; (ii) the Monitor shall incur no liability or obligation as a result of carrying out the provisions of this Order and/or the Plan, other than any liability arising out of or in connection with the gross negligence or wilful misconduct of the Monitor; (iii) the Monitor shall be entitled to rely on the books

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and records of the Canadian Debtors; and (iv) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

66. **THIS COURT ORDERS** that none of the Monitor or its affiliates, shareholders, affiliate's shareholders (including Ernst & Young LLP, a Canadian limited liability partnership), employees, advisors, lawyers, representatives or agents shall incur any personal liability whatsoever whether on their own part or in respect of any failure on the part of any Canadian Debtor (including the Canadian Estate) to observe, perform or comply with any of its obligations under the Plan or under or in relation to any associated arrangements or negotiations.

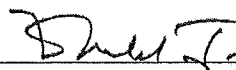
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67. **THIS COURT ORDERS** that the Canadian Debtors (including the Canadian Estate) and the Monitor may apply to this Court from time to time for advice and direction with respect to any matter arising from or under the Plan or this Order.
68. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories of Canada and abroad as against all Persons against whom it may be enforced.
69. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, the United Kingdom or elsewhere, to give effect to this Order and to assist the Canadian Debtors (including the Canadian Estate), 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 the Canadian Debtors (including the Canadian Estate) 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 Canadian Debtors (including

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the Canadian Estate) and the Monitor and their respective agents in carrying out the terms of this Order.

70. **THIS COURT ORDERS** that each of the Canadian Debtors (including the Canadian Estate) and the Monitor shall be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.



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ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JAN 24 2017

PER / PAR:



SCHEDULE "A"
FORM OF MONITOR'S CERTIFICATE RE: PLAN CERTIFICATE

Court File No. 09-CL-7950

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
NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED,
NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS
INTERNATIONAL CORPORATION, NORTEL NETWORKS
TECHNOLOGY CORPORATION, NORTEL COMMUNICATIONS INC.,
ARCHITEL SYSTEMS CORPORATION AND NORTHERN TELECOM CANADA
LIMITED**

PLAN CERTIFICATE

TO: NORTEL NETWORKS INC. AND ITS AFFILIATED U.S. DEBTORS

RE: EFFECTIVENESS OF CANADIAN PLAN

Reference is made to the Plan of Compromise and Arrangement pursuant to the *Companies' Creditors Arrangement Act* concerning, affecting and involving the Canadian Debtors dated November 30, 2016 (the "**Canadian Plan**") sanctioned by the Ontario Superior Court of Justice pursuant to a Sanction Order dated January 24, 2017.

Pursuant to Section 9.1 of the Canadian Plan, the Monitor hereby declares the effectiveness of the Canadian Plan in accordance with its terms.

DATED the _____ day of ●, 2017.

**ERNST & YOUNG INC. in its capacity as
Monitor of Nortel Networks Corporation *et al.*
and not in its personal capacity**

Per: _____

Name: Murray McDonald
Title: President

SCHEDULE "B"
FORM OF PLAN EFFECTIVENESS CERTIFICATE

Court File No. 09-CL-7950

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
NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED,
NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS
INTERNATIONAL CORPORATION, NORTEL NETWORKS
TECHNOLOGY CORPORATION, NORTEL COMMUNICATIONS INC.,
ARCHITEL SYSTEMS CORPORATION AND NORTHERN TELECOM CANADA
LIMITED

PLAN EFFECTIVENESS CERTIFICATE

TO: THE SERVICE LIST

RE: EFFECTIVENESS OF CANADIAN PLAN

Reference is made to the Plan of Compromise and Arrangement pursuant to the *Companies' Creditors Arrangement Act* concerning, affecting and involving the Canadian Debtors dated November 30, 2016 (the "**Canadian Plan**") sanctioned by the Ontario Superior Court of Justice pursuant to a Sanction Order dated January 24, 2017.

Capitalized terms used herein and not otherwise defined have the meaning given to them in the Canadian Plan.

Pursuant to Section 9.4 of the Canadian Plan, the Monitor hereby confirms the occurrence of the Plan Effective Date under the Canadian Plan on [date].

DATED the ____ day of ●, 2017.

ERNST & YOUNG INC. in its capacity as
Monitor of Nortel Networks Corporation *et al.*
and not in its personal capacity

Per: _____

Name: Murray McDonald
Title: President

SCHEDULE "C"
FORM OF PLAN IMPLEMENTATION CERTIFICATE

Court File No. 09-CL-7950

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
NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED,
NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS
INTERNATIONAL CORPORATION, NORTEL NETWORKS
TECHNOLOGY CORPORATION, NORTEL COMMUNICATIONS INC.,
ARCHITEL SYSTEMS CORPORATION AND NORTHERN TELECOM CANADA
LIMITED

PLAN IMPLEMENTATION CERTIFICATE

TO: THE SERVICE LIST

RE: IMPLEMENTATION OF CANADIAN PLAN

Reference is made to the Plan of Compromise and Arrangement pursuant to the *Companies' Creditors Arrangement Act* concerning, affecting and involving the Canadian Debtors dated November 30, 2016 (the "**Canadian Plan**") sanctioned by the Ontario Superior Court of Justice pursuant to a Sanction Order dated January 24, 2017.

Capitalized terms used herein and not otherwise defined have the meaning given to them in the Canadian Plan.

Pursuant to Section 9.5 of the Canadian Plan, the Monitor hereby confirms the occurrence of the Plan Implementation Date under the Canadian Plan on [date].

DATED the ____ day of ●, 2017.

ERNST & YOUNG INC. in its capacity as
Monitor of Nortel Networks Corporation *et al.*
and not in its personal capacity

Per: _____

Name: Murray McDonald
Title: President

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
NORTEL NETWORKS CORPORATION et al.

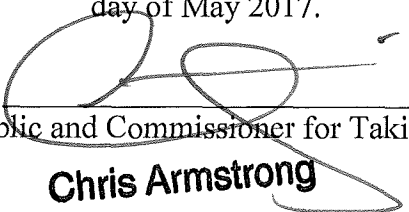
Court File No. 09-CL-7950

	ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceeding commenced at Toronto
	SANCTION ORDER
	GOODMANS LLP Barristers & Solicitors Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7 Jay A. Carfagnini LSUC#: 22293T Joseph Pasquariello LSUC#: 38390C Christopher G. Armstrong LSUC#: 55148B Tel: 416.979.2211 Fax: 416.979.1234 Lawyers for the Monitor, Ernst & Young Inc.

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B

This is Exhibit "B" referred to in the
affidavit of Murray McDonald
sworn before me, this 11th
day of May 2017.



A Notary Public and Commissioner for Taking Affidavits

Chris Armstrong

Court File No. 09-CL-7950

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR. JUSTICE)	TUESDAY, THE 24 TH DAY OF
)
NEWBOULD)	JANUARY, 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 PLAN OF COMPROMISE OR ARRANGEMENT OF
NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED,
NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS
INTERNATIONAL CORPORATION, NORTEL NETWORKS
TECHNOLOGY CORPORATION, NORTEL COMMUNICATIONS INC.,
ARCHITEL SYSTEMS CORPORATION AND NORTHERN TELECOM CANADA
LIMITED**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

CANADIAN ESCROW RELEASE ORDER

THIS MOTION made by Nortel Networks Corporation (“NNC”), Nortel Networks Limited (“NNL”), Nortel Networks Technology Corporation, Nortel Networks Global Corporation, Nortel Networks International Corporation, Nortel Communications Inc., Architel Systems Corporation and Northern Telecom Canada Limited (collectively, the “**Canadian Debtors**”) jointly with Ernst & Young Inc. in its capacity as monitor of the Canadian Debtors (the “**Monitor**”) for the relief set out in the Notice of Motion dated January 20, 2017, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the One Hundred and Thirty Fifth Report of the Monitor dated January 20, 2017 (the “**Report**”), the Forty Second Report of the Monitor dated March 30, 2010, and the Notice of Intention to Appear and Submission for Anticipated January 24, 2017 Fairness Hearing to Sanction the Nortel CCAA Plan from Greg McAvoy and Jennifer

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Holley (the “LTD Objectors”), and on hearing submissions of counsel for the Monitor and counsel for those other parties present and the LTD Objectors, no one appearing for any other person on the service list or otherwise served with the motion although duly served as appears from the affidavit of Christopher Armstrong sworn January 23, 2017, filed.

SERVICE

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

DEFINED TERMS AND CURRENCY

2. **THIS COURT ORDERS** that capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Settlement and Plans Support Agreement dated October 12, 2016 (the “**Settlement and Support Agreement**”), attached as Exhibit “A” to the Plan of Compromise and Arrangement pursuant to the *Companies’ Creditors Arrangement Act* concerning, affecting and involving the Canadian Debtors dated November 30, 2016.
3. **THIS COURT ORDERS** that, unless otherwise specified, all amounts referred to herein are in U.S. dollars.

PAYMENT OF ICEBERG AMENDMENT FEE AND M&A COST REIMBURSEMENT

4. **THIS COURT ORDERS** that, subject to the occurrence of the Plans Effective Date, JPMorgan Chase Bank, N.A be and is hereby authorized and directed to make the following distributions from the Escrow Accounts:
 - (a) \$2.8 million to NNI from the Iceberg Escrow Account in satisfaction of the Iceberg Amendment Fee due to NNI;
 - (b) \$2.2 million to NNUK from the Iceberg Escrow Account in satisfaction of the Iceberg Amendment Fee due to NNUK;

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- (c) \$20 million to NNI from the Escrow Accounts in satisfaction of the M&A Cost Reimbursement due to NNI; and
- (d) \$35 million to NNL from the Escrow Accounts in satisfaction of the M&A Cost Reimbursement due to NNL.

DISTRIBUTION OF SALE PROCEEDS

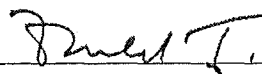
- 5. **THIS COURT ORDERS** that, subject to the occurrence of the Plans Effective Date, Royal Trust Corporation of Canada be and is hereby authorized and directed to release the entire amount in the Canadian Escrow Account to NNL.
- 6. **THIS COURT ORDERS** that, subject to the occurrence of the Plans Effective Date, JPMorgan Chase Bank, N.A be and is hereby authorized and directed to release the Sale Proceeds to each of the U.S. Debtors, the Canadian Debtors, the EMEA (Non-NNSA/Non-NNUK) Debtors, NNUK and NNSA in the percentages set forth in Section 2(c) of the Settlement and Support Agreement, including as further specified in Annex E and F thereof with respect to the EMEA (Non-NNSA/Non-NNUK) Allocation and the U.S. Allocation, all on and subject to the terms of the Settlement and Support Agreement. For the avoidance of doubt, the amount of Sale Proceeds to be released by JPMorgan Chase Bank, N.A to the Canadian Debtors pursuant to this paragraph 6 shall take into account the amount of Sale Proceeds received by NNL from the Canadian Escrow Account in the manner contemplated by Section 7(g) of the Settlement and Support Agreement.
- 7. **THIS COURT ORDERS** that, subject to the occurrence of the Plans Effective Date, the Depositors and the Estate Fiduciaries (as such terms are defined in the Escrow Agreements) shall be at liberty to issue such joint written instructions to the Escrow Agents pursuant to the terms of the relevant Escrow Agreement as may be necessary to effect the distributions contemplated in this Order and the Settlement and Support Agreement, including to identify the specific Escrow Accounts from which Sale Proceeds are to be distributed and the specific amounts to be distributed from each Escrow Account, and the Escrow Agents be and are hereby authorized

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and directed to rely on any such joint written instruction duly delivered to them in accordance with the terms of the relevant Escrow Agreement.


MISCELLANEOUS

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, the United Kingdom or elsewhere, to give effect to this Order and to assist the Canadian Debtors (including the Canadian Estate), 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 the Canadian Debtors (including the Canadian Estate) 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 Canadian Debtors (including the Canadian Estate) and the Monitor and their respective agents in carrying out the terms of this Order.
9. **THIS COURT ORDERS** that each of the Canadian Debtors (including the Canadian Estate) and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.



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

JAN 24 2017

PER / PAR: 

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
NORTEL NETWORKS CORPORATION et al.

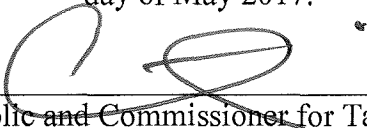
Court File No. 09-CL-7950

	ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceeding commenced at Toronto
	CANADIAN ESCROW RELEASE ORDER
	GOODMANS LLP Barristers & Solicitors Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7 Jay A. Carfagnini LSUC#: 22293T Joseph Pasquariello LSUC#: 38390C Christopher G. Armstrong LSUC#: 55148B Tel: 416.979.2211 Fax: 416.979.1234 Lawyers for the Monitor, Ernst & Young Inc.

6653177

C

This is Exhibit "C" referred to in the
affidavit of Murray McDonald
sworn before me, this 11th
day of May 2017.



A Notary Public and Commissioner for Taking Affidavits

Chris Armstrong

CITATION: Re Nortel Networks Corporation et al, 2017 ONSC 700
 COURT FILE NO.: 09-CL-7950
 DATE: 20170130

SUPERIOR COURT OF JUSTICE – ONTARIO
 COMMERCIAL LIST

RE: 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 NORTEL NETWORKS CORPORATION, NORTEL
 NETWORKS LIMITED, NORTEL NETWORKS GLOBAL
 CORPORATION, NORTEL NETWORKS INTERNATIONAL
 CORPORATION and NORTEL NETWORKS TECHNOLOGY
 CORPORATION

APPLICATION UNDER THE COMPANIES' CREDITORS
 ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

BEFORE: Newbould J.

COUNSEL: *Benjamin Zarnett, Jay A. Carfagnini, Joseph Pasquariello and Christopher G. Armstrong*, for the Monitor

Jennifer Stam, for the Canadian Debtors

R. Paul Steep, for Morneau Shepell and the Canadian Creditors Committee

Mark Ziegler and Barbara Walancik, representative counsel for the Canadian former employees and LTD beneficiaries

Barry E. Wadsworth, for active, retired and disabled employees represented by Unifor

Max Starnino, for the Pension Benefit Guarantee Fund

Matthew Urback, for the Canadian continuing employees

Scott Bomhof and Adam Slavens, for the U.S Debtors

R. Shayne Kukulowicz and M. Wunder, for the U.S. Unsecured Creditors' Committee

Michael E. Barrack and D.J. Miller, for the UKPC

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Gavin H. Finlayson, for the Ad Hoc Bondholders Group

John Salmas, for Wilmington Trust, National Association, Trustee

Joseph Greg McAvoy, in person

Jennifer Holley, in person

HEARD: January 24, 2017

ENDORSEMENT

[1] On January 24, 2017, a joint hearing of this Court and the U.S. Bankruptcy Court for the District of Delaware was held to deal with motions for the sanctioning of plans of arrangement effecting a settlement by all major parties of the allocation dispute regarding the \$7.3 billion held in escrow since the sale of the Nortel assets. At the conclusion of the hearing, I granted the motion of the Monitor to sanction the Canadian Debtors' Plan of Compromise and Arrangement (the "Plan") and to release the escrowed sale proceeds in accordance with the settlement, for reasons to follow¹. These are my reasons.

Background

[2] The Canadian Nortel Debtors, along with the U.S. Nortel Debtors, EMEA Nortel Debtors, and certain of their respective key stakeholder groups were party to protracted litigation in the Canada and U.S. regarding the allocation of the \$7.3 billion in sale proceeds (the "Sale Proceeds"). Following a 21-day cross-border trial, this Court and the U.S. Bankruptcy Court issued decisions with respect to the allocation of the sale proceeds in May 2015. The decision of this Court later became final when the Ontario Court of Appeal refused leave to appeal. The

¹ Judge Gross also sanctioned the U.S. plan of arrangement and signed at the hearing the necessary orders to effect the plan.

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decision of Judge Gross in the U.S. Bankruptcy Court was appealed by the U.S. interests to the 3rd Circuit District Court. Mediation was directed by that Court.

[3] Following extensive negotiations, on October 12, 2016, the Canadian Debtors, Monitor, U.S. Debtors, EMEA Debtors, EMEA Non-filed Entities, Joint Administrators, NNSA Conflicts Administrator, French Liquidator, Bondholder Group, the members of the CCC, the UCC, the U.K. Pension Trustee, the PPF, the Joint Liquidators and the NNCC Bondholder Signatories executed the Settlement and Support Agreement. The Settlement and Support Agreement, among other things:

- (a) contains the terms of settlement of the allocation dispute, including the payment of 57.1065% of the Sale Proceeds to the Canadian Debtors (being in excess of \$4.1 billion), plus an additional amount of \$35 million on account of the M&A Cost Reimbursement;
- (b) resolves a number of significant claims against the Canadian Debtors, including the claims of the Crossover Bondholders, the UKPI and the Canadian Pension Claims;
- (c) contemplates the substantive consolidation of the Canadian Debtors into the Canadian Estate;
- (d) provides that the Canadian Estate will retain the value of its remaining assets, which means, among other things, the release to the Canadian Estate of approximately \$237 million from the Canada Only Sales and additional amounts held on account of IP address sales;
- (e) provides for the exchange of comprehensive releases among the Estates and the other parties to the Settlement and Support Agreement; and
- (f) contains the framework for the development and implementation of coordinated plans of arrangement in Canada and the U.S., and a timeline for the approval and implementation thereof.

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[4] The Plan provides for a comprehensive resolution of these CCAA Proceedings and implementation of the Settlement and Support Agreement and paves the way for distributions to creditors in a timely manner. The Plan provides for, among other things, the following:

- (a) substantive consolidation of the Canadian Debtors into the Canadian Estate;
- (b) the payment in full of certain Proven Priority Claims and other payments contemplated by the Plan;
- (c) a compromise of all Affected Unsecured Claims in exchange for a *pro rata* distribution of the cash assets of the Canadian Estate available for distribution to Affected Unsecured Creditors, and the full and final release and discharge of all Affected Claims;
- (d) the subordination of Equity Claims such that Equity Claimants and holders of Equity Interests will not receive a distribution or other recovery under the Plan;
- (e) authorization for the Canadian Debtors and Monitor to direct the Escrow Agents to effect the allocation and distribution of the Sale Proceeds contemplated by the Settlement and Support Agreement and to otherwise implement the Settlement and Support Agreement, including the giving and receiving of the Settlement and Support Agreement Releases;
- (f) release of all amounts held by NNL pursuant to the Canadian Only Sale Proceeds Orders or held as Unavailable Cash to the Canadian Estate;
- (g) the establishment of certain reserves for the ongoing administration of the Canadian Estate and in respect of Unresolved Claims; and

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- (h) the release and discharge of all Affected Claims and Released Claims as against, among others, the Canadian Debtors, the Directors and Officers and the Monitor.

[5] On December 1, 2016, a meeting order was made which authorized the Monitor to call and hold a meeting of Affected Unsecured Creditors to consider and vote on the Plan. The Creditors' Meeting was held on January 17, 2017. The Plan was approved by an overwhelming majority of Affected Unsecured Creditors voting at the meeting in person or by proxy, with 99.97% in number and 99.24% in value voting to approve the Plan.

Analysis

[6] Section 6 of the CCAA provides for a plan to be sanctioned by a court if approved by a vote of creditor as required by that section. It provides, in part:

6. Where a majority in number representing two-thirds in value of the creditors, or class of creditors, as the case may be, present and voting either in person or by proxy at the meeting or meetings thereof respectively held pursuant to sections 4 or 5, or either of those sections, agree to any compromise or arrangement either as proposed or altered or modified at the meeting or meetings, the compromise or arrangement may be sanctioned by the court, and if so sanctioned is binding

(a) on all the creditors or the class of creditors, as the case may be, and on any trustee for any such class of creditors, whether secured or unsecured, as the case may be, and on the company; ...

[7] The general requirements for Court approval of a CCAA plan are well established:

- a. there must be strict compliance with all statutory requirements;
- b. all material filed and procedures carried out must be examined to determine if anything has been done or purported to be done which is not authorized by the CCAA; and
- c. the plan must be fair and reasonable.

See *Canadian Airlines Corp, Re*, 2000 ABQB 442 at para. 60, leave to appeal refused 2000 ABCA 238, leave to appeal refused [2001] S.C.C.A. No. 60; *Olympia & York Developments Ltd. (Re)*, (1993), 17 C.B.R. (3d) 1; *Cline Mining Corp., Re*, 2015 ONSC 622 at para. 19.

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[8] It is clear that there has been compliance with all statutory requirements and that nothing has been done or purported to be done which is not authorized by the CCAA. The meeting of creditors was properly called and held, a sufficient vote of creditors as required by section 6 of the CCAA was obtained and equity interests do not receive any payment under the Plan.

[9] Whether a plan is fair and reasonable is necessarily shaped by the unique circumstances of each case within the context of the CCAA. See *Canadian Airlines* at para. 94. I am satisfied that the Plan in this case is fair and reasonable for the following reasons:

- (i) The Plan was a compromise reached among all of the parties after extensive negotiations led by a very experienced mediator.
- (ii) The Plan received approval from 99.7% of the creditors. This overwhelming number of creditors cannot be ignored as they are the only persons affected by the Plan. There is no equity participation as there is no equity in Nortel. I agree with what Blair, J. (as he then was) said in *Olympia & York Developments Ltd. (Re)*;

36 One important measure of whether a plan is fair and reasonable is the parties' approval of the Plan, and the degree to which approval has been given.

37 As other courts have done, I observe that it is not my function to second guess the business people with respect to the "business" aspects of the Plan, descending into the negotiating arena and substituting my own view of what is a fair and reasonable compromise or arrangement for that of the business judgment of the participants. The parties themselves know best what is in their interests in those areas.

- (iii) If the Plan is not sanctioned, the likely result will be further delays from litigation in the U.S. on the appeals from the allocation decision. Delays in payments to persons, whom Mr. Wadsworth aptly described as desperately needing the payments, would be very unfair.

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- (iv) Further litigation would add to the costs of the Nortel insolvency, costs which are already enormous, and take away amounts to be paid to the creditors, all of whom have approved the Plan.
- (v) The Plan calls for payment to creditors on a *pari passu* basis, which is the bedrock of Canadian insolvency law.
- (vi) The Plan calls for the substantive consolidation of the Canadian Debtors into a single estate. In this case, the consolidation is fair and reasonable. The Canadian Debtors were highly integrated and intertwined. Many obligations of a Canadian Debtor, including nearly \$4 billion of bond debt, are guaranteed by another Canadian Debtor and the vast majority of claims filed against the Canadian Debtors by quantum have been asserted against two or more of the Canadian Debtors. Substantive consolidation eliminates the possibility of any further litigation regarding the specific dollar amount that could be allocated to each Canadian Debtor.
- (vii) The releases in the Plan in favour of each of the Canadian Debtors, the directors and officers, the Monitor and the Monitor's legal counsel, each of whom have been integrally involved in the CCAA Proceedings, are fair and reasonable, are directly connected to the objectives of the Plan, and assist in bringing finality to these long running proceedings. These releases have been approved by the relevant parties.

Objecting long term disability claimants

[10] There are two LTD objectors being Mr. Greg McAvoy and Ms. Jennifer Holley. They are self-represented persons in this proceeding. They filed thoughtful submissions and made thoughtful oral presentations. They state that the Plan is unfair and unreasonable for the LTD Beneficiaries and have requested that \$44 million be set aside and paid to the LTD Beneficiaries in full satisfaction of amounts owing to them. They raise *Charter* issues.

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[11] While I have every sympathy for these objectors, as do all of the parties who appeared and spoke at the hearing, I am afraid that they have no basis to make the request that they are making.

[12] On July 30, 2009 a representation order (“LTD Rep Order”) for disabled employees was made. Pursuant to the order an LTD representative, Ms. Susan Kennedy, was appointed as Representative of the LTD Beneficiaries in the CCAA proceedings, including, without limitation, for the purpose of settling or compromising claims by the LTD Beneficiaries in the CCAA proceedings. Pursuant to the LTD Rep Order, LTD Beneficiaries had the option to opt-out of representation by the LTD Rep within 30 days of mailing of notice of the LTD Rep Order to them in mid-2009. Neither of the LTD Objectors (or any other LTD Beneficiary) elected to opt out of representation by the LTD Rep pursuant to the terms of the LTD Rep Order and thus are bound by it and the actions of the LTD Rep.

[13] In 2010, certain of the Canadian Debtors, the Monitor, the Representatives (including the LTD Rep) and Representative Counsel entered into an Amended and Restated Settlement Agreement dated March 30, 2010 (the “Employee Settlement Agreement”) which was approved by this Court in its Settlement Approval Order dated March 31, 2010.

[14] Pursuant to the Employee Settlement Agreement and the Settlement Approval Order:

- (i) the Canadian Debtors agreed to continue paying LTD benefits to LTD Beneficiaries for the remainder of 2010;
- (ii) the Canadian Debtors agreed to establish a CA\$4.3 million fund pursuant to which CA\$3,000 termination payments were made to former employees, including the LTD Objectors;
- (iii) claims of LTD Beneficiaries were agreed to rank as ordinary unsecured claims on a *pari passu* basis with the claims of the ordinary unsecured creditors of the Canadian Debtors;

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- (iv) the Representatives (including the LTD Rep) agreed, on behalf of those they represent and on their own behalf, that in respect of any funding deficit in the HWT or any HWT related claims in these CCAA proceedings they would not advance, assert or make any claim that any HWT claims are entitled to any priority or preferential treatment over ordinary unsecured claims and that to the extent allowed against the Canadian Debtors, such HWT claims would rank as ordinary unsecured claims on a *pari passu* basis with the claims of the ordinary unsecured creditors of the Canadian Debtors;
- (v) the Representatives (including the LTD Rep) agreed on their own behalf and on behalf of the Pension HWT Claimants (as defined in the Employee Settlement Agreement) that under no circumstances shall any CCAA plan be proposed or approved if, among other things, the Pension HWT Claimants and the other ordinary unsecured creditors of the Canadian Debtors do not receive the same *pari passu* treatment of their allowed ordinary unsecured claims against the Canadian Debtors pursuant to the Plan.

[15] Certain LTD Beneficiaries, including the individual LTD Objectors, unsuccessfully sought leave to appeal the Settlement Approval Order to the Ontario Court of Appeal. The Settlement Approval Order is no longer capable of appeal. Accordingly, the LTD Objectors are bound to the provision that their claims are to rank as unsecured claims that share *pari passu* with other unsecured claims against the Canadian Debtors, that any claim for priority treatment has been released, and that no plan could be proposed or approved if the LTD Beneficiaries and other unsecured creditors did not receive the same *pari passu* treatment of their allowed claims pursuant to such plan.

[16] The LTD Objectors in their brief stated that they exercise their option to opt out of the LTD Rep Order. Unfortunately, they have no right to do so at this late stage.

[17] In making the Settlement Approval Order, Morawetz J. (as he then was) came to the conclusion that the settlement was fair and reasonable. He stated in *Nortel Networks Corp. (Re)* (2010), 66 C.B.R. (5th) 77:

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40 The Amended and Restated Settlement Agreement is not perfect but, in my view, under the circumstances, it balances competing interests of all stakeholders and represents a fair and reasonable compromise, and accordingly, it is appropriate to approve same.

[18] That finding is binding of the LTD Objectors. However, they say that the adjustment that they request in order to make changes to the Plan requires a reconsideration of the Employee Settlement Agreement and the Settlement Approval Order. There is simply no legal basis seven years later to reconsider the matter. The grounds for reconsideration of a decision are narrow even when no order has been signed and taken out. See *Nortel Networks Corp., Re*, 2015 ONSC 4170 at paras. 3 – 6.

[19] In any event, I agree with the finding of Morawetz J. that the settlement was reasonable. The LTD Beneficiaries will receive the same *pari passu* treatment under the Plan as all other creditors. They are all treated equally, with each receiving exactly the same proportion of their entitlements. In insolvency, equal treatment premised on underlying legal entitlements is not unfair or unreasonable. To the contrary, it is a fundamental tenet of insolvency law.

[20] The LTD Objectors say that the Plan as it pertains to them is contrary to sections 7 and 15 of the *Charter*.

[21] It is argued by the LTD Rep that the *Charter* does not apply to the courts, reliance being placed on *Dolphin Delivery Ltd. v. R.W.D.S.U., Local 580*, [1986] 2 S.C.R. 573 at paras. 34 and 36. In that case, the SCC declined to set aside an injunction on the basis that a court order does not constitute governmental action for the purposes of the *Charter* and stated that the judicial branch is not an element of governmental action for the purposes of the *Charter*. It said that the word "government" in section 32 of the *Charter* referred to the legislative, executive, and administrative branches of government.

[22] However, there are other cases in the SCC that say otherwise. In *R. v. Rahey*, [1987] 1 S.C.R. 588, the SCC held that an unreasonable delay by the trial judge in deciding on an application for a directed verdict by the accused at the close of the Crown's case had denied to the accused the section 11(b) right to be tried within a reasonable time, and stayed the

proceedings. In *Rahey*, of the four judges who wrote opinions, only La Forest J. averted to the point of the *Charter* applying to a court. He stated:

95 ...it seems obvious to me that the courts, as custodians of the principles enshrined in the *Charter*, must themselves be subject to *Charter* scrutiny in the administration of their duties. In my view, the fact that the delay in this case was caused by the judge himself makes it all the more unacceptable both to the accused and to society in general.

[23] In *British Columbia Government Employees' Union v. British Columbia (Attorney General)*, [1988] 2 S.C.R. 214, the SCC refused to set aside an injunction ordered by the Chief Justice of British Columbia against picketing outside the court that had been made without notice to the union because although the injunction contravened the section 2(b) right to freedom of expression, it was justified by section 1. Chief Justice Dickson distinguished *Dolphin* as follows:

56 As a preliminary matter, one must consider whether the order issued by McEachern C.J.S.C. is, or is not, subject to *Charter* scrutiny. *RWDSU v. Dolphin Delivery*, [1986] 2 S.C.R. 573, holds that the *Charter* does apply to the common law, although not where the common law is invoked with reference to a purely private dispute. At issue here is the validity of a common law breach of criminal law and ultimately the authority of the court to punish for breaches of that law. The court is acting on its own motion and not at the instance of any private party. The motivation for the court's action is entirely "public" in nature, rather than "private". The criminal law is being applied to vindicate the rule of law and the fundamental freedoms protected by the *Charter*. At the same time, however, this branch of the criminal law, like any other, must comply with the fundamental standards established by the *Charter*.

[24] In dealing with these three decisions, Professor Hogg has stated that while it is impossible to reconcile the definition of "government" in *Dolphin* with the decisions in *Rahey* and *BCGEU*, the cases can be accommodated. See Hogg, Peter W. *Constitutional Law of Canada*, 5th ed. supplemented Thomson: Carswell, 2007 at § 37-22. He states:

The *ratio decidendi* of *Dolphin Delivery* must be that a court order, when issued as a resolution of a dispute between private parties, and when based on the common law, is not governmental action to which the *Charter* applies. And the reason for the decision is that a contrary decision would have the effect of applying the *Charter* to the relationships of private parties that s. 32 intends to exclude from *Charter* coverage. Where, however a court order is issued on the

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court's own motion for a public purpose (as in *BCGEU*), or in a proceeding to which government is a party (as in any criminal case, such as *Rahey*), or in a purely private proceeding that is governed by statute law, then the *Charter* will apply to the court order.

[25] In this case, the proceedings are being taken under the CCAA and the discretionary power of a court to sanction a plan is contained in section 6 of that statute. While it is not strictly necessary for me to decide whether the *Charter* applies to such an order in light of the view that I take of the section 7 and 15 rights asserted by the LTD Objectors, I accept that any order I make to sanction the Plan may be subject to the *Charter*.

[26] There is another issue, however, regarding the right of the LTD Objectors to raise a *Charter* challenge. They were represented by competent counsel in 2010 on the motion to approve the Employee Settlement Agreement. They did not raise any *Charter* challenge to that agreement before Morawetz J. or in the Court of Appeal on their application to appeal from the Settlement Approval Order made by Morawetz J. So far as the LTD benefits are concerned, the Plan merely contains the provisions for them in the Employee Settlement Agreement. Issue estoppel prevents the LTD Objectors from now raising a *Charter* challenge to those provisions.

[27] Section 7 of the *Charter* provides:

Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

[28] What the LTD Objectors seek is to have the allocation proceeds re-allocated by providing that 100% of the claims of the LTD Beneficiaries will be paid from the Sale Proceeds at the expense of all other claimants. This involves their economic interests which are not protected by section 7 of the *Charter*. In *Siemens v. Manitoba (Attorney General)*, [2003] 1 S.C.R. 6 Justice Major for the Court stated:

45 The appellants also submitted that s. 16 of the VLT Act violates their right under s. 7 of the Charter to pursue a lawful occupation. Additionally, they submitted that it restricts their freedom of movement by preventing them from pursuing their chosen profession in a certain location, namely, the Town of Winkler. However, as a brief review of this Court's Charter jurisprudence makes

clear, the rights asserted by the appellants do not fall within the meaning of s. 7. The right to life, liberty and security of the person encompasses fundamental life choices, not pure economic interests. As La Forest J. explained in *Godbout v. Longueuil (City)*, [1997] 3 S.C.R. 844, at para. 66:

... the autonomy protected by the s. 7 right to liberty encompasses only those matters that can properly be characterized as fundamentally or inherently personal such that, by their very nature, they implicate basic choices going to the core of what it means to enjoy individual dignity and independence.

More recently, *Blencoe v. British Columbia (Human Rights Commission)*, [2000] 2 S.C.R. 307, 2000 SCC 44, concluded that the stigma suffered by Mr. Blencoe while awaiting trial of a human rights complaint against him, which hindered him from pursuing his chosen profession as a politician, did not implicate the rights under s. 7. See Bastarache J., at para. 86:

The prejudice to the respondent in this case ... is essentially confined to his personal hardship. He is not "employable" as a politician, he and his family have moved residences twice, his financial resources are depleted, and he has suffered physically and psychologically. However, the state has not interfered with the respondent and his family's ability to make essential life choices. To accept that the prejudice suffered by the respondent in this case amounts to state interference with his security of the person would be to stretch the meaning of this right.

[29] Professor Hogg in *Constitutional Law of Canada* at §47.9 makes clear that purely economic interests are not protected by section 7. He states:

Section 7 protects "life, liberty and security of the person". The omission of property from s. 7 was a striking and deliberate departure from the constitutional texts that provided the models for s. 7. ...

The omission of property rights from s. 7 greatly reduces its scope. It means that s. 7 affords no guarantee of compensation or even of a fair procedure for the taking of property by government. It means that s. 7 affords no guarantee of fair treatment by courts, tribunals or officials with no power over the purely economic interests of individuals or corporations. It also requires, as have noticed in the earlier discussion of "liberty" and "security of the person", that those terms be interpreted as excluding economic liberty and economic security; otherwise property, having been shut out of the front door, would enter by the back.

[30] What is in play in this case are pure economic rights among the creditors of Nortel and the request of the LTD Objectors to be compensated by the other Nortel creditors. There is

authority that a plan of compromise or arrangement is simply a contract between the debtor and its creditors. See *Olympia & York Developments Ltd. (Re)* at para. 74.

[31] Section 7 does not assist the LTD Objectors in their request for unequal treatment for unequal treatment.

[32] Section 15 of the *Charter* provides:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

[33] In this case, it cannot be said that the LTD Objectors are being deprived of these section 15 rights because of discrimination based on physical disability. They are being treated like all creditors of Nortel. All unsecured creditors, be they bondholders, trade creditors, pensioners or LTD Beneficiaries, will receive the same *pari passu* treatment under the Plan. They are treated equally, with each receiving exactly the same proportion of their entitlements. In insolvency, equal treatment premised on underlying legal entitlements is not unfair or unreasonable. To the contrary, it is the fundamental tenet of insolvency law. Except for the two LTD Objectors, all other LTD Beneficiaries, in excess of 300 in number, accept this equal treatment.

[34] LTD Beneficiaries have been treated in the same manner as all similarly situated creditors, without discrimination. Pensioners, their beneficiaries, surviving spouses of deceased employees, Former Employees and LTD Beneficiaries are all unsecured creditors who are experiencing hardship due to lost income and benefits in the Nortel insolvency. All are disadvantaged to varying degrees, depending on personal circumstances and there is no basis for preferring one group above others. All have suffered losses in the Nortel insolvency. This was recognized by Justice Morawetz in 2010 when the Monitor applied for an order for distribution of the assets of the HWT (from which benefits were paid to beneficiaries, including the LTD Beneficiaries), on a *pari passu* basis. That was opposed by the LTD Objectors. In his decision of

- Page 15 -

November 9, 2010 accepting the position of the Monitor at *Nortel Networks Corp., Re*, 2010 ONSC 5584, Justice Morawetz said:

110 As I have indicated above, there is no question that the impact of the shortfall in the HWT is significant. This was made clear in the written Record, as well as in the statements made by certain Dissenting LTD Beneficiaries at the hearing. However, the effects of the shortfall are not limited to the Dissenting LTD Beneficiaries and affect all LTD Beneficiaries and Pensioner Life claimants. The relative hardship for each claimant may differ, but, in my view, the allocation of the HWT corpus has to be based on entitlement and not on relative need.²

[35] In the circumstances, I cannot find any breach of section 15 of the *Charter*.

Conclusion

[36] For the foregoing reasons, I have sanctioned the Plan and made an order authorizing and directing the release of the Sale Proceeds from the Escrow Accounts in the manner contemplated by the Settlement and Support Agreement.

"F.J.C. Newbould J."

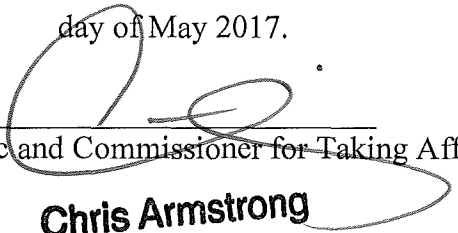
Newbould J.

Date: January 30, 2017

² Leave to appeal to the C of A denied 2011 ONCA 10; leave to appeal to the SCC [2011] S.C.C.A. No. 124.

D

This is Exhibit "D" referred to in the
affidavit of Murray McDonald
sworn before me, this 11th
day of May 2017.


A Notary Public and Commissioner for Taking Affidavits

Chris Armstrong

Court of Appeal File No. M47521
 Superior Court of Justice File No.: 09-CL-7950

COURT OF APPEAL FOR ONTARIO

THE HONOURABLE
 JUSTICE MACPHERSON

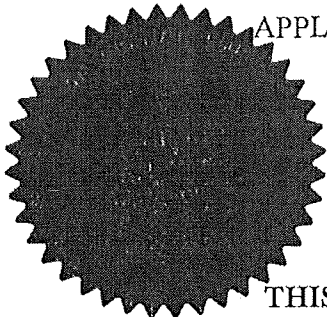
) FRIDAY, THE 17TH DAY
)
) OF FEBRUARY, 2017

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

AND IN THE MATTER OF A PLAN OF
 COMPROMISE OR ARRANGEMENT OF
 NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED, NORTEL
 NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS INTERNATIONAL
 CORPORATION, NORTEL NETWORKS TECHNOLOGY CORPORATION, NORTEL
 COMMUNICATIONS INC., ARCHITEL SYSTEMS CORPORATION AND NORTHERN
 TELECOM CANADA LIMITED

APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
 R.S.C. 1985, c. C-36, AS AMENDED

ORDER



THIS MOTION made by Ernst & Young Inc. the court appointed Monitor for Nortel Networks Corporation *et al.* (collectively, the "Canadian Debtors") to expedite the motion for leave to appeal (the "Motion for Leave") of Mr. Greg McAvoy and Ms. Jennifer Holley (the "Leave Applicants"), was heard this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

- 2 -

ON READING the One Hundred and Thirty Fifth Report of the Monitor dated January 20, 2017 with appendices A, J and K attached, the Forty-Second Report of the Monitor dated March 30, 2010 with its appendices attached, the Sanction Order and Canadian Escrow Release Order dated January 24, 2017 and reasons therefor, and on hearing the submissions of counsel for the Monitor and of the Leave Applicants participating by teleconference on their consent:

1. **THIS COURT ORDERS** that the time for the service of this motion is hereby abridged and validated.
2. **THIS COURT ORDERS** the Motion for Leave be expedited as follows:
 - (a) the items required by rule 61.03(4) of the *Rules of Civil Procedure* shall be deemed to consist of the materials served by the Leave Applicants on February 14, 2017;
 - (b) all parties responding to the Motion for Leave shall serve their motion record and facta contemplated by rules 61.03(7) and (8) by February 21, 2017;
 - (c) any reply factum of the Leave Applicants as contemplated by rules 61.03(11) and (12) shall be served by February 24, 2017;
 - (d) the Motion for Leave shall be submitted to the Court of Appeal for consideration on the earlier of February 24, 2017 or the filing of any reply factum; and
 - (e) if leave to appeal is granted, the Leave Applicants shall file a notice of appeal within two days after the granting of leave and the Monitor and Canadian Debtors may apply for an order expediting any appeal and for consequential directions.

- 3 -

3. THIS COURT ORDERS that the parties shall bear their own costs of this motion.

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

FEB 17 2017

PER / PAR: TS



Registrar
COURT OF APPEAL FOR ONTARIO

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 NORTEL NETWORKS CORPORATION *et al.*

Court of Appeal File No. M47521
Superior Court of Justice File No.: 09-CL-7950

COURT OF APPEAL FOR ONTARIO	
ORDER	
GOODMANS LLP Barristers & Solicitors Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, Canada M5H 2S7 Benjamin Zarnett (LSUC#17247M) Jessica Kimmel (LSUC#32312W) Peter Kolla (LSUC#54608K) Tel: 416.979.2211 Fax: 416.979.1234 Lawyers for the Monitor, Ernst & Young Inc.	GOWLING WLG (CANADA) LLP One First Canadian Place 100 King Street West, Suite 1600 Toronto, Canada M5X 1G5 Derrick Tay (LSUC#21152A) Jennifer Stam (LSUC#46735J) Tel: 416.862.5697 Fax: 419.862.7661 Lawyers for the Canadian Debtors

E

This is Exhibit "E" referred to in the

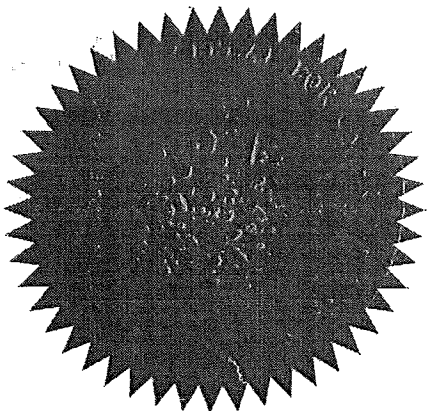
affidavit of Murray McDonald

sworn before me, this 11th

day of May 2017.

A Notary Public and Commissioner for Taking Affidavits

Chris Armstrong



Court of Appeal File No.: M47511
Superior Court of Justice File No.: 09-CL-7950

COURT OF APPEAL FOR ONTARIO

THE HONOURABLE ASSOCIATE CHIEF)	MONDAY, THE 13 TH DAY
JUSTICE OF ONTARIO)	
)	OF MARCH, 2017
THE HONOURABLE JUSTICE PEPALL)	
)	
THE HONOURABLE JUSTICE BROWN)	

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
NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED,
NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS
INTERNATIONAL CORPORATION, NORTEL NETWORKS TECHNOLOGY
CORPORATION, NORTEL COMMUNICATIONS INC., ARCHITEL SYSTEMS
CORPORATION AND NORTHERN TELECOM CANADA LIMITED

APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

ORDER

THIS MOTION made by Joseph McAvoy and Jennifer Holley (the "Leave Applicants")
for an order granting leave to appeal from the Sanction Order and Canadian Escrow Release
Order of the Honourable Justice Newbould dated January 24, 2017 ^{on March 6, 2017} was heard this day in writing
at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the Notice of Motion seeking Leave to Appeal of the Leave Applicants
and the Responding Motion Record of the Monitor and Canadian Debtors, and on reading the
submissions and reply submissions of the Leave Applicants and the submissions of counsel for

- 2 -

the responding parties the Monitor and Canadian Debtors, the Court Appointed Representatives of the Canadian Former Employees and Disabled Employees, the Nortel Canadian Continuing Employees, the Joint Administrators of the EMEA Debtors (other than Nortel Networks S.A.), Nortel Networks Inc. and the other U.S. Debtors, the Official Committee of Unsecured Creditors of Nortel Networks Inc., *et al.* and the Ad Hoc Group of Bondholders, filed:


1. **THIS COURT ORDERS** that the motion for leave to appeal is dismissed.



Registrar/Commissioner
Court of Appeal for Ontario


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

MAY 09 2017

PER / PAR: 

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 NORTEL NETWORKS CORPORATION *et al.*

Court of Appeal File No.: M47511
Superior Court of Justice File No.: 09-CL-7950

COURT OF APPEAL FOR ONTARIO	
	
ORDER	
Goodmans LLP Barristers & Solicitors Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7	Gowling WLG (Canada) LLP Barristers & Solicitors 1 First Canadian Place 100 King Street West, Suite 1600 Toronto, ON M5X 1G5
Benjamin Zarnett LSUC#: 17247M Jessica Kimmel LSUC#: 32312W Peter Kolla LSUC#: 54608K	Derrick Tay LSUC#: 21152A Jennifer Stam LSUC#: 46735J
Tel: 416.979.2211 Fax: 416.979.1234	Tel: 416.862.5697 Fax: 416.862.7661
Lawyers for the Monitor, Ernst & Young Inc.	Lawyers for the Canadian Debtors

F

This is Exhibit "F" referred to in the
affidavit of Murray McDonald
sworn before me, this 11th
day of May 2017.

A Notary Public and Commissioner for Taking Affidavits



Chris Armstrong

COURT OF APPEAL FOR ONTARIO

CITATION: Nortel Networks Corporation (Re), 2017 ONCA 210
 DATE: 20170313
 DOCKET: M47511

Hoy A.C.J.O., Pepall and Brown JJ.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 Plan of Compromise or Arrangement of Nortel Networks Corporation, Nortel Networks Limited, Nortel Networks Global Corporation, Nortel Networks International Corporation, Nortel Networks Technology Corporation, Nortel Communications Inc., Architel Systems Corporation and Northern Telecom Canada Limited

Application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended

Jennifer Holley and Joseph Greg McAvoy, the moving parties, acting in person

Benjamin Zarnett, Jessica A. Kimmel and Peter B. Kolla, for the responding party, the Monitor, Ernst & Young Inc.

Derrick C. A. Tay and Jennifer Stam, for the responding parties, the Canadian Debtors

Mark Zigler, Susan L. Philpott and Barbara A. Walancik, for the responding parties, the Canadian Former Employees and Disabled Employees through their court appointed Representatives

Janice B. Payne and Thomas J. McRae, for the responding party, the Nortel Canadian Continuing Employees

Page: 2

Paul Mitchell, for the responding party, the EMEA Debtors (other than Nortel Networks S.A.)

Sheila R. Block, Scott A. Bomhof, Andrew D. Gray, Adam M. Slavens and Jeremy R. Opolsky, for the responding parties, Nortel Networks Inc. and the other U.S. Debtors

R. Shayne Kukulowicz, Michael J. Wunder, Ryan C. Jacobs and Geoff B. Shaw, for the responding party, the Official Committee of Unsecured Creditors of Nortel Networks Inc., et al

S. Richard Orzy, Gavin H. Finlayson and Richard B. Swan, for the responding parties, the Ad Hoc Group of Bondholders

Heard: In Writing

Motion for leave to appeal from the order of Justice Frank J. C. Newbould of the Superior Court of Justice, dated January 24, 2017.

ENDORSEMENT

[1] The self-represented moving parties, Joseph McAvoy and Jennifer Holley (the “Leave Applicants”), seek leave to appeal the Sanction Order of Newbould J. dated January 24, 2017. The Monitor, the Canadian and US Debtors, Nortel Networks Inc., the Official Committee of Unsecured Creditors, the Ad Hoc Committee of Bondholders, the Nortel Continuing Employees, and the Court-Appointed Representatives of the Former and Disabled Employees of Nortel all oppose the motion.

[2] Leave to appeal is granted sparingly in *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (“CCAA”) proceedings and only where there are serious and arguable grounds that are of real and significant interest to

Page: 3

the parties. In addressing whether leave should be granted, the court will consider whether:

- a) the proposed appeal is *prima facie* meritorious or frivolous;
- b) the points on the proposed appeal are of significance to the practice;
- c) the points on the proposed appeal are of significance to the action; and
- d) whether the proposed appeal will unduly hinder the progress of the action.

See, *Nortel Networks Corporation (Re)*, 2016 ONCA 332, 130 O.R. (3d) 481, at para. 34.

[3] We are satisfied that the stringent test for leave is not met in this case. The proposed appeal is not meritorious. As the supervising judge explained in his reasons, the Leave Applicants did not opt-out of the 2009 Representation Order for Disabled Employees (“LTD Rep Order”) and they are bound by the 2010 Employee Settlement Agreement. The supervising judge correctly concluded the Leave Applicants have no right to opt out of the LTD Rep Order at this late stage: at para. 16.

[4] The Leave Applicants are the only long-term disability beneficiaries to oppose the Plan, which has the support of over 99% of Nortel’s unsecured creditors based both on value and on number. This belies the importance of the proposed appeal to the practice or to the action. And, as this court has already

Page: 4

emphasized, further delays in this very protracted litigation are to be avoided: *Nortel Networks Corporation (Re)*, 2016 ONCA 332, 130 O.R. (3d) 481, at paras. 102-103; *Nortel Networks Corporation (Re)*, 2016 ONCA 749, 41 C.B.R. (6th) 174, at para. 11.

[5] Finally, by order dated February 17, 2017, MacPherson J.A. required all materials on this leave motion to be filed by February 24, 2017, on which date the motion would be submitted to the panel for consideration. On February 27, 2017, the Leave Applicants filed a notice of constitutional question challenging the constitutionality of ss. 6(1) and 11 of the CCAA. Counsel for the Monitor submits the notice should not be considered. We agree. The notice was filed far too late in these proceedings and, as noted, the Leave Applicants are bound by the 2010 Employee Settlement Agreement.

[6] The motion for leave to appeal is dismissed.

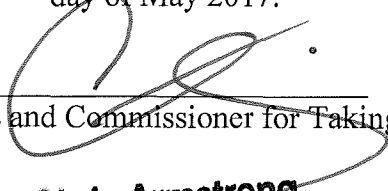
Lucas ACSD

St. Repell TA

Ag. 2/28

G

This is Exhibit "G" referred to in the
affidavit of Murray McDonald
sworn before me, this 11th
day of May 2017.


A Notary Public and Commissioner for Taking Affidavits

Chris Armstrong

WAIVER AND RESERVE AGREEMENT

This **WAIVER AND RESERVE AGREEMENT** is dated as of the 26th day of April, 2017, by and among (i) Nortel Networks Limited and the other Canadian Debtors; (ii) Nortel Networks Inc. and the other U.S. Debtors; (iii) Nortel Networks U.K. Limited (in administration) and the other EMEA Debtors; (iv) Nortel Networks S.A. (in administration and *liquidation judiciaire*); and (v) Ernst & Young Inc. in its capacity as Monitor of the Canadian Debtors.

- A. **WHEREAS** the Canadian Debtors, the U.S. Debtors, the EMEA Debtors and certain other parties are party to that certain Settlement and Plans Support Agreement dated as of October 12, 2016 (the “**Settlement and Support Agreement**”);
- B. **AND WHEREAS** pursuant to Section 9(a)(ix) of the Settlement and Support Agreement it is a condition to the effectiveness of the Settlement and Support Agreement that the Sanction Order shall have been issued by the CCAA Court by no later than February 17, 2017 and entered and thereafter shall have become a Final Order (the “**SPSA Sanction Order Condition**”);
- C. **AND WHEREAS** pursuant to Section 9.2(b) and (c) of the Canadian Plan (being, for the avoidance of doubt, the Plan of Compromise and Arrangement pursuant to the *Companies’ Creditors Arrangement Act* concerning, affecting and involving the Canadian Debtors dated November 30, 2016) it is a condition to the effectiveness of the Canadian Plan that each of the Sanction Order and the Canadian Escrow Release Order shall have been issued and entered and shall have become Final Orders (the “**Canadian Plan Final Order Conditions**”);
- D. **AND WHEREAS** pursuant to Section 12.3(i) of the U.S. Plans it is a condition to the effectiveness of the U.S. Plans that the Sanction Order shall have been issued and entered and shall have become a Final Order (the “**U.S. Plans Final Order Condition**”);
- E. **AND WHEREAS** the Sanction Order and the Canadian Escrow Release Order were issued by the CCAA Court and entered on January 24, 2017;
- F. **AND WHEREAS** on February 14, 2017, Joseph Greg McAvoy and Jennifer Holley (the “**LTD Objectors**”) sought leave to appeal the Sanction Order and the Canadian Escrow Release Order to the Ontario Court of Appeal (the “**LTD Leave Application**” and together with any leave to appeal, appeal or other review to the Supreme Court of Canada by the LTD Objectors in respect of the Sanction Order and/or the Canadian Escrow Release Order, an “**LTD Appeal**”), which leave motion was dismissed by the Ontario Court of Appeal on March 13, 2017 (the “**OCA Decision**”);

- 2 -

- G. **AND WHEREAS** the LTD Objectors have until May 12, 2017, to seek leave to appeal to the Supreme Court of Canada;
- H. **AND WHEREAS** as a result of the LTD Leave Application and the possibility of further LTD Appeals each of the Sanction Order and the Canadian Escrow Release Order is not, as at the date hereof, a Final Order within the meaning of the Settlement and Support Agreement and the Canadian Plan;
- I. **AND WHEREAS** through the LTD Appeal the LTD Objectors seek payment of CA\$44 million from the Canadian Estate "...for full payment of the Nortel LTD income and medical and dental claims..." (collectively, the "**LTD Obligations**") they allege to be owing to the Canadian Debtors' former LTD beneficiaries (the "**LTD Beneficiaries**");
- J. **AND WHEREAS** it is a condition to the Settlement and Support Agreement that the Plans Effective Date shall have occurred by no later than August 31, 2017;
- K. **AND WHEREAS** notwithstanding the Sanction Order and Canadian Escrow Release Order not yet being Final Orders, the undersigned are desirous of each of the Canadian Plan and the Settlement and Support Agreement becoming effective so that they can be implemented in accordance with their respective terms and distributions made to creditors;
- L. **AND WHEREAS** the Canadian Debtors, the U.S. Debtors, EMEA Debtors and NNSA are desirous of waiving (and have received the requisite creditor consents to do so under the Settlement and Support Agreement), upon and subject to the terms set out herein, the SPSA Sanction Order Condition solely as it relates to the Sanction Order not yet being a Final Order as a result of any LTD Appeal;
- M. **AND WHEREAS**, subject to the approval of the CCAA Court, the Monitor is desirous of waiving, upon and subject to the terms set out herein, the Canadian Plan Final Order Conditions solely as they relate to the Sanction Order and Canadian Escrow Release Order not yet being Final Orders (within the meaning of the Canadian Plan) as a result of any LTD Appeal;
- N. **AND WHEREAS**, subject to the approval of the Bankruptcy Court, the U.S. Debtors are desirous of waiving (and have received the requisite consent to do so under the U.S. Plans), upon and subject to the terms set out herein, the U.S. Plans Final Order Condition solely as it relates to the Sanction Order not yet being a Final Order (within the meaning of the U.S. Plans) as a result of any LTD Appeal.

- 3 -

NOW THEREFORE, the undersigned Parties, intending to be legally bound, hereby agree and acknowledge as follows:

1. **Definitions.** Capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Settlement and Support Agreement or, if not defined therein, the Canadian Plan.
2. **Agreement re: Appeal Reserve and Reservation of Rights.**
 - (a) Subject to: (i) the LTD Objectors consenting to the issuance of an Order of the CCAA Court substantially in the form attached as Appendix “A” hereto (the “**Waiver and Reserve Approval Order**”); and (ii) the Waiver and Reserve Approval Order being issued by the CCAA Court and entered, the undersigned agree to the establishment of a reserve by the Canadian Estate in the amount of CA\$44 million (the “**Appeal Reserve**”) in respect of the maximum additional amount that may be paid to the LTD Beneficiaries on account of the LTD Obligations beyond *pro rata* distributions on account of the LTD Obligations that are Proven Affected Unsecured Claims under the Canadian Plan.
 - (b) The Appeal Reserve shall be funded from the payments to be made to the Canadian Estate pursuant to the Settlement and Support Agreement, and shall be held by the Canadian Estate as part of the Administrative Reserve. The sole purpose of the Appeal Reserve shall be to pay any additional payments determined by the Canadian Court to be due to the LTD Beneficiaries beyond *pro rata* distributions on account of the LTD Obligations that are Proven Affected Unsecured Claims under the Canadian Plan. In the event: (i) leave to appeal the order of the Ontario Court of Appeal arising from the endorsement of the Ontario Court of Appeal dated March 13, 2017 (Docket: M47511) (the “**OCA Order**”) to the Supreme Court of Canada (“**SCC**”) is not sought on or before May 12, 2017 (or such later date as may be permitted by the SCC); (ii) any such leave to appeal application is dismissed by the SCC; or (iii) any appeal of the OCA Order heard by the SCC is dismissed and the Sanction Order is upheld, the Appeal Reserve shall be immediately terminated and all amounts held in respect thereof shall become Available Cash of the Canadian Estate.
 - (c) The Canadian Estate and the Monitor agree not to settle with the LTD Objectors or pay any amount to the LTD Objectors (excluding, for the avoidance of doubt, *pro rata* distributions to the LTD Objectors as holders of Proven Affected Unsecured Claims under the Canadian Plan) without the prior consent of the U.S. Debtors, the UCC, the Bondholder Group, the EMEA Debtors, the UKPI and the CCC.

- 4 -

- (d) The undersigned reserve all rights to continue to oppose any LTD Appeal and to otherwise challenge any entitlement of the LTD Beneficiaries to any payment or distribution from the Canadian Estate beyond *pro rata* distributions on account of the LTD Obligations that are Proven Affected Unsecured Claims under the Canadian Plan, including, without limitation, the calculation of the amount alleged to be owing for payment in full of the LTD Obligations.

3. **Waiver of SPSA Sanction Order Condition.**

- (a) Subject to: (i) the LTD Objectors consenting to the issuance of the Waiver and Reserve Approval Order by the CCAA Court; and (ii) the Waiver and Reserve Approval Order being issued by the CCAA Court and entered and not being stayed or subject to leave to appeal, appeal or other review, the Canadian Debtors, U.S. Debtors, EMEA Debtors and NNSA hereby waive the SPSA Sanction Order Condition solely as it relates to the Sanction Order not yet being a Final Order (within the meaning of the Settlement and Support Agreement) as a result of any LTD Appeal (the “**SPSA Waiver**”).
- (b) The Canadian Debtors represent and warrant to the other undersigned Parties that they have obtained the prior consent of the CCC to the SPSA Waiver and this Waiver and Reserve Agreement.
- (c) The U.S. Debtors represent and warrant to the other undersigned Parties that they have obtained the prior consent of the UCC and the Bondholder Group to the SPSA Waiver and this Waiver and Reserve Agreement.
- (d) NNUK represents and warrants to the other undersigned Parties it has obtained the prior consent of the U.K. Pension Trustee and the PPF to the SPSA Waiver and this Waiver and Reserve Agreement.

4. **Waiver of Canadian Plan Final Order Conditions by Monitor.**

- (a) Subject to: (i) the LTD Objectors consenting to the issuance of the Waiver and Reserve Approval Order by the CCAA Court; and (ii) the Waiver and Reserve Approval Order being issued by the CCAA Court and entered and not being stayed or subject to leave to appeal, appeal or other review, the Monitor hereby waives the Canadian Plan Final Order Conditions solely as they relate to the Sanction Order and the Canadian Escrow Release Order not yet being Final Orders (within the meaning of the Canadian Plan) as a result of any LTD Appeal.

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5. Waiver of U.S. Plans Final Order Condition by U.S. Debtors.

- (a) Subject to: (i) the LTD Objectors consenting to the issuance of the Waiver and Reserve Approval Order by the CCAA Court; and (ii) the granting of an order of the Bankruptcy Court approving this waiver, which order shall not be the subject of a stay, the U.S. Debtors hereby waive the U.S. Plans Final Order Condition solely as it relates to the Sanction Order not yet being a Final Order (within the meaning of the U.S. Plans) as a result of any LTD Appeal.

6. Miscellaneous.

- (a) Except for the express waivers contained in Sections 3(a), 4(a) and 5(a) hereof, this Waiver and Reserve Agreement shall not constitute a waiver, amendment, supplement or other modification of any condition or other term or provision of the Settlement and Support Agreement, the Canadian Plan or the U.S. Plans and shall not be construed as a waiver, amendment, supplement, other modification or consent to anything that would require an amendment, supplement, waiver or consent under the Settlement and Support Agreement, the Canadian Plan or the U.S. Plans. Except as expressly waived hereby, the provisions of the Settlement and Support Agreement, the Canadian Plan and the U.S. Plans are and shall remain in full force and effect.
- (b) For the avoidance of doubt, nothing in this Waiver and Reserve Agreement impacts the payments and distributions to be made to the Canadian Debtors, the U.S. Debtors, the EMEA Debtors and NNSA pursuant to Section 2 of the Settlement and Support Agreement.
- (c) This Waiver and Reserve Agreement may be executed in counterparts, each of which shall be an original, and such counterparts shall be construed together as one instrument. The signature of any of the undersigned Parties may be evidenced by a facsimile, scanned email or internet transmission copy of this Waiver and Reserve Agreement.
- (d) As relates to the Settlement and Support Agreement, this Waiver and Reserve Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of New York without giving effect to the choice of law provisions thereof that would result in the application of the law of another jurisdiction. The provisions of Sections 15(d) and 15(e) of the Settlement and Support Agreement shall apply *mutatis mutandis* to any claim, action or

- 6 -

proceeding arising under or in connection with this Waiver and Reserve Agreement to the extent related to the Settlement and Support Agreement.

- (e) As relates to the Canadian Plan, this Waiver and Reserve Agreement shall be interpreted, construed and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein without giving effect to the choice of law provisions thereof that would result in the application of the law of another jurisdiction. The provisions of Section 1.4 of the Canadian Plan shall apply *mutatis mutandis* to any claim, action or proceeding arising under or in connection with this Waiver and Reserve Agreement to the extent related to the Canadian Plan.
- (f) As relates to the U.S. Plans, this Waiver and Reserve Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Delaware, without giving effect to the principles of conflict of laws thereof. The provisions of Section 15.12 of the U.S. Plans shall apply *mutatis mutandis* to any claim, action or proceeding arising under or in connection with this Waiver and Reserve Agreement to the extent related to the U.S. Plans.

[remainder of page left intentionally blank]

IN WITNESS WHEREOF the undersigned Parties have executed this Waiver and Reserve Agreement as of the date first written above.

CANADIAN DEBTORS

NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED, NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS INTERNATIONAL CORPORATION, NORTEL NETWORKS TECHNOLOGY CORPORATION, NORTEL COMMUNICATIONS INC., ARCHITEL SYSTEMS CORPORATION AND NORTHERN TELECOM CANADA LIMITED.

By: _____

Name: Tanecia Wong Ken

Title: Authorized Representative

U.S. DEBTORS

NORTEL NETWORKS INC., NORTEL NETWORKS CAPITAL CORPORATION, NORTEL ALTSYSTEMS INC., NORTEL ALTSYSTEMS INTERNATIONAL INC., XROS, INC., SONOMA SYSTEMS, QTERA CORPORATION, CORETEK, INC., NORTEL NETWORKS APPLICATIONS MANAGEMENT SOLUTIONS INC., NORTEL NETWORKS OPTICAL COMPONENTS INC., NORTEL NETWORKS HPOCS INC., ARCHITEL SYSTEMS (U.S.) CORPORATION, NORTEL NETWORKS INTERNATIONAL INC., NORTHERN TELECOM INTERNATIONAL INC., NORTEL NETWORKS CABLE SOLUTIONS INC., NORTEL NETWORKS (CALA) INC. AND NORTEL NETWORKS INDIA INTERNATIONAL INC.

By: _____

Name: John J. Ray III

Title: U.S. Principal Officer

IN WITNESS WHEREOF the undersigned Parties have executed this Waiver and Reserve Agreement as of the date first written above.

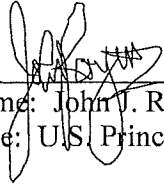
CANADIAN DEBTORS

NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED, NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS INTERNATIONAL CORPORATION, NORTEL NETWORKS TECHNOLOGY CORPORATION, NORTEL COMMUNICATIONS INC., ARCHITEL SYSTEMS CORPORATION AND NORTHERN TELECOM CANADA LIMITED.

By: _____
 Name: Tanecia Wong Ken
 Title: Authorized Representative

U.S. DEBTORS

NORTEL NETWORKS INC., NORTEL NETWORKS CAPITAL CORPORATION, NORTEL ALTSYSTEMS INC., NORTEL ALTSYSTEMS INTERNATIONAL INC., XROS, INC., SONOMA SYSTEMS, QTERA CORPORATION, CORETEK, INC., NORTEL NETWORKS APPLICATIONS MANAGEMENT SOLUTIONS INC., NORTEL NETWORKS OPTICAL COMPONENTS INC., NORTEL NETWORKS HPOCS INC., ARCHITEL SYSTEMS (U.S.) CORPORATION, NORTEL NETWORKS INTERNATIONAL INC., NORTHERN TELECOM INTERNATIONAL INC., NORTEL NETWORKS CABLE SOLUTIONS INC., NORTEL NETWORKS (CALA) INC. AND NORTEL NETWORKS INDIA INTERNATIONAL INC.

By:  _____
 Name: John J. Ray III
 Title: U.S. Principal Officer

EMEA DEBTORS

NORTEL NETWORKS UK LIMITED (IN
ADMINISTRATION)



acting by
: Alan Robert Bloom
as joint administrator (acting as agent and
without personal liability)

NORTEL NETWORKS NV (IN
ADMINISTRATION)



acting by
: Alan Robert Bloom
as joint administrator (acting as agent and
without personal liability)

NORTEL NETWORKS B.V. (IN
ADMINISTRATION)



acting by
: Alan Robert Bloom
as joint administrator (acting as agent and
without personal liability)

NORTEL NETWORKS (IRELAND)
LIMITED (IN ADMINISTRATION)



acting by
: _____
as joint administrator (acting as agent and
without personal liability)

NORTEL NETWORKS SPA (IN
ADMINISTRATION)



acting by
: Alan Robert Bloom
as joint administrator (acting as agent and
without personal liability)

NORTEL NETWORKS POLSKA SP
Z.O.O. (IN ADMINISTRATION)



acting by
: Alan Robert Bloom
as joint administrator (acting as agent and
without personal liability)

EMEA DEBTORS**NORTEL NETWORKS UK LIMITED (IN
ADMINISTRATION)****NORTEL NETWORKS (IRELAND)
LIMITED (IN ADMINISTRATION)**

acting by

:

as joint administrator (acting as agent and
without personal liability)**NORTEL NETWORKS NV (IN
ADMINISTRATION)**

acting by

:

as joint administrator (acting as agent and
without personal liability)**NORTEL NETWORKS SPA (IN
ADMINISTRATION)**

acting by

:

as joint administrator (acting as agent and
without personal liability)**NORTEL NETWORKS B.V. (IN
ADMINISTRATION)**

acting by

:

as joint administrator (acting as agent and
without personal liability)**NORTEL NETWORKS POLSKA SP
Z.O.O. (IN ADMINISTRATION)**

acting by

:


as joint administrator (acting as agent and
without personal liability)

acting by

:

as joint administrator (acting as agent and
without personal liability)

NORTEL NETWORKS HISPANIA SA (IN ADMINISTRATION)




acting by
: Alan Robert Bloom
as joint administrator (acting as agent and without personal liability)

NORTEL NETWORKS S.R.O. (IN ADMINISTRATION)



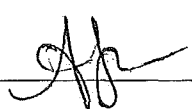
acting by
: Alan Robert Bloom
as joint administrator (acting as agent and without personal liability)

NORTEL NETWORKS PORTUGAL SA (IN ADMINISTRATION)



acting by
: Alan Robert Bloom
as joint administrator (acting as agent and without personal liability)

NETWORKS ROMANIA SRL (IN ADMINISTRATION)



acting by
: Alan Robert Bloom
as joint administrator (acting as agent and without personal liability)

NORTEL NETWORKS (AUSTRIA) GMBH (IN ADMINISTRATION)



acting by
: Alan Robert Bloom
as joint administrator (acting as agent and without personal liability)

NORTEL NETWORKS ENGINEERING SERVICE KFT (IN ADMINISTRATION)




acting by
: Alan Robert Bloom
as joint administrator (acting as agent and without personal liability)

NORTEL NETWORKS SLOVENSKO S.R.O. (IN ADMINISTRATION)



acting by
: Alan Robert Bloom
as joint administrator (acting as agent and without personal liability)

NORTEL GMBH (IN ADMINISTRATION)




acting by
: Alan Robert Bloom
as joint administrator (acting as agent and without personal liability)

**NORTEL NETWORKS OY (IN
ADMINISTRATION)**



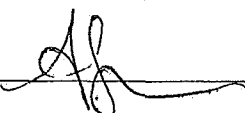
acting by
: Alan Robert Bloom
as joint administrator (acting as agent and
without personal liability)

**NORTEL NETWORKS
INTERNATIONAL FINANCE &
HOLDING B.V. (IN ADMINISTRATION)**



acting by
: Alan Robert Bloom
as joint administrator (acting as agent and
without personal liability)

**NORTEL NETWORKS AB (IN
ADMINISTRATION)**



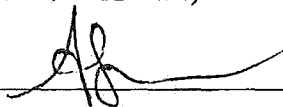
acting by
: Alan Robert Bloom
as joint administrator (acting as agent and
without personal liability)

**NORTEL NETWORKS FRANCE S.A.S.
(IN ADMINISTRATION)**



acting by
: Alan Robert Bloom
as joint administrator (acting as agent and
without personal liability)

NORTEL NETWORKS S.A.
(IN ADMINISTRATION AND IN
***LIQUIDATION JUDICIAIRE*)**



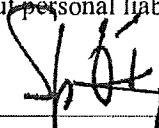
acting by: Alan Robert Bloom
as joint administrator (acting as agent and
without personal liability)

acting by: Stephen Jonathan Taylor
as NNSA Conflicts Administrator (acting as
agent and without personal liability)

acting by: Maître Cosme Rogeau as French
Liquidator (acting as agent and without personal
liability)

NORTEL NETWORKS S.A.
(IN ADMINISTRATION AND IN
***LIQUIDATION JUDICIAIRE*)**

acting by: _____
as joint administrator (acting as agent and
without personal liability)



acting by: Stephen Jonathan Taylor
as NNSA Conflicts Administrator (acting as
agent and without personal liability)

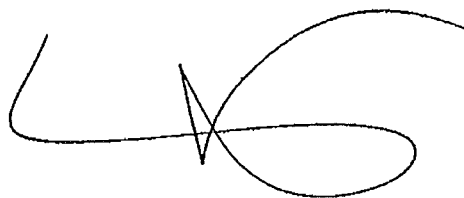
acting by: Maître Cosme Rogeau as French
Liquidator (acting as agent and without personal
liability)

NORTEL NETWORKS S.A.
(IN ADMINISTRATION AND IN
LIQUIDATION JUDICIAIRE)

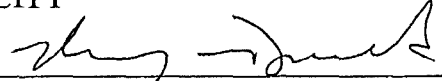
acting by: _____
as joint administrator (acting as agent and
without personal liability)

acting by: Stephen Jonathan Taylor
as NNSA Conflicts Administrator (acting as
agent and without personal liability)

acting by: Maître Cosme Rogeau as French
Liquidator (acting as agent and without personal
liability)

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a vertical line and a loop, likely representing the name 'Cosme Rogeau'.

ERNST & YOUNG INC. IN ITS CAPACITY
AS MONITOR OF THE CANADIAN
DEBTORS AND NOT IN ITS PERSONAL
CAPACITY

Per: 
Name: Murray McDonald
Title: President

H

This is Exhibit "H" referred to in the
affidavit of Murray McDonald
sworn before me, this 11th
day of May 2017.

A Notary Public and Commissioner for Taking Affidavits



Chris Armstrong

THE HONOURABLE MR. JUSTICE) MONDAY, THE 1ST DAY OF
NEWBOULD)
) MAY, 2017
)

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED,
NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS
INTERNATIONAL CORPORATION, NORTEL NETWORKS
TECHNOLOGY CORPORATION, NORTEL COMMUNICATIONS INC.,
ARCHITEL SYSTEMS CORPORATION AND NORTHERN TELECOM CANADA
LIMITED

ORDER
(Waiver and Reserve Approval Order)

THIS MOTION made by Nortel Networks Corporation, Nortel Networks Limited, Nortel Networks Technology Corporation, Nortel Networks Global Corporation, Nortel Networks International Corporation, Nortel Communications Inc., Architel Systems Corporation and Northern Telecom Canada Limited (collectively, the “**Canadian Debtors**”) jointly with Ernst & Young Inc. in its capacity as monitor of the Canadian Debtors (the “**Monitor**”) for the relief set out in the Notice of Motion dated April 27, 2017, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the One Hundred and Thirty Eighth Report of the Monitor dated April 26, 2017 (the “**Report**”) and the Notice of Intention to Appear and Submission for Anticipated January 24, 2017 Fairness Hearing to Sanction the Nortel CCAA Plan from Greg

- 2 -

McAvoy and Jennifer Holley (the “**LTD Objectors**”), and on hearing submissions of counsel for the Monitor, counsel for the CCC, counsel for the U.S. Debtors, counsel for the UCC, counsel for the Bondholder Group, counsel for the EMEA Debtors, counsel for the UKPI and counsel for those other parties present and Greg McAvoy and Jennifer Holley (collectively, the “**LTD Objectors**”) appearing on their own behalf, no one appearing for any other person on the service list although duly served as appears from the affidavit of Christopher G. Armstrong sworn April 27, 2017, filed.

AND UPON BEING ADVISED the LTD Objectors consent to this Order.

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for the service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Waiver and Reserve Agreement or the Plan (each as defined below).

APPROVAL OF WAIVER AND RESERVE AGREEMENT RE: FINAL ORDER CONDITION

3. **THIS COURT ORDERS** that the Waiver and Reserve Agreement dated April 26, 2017 (the “**Waiver and Reserve Agreement**”), a copy of which is attached as Schedule “A” hereto, be and is hereby approved.
4. **THIS COURT ORDERS** that, without limiting the generality of the foregoing paragraph 3, pursuant to Section 9.6 of the Plan of Compromise and Arrangement pursuant to the *Companies’ Creditors Arrangement Act* concerning, affecting and involving the Canadian Debtors dated November 30, 2016 and approved by this Court in its Sanction Order dated January 24, 2017 (the “**Plan**”), the waiver by the Monitor contained in Section 4(a) of the Waiver and Reserve Agreement be and is hereby approved and the Monitor be and is hereby authorized to take such steps as

- 3 -

may be necessary to effect and implement the Plan, the Settlement and Support Agreement and the Waiver and Reserve Agreement.

APPEAL RESERVE AND CAP

5. **THIS COURT ORDERS** that the Canadian Estate be and is hereby authorized and directed to establish a reserve in the amount of CA\$44 million (the “**Appeal Reserve**” and the “**Appeal Reserve Amount**”, respectively) in respect of the maximum additional amount that may be determined by the Canadian Court to be due on account of the LTD Obligations beyond *pro rata* distributions on account of the LTD Obligations that are Proven Affected Unsecured Claims under the Plan.
6. **THIS COURT ORDERS** that the Appeal Reserve shall be funded from the payments to be made to the Canadian Estate pursuant to the Settlement and Support Agreement, and shall be held by the Canadian Estate as part of the Administrative Reserve. The sole purpose of the Appeal Reserve shall be to fund any additional payments determined by the Canadian Court to be due to the LTD Beneficiaries beyond *pro rata* distributions on account of the LTD Obligations that are Proven Affected Unsecured Claims under the Plan. In the event: (i) leave to appeal the order of the Ontario Court of Appeal arising from the endorsement of the Ontario Court of Appeal dated March 13, 2017 (Docket: M47511) (the “**OCA Order**”) to the Supreme Court of Canada (“**SCC**”) is not sought on or before May 12, 2017 (or such later date as may be permitted by the SCC); (ii) any such leave to appeal application is dismissed by the SCC; or (iii) any appeal of the OCA Order heard by the SCC is dismissed and the Sanction Order is upheld, the Appeal Reserve shall be immediately terminated and all amounts held in respect thereof shall become Available Cash of the Canadian Estate.
7. **THIS COURT ORDERS** that the establishment of the Appeal Reserve shall not constitute a trust in favour of the LTD Beneficiaries or any other Person and all amounts held in respect of the Appeal Reserve shall remain the exclusive property of the Canadian Estate.

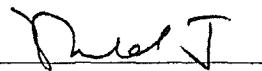
- 4 -

8. **THIS COURT ORDERS** that the maximum additional entitlement that may be established on account of the LTD Obligations against the Canadian Estate beyond *pro rata* distributions on account of the LTD Obligations that are Proven Affected Unsecured Claims under the Plan be and is hereby capped at the Appeal Reserve Amount. None of the LTD Objectors, any other LTD Beneficiary or any other Person shall be permitted to establish (or seek to establish) any additional entitlement, Claim, Post-Filing Claim, or other obligation or liability of the Canadian Estate (whether pursuant to the Plan or otherwise) on account of the LTD Obligations in excess of the Appeal Reserve Amount and any such entitlement, Claim, Post-Filing Claim or other obligation or liability of the Canadian Estate in excess of the Appeal Reserve Amount be and is hereby forever barred, released, extinguished and discharged.
9. **THIS COURT ORDERS** that the releases provided for in Section 7.1 of the Plan shall be applicable to any entitlement, Claim or Post-Filing Claim of the LTD Beneficiaries on account of the LTD Obligations in excess of the Appeal Reserve Amount.
10. **THIS COURT ORDERS** that the rights of all parties in interest in the CCAA Proceedings (including, without limitation, the Canadian Estate, the Monitor, the U.S. Debtors and the EMEA Debtors) to continue to oppose any LTD Appeal and to otherwise challenge any entitlement of the LTD Beneficiaries to any payment or distribution from the Canadian Estate beyond *pro rata* distributions on account of the LTD Obligations that are Proven Affected Unsecured Claims under the Plan be and are hereby reserved. Without limiting the generality of the foregoing, the rights of all parties in interest in the CCAA Proceedings to challenge the calculation of the amount alleged to be owing for payment in full of the LTD Obligations be and are hereby reserved.

- 5 -

MISCELLANEOUS

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, the United Kingdom or elsewhere, to give effect to this Order and to assist the Canadian Debtors (including the Canadian Estate), 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 the Canadian Debtors (including the Canadian Estate) 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 Canadian Debtors (including the Canadian Estate) and the Monitor and their respective agents in carrying out the terms of this Order.
12. **THIS COURT ORDERS** that each of the Canadian Debtors (including the Canadian Estate) and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.



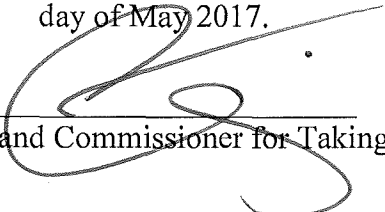
ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAY 01 2017

PER / PAR: 

I

This is Exhibit "I" referred to in the
affidavit of Murray McDonald
sworn before me, this 11th
day of May 2017.


A Notary Public and Commissioner for Taking Affidavits

Chris Armstrong

May 1, 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 PLAN OF COMPROMISE OR ARRANGEMENT OF
NORTEL NETWORKS CORPORATION et al.

Court File No. 09-CL-7950

May 1, 2017

The relief sought today is requested in light of the intention of Mr. McEwen and Ms. Hadden to seek leave to appeal the decision of the Ontario Court of Appeal to the Supreme Court of Canada. The relief is appropriate in the circumstances for Mr. Ewen and Ms. Hadden agree with the relief sought by the Plaintiff and agree with the form of the order.

This endorsement was drafted for Mr. Hadden for too much expense, which in the end comes out of the pockets of the retirees and other creditors including the long term disability claimants. I would urge the Supreme Court of Canada to deal with any leave to appeal as quickly as possible.

J. Hadden

<p>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceeding commenced at Toronto</p>	<p>MOTION RECORD (Waiver and Reserve Agreement)</p>	<p>GOODMANS LLP Barristers & Solicitors Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7</p> <p>Jay A. Carfagnini LSUC#: 22293T jcarfagnini@goodmans.ca Joseph Pasquariello LSUC#: 38390C jpasquariello@goodmans.ca Christopher G. Armstrong LSUC#: 55148B carmstrong@goodmans.ca</p> <p>Tel: 416.979.2211 Fax: 416.979.1234</p> <p>Lawyers for the Monitor, Ernst & Young Inc.</p>
--	---	---



Court File No. 09-CL-7950

**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
NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED,
NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS
INTERNATIONAL CORPORATION, NORTEL NETWORKS
TECHNOLOGY CORPORATION, NORTEL COMMUNICATIONS INC.,
ARCHITEL SYSTEMS CORPORATION AND NORTHERN TELECOM CANADA
LIMITED**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**Unofficial Transcript of the Endorsement of Justice Newbould dated May 1, 2017
re. Order (Waiver and Reserve Approval Order)**

May 1, 2017

The relief sought today is required in light of the intention of Mr. Mc[A]voy and Ms. Holley to seek leave to appeal the decision of the Ontario Court of Appeal to the Supreme Court of Canada. The relief is appropriate in the circumstances. Mr. Mc[A]voy and Ms. Holley agree with the relief sought by the Monitor and agree with the form of the order.

This insolvency has lasted far too long at far too much expense, which in the end comes out of the pockets of the retirees and other creditors including the long term disability claimants. I would urge the Supreme Court of Canada to deal with any leave to appeal as quickly as possible.

Newbould J.

S.C.C. File No.

IN THE SUPREME COURT OF CANADA
(On Appeal from the Court of Appeal for Ontario)

BETWEEN:

JENNIFER HOLLEY

APPLICANT

-and-

NORTEL NETWORKS CORPORATION ET AL.

RESPONDENTS

AFFIDAVIT OF MURRAY MCDONALD

(Pursuant to Rule and 47 of the
Rules of the Supreme Court of Canada)

GOODMANS LLP

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

Benjamin Zarnett
Jessica Kimmel
Peter Kolla

Tel: 416.979.2211
Fax: 416.979.1234
Email: bzarnett@goodmans.ca
jkimmel@goodmans.ca
pkolla@goodmans.ca

Lawyers for Ernst & Young Inc.,
in its capacity as Monitor

3

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)

BETWEEN:

JENNIFER HOLLEY

APPLICANT

-and-

NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED, NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS INTERNATIONAL CORPORATION, NORTEL NETWORKS TECHNOLOGY CORPORATION, NORTEL NETWORKS INC. AND OTHER U.S. DEBTORS, ERNST & YOUNG INC. IN ITS CAPACITY AS MONITOR, OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF NORTEL NETWORKS INC. ET AL., AD HOC GROUP OF BONDHOLDERS, EMEA DEBTORS, CANADIAN FORMER EMPLOYEES AND DISABLED EMPLOYEES COURT APPOINTED REPRESENTATIVES, NORTEL CANADIAN CONTINUING EMPLOYEES COURT APPOINTED REPRESENTATIVES

RESPONDENTS

CONSENT

The undersigned parties, who are Respondents to the application for leave to appeal brought by Jennifer Holley (the “Leave Application”), hereby:

1. provide their consent to the relief sought in the motion to expedite the Leave Application brought by the Respondent, Ernst & Young Inc., the court appointed monitor (the “Monitor”) for Nortel Networks Corporation and certain of its direct and indirect Canadian subsidiaries (referred to collectively with Nortel Networks Corporation in the Courts below as, the “Canadian Debtors”), together with the Respondent Canadian Debtors; and
2. agree to comply with the proposed abridged time for their responses to the Leave Application such that all responses to the Leave Application will be delivered by Friday, May 19, 2017.

-2-

May 11, 2017**GOODMANS LLP**

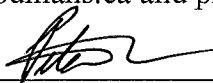
Barristers & Solicitors

333 Bay Street, Suite 3400

Toronto, ON M5H 2S7

Email: bzarnett@goodmans.ca,

jkimmel@goodmans.ca and pkolla@goodmans.ca

 of Goodmans LLP
 Per: Peter Kolla

Lawyers for the Respondent, Ernst & Young Inc., in
its capacity as Monitor

May 11, 2017**GOWLING WLG (CANADA) LLP**

Barristers & Solicitors

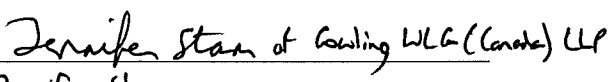
1 First Canadian Place

100 King Street West, Suite 1600

Toronto, ON M5X 1G5

Email: derrick.tay@gowlingwlg.com and

jennifer.stam@gowlingwlg.com

 of Gowling WLG (Canada) LLP
 Per: Jennifer Stam/p.kolla

Lawyers for the Respondent, Canadian Debtors

May 11, 2017**KOSKIE MINSKY LLP**

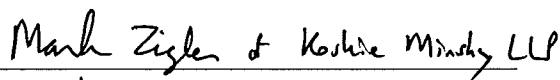
Barristers & Solicitors

20 Queen Street West, Suite 900

Toronto, ON M5H 3R3

Email: mzigler@kmlaw.ca, sphilpott@kmlaw.ca

and bwalancik@kmlaw.ca

 of Koskie Minsky LLP
 Per: Mark Zigler/p.kolla

Lawyers for the Respondent, Court Appointed
Representatives of the Canadian Former Employees
and Disabled Employees

-3-

May 10, 2017**SHIBLEY RIGHTON LLP**

Barristers & Solicitors
 250 University Avenue, Suite 700
 Toronto, ON M5H 3E5
 Email: thomas.mcrae@shibleyrighton.com

NELLIGAN O'BRIEN PAYNE LLP

Suite 1500, 50 O'Connor Street
 Ottawa, ON K1P 6L2
 Email: janice.payne@nelligan.ca and
 christopher.rootham@nelligan.ca

Thomas McRae & Shibley Righton LLP Janice Payne &
 Per: Thomas McRae/p.hall Nelligan O'Brien Payne
 Janice Payne/p.hall

Lawyers for the Respondent, Nortel Canadian
 Continuing Employees

May 11, 2017**LAX O'SULLIVAN LISUS GOTTLIEB LLP**

Counsel
 145 King St. West, Suite 2750
 Toronto, ON M5H 1J8
 Email: mgootlieb@counsel-toronto.com and
 pmichell@counsel-toronto.com

Paul Mitchell & Lax O'Sullivan Lisus Gottlieb LLP
 Per: Paul Mitchell/p.hall

Lawyers for the Respondent, the Joint
 Administrators of the EMEA Debtors (other than
 Nortel Networks S.A.)

-4-

May 11, 2017**TORYS LLP**

Barristers & Solicitors

79 Wellington St. West, Suite 3000

Box 270, TD Centre

Toronto, Ontario M5K 1N2

Email: sblock@torys.com, sbomhof@torys.com,
agray@torys.com, aslavens@torys.com and
jopolsky@torys.com

Adam Slavens of Torys LLP
Per: Adam Slavens / P.H.H.

Lawyers for the Respondent, Nortel Networks Inc.
and the other U.S. Debtors

May 12, 2017**CASSELS BROCK &
BLACKWELL LLP**

Barristers & Solicitors

Suite 2100, Scotia Plaza

40 King Street West

Toronto, ON M5H 3C2

Email: skukulowicz@casselsbrock.com,
mwunder@casselsbrock.com,
rjacobs@casselsbrock.com and
gshaw@casselsbrock.com

Michael Wunder of Cassels Brock & Blackwell LLP
Per: Michael Wunder / P.H.H.

Lawyers for the Respondent, Official Committee of
Unsecured Creditors of Nortel Networks Inc. *et al.*

-5-

May 11, 2017**BENNETT JONES LLP**

Barristers & Solicitors

1 First Canadian Place, Suite 3400

P.O. Box 130

Toronto, ON M5X 1A4

Email: swanr@bennettjones.com,

orzyr@bennettjones.com and

finlaysong@bennettjones.com

Gavin H. Finlayson of Bennett Jones LLP
Per: Gavin H. Finlayson / p. Keller

Lawyers for the Respondent, Ad Hoc Group of
Bondholders

4

SCC File No. 37562

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)

(On the day of May, 2017)

BETWEEN:

JENNIFER HOLLEY

APPLICANT

-and-

**NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED, NORTEL
NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS INTERNATIONAL
CORPORATION, NORTEL NETWORKS TECHNOLOGY CORPORATION, NORTEL
NETWORKS INC. AND OTHER U.S. DEBTORS, ERNST & YOUNG INC. IN ITS
CAPACITY AS MONITOR, OFFICIAL COMMITTEE OF UNSECURED CREDITORS
OF NORTEL NETWORKS INC. ET AL., AD HOC GROUP OF BONDHOLDERS,
EMEA DEBTORS, CANADIAN FORMER EMPLOYEES AND DISABLED
EMPLOYEES COURT APPOINTED REPRESENTATIVES, NORTEL CANADIAN
CONTINUING EMPLOYEES COURT APPOINTED REPRESENTATIVES**

RESPONDENTS

ORDER

UPON MOTION made by Ernst & Young Inc., the court appointed monitor (the “Monitor”) for Nortel Networks Corporation and certain of its direct and indirect Canadian subsidiaries (referred to collectively with Nortel Networks Corporation in the Courts below as, the “Canadian Debtors”) and the Canadian Debtors for an Order, on consent of the other Respondents, to expedite the application for leave to appeal brought by the Applicant bearing SCC File No. 37562 (the “Leave Application”);

AND THE MATERIAL FILED having been read, including the affidavit of Murray McDonald sworn May 11, 2017 and the consent of the Respondents;

1. **IT IS HEREBY ORDERED** that the time for the service and filing under Rule 27(1) of the *Rules of the Supreme Court of Canada* (the “Rules”) of any responses to the Leave Application be abridged to Friday, May 19, 2017.

- 2 -

2. **IT IS HEREBY FURTHER ORDERED** that the Leave Application shall be submitted to the Court for consideration under Rule 32 of the *Rules* on the earlier of Monday, May 29, 2017 or the filing of any reply, and determined as soon as possible thereafter by the Court.
 3. **IT IS HEREBY FURTHER ORDERED** that if leave to appeal is granted, that:
 - a. the date for the hearing of the appeal be expedited with an expedited schedule set for the delivery of materials required for the appeal; and
 - b. direction be provided, if necessary, for the parties to provide any submissions that would assist the Court in setting the hearing date and the schedule for the delivery of materials for the appeal.
 4. **IT IS HEREBY FURTHER ORDERED** that there shall be no costs of this motion.
-

S.C.C. File No. 37562

IN THE SUPREME COURT OF CANADA
(On Appeal from the Court of Appeal for Ontario)

BETWEEN:

JENNIFER HOLLEY

APPLICANT

-and-

NORTEL NETWORKS CORPORATION ET AL.

RESPONDENTS

**MOTION TO EXPEDITE OF THE MONITOR
AND CANADIAN DEBTORS**

(Pursuant to Rules 6(1) and 47 of the
Rules of the Supreme Court of Canada)

GOODMANS LLP

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

Benjamin Zarnett

Jessica Kimmel

Peter Kolla

Tel: 416.979.2211

Fax: 416.979.1234

Email: bzarnett@goodmans.ca
jkimmel@goodmans.ca
pkolla@goodmans.ca

**Lawyers for Ernst & Young Inc.,
in its capacity as Monitor**