

**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 AND NORTEL NETWORKS
TECHNOLOGY CORPORATION**

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

NOTICE OF MOTION

**(Motion to Adjourn the Settlement Approval Hearing or,
in the Alternative, to Object to the February 8, 2010 Settlement Agreement)**

THE NORTEL EMPLOYEES ON LTD who oppose the Settlement Agreement executed February 8, 2010 (the "Opposing LTD Employees") will make a motion to the Honourable Mr. Justice Geoffrey B. Morawetz, commencing on Wednesday, March 3, 2010 at 10:30 a.m., at the Courthouse, 361 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION is for:

1. An Order appointing Rochon Genova LLP as counsel for the Opposing LTD Employees;

2. An Order adjourning the Motion for Approval of the Settlement Agreement (defined below) to a date to be fixed to allow for time for completion of a legal opinion for the special interests facing the Opposing LTD Employees;
3. In the alternative, an Order permitting the late filing of affidavits and other evidence of the Opposing LTD Employees in opposition to the Settlement Agreement;
4. An Order seeking full disclosure of relevant documents and information in relation to the Health and Welfare Trust fund ("HWT Fund") that would allow for Opposing LTD Employees to obtain meaningful independent legal advice and sufficient to allow a tracing of trust funds analysis to be conducted by independent experts;
5. An Order for an accounting in relation to the depletion of the HWT Fund;
6. An Order granting the Opposing LTD Employees a separate voting class in respect of any proposed Plan of Arrangement;
7. An Order requiring the Applicants to continue funding pension, LTD and survivor benefits beyond March 31, 2010 until such further time as the Court directs; and
8. Such further and other relief as counsel may request and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

1. Rules 10.01, 10.03 of the *Rules of Civil Procedure*;
2. Section 11 of the *Companies' Creditors Arrangements Act*, R.S., 1985, c. C-36;
3. On February 8, 2010, the Applicants, the Monitor, the Former Employees' Representatives, the LTD Representative, the Settlement Representative Counsel and the CAW executed a settlement agreement, principally involving matters

related to the Nortel's Pension Plans, the HWT Fund and employment related issues.

4. The Opposing LTD Employees remain concerned that their rights have been unfairly compromised by the Settlement Agreement. An estimated \$100 million is unaccounted for in the HWT Fund which was established for all continuing Nortel LTD employees (the "LTD Employees") in 1980.
5. The Settlement Agreement restricts and compromises the ability of the LTD Employees to recover the missing funds from the parties who are legally responsible;
6. The "negotiation" of the Settlement Agreement has not been transparent nor has it ensured adequate representation of the interests of the Opposing LTD Employees despite the formal appointment of legal and other representation. The Opposing LTD Employees are of the view that there has been no substantive representation of their legitimate, unique and repeatedly expressed interests in this matter;
7. In spite of repeated requests for greater transparency in the negotiation process, including multiple requests for further information, the Settlement Agreement was only disclosed to its stakeholders, including the Opposing LTD Employees, by way of a press release which was posted on a website which has a registered membership of only 93 of 409 LTD Employees;

Notice of the Settlement Agreement is Inadequate

8. On or about February 8, 2010, a copy of a press release (the "Press Release") was sent by Susan Kennedy, the court-appointed representative for the LTD employees to the Canadian Nortel Employees on LTD group ("CNELTD"). The CNELTD group was created to share information among LTD Employees. There are currently 93 registered CNELTD members of the 409 LTD Employees;
9. Some details in the Press Release include: 1) a pre-scheduled webinar, held on February 23, 2010, explaining the terms and provisions of the Settlement

Agreement and its impact on litigants; 2) a link to the Settlement Approval Order containing the terms and conditions that might compromise, limit or release certain rights of the litigants; 3) the scheduled date of the Settlement Approval Hearing on March 3, 2010; 4) details respecting the Notice of Appearance Deadline to oppose the Settlement Agreement; and 5) details of a letter describing the settlement that would be sent out to all Nortel employees on February 16, 2010 (“the Notice Letter”);

10. Many of the LTD Employees did not receive notification of the Settlement Agreement until they received a copy of the Notice Letter sent out by regular mail on February 16, 2010. Considering the time delay in receiving mail by regular mail and that the deadline to submit a Notice of Appearance is March 1, 2010, this allowed approximately 2 weeks within which to review the complex documentation, seek independent advice and make an informed decision about whether to oppose the settlement;
11. Further, many LTD Employees did not have an opportunity to participate in the pre-scheduled webinar on February 23, 2010, which was held for the purpose of explaining the settlement and its impact. Notwithstanding, the webinar consisted of a one-way communication with a screened question and answer period;
12. Neither the Settlement Agreement, Press Release nor the Notice Letter specifies the consequences of opposing the approval and implementation of the settlement;
13. Correspondence was sent to both Sue Kennedy and Mr. Mark Zigler at Koskie Minsky LLP informing them of problems with the notice and expressing concerns about the inadequacy of the notice period to allow LTD Employees sufficient time to make informed decisions. These communications went unanswered;
14. The notice period is inadequate from a fairness perspective and does not take into consideration the additional mental and physical challenges that disabled people may face;

15. Based on the above, Opposing LTD Employees are unable to make an informed decision with respect to the settlement by the court-imposed deadline of March 1, 2010;
16. Further, the requirements to oppose the settlement are unreasonable as they require litigants to appear in person at the March 3, 2010 hearing. This is not only costly, but also inaccessible and does not take into consideration that many disabled individual are living on reduced monthly income. Also, the requirements do not allow for alternative means to oppose settlement, such as written submissions;

LTD Employees Have Not Been Properly Represented

17. Koskie Minsky LLP has not engaged in meaningful communication with the majority of LTD Employees over the course of these proceedings, nor with respect to the Settlement Agreement. As a result, the Opposing LTD Employees have been forced to retain, on extremely short notice, Rochon Genova LLP to represent their opposition to the Settlement Agreement at the Approval Motion on March 3, 2010;
18. Many LTD Employees are too sick to have been actively involved in this process and have relied entirely on the representation they had been provided through the CCAA process which, as noted above, has not been satisfactory;
19. Such further and other grounds as counsel may advise and this Honourable Court permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Affidavit of Joseph Gregory McAvoy, sworn February 28, 2010 and all exhibits thereto;
2. The Affidavit of Jackie Bodie, sworn February 28, 2010;

3. The Affidavit of Peter Burns, sworn February 28, 2010 and all exhibits thereto;
4. The Affidavit of Jennifer Holley, sworn March 1, 2010 and all exhibits thereto;
5. The Affidavit of Diane Urquhart, sworn March 1, 2010 and all exhibits thereto;
6. Such further and other material as counsel may advise and this Honourable Court may permit.

Date: March 1, 2010

ROCHON GENOVA LLP
Barristers • Avocats
121 Richmond Street West, Suite 900
Toronto, ON M5H 2K1

Joel P. Rochon (28222Q)
Tel.: (416) 363-1867
Fax: (416) 363-0263

Lawyers for the Opposing LTD
Employees

TO: Service List

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PROCEEDING COMMENCED AT
TORONTO

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ROCHON GENOVA LLP
Barristers • Avocats
Suite 900
121 Richmond Street West
Toronto, Ontario
M5H 2K1

Joel P. Rochon
Law Society No.: 28222Q
Tel: 416-363-1867
Fax: 416-363-0263

Lawyers for the Opposing LTD Employees