

Nortel Compensation Claims Process Webinar

(Session for Disabled Employees)

September 30, 2011

**KOSKIE
MINSKY_{LLP}**
BARRISTERS & SOLICITORS



Agenda

1. Background
2. What is the Compensation Claims Process?
3. Compensation Claims Procedure
4. Compensation Claims Methodology – Valuing Your LTD Claims
5. What Happens Next

Background

- Representatives were appointed by the Court:
 - **Disabled Employees**, including employees of Nortel not working due to illness or injury, and in receipt of Long Term Disability benefits: **Susan Kennedy**.
 - **Former Employees**, including pensioners and surviving spouses in receipt of a Nortel pension, and former unionized employees other than those that retained the CAW: **Don Sproule, David Archibald, and Michael Campbell**.
 - **Current Employees**, including those still working for Nortel, and those who have transferred to a buyer post-CCAA filing.

Background

1. Settlement Agreement

- In March 2010, the various employee and former employee representatives entered into a Settlement Agreement relating to Nortel's registered pension plans, certain employee benefits and employment-related issues.
- Disabled employees who were terminated from Nortel effective December 31, 2010 later received a payment from the Termination Fund established pursuant to the Settlement Agreement.

2. HWT Allocation Methodology

- In November 2010 the Court approved the HWT Allocation Methodology which determined the appropriate method for distributing assets of the Nortel HWT.
- Each LTD Beneficiary received a personalized Beneficiary Estimated Allocation Statement ("BEAS") that provided an estimate of that individual's expected distribution from the HWT in accordance with the proposed allocation scenario.
- Three interim HWT distributions on account of LTD income benefits have been made to eligible LTD Beneficiaries.
- A fourth interim distribution on account of LTD life insurance was approved by the Court.
 - Eligible LTD Beneficiaries who will be receiving a direct deposit should expect to receive a payment on September 30, 2011.
 - Distributions that are being paid via cheque will be mailed no later than September 30, 2011.

2. What is the Compensation Claims Process?

- In addition to the claims against the Nortel HWT, LTD Beneficiaries also have employment-related claims against the Nortel estate.
- The Compensation Claims Process is a proposed process to determine the value of each LTD Beneficiary's Compensation Claim Amount against the Nortel estate.
 - All payments made from the HWT and any payment received from the Termination Fund will be deducted from an LTD Beneficiary's Compensation Claim Amount.

What are possible Compensation Claims for LTDs?

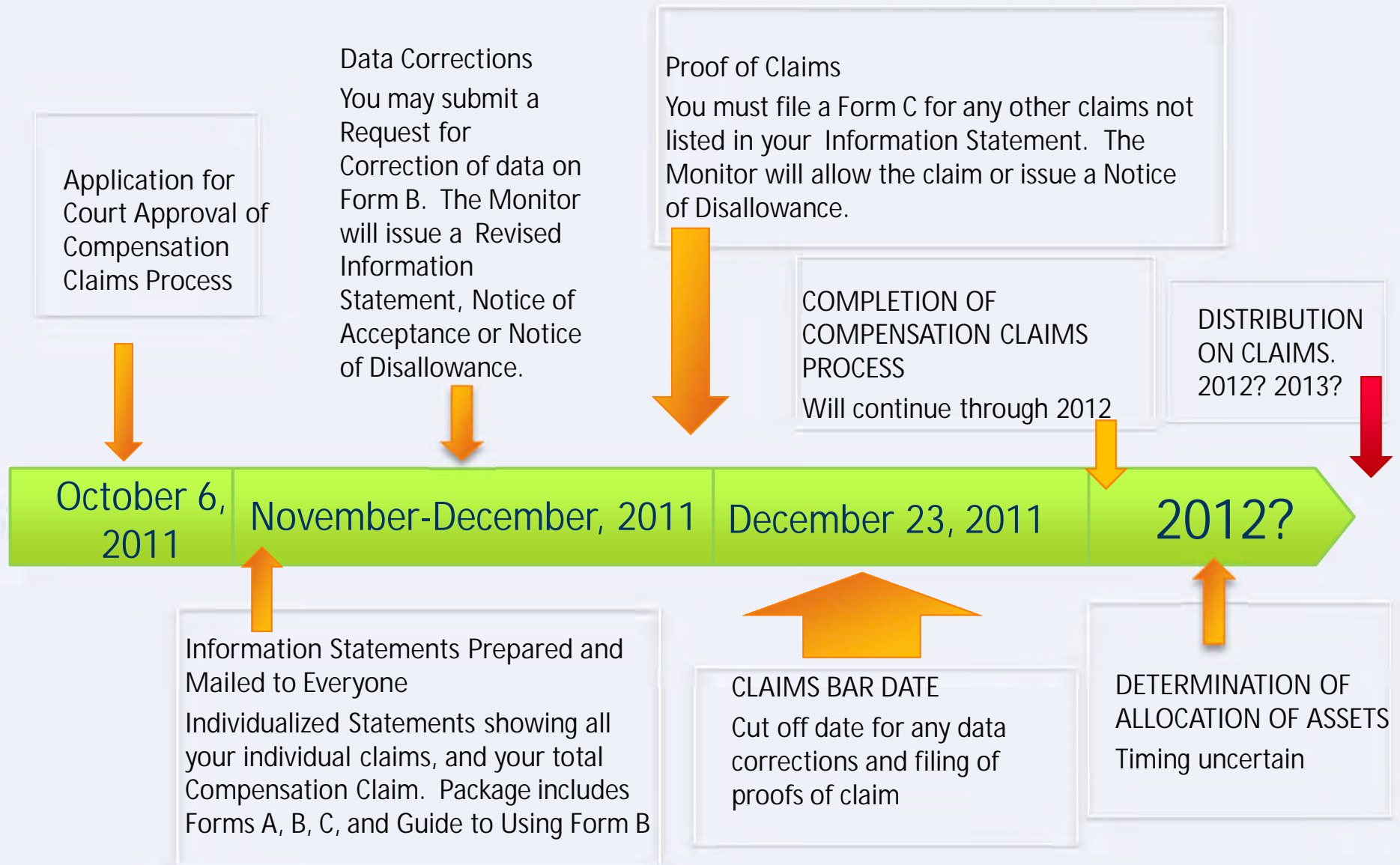
- **Kinds of Potential LTD Claims:**
 - LTD income benefits
 - Life Insurance
 - LTD Basic Life, LTD Optional Life, LTD Accidental Death & Dismemberment and LTD Dependent Life, as applicable
 - Pensioner life insurance
 - Medical & Dental
 - LTD medical and dental
 - Pensioner medical and dental
 - Defined benefit or defined contribution pension accruals
 - Termination and severance pay
 - RAP/TRA benefits
 - Patent awards
 - Supplementary pensions

NOTE: CLAIMS FOR THE UNFUNDED LIABILITIES IN NORTEL'S REGISTERED PENSION PLANS (RPP) ARE NOT INCLUDED IN THE COMPENSATION CLAIMS PROCESS.

Why was the Compensation Claims Process Developed?

- As of December 31, 2010 there were 353 disabled employees who had a claim against Nortel for lost LTD income benefits, among other employment-related claims.
- In total, there are approximately 20,000 employees, former employees, disabled employees, pensioners and their survivors that may have employment-related claims (i.e. non-registered pension claims) against Nortel under its various compensation and benefit programs.
- Valuing the various claims is an enormous and complicated task.
- Normally, “Call for Claims” – all creditors file claims with the company.
- **This Compensation Claims Process is different from the norm. This process has been used successfully in other insolvency proceedings. It is an agreed-upon methodology for the calculation of compensation claims and a streamlined process to deal with them.**
- **Without the benefit of this process, employees would have to value their own claims as well as engage their own advisors (including actuarial advisors) for assistance.**

Steps in the Compensation Claims Process



3. Compensation Claims Procedure

- Involved the active participation of key stakeholders:
 - LTD Beneficiaries' representative;
 - Former Employees' representatives;
 - Continuing Employees' representatives;
 - CAW;
 - the Monitor; and
 - Nortel.
- Plus participation of legal, actuarial and financial advisors for all parties.

Compensation Claims Procedure

An Information Statement will be prepared for each individual with a claim and will have 3 main parts:

- **Form A** - Compensation Claim Amount, broken down into parts and personalized to you, for example:
 - Termination and Severance Claim amount;
 - Benefit Claim amount (including lost LTD income, among others); and
 - Patent Claim amount (if applicable).
 - **NOTE:** Form A is similar to the BEAS statement you received in that it will provide you with the value for your claim. However, Form A will look different than the BEAS.
- **Form B** - Personal information Change Form:
 - Sets out personal information as at December 31, 2010 used to determine compensation claims amounts.
 - Contains column for employee to correct data if there are inaccuracies.
 - All Requests for Corrections must be submitted to the Monitor by December 23, 2011 and will be subject to review.
- **Guide to Using Form B:**
 - Detailed explanation of the data points, and description of documents that may verify the data points.

Compensation Claims Procedure (cont'd)

Proof of Claim Process (**FORM C**):

- An individual Proof of Claim must be filed if an employee believes she or he has any *other* claim against Nortel or the Directors for amounts owing in his or her capacity as an employee or beneficiary under a benefit plan that is *not included* in his or her Form A.
- A union must file a Proof of Claim if an employee believes he or she has a grievance against Nortel under any collective agreement for monetary compensation that is not covered in Form A.

Proofs of Claim (other than for active employees) must be filed by December 23, 2011.

- The Monitor will review all Proofs of Claim, may request additional information and will either accept or reject the claim. Please see the September 30 webcast for all former Nortel employees for further detail.

4. Methodology: Valuing Your LTD Claims

- Claims for the value of lost benefits are difficult to quantify. Replacement benefits cannot be readily “purchased” in the open market.
- The most common method involves determining the actuarial present value of what you have lost.
- There are two basic concepts – probability and present value. We will discuss each of them in turn, and show you how they affect your claim.

What are Actuaries?

- Actuaries are experts in the mathematics of risk and insurance.
- Mercer is the actuarial firm used by Nortel. They will calculate the amount of your claim.
- The Segal Company is the actuarial firm selected by your representatives to assure you that Mercer does the calculations fairly and correctly.
 - Segal has conducted an independent review of the reasonableness of the valuations.

Five Important Points

- You will *not* receive a cheque for the amount of your claim – only for the part of it that can be paid from the Canadian Nortel estate.
- Your claim amount will also be reduced by any amounts you have received or will receive from the HWT and the Termination Fund.
- Your *distribution* will be reduced by any amounts you have received from the Hardship Fund.
- You cannot do the math yourself. The calculations are complex and involve specialized actuarial computer models and many underlying assumptions.
- Your responsibility is to make sure that your personal data is correct so that the correct claim is calculated for you.

Probability

- “Probability” is the chance of a specific event happening.
- The probability of a coin flip coming up heads is 50% (1 out of 2). The probability of 24 heads in a row is about one out of 17 million.
- Projecting the probability of things like mortality (how long you live) or future interest rates are key factors in calculating your claim.

Present Value

- Present value is the amount needed today that, with interest, will equal an amount in the future.
- Using 3% interest, \$1,000 ten years from now has a present value of \$744. That is, if you put \$744 in an account that gave you 3% compound interest, you would have \$1,000 in that account ten years from now.
- Using 5% interest, the present value would be \$614. At 10%, the present value would be \$386.

Actuarial Present Value

- The actuarial present value of an amount (i.e., the claim amount) takes every age from present age onward, determines what would be paid at that age, multiplies that by the probability that the amount will be paid at that age, and then multiplies that result by a present value factor for the number of years from your present age to each calculation age.

Life Insurance Example

- Assume a 3% interest rate and a life insurance policy that pays \$50,000 for death this year, \$40,000 next year, and \$30,000 for the following three years, after which the life insurance stops altogether. Of course, Nortel LTD life insurance and optional life insurance continue until age 65 or earlier recovery, but this example is simpler and illustrates the principle.
- Assume the probability of dying is 1 in 500 in the first year, 1 in 450 in the second year, 1 in 400 the third year, 1 in 350 the fourth year, and 1 in 300 the fifth year. After that doesn't matter, because there is no benefit payable.

How the Math Works

- Year 1: \$50,000 face amount times 1/500 probability of dying times 1.0000 present value factor = **\$100**.
- Year 2: \$40,000 x (499/500 x 1/450) x .9709 = **\$86**
- Year 3: \$30,000 x (499/500 x 449/450 x 1/400) x .9426 = **\$70**
- Year 4: \$30,000 x (499/500 x 449/450 x 399/400 x 1/350) x .9151 = **\$78**
- Year 5: \$30,000 x (499/500 x 449/450 x 399/400 x 349/350 x 1/300) x .8885 = **\$88**
- **Total claim = \$100 + \$86 + \$70 + \$78 + \$88 = \$422**
- Note that most life insurance claims will be quite small compared to your amount of insurance.

Your Wage Replacement Claim

- Your largest claim is likely to be for your lost monthly LTD payments.
- Your total claim for wage replacement will be offset by the amount you receive from the Health and Welfare Trust on account of the LTD income benefit.
- Your probability of dying or recovering before age 65 is based on published Canadian tables based on a large amount of experience. The factors for your wage replacement claim personal to you are your age, sex, and how long ago you became disabled.
- Your CPP/QPP status is assumed to remain unchanged.

Your Claim for LTD Loss in Pension Value

- Because of the termination of LTD benefits, you no longer have to wait to age 65 to collect your pension.
- Your new right to retire early may be more valuable than the future accruals to age 65 would have been. *If so, you will have no claim for lost DB pension accruals.*
- If your new right to retire early is less valuable than the future accruals to age 65 would have been, your claim will be limited to the *difference* between the two actuarial present values.

Medical Benefit Claims

- Claims calculations for medical benefits are highly complex because actuaries have to estimate what each type of claim (e.g., prescription drugs) will cost on average for each calendar year at each age before and after payments by provincial plans.
- Average costs are used for everyone who is a particular age in a particular year. Whether you've had high or low claims in the past makes no difference.
- Family or single coverage matters somewhat, as do province of residence and age.
- Medical benefit claims tend to be higher than life insurance claims because the probability applied is that you are alive (which is usually much higher than the probability that you will die).

Other Claims (such as supplemental pensions, TRA, RAP, etc.)

- The process is the same. The claim is an actuarial present value.
- Indexing is included in the calculation if required by the plan.
- Probabilities of death are included in the calculation, except for a benefit that is payable whether you live or die.
- Survivor benefits are included in the calculations where the plan provides for them.

Actuarial Assumptions

- The various factors for probabilities and interest rates were settled in discussions between Mercer and Segal based on actuarial practice. Mortality and interest rate assumptions were derived from the assumptions used to compute transfer values under provincial pension laws. Other assumptions were agreed to by the actuaries, consistent with acceptable professional practices.
- Certain claims also include a “gross-up” factor of 10% for potential income tax effects for getting a lump sum today compared to monthly payments over a period of time.
- Tax gross-up does not apply to medical benefits or LTD income benefits, as distributions on them from Nortel are non-taxable, but there is a 10% gross-up adjustment on medical and dental claims to reflect the cost of replacing them.

Five Important Points (Again)

- You will *not* receive a cheque for the amount of your claim – only for the part of it that can be paid from the Canadian Nortel estate.
- Your claim amount will also be reduced by any amounts you have received or will receive from the HWT and the Termination Fund.
- Your *distribution* will be reduced by any amounts you have received from the Hardship Fund.
- You cannot do the math yourself. The calculations are complex and involve specialized actuarial computer models and many underlying assumptions.
- Your responsibility is to make sure that your personal data is correct so that the correct claim is calculated for you.

Termination and Severance Claims for LTD Beneficiaries

- In accordance with the Settlement Agreement, Nortel disabled employees' employment was terminated effective December 31, 2010.
- Claims for termination and severance will be in accordance with agreed-upon methodology.

Termination and Severance Claims for LTD Beneficiaries

- Based on a review of documentation, the applicable laws and after negotiations with the Monitor and Nortel it was agreed that Termination and Severance claims for non-unionized LTD Beneficiaries who have no written termination agreement would be calculated as follows:
 - 3.3 weeks of severance for every year of service with a minimum severance of 8 weeks and a maximum of 78 weeks; and
 - a vacation pay accrual for the Employment Standards Act (ESA) minimum notice period.
- For unionized LTD Beneficiaries, the notice, bridging and severance period is based on the Collective Bargaining Agreement (CBA)

The total claim amount will be reduced by any payments you may have received from the Termination Fund. The majority of the LTD Beneficiaries (as well as many Former Employees) received a \$3,000 payment from the Termination Fund earlier this year.

5. What Happens Next

- Application for Court approval on October 6, 2011 at 361 University Ave. in Toronto, 10:00 a.m.
- Preparation and mailing of Individual Information Statements
- Post-approval webinars and roadshows (copy of schedule sent in Information Package, details of times and locations to be confirmed on www.kmlaw.ca website)

What Happens Next

WEBINAR			
Date	Time	Notes	
Nov. 10	10 am	Open to everyone	
	3 pm	Special session for LTD beneficiaries	
Nov. 11	2 pm	French Session	
ROADSHOW MEETINGS			
Date	Time	Location	Notes
Nov. 14	2 pm	Calgary	Open to everyone
	7 pm	Calgary	Special session for terminateds
Nov. 15	4 pm	Toronto	Open to everyone
Nov. 16	2 pm	London	Open to everyone
Nov. 17	1 pm	Belleville	Open to everyone
	7 pm	Kingston	Open to everyone
Nov. 21	2 pm	Ottawa	Open to everyone
	2 pm	Ottawa	Special session for LTD beneficiaries only, with simultaneous French translation
	7 pm	Ottawa	Special session for terminateds
	7 pm	Ottawa	Open to everyone, with simultaneous French translation
Nov. 22	2 pm	Montreal	Open to everyone, simultaneous French translation, focus on pensioners.
	7 pm	Montreal	Special session for LTD beneficiaries and terminateds, simultaneous French translation.
Nov. 24	2 pm	Toronto	Open to everyone
	7 pm	Toronto	Open to everyone