

COURT OF APPEAL FOR ONTARIO

WATT & LATIMER

NOV 27 2014

DISPOSITION OF MOTION

PEPALL J.A. LAUWERS

J.A. COURT OF APPEAL FOR ONTARIO

Court of Appeal File No. M44213
Court File No. CV-09-7950-CL

Proceeding Commenced At Toronto

Leave to appeal is granted on the issue relating to the "interest stops rule", i.e. whether Newbuild entered in deciding that the Guaranteed Bondholders are legally entitled to claim or receive post-filing interest and other amounts owing under the relevant indentures above & beyond the outstanding principal debt and pre-petition interest.

Leave to appeal is refused with respect to the two other issues raised, namely ~~to~~ whether the Newbuild entered (a) in expressing what is alleged to be "the unprejudiced view" that the Court has jurisdiction under the CCAA to make a final non-consensual order to distribute the proceeds of the Canadian Debt estate without a duly approved CCAA Plan, and (b) in directing the summary (work)

MOTION RECORD OF THE AD HOC GROUP OF BONDHOLDERS (Motion for Leave to Appeal)

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(2)

Determination of the stated questions before him at this time and in this manner.

The letter is discretionary, purely procedural and of no importance to the practice as a whole. It does not meet the test for leave.

~~The former~~ with respect to the former, Newbould) simply expressed a view and expressly stated that he was not making an order. The applicants concede this but submit that the "view" is important & erroneous. There is no right to appeal from a "view" expressed by a judge that is not incorporated into an order, however, and there is therefore no basis for granting leave to appeal.

Costs reserved to the panel hearing the appeal

RD Blair Jt
David Scott Jt.
Phane Jt