

# **PENSIONERS, FORMER EMPLOYEES AND DISABLED EMPLOYEES NEWS BULLETIN**

**THIS BULLETIN PROVIDES PERIODIC SUMMARIES  
OF NORTEL'S CCAA PROCEEDINGS**

**THIS NEWS UPDATE IS PREPARED BY KOSKIE MINSKY LLP (KM)  
IN THEIR CAPACITY AS REPRESENTATIVE COUNSEL  
TO ALL PENSIONERS, FORMER EMPLOYEES AND DISABLED  
EMPLOYEES OF NORTEL**

**SEPTEMBER 29, 2009**

## **OVERVIEW**

On January 14, 2009, Nortel Networks Corporation and several of its affiliated companies ("Nortel") were granted protection from their creditors under the *Companies' Creditors Arrangement Act* (the "CCA") pursuant to an Order of the Honourable Justice Morawetz. Ernst & Young was appointed as Monitor of Nortel's CCAA proceedings.

On May 27, 2009, the Ontario Superior Court of Justice (Commercial List) appointed KM as Representative Counsel to all Pensioners and Former Employees of Nortel, unless an individual is specifically excepted or chooses to opt out of representation by KM. The Court also appointed three representatives, Donald Sproule, David Archibald and Michael Campbell (the "Representatives"), to act as representatives for all Pensioners and Former Employees of Nortel.

On July 30, 2009, the Ontario Superior Court of Justice (Commercial List) appointed Susan Kennedy (the "Representative") to act as Representative for all Disabled Employees of Nortel. KM was appointed as Representative Counsel to all Disabled Employees of Nortel, with certain exceptions. Individuals may choose to opt out of representation by KM.

## **RECENT UPDATES**

### **October 1, 2009**

#### **Appeal to be heard at the Ontario Court of Appeal**

The Court of Appeal for Ontario granted leave to appeal the decision of Justice Morawetz dated June 18, 2009, which relates to Nortel's requirement to make payment of Ontario *Employment Standards Act, 2000*, and other related employment standards regulations during its CCAA proceedings.

The Court of Appeal will hear the Appeal on October 1, 2009 at 9:30 a.m. in Court Room 2 at Osgoode Hall (located at 130 Queen Street West). The Appeal panel will include Justice Goudge, Justice Feldman and Justice Blair.

### **September 30, 2009**

#### **Claims Procedure**

KM, as Representative Counsel, is involved in discussions with the Monitor and Nortel to determine a procedure and protocol for the compensation-related claims procedure. Discussions will progress over the next several months. KM and the Monitor will keep Former Employees, Disabled Employees and Pensioners informed of developments.

## **September 29, 2009 Orders Granted**

On September 29, the Ontario Superior Court of Justice heard two motions brought by Nortel. Both motions went unopposed and were approved by the judge.

### **1. Approval of Sales Procedures for the Next Generation Packet Core Business Assets**

The Court approved sale procedures for the Next Generation Packet Core Business Assets, which are also subject to the U.S. Court's approval. Parties who are interested in submitting a bid for these assets must do so by the October 16, 2009 deadline. It is not likely that this sales process will involve an auction, as has been the case in many of the other sales transactions during Nortel's CCAA proceedings. After the October 16 deadline passes and all bids have been submitted, negotiations will proceed with interested parties and a successful bidder will be chosen. The ultimate successful bid will require Court approval. The Joint Hearing for sale approval has been tentatively scheduled for October 28, 2009 which is subject to change.

Details of this motion can be located in the Twenty-First Report of the Monitor, available on the E&Y website.

### **2. Termination of Lease / New Lease Agreement**

The Court approved Nortel's motion for Court approval of a lease termination and a new lease agreement. Nortel will be vacating its current corporate head offices located at 195 The West Mall, and will be relocating to 5945 Airport Road in Mississauga. The former lease is terminated effective November 30, 2009. As a result of these changes, Nortel's total annual operating costs will be reduced from approximately \$6M to an estimated \$1.2M. Further, the former landlord has released all future claims it may have against NNL with respect to the former lease (which includes the right to file a claim in the CCAA proceedings).

The new lease is effective December 1, 2009 through May 30, 2011. The new lease includes three options to renew for a period of 6 months (with a three month notice requirement) and also allows Nortel to terminate the new lease, with a five month notice requirement. Rent under the new lease will be paid by amounts held in escrow (see below) until such funds are exhausted.

The former landlord purchased Nortel's office furniture for \$497,000 (which has been appraised as fair market value). The funds will be held in an escrow account and will be used to pay the last month's rent under the new lease, with the balance applied towards monthly rent payable under the new lease (until these funds are exhausted).

Details of this motion can be located in the Twenty-Second Report of the Monitor, available on the E&Y website.

## **September 29, 2009 The Monitor's Update to the Court on Employment-Related Matters**

On September 29, 2009, the Monitor delivered a report to the Court on various employment related matters.

### **1. Compensation Claims Process**

The Monitor reported that Nortel and the Monitor, along with their respective counsel, have been working to establish a protocol for adjudicating claims, to assess how required information can be obtained efficiently, to identify methodologies for computing claims and to consider the alternative procedures. Koskie Minsky, on behalf of all Former Employees and Disabled Employees, has been active in these discussions.

The Monitor will be reporting to the Court in various stages as the procedure develops.

### **2. Hardship Application Process**

The Monitor reported that the Hardship Application Process is underway. Nineteen applications for hardship payments have been received by the Monitor, with six claims having been accepted to date. The payments

range from CDN \$1,080 to CDN \$12,100 and a total of CDN \$37,630 has been accepted to date. The Monitor continues to administer the hardship payment application process and to report to the relevant Representative Counsel.

The deadline for filing employee hardship claims is November 30, 2009.

### **3. Notices Respecting the Appointment of Representative Counsel and Related Opt-Outs**

The Monitor reported that subsequent to the Representation Orders, notice of the Former Employee Representation Order was posted in 7 newspapers across Canada on August 19, 2009. Notice was given to Continuing Employees by electronic transmission on August 6, 2009. Notice to Disabled Employees was sent by regular mail to LTD Beneficiaries on August 26, 2009.

The Bar Date for Former Employee Opt-Outs was September 18, 2009. As of September 18, 2009, the Monitor had only received one opt-out letter from a Former Employee and one opt-out from a Continuing Employee.

The Bar Date for Disabled Employees was September 25, 2009. Opt-out letters are being accepted by the Monitor if postmarked by the deadline. The final count for opt-out letters from Disabled Employees is not certain at this point in time.

Details of this update can be located in the Twenty-Second Report of the Monitor, available on the E&Y website.

#### **September, 2009**

##### **Hardship Applications Underway**

As noted above, the Hardship Application Process is now underway and related documents are posted on the KM and E&Y website. The deadline for filing Hardship Applications is **November 30, 2009**. If you wish to submit an application, please do so as soon as possible.

Paula Klein has been appointed as the Former Employee liaison between terminated Former Employees and the Monitor. If you have any questions surrounding the Hardship Application Process, please contact Paula Klein at [p.d.klein@rogers.com](mailto:p.d.klein@rogers.com) or through Paula's LinkedIn Group.

#### **October, 2009**

##### **Webinar for Disabled Employees**

The CNELTD and KM have scheduled a Webinar for the Disabled Employees in late October. The date has been set tentatively for October 27, 2009, which is subject to change. Details on how to participate will be released shortly. The Webinar will provide an update on Nortel's proceedings and an outline on the future course of the proceedings. Time will be set aside to ensure that individuals have the opportunity to ask questions.

## **ADDITIONAL INFORMATION**

### **The Future Court Process for KM, Pensioners, Former Employees and Disabled Employees**

While it is an uncertain and frustrating time, right now there is no positive action that is required to be taken by individual Pensioners, Former Employees and Disabled Employees. You need not provide KM with any personal documentation, as this will be obtained directly from Nortel and the Monitor. If you have a specific concern to be addressed, please do not hesitate to contact KM.

KM is working hard to advance the interests of the Pensioners, Former Employees and Disabled Employees. RSM Richter will be providing KM and the Representatives with their analysis of each proposed transaction announced by Nortel, and KM will attend at all scheduled motions to object and/or support the motions accordingly. We will also work with the Monitor and other Canadian creditors to ensure a fair allocation of

assets from these sales to the Canadian estate. KM and the Representatives are working with Segal Company to generate the best possible outcome for Pensioners', Former Employees' and Disabled Employees' pension, disability income and health benefit funding issues. When the time is appropriate, KM will work with Segal Company and others to file your Proof of Claim in the Claims Process being established with Nortel and the Monitor. We will be in contact with you when this time arrives.

### **The Political Process for Pensioners, Former Employees and Disabled Employees**

In addition to working closely with KM in the Court process, the NRPC and the CNETLD are very active in various political arenas. If you would like to join the NRPC's efforts to get action from both the federal and provincial Governments to improve outcomes for the Former Employees, Pensioners and Disabled Employees, please contact the NRPC via their website at [www.nortelpensioners.ca](http://www.nortelpensioners.ca) or the CNETLD through the Yahoo! forum. Instructions on how to reach the CNETLD forum can be obtained by sending an email to [CNETLD-owner@yahoogleroups.com](mailto:CNETLD-owner@yahoogleroups.com).

### **The Claims Process**

A U.S. claims process has been released. A Canadian process for creditors who are not employees or former employees was approved on July 30, 2009. However, Representative Counsel, the Company and the Monitor are conducting discussions to establish a separate employee and former employee claims process which must then be approved by the Court. You need not take any steps in this process for now. Once finalized, we will notify everyone about the claims process and how it will take place.

## **CONTACT INFORMATION**

For more information, please contact KM by email at [nortel@kmlaw.ca](mailto:nortel@kmlaw.ca) or by calling our toll free hotline at 1.866.777.6344.

Please contact the NRPC by visiting their website at [www.nortelpensioners.ca](http://www.nortelpensioners.ca).

Please contact the CNETLD by visiting joining the CNETLD Yahoo! Group. You can obtain instructions on how to access to the CNETLD Yahoo! Group by sending an email to [CNETLD-owner@yahoogleroups.com](mailto:CNETLD-owner@yahoogleroups.com).

For access to all public Court documents, please visit the Monitor's website at: <http://documentcentre.eycan.com/Pages/Main.aspx?SID=89&Redirect=1>