

CITATION: Nortel Networks Corporation (Re), 2012 ONSC 1812
COURT FILE NO.: 09-CL-7950
DATE: 20120320

**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, Applicants**

BEFORE: MORAWETZ J.

COUNSEL: Joseph Pasquariello, G. Rubenstein and M. Wagner, for the Monitor, Ernst & Young Inc.

D. Tay, T. Reyes and J. Stam, for Nortel Networks Corporation

L. Barnes, for Directors of Nortel Networks Corporation

A. O. Jacques, T. McCrae, J. Payne, for NCCE

B. Wadsworth, for CAW-Canada

M. Ziegler and A. McKinnon, for Former Employees

D. Ward, for PPF/Trustee

S. Bomhof, for Nortel Networks Inc. and U.S. Debtors

G. Finlayson, for Notcholders Groups

K. Rosenberg, for FSCO

A. MacFarlane, for Unsecured Creditors Committee – Chapter 11

HEARD: OCTOBER 6, 2011

ENDORSED: OCTOBER 6, 2011

TYPED

REASONS: MARCH 20, 2012

ENDORSEMENT

- [1] The Endorsement of October 6, 2011 is attached as Schedule A.
- [2] The adjournment request of Ms. Marin was refused. The concerns of Ms. Marin were fully addressed by Mr. Ziegler.
- [3] Ms. Marin is but one out of 16,000 employee claimants. The issues that have been raised relate to process. Ms. Marin did not raise issues relating to the methodology in respect of the Compensation Claims Methodology Order and the Claims Compensation Procedure Order.
- [4] The specifics of her claims will be addressed. They relate to "Accident Death and Dismemberment" and "Dependent Insurance" as well as a pension claim.
- [5] The categories of the claims of Ms. Marin have been identified and presumably will be resolved through the process. Ms. Marin will also have the opportunity to provide correcting information, if necessary.
- [6] I agree with Mr. Ziegler's submission that it is necessary to address the methodology at this time and the specifics of individual claims will be addressed in the process.
- [7] With respect to the outstanding questions of Ms. Marin, it is noted that Representatives have participated in the negotiations that have led to this proposed methodology. Ms. Kennedy is the Representative. The Representatives and their counsel are satisfied that it is appropriate to proceed at this time and that it would be prejudicial to 16,000 claimants if this process were to be deferred. Conversely, I have not been persuaded that Ms. Marin will be prejudiced if the matter proceeds as scheduled. Request for adjournment refused.

MAIN MOTION

- [8] The motions were not opposed and they were granted on October 6, 2011 with reasons to follow. These are the reasons.
- [9] The material filed was extensive and detailed. The evidence consisted of the affidavit of Mr. Doolittle sworn September 19, 2011, the 75th Report of the Monitor, the Supplement to the 75th Report, affidavits of Representatives of Employees, namely, Ms. Susan Kennedy, Mr. Donald Sproule and Mr. Michael A. Campbell, and professional advisors, Mr. Tertigis and Mr. Levy, as well as supplementary affidavits of Clio Godkewitsch and Andrea Yan. The CAW-Canada filed the affidavit of Ms. Alana Mihalj. The NCCE filed affidavits of Mr. Kurt Felske, Leigh Norton and Dany Sylvain.
- [10] Detailed facts were also filed by various counsel.
- [11] Having reviewed the record and having heard extensive oral submissions, it is clear that the Applicants, the Monitor, the Employee Representatives, Representative Counsel and the CAW all recognized the magnitude and task of valuing the compensation claims of 16,000

employees, former employees, pensioners and their survivors, including LTD beneficiaries. The parties have worked very hard and have agreed upon a methodology to calculate compensation claims and a streamlined procedure to deal with these claims. As the Monitor states in its Report: "The fact that different employee groups worked together successfully so that this motion [for approval] could be brought on consent is a considerable achievement and supports the fairness and reasonableness of the proposed Compensation Claims Process".

[12] The process provides that employee claims will be valued on an agreed-upon basis and accepted and valued as the Employees' Compensation Claims. An employee will not need to do anything to establish his or her Compensation Claim but may submit corrections to any personal data underlying the Compensation Claim.

[13] The Monitor is of the view that the proposed process establishes a fair, reasonable, efficient and orderly process for the calculation and determination of the numerous employee-related claims against the Applicants which has been arrived at in a fair and reasonable way, after extensive negotiations among the Compensation Claims' Participants.

[14] The process is comprehensive. It covers benefit claims, termination and severance pay, patent awards and payments received from the termination fund.

[15] In its factum, the Monitor sets out the issue as follows: "A settlement should be approved if it is Fair, Reasonable and Beneficial to Stakeholders".

[16] The factum and the facts submitted by other parties have persuaded me that the Compensation Claims process represents a fair, reasonable, efficient and practical method for the calculation and submission of employment related claims. I am also satisfied that the process will assist in ensuring that claims will be addressed in a streamlined, efficient process and will bring certainty to the calculation of compensation claims.

[17] As noted, these motions were presented on an unopposed basis. I am satisfied that the relief sought is both fair and reasonable in the circumstances.

[18] The motions are granted and the orders have been signed.


MORAWETZ J.

Date: March 20, 2012

SCHEDULE A

CITATION: Nortel Networks Corporation (Re), 2011 ONSC 5928
COURT FILE NO.: 09-CL-7950
DATE: 20111006

SUPERIOR COURT OF JUSTICE - ONTARIO

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, Applicants

BEFORE: MORAWETZ J.

HEARD &

RELEASED: October 6, 2011

ENDORSEMENT

[1] The request of Ms. Marin for an adjournment of these motions was considered and refused. Reasons to follow.

[2] The motions were not opposed. For reasons to follow, the requested relief is granted and two orders have been signed in the form submitted. The Applicants have confirmed that the court has not been asked to interpret the Cross-Border Protocol, the Claims Procedure Order dated July 30, 2009, the Claims Resolution Order dated September 16, 2010 and the Cross-Border Claims Protocol dated September 16, 2010 (the "Cross-Border Materials"). The Applicants reference in their Factum dated October 3, 2011 to the Cross-Border Materials does not prejudice the position that any party may take as to how the Cross-Border Materials should be interpreted and applied in these proceedings.


MORAWETZ J.

Date: October 6, 2011