

# Nortel Legal Summary

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# Allocation Litigation – Trial Decisions

- **May 12, 2015** – the Ontario Superior Court of Justice and the US Bankruptcy Court released consistent decisions requiring the allocation of the \$7.3B lockbox (assets from the sale of Nortel’s businesses and intellectual property) be based on a modified *pro rata* approach.
- **June 25, 2015** – joint hearing to determine some points of clarification of the May 12<sup>th</sup> decisions.
- **July 6, 2015** – both Courts released decisions denying reconsideration of issues raised by the US Interests while providing clarifications to the May 12<sup>th</sup> allocation decisions.
- Appeals were commenced in both Canada and the US

# Allocation Litigation – Appeal Decisions

## 1. In Canada:

- May 3, 2016 – Leave to appeal application dismissed by Ontario Court of Appeal.
- August 17, 2016 - US interests leave to appeal to the Supreme Court of Canada postponed to November 30<sup>th</sup>, 2016 while parties continued settlement discussions and mediation.

# Allocation Litigation – Appeal Decisions

## 2. In the US:

- April 5, 2016 – District Court of Delaware hears the appeal of the US Allocation Decision.
- May 17, 2016 – after ON Court of Appeal decision, US District Court certifies direct appeal to US Third Circuit Court of Appeals.
- October 11, 2016 – U.S. Court of Appeals for the Third Circuit granted the parties’ proposal to put the allocation appeal “on hold” until December 7, 2016 while parties continued settlement discussions

# October 12, 2016 Settlement Agreement

- Mediation has led to Settlement Agreement being signed between the following core parties:

Canadian Debtors	Monitor
US Debtors	Joint Administrators
EMEA Debtors	EMEA non-filed Debtors
NNSA	NNSA Conflicts Administrator
French Liquidator	Bondholder Group
CCC	UCC
UK Pension Trustee	PPF
Joint Liquidators	NNCC Bondholder Signatories

- US PBGC and Trade Claims Consortium are not parties to the Settlement Agreement

# Settlement Agreement – Key Terms

- Allocation of the approx. \$7.3 Billion USD in Sales Proceeds (the Lockbox):
  - Canadian Debtors – \$4.14 Billion (approx. 57%)
  - US Debtors – \$1.77 Billion (approx. 24.35%)
  - EMEA Debtors - \$1.35 Billion (approx. 18.54%)

# Settlement Agreement – Key Terms cont'd

- All litigation between parties settled
- Certain claims final – eg. Canadian pension deficit fixed at \$1.89 Billion CAD
- Currency conversion upon court approval to remove any foreign exchange risk.

# Settlement Agreement – Target Timeline

- Next Steps:
  - Approval of Canadian dollar escrow agreement (for the conversion of US dollars to CDN dollars) by Canadian and US courts.
  - Approval of settlement and support agreements by European Courts
  - Chapter 11 and CCAA plans to be voted on by creditors in each of the Canadian and US Estates.
  - Sanction hearings in the US and Canadian courts to approve Chapter 11 and CCAA plans respectively.
- Distributions expected to commence sometime in 2017 – likely in installments



# What does this mean to Canadian creditors?

- Ultimate distributions to Canadian creditors will depend on the total value of claims accepted into the Canadian estate
- Foreign exchange rate at the time of conversion will determine CAD distributions as will final claims calculations
  - Anticipated recovery in CAD expected to be 46-48 cents CAD based on current rates for employee compensation claims, pension claim
- Adjustment to pensions will depend on factors that are as yet uncertain.

# HWT Tax Appeal

- The August 2015 scheduled hearing was adjourned, but the Tax Appeal was finally heard by the Tax Court on August 25 and October 5, 2016.
- The Department of Justice requested the opportunity to provide written submissions on an issue, which they were granted. The timetable for written submissions will be completed by November 24, 2016.
- A decision from the Tax Court is anticipated to be released some time in 2017.