

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) WEDNESDAY, THE 5th
JUSTICE PENNY) DAY OF OCTOBER, 2016



IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*,
R.S.O. 1990, C. C-43, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF VICTORIAN ORDER OF NURSES FOR CANADA, VICTORIAN ORDER OF
NURSES FOR CANADA – EASTERN REGION AND VICTORIAN ORDER OF
NURSES FOR CANADA – WESTERN REGION

Applicants

CLAIMS PROCEDURE ORDER – WEPPA SUBROGATED CLAIMS

THIS MOTION, made by Victorian Order Of Nurses For Canada ("**VON Canada**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCA**") for an Order approving a claims procedure for the identification and quantification of WEPPA Subrogated Claims (as defined in the Stay Extension and Claims Procedure Order granted on February 24, 2016 in these proceedings (the "**Claims Procedure Order**")) was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING VON Canada's Notice of Motion, the Affidavit of Jo-Anne Poirier, sworn September 29, 2016, the fourth report of Collins Barrow Toronto Limited (the "**Monitor**") dated October 1, 2016 (the "**Fourth Report**"), and on hearing the submissions of counsel for VON Canada, the Monitor, the Board of Directors of VON Canada and those

other parties present, no one appearing for the other parties on the Service List, although duly served as appears from the affidavit of service of Evan Cobb sworn September 30, 2016, filed:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record filed by VON Canada, and the Fourth Report, be and it is hereby abridged and validated such that the Motion is properly returnable today.

DEFINITIONS

2. THIS COURT ORDERS that all capitalized terms not otherwise defined in this Order shall have the meanings given to them in the Claims Procedure Order.
3. THIS COURT ORDERS that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any references to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day, unless otherwise indicated herein.

DOCUMENTATION

4. THIS COURT ORDERS that VON Canada and the Monitor are hereby authorized to request such further documentation from the Person asserting a WEPPA Subrogated Claim that may reasonably be required in order to determine the validity of that WEPPA Subrogated Claim.

MONITOR'S ROLE

5. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations pursuant to the CCAA and under the Initial Order, is hereby directed and empowered to take such other actions and fulfill such other roles as are authorized by this Order, and that in taking such other actions and in fulfilling such other roles, the Monitor shall have the protections given to it in the Initial Order and this Order, including without limitation the protections provided in paragraph 24 of this Order.

DETERMINATION OF PROVEN CLAIM

6. THIS COURT ORDERS that the amount and status of every WEPPA Subrogated Claim as finally determined in accordance with the forms and procedures authorized in this Order, including any determination as to the nature, amount, value, priority or validity of such WEPPA Subrogated Claim (each such Claim, when finally determined, a "**Proven Claim**"), shall be final and binding for all purposes, including without limitation for any voting on and any distribution made to Creditors of VON Canada pursuant to a Plan.

NOTICE

7. THIS COURT ORDERS that the Monitor shall as soon as practicable following the making of this Order, send on behalf of VON Canada to Employment and Social Development Canada, on behalf of the Government of Canada in respect of its WEPPA Subrogated Claims, if any, a copy of the Proof of Claim Document Package, amended as necessary in accordance with Paragraph 9 of this Order.

8. THIS COURT ORDERS that neither VON Canada nor the Monitor is under any obligation to give notice to or deal with any Person other than the Government of Canada in respect of a WEPPA Subrogated Claim.
9. THIS COURT ORDERS that the form and substance of each of the documents in the Proof of Claim Document Package as well as the Dispute Notice, and the Notice of Revision or Disallowance, substantially in the forms attached as schedules attached to the Claims Procedure Order with such modifications as are deemed by the Monitor to be necessary to reflect the applicable bar dates and deadline dates set out in this Order, are hereby approved for use in connection with all WEPPA Subrogated Claims. Despite the foregoing, the Monitor may from time to time make such minor changes to such forms as the Monitor deems necessary to address the fact that the Government of Canada is the sole Creditor that is the subject of this Order and that the only Claims that are the subject of this Order are the WEPPA Subrogated Claims.

WEPPA SUBROGATED CLAIMS

10. THIS COURT ORDERS that if the Government of Canada wishes to assert a WEPPA Subrogated Claim against VON Canada or any Director or Officer it must deliver to the Monitor on or before 10 a.m. (Toronto time) on October 26, 2016 a completed Proof of Claim in respect of such WEPPA Subrogated Claim, including all relevant supporting documentation in respect of such WEPPA Subrogated Claim, in the manner set out in the Claims Procedure Order.
11. THIS COURT ORDERS that if the Government of Canada does not file a Proof of Claim as provided for herein in respect of a WEPPA Subrogated Claim such that such Proof of Claim is received by the Monitor on or before 10 a.m. (Toronto time) on

October 26, 2016 identifying the Government of Canada's WEPPA Subrogated Claim against VON Canada, the Government of Canada: (a) shall be and is hereby forever barred from making or enforcing such WEPPA Subrogated Claim against VON Canada and any such WEPPA Subrogated Claim against VON Canada shall be extinguished without any further act or notification by the Monitor or VON Canada; and (b) shall not be entitled to vote at any Creditors' Meeting in respect of a Plan or to receive any distribution thereunder in respect of such WEPPA Subrogated Claim and shall not be entitled to any further notice in, and shall not be entitled to participate as a creditor in, these proceedings in respect of such WEPPA Subrogated Claim.

12. THIS COURT ORDERS that if the Government of Canada does not file a Proof of Claim as provided for herein in respect of a WEPPA Subrogated Claim such that such Proof of Claim is received by the Monitor on or before 10 a.m. (Toronto time) on October 26, 2016 identifying the Government of Canada's WEPPA Subrogated Claim against a Director or Officer, the Government of Canada: (a) shall be and is hereby forever barred from making or enforcing such WEPPA Subrogated Claim against such Director or Officer and any such WEPPA Subrogated Claim against such Director or Officer shall be extinguished without any further act or notification by the Monitor or VON Canada; and (b) shall not be entitled to any further notice in, and shall not be entitled to participate as a creditor in, these proceedings in respect of such WEPPA Subrogated Claim.

PROOFS OF CLAIM

13. THIS COURT ORDERS that:

- (a) the Monitor may use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed and the Monitor may, where it is satisfied that a Claim has been

adequately proven, waive strict compliance with the requirements of this Order as to completion and execution of Proofs of Claim; and

- (b) if any Claim arose in a currency other than Canadian dollars, then the Government of Canada shall complete its Proof of Claim indicating the amount of the Claim in such currency, rather than in Canadian dollars or any other currency. The Monitor shall subsequently calculate the amount of such Claim in Canadian dollars, using the Bank of Canada noon spot rate on the Filing Date, without prejudice to the ability of VON Canada to utilize a different exchange rate in any Plan.

- 14. THIS COURT ORDERS that the Government of Canada shall include any and all WEPPA Subrogated Claims it asserts against VON Canada or the Directors or Officers in a single Proof of Claim and all such WEPPA Subrogated Claims shall constitute a single Claim for all purposes in these proceedings.

REVIEW OF PROOFS OF CLAIM

- 15. THIS COURT ORDERS that the Monitor, in consultation with VON Canada and where applicable any Affected Director or Officer, shall review all Proofs of Claims that are filed on or before 10 a.m. (Toronto time) on October 26, 2016 asserting WEPPA Subrogated Claims and shall accept or disallow (in whole or in part) the amount and/or status of such WEPPA Subrogated Claims. At any time, the Monitor may (i) request additional information from the Government of Canada with respect to a WEPPA Subrogated Claim, (ii) request that the Government of Canada file a revised Proof of Claim, or (iii) attempt to resolve and settle any issue arising in respect of a WEPPA Subrogated Claim; *provided, however,* that a WEPPA

Subrogated Claim that has been asserted against an Affected Director or Officer cannot be settled or accepted by the Monitor in whole or in part except (i) with the consent of the Affected Director or Officer, or on further Order of this Court, or (ii) if such Claim has been asserted against VON Canada and an Affected Director or Officer, on a basis that is expressly without prejudice to the Affected Director or Officer.

16. THIS COURT ORDERS that where a WEPPA Subrogated Claim has been accepted in writing by the Monitor, the unsecured portion of such WEPPA Subrogated Claim shall constitute the Government of Canada's Proven Claim in respect of any WEPPA Subrogated Claims for all purposes, including for the purposes of voting and distribution under the Plan. For greater certainty, the only WEPPA Subrogated Claims that shall be Proven Claims are those unsecured portions of the WEPPA Subrogated Claims in respect of which the Monitor has delivered a written acceptance of those WEPPA Subrogated Claims and to the extent that any WEPPA Subrogated Claim would be an Excluded Claim under the Plan if such WEPPA Subrogated Claim was still held by a former employee of VON Canada, such WEPPA Subrogated Claim shall be an Excluded Claim under the Plan and that Excluded Claim (or portion of a claim that is an Excluded Claim) shall not be a Claim that can be voted on the Plan.
17. THIS COURT ORDERS that where a WEPPA Subrogated Claim is disallowed (in whole or in part) by the Monitor, the Monitor shall deliver to the Government of Canada a Notice of Revision or Disallowance, attaching the form of Dispute Notice. Where a Notice of Revision or Disallowance relates to a WEPPA Subrogated Claim that has been made against a Director or Officer, a copy of the Notice of Revision or

Disallowance shall also be delivered by the Monitor to the Affected Director or Officer and to counsel for the directors.

18. THIS COURT ORDERS that where a WEPPA Subrogated Claim has been disallowed (in whole or in part), the disallowed WEPPA Subrogated Claim (or disallowed portion thereof) shall not be a Proven Claim unless the Government of Canada has disputed the disallowance and proven the disallowed WEPPA Subrogated Claim (or disallowed portion thereof) in accordance with paragraphs 20 and 21 of this Order.

EMPLOYEE CLAIMS

19. THIS COURT ORDERS that to the extent any former employee of VON Canada has filed any Claim that (i) has been accepted in accordance with the Claims Procedure Order; (ii) has not been satisfied in full by payment from the Wage Earner Protection Program; and (iii) is not an Employee Priority Claim under the Plan, such Claim shall be the former employee's Claim for voting and distribution purposes under the Plan.

DISPUTE NOTICE

20. THIS COURT ORDERS that if the Government of Canada intends to dispute a Notice of Revision or Disallowance in respect of a WEPPA Subrogated Claim, it shall file a Dispute Notice with the Monitor as soon as reasonably possible but in any event such Dispute Notice shall be received by the Monitor on or before 4:00 p.m. (Toronto time) on the day that is seven (7) Business Days after the Government of Canada is deemed to have received the Notice of Revision or Disallowance in accordance with paragraph 26 of this Order. The filing of a Dispute Notice with the Monitor within the seven (7) Business Day period specified in this paragraph shall constitute an application to have the amount or status of such Claim determined as set out in

paragraphs 22 and 23 hereof. Where a Dispute Notice relates to a Claim that has been made against a Director or Officer, a copy of the Dispute Notice shall be delivered by the Monitor, promptly after receipt by the Monitor, to the Affected Director or Officer and to counsel for the directors.

21. THIS COURT ORDERS that where the Government of Canada receives a Notice of Revision or Disallowance in respect of a WEPPA Subrogated Claim and fails to file a Dispute Notice with the Monitor within the period provided therefore in paragraph 20 above, the amount and status of such Claim shall be deemed to be as set out in the Notice of Revision or Disallowance and such amount and status, if any, shall constitute the Government of Canada's Proven Claim in respect of all WEPPA Subrogated Claims, and the balance shall be deemed forever barred and extinguished.

RESOLUTION OF CLAIMS

22. THIS COURT ORDERS that as soon as practicable after the delivery of the Dispute Notice pursuant to paragraph 20 above to the Monitor, the Government of Canada and the Monitor, in consultation with VON Canada and, where applicable, any Affected Director or Officer, shall attempt to resolve and settle the Claim.
23. THIS COURT ORDERS that in the event that a dispute raised in the Government of Canada's Dispute Notice in respect of a WEPPA Subrogated Claim is not settled within a time period or in a manner satisfactory to the Monitor, the Monitor shall bring the dispute before the Court for determination.

PROTECTIONS FOR MONITOR

24. THIS COURT ORDERS that (i) in carrying out the terms of this Order, the Monitor shall have all of the protections given to it by the CCAA and the Initial Order or as an officer of this Court, including without limitation the stay of proceedings in its favour, (ii) the Monitor shall incur no liability or obligation as a result of the carrying out of the provisions of this Order, except for its own wilful misconduct or gross negligence, (iii) the Monitor shall be entitled to rely on the books and records of VON Canada, and any information provided by VON Canada, all without independent investigation, and (iv) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records and information.

SERVICE AND NOTICE

25. THIS COURT ORDERS that the forms of notice to be provided in accordance with this Order shall constitute good and sufficient service and delivery of notice of this Order and all applicable bar dates on the Government of Canada and no other notice or service need be given or made and no other documents or material need be sent to or served upon any Person in respect of this Order.
26. THIS COURT ORDERS that any notice or other communication to be given under this Order by the Monitor or VON Canada to the Government of Canada or other interested Persons, shall be in writing and may be given by sending true copies thereof by prepaid ordinary mail, registered mail, courier, personal delivery or electronic or digital transmission to such Persons (i) at the address shown on the Proof of Claim filed by that Person, or (ii) if a Proof of Claim has not been filed by that Person or does not contain a valid address, then at the address as last shown on the

records of VON Canada, and that any such service or notice by courier, personal delivery or electronic or digital transmission shall be deemed to be received on the next Business Day following the date of forwarding thereof, or if sent by prepaid ordinary mail or by registered mail, on the fourth Business Day after mailing. Notwithstanding anything to the contrary in this Order, Notices of Revision or Disallowance shall be sent only by (i) facsimile to a number that has been provided in writing by the Government of Canada, (ii) email to an address that has been provided in writing by the Government of Canada; (iii) registered mail, or (iv) courier.

27. THIS COURT ORDERS that any notice or other communication to be given under this Order by the Government of Canada to the Monitor shall be in writing and will be sufficiently given only if sent by prepaid ordinary mail, registered mail, courier, personal delivery or electronic or digital transmission addressed to:

Collins Barrow Toronto Limited
Court-appointed Monitor of Victorian Order Of Nurses For Canada
11 King Street West, Suite 700
Toronto, Ontario M5H 4C7

Attention: Jeffrey Berger

Telephone: (647) 726-0496
Facsimile: (416) 480-2646
E-mail: cbtlmonitor@collinsbarrow.com

Any such notice or other communication by the Government of Canada shall be deemed received only upon actual receipt thereof during normal business hours on a Business Day. Where the communication is to be by way of a form attached as a Schedule to the Claims Procedure Order, such communication shall be in substantially the form of such Schedule.

28. THIS COURT ORDERS that where, pursuant to this Order, consultation is to occur with any Affected Director or Officer, or where the consent of any such Affected Director or Officer is to be obtained, notice is to be given to any such Affected Director or Officer, and where such Affected Director or Officer is represented by counsel, then such consultation, notice or consent may be with, to, or obtained from, such counsel.

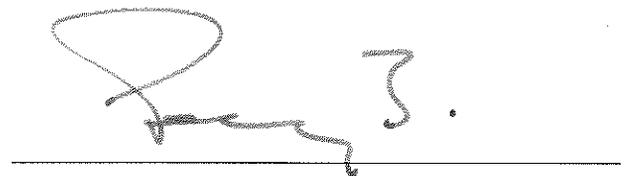
MISCELLANEOUS

29. THIS COURT HEREBY REQUESTS the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada and any court or any judicial, regulatory or administrative body of the United States and the states or other subdivisions of the United States and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

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LE / DANS LE REGISTRE NO:

OCT 05 2016

PER / PAR:



IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C-43, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF VICTORIAN ORDER OF NURSES FOR CANADA, ET AL.

Court File No: CV-15-11192- 00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**CLAIMS PROCEDURE ORDER – WEPPA
SUBROGATED CLAIMS**

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