

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

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

AND IN THE MATTER OF CURO CANADA CORP. AND  
LEDDIRECT CORP.

APPLICATION OF CURO GROUP HOLDINGS CORP. UNDER  
SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT  
ACT*, R.S.C. 1985, c. C-36, AS AMENDED

**FACTUM OF THE FOREIGN REPRESENTATIVE**

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**TO: SERVICE LIST**

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**TABLE OF CONTENTS**

	Page No.
<b>PART I - INTRODUCTION.....</b>	<b>1</b>
<b>PART II - SUMMARY OF FACTS.....</b>	<b>2</b>
<b>PART III - STATEMENT OF ISSUES, LAW &amp; AUTHORITIES .....</b>	<b>9</b>
<b>PART IV - ORDER REQUESTED.....</b>	<b>13</b>

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**FACTUM OF THE FOREIGN REPRESENTATIVE  
(Third Recognition Order)**

**PART I - INTRODUCTION**

1. This factum is filed in support of a motion under section 49 of the *Companies' Creditors Arrangement Act* (the "**CCA**") by CURO Group Holdings Corp. ("**CURO Parent**") in its capacity as the foreign representative (in such capacity, the "**Foreign Representative**") of itself and the other Debtors<sup>1</sup> for an order, among other things, recognizing and enforcing in Canada certain orders made by the United States Bankruptcy Court for the Southern District of Texas (the "**U.S. Bankruptcy Court**") in connection with the Debtors' Chapter 11 Cases.

2. The Debtors are part of a group of companies (together with their non-Debtor affiliates, the "**Company**") that offer a broad range of direct-to-consumer finance products to customers in the U.S. and Canada.<sup>2</sup> In Canada, the consumer finance products are offered to Canadian customers by the Canadian Debtors under the "CashMoney" and "LendDirect" brands through a

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<sup>1</sup> Terms not defined herein have the meanings given to them in the Affidavit of Douglas Clark sworn May 13, 2024 [*Fourth Clark Affidavit*] or the Plan (as defined below), as applicable.

<sup>2</sup> Fourth Clark Affidavit at para 16.

series of retail branches and online web platforms.<sup>3</sup> The Canadian Debtors are CURO Canada Corp. and LendDirect Corp.<sup>4</sup>

3. The Foreign Representative seeks an order (the “**Third Recognition Order**”), among other things, (i) recognizing and giving full force and effect in Canada to the Combined Order (as defined below) if granted by the U.S. Bankruptcy Court at the rescheduled hearing on May 16, 2024 and the Second Interim Cash Management Order (as defined below) (collectively, the “**Foreign Orders**”); and (ii) granting certain related relief to assist with the implementation of the Combined Order in Canada. As described below, although the Debtors filed a motion to estimate the TGI Claim, the Debtors have reached an agreement with TGI and expect to withdraw the Estimation Motion at or before the hearing on May 16, 2024.

4. The Plan is the culmination of significant efforts by the Company and its stakeholders prior to and during these Restructuring Proceedings and is the subject of overwhelming support. The Foreign Orders along with the Third Recognition Order, if granted, will permit the Foreign Representative to implement the Plan, and the restructuring transaction contemplated thereby, and successfully emerge from these Restructuring Proceedings. The Foreign Representative respectfully requests that this Court grant the requested Third Recognition Order.

## **PART II - SUMMARY OF FACTS**

### **A. The Chapter 11 Cases**

5. On March 25, 2024 (the “**Petition Date**”), the Debtors commenced the Chapter 11 Cases by filing voluntary petitions for relief under the Bankruptcy Code in the U.S. Bankruptcy Court and the Foreign Representative, on behalf of the Canadian Debtors commenced proceedings under

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<sup>3</sup> Fourth Clark Affidavit at para 16.

<sup>4</sup> Fourth Clark Affidavit at para 1.

the CCAA (the “**Canadian Recognition Proceedings**”).<sup>5</sup> Contemporaneously with the filing of the Petitions, the Debtors filed the Plan and related Disclosure Statement.<sup>6</sup>

6. On the same date, the Court granted an interim stay of proceedings in respect of the Canadian Debtors, pending the hearing on the Foreign Representative’s application to, among other things, recognize the Canadian Debtors’ Chapter 11 Cases as a foreign main proceeding.<sup>7</sup>

7. Following an initial hearing, the U.S. Bankruptcy Court entered various orders in the Chapter 11 Cases, including (a) an order authorizing CURO Parent to act as the Foreign Representative of itself and the other Debtors; and (b) an interim order authorizing the Debtors to continue to operate their cash management system, including certain intercompany transfers, in the ordinary course (the “**Cash Management Order**”).<sup>8</sup>

8. On March 26, 2024, the Court entered an Initial Recognition Order, among other things, (a) recognizing CURO Parent as the Foreign Representative of itself and the other Debtors in respect of the Chapter 11 Cases; (b) recognizing the United States of America as the centre of main interests for the Canadian Debtors; and (c) recognizing the Canadian Debtors’ Chapter 11 Cases as a “foreign main proceeding”. The Court also granted a Supplemental Order (the “**Supplemental Order**”), among other things, (a) recognizing certain orders entered by the U.S. Bankruptcy Court in the Chapter 11 Cases, including the Cash Management Order; and (b) appointing FTI Consulting Canada Inc. as Information Officer in the Canadian Recognition Proceedings.<sup>9</sup>

9. On April 4, 2024, this Court granted an order, among other things, recognizing and enforcing various additional orders granted by the U.S. Bankruptcy Court in the Chapter 11 Cases

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<sup>5</sup> Fourth Clark Affidavit at para 10.

<sup>6</sup> Fourth Clark Affidavit at para 29.

<sup>7</sup> Fourth Clark Affidavit at para 11.

<sup>8</sup> Fourth Clark Affidavit at para 12.

<sup>9</sup> Fourth Clark Affidavit at para 13.

which were not available as of the date of the Supplemental Order, including the Disclosure Statement Order (as defined below).<sup>10</sup>

10. On April 24, 2024, this Court granted an additional order recognizing and enforcing the final versions of certain orders previously granted by the U.S. Bankruptcy Court.<sup>11</sup>

## **B. The Plan and Combined Order**

### **(i) The Proposed Plan**

11. Immediately prior to the Petition Date, the Debtors entered into a Restructuring Support Agreement with the majority of the Debtors' corporate debt stakeholders (the "**Restructuring Support Agreement**"). Consistent with the Restructuring Support Agreement, the Plan provides for the exchange of certain senior prepetition debt and debtor-in-possession financing in the Debtors Chapter 11 Cases provided by certain of the lenders for secured debt issued by the Reorganized Debtors' and a distribution of equity and warrants in CURO Parent to certain of the holders of the Company's corporate debt.<sup>12</sup>

12. The Plan further provides that CURO Parent's existing equity holders will receive contingent value rights at a specified strike price, thereby allowing them to realize on potential upside the Company expects to experience after the reorganization. The Plan provides that the claims of general unsecured creditors, such as trade creditors, customers, employees (including wages and benefits) and landlords of the Debtors, including the Canadian Debtors, will be unimpaired and paid in the ordinary course, to allow the Debtors to minimize disruptions to their operations.<sup>13</sup>

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<sup>10</sup> Fourth Clark Affidavit at para 14.

<sup>11</sup> Fourth Clark Affidavit at para 15.

<sup>12</sup> Fourth Clark Affidavit at para 21.

<sup>13</sup> Fourth Clark Affidavit at para 21.

13. The Plan also contains releases in favour of the Debtors and certain third parties that made material contributions to the Plan. The releases in the Plan were the result of extensive negotiations and apply to all Claims and Cause of Actions, subject to certain limited exceptions, to (i) each Debtor; (ii) each Reorganized Debtor; (iii) each Consenting Stakeholder; (iv) each Agent/Trustee; (v) each DIP Backstop Party and each DIP Lender; (vi) the Information Officer; (vii) the Securitization Facilities Parties; and (viii) with respect to each of the foregoing, their Related Parties.<sup>14</sup>

14. On April 30, 2024, the Debtors filed a supplement to the Plan (the “**First Plan Supplement**”), attaching certain agreements and documents related to the proposed exit financing and new ownership, as contemplated by the Plan. On May 12, 2023, the Debtors filed an amended supplement to the Plan (the “**Second Plan Supplement**” and together with the First Plan Supplement, the “**Plan Supplement**”).<sup>15</sup>

15. The Plan Supplement also sets out the agreements and leases to be rejected pursuant to the Plan. The Canadian Debtors are parties to two “Rejected Contracts” included in the Plan Supplement: (i) certain commitment letters (the “**Commitment Letters**”) between CURO Parent and the Canadian Debtors and Leon’s Furniture Limited (“**LFL**”); and (ii) certain agreements contained in the unsigned Program Agreement in connection with the proposed insurance transition. The Commitment Letters provide terms on which CURO Parent committed to agree on definitive terms pursuant to which it would cause the Canadian Debtors to transfer their consumer credit insurance business to Trans Global Insurance Company and Trans Global Life Insurance Company (collectively, “**TGI**”), affiliates of LFL. The Debtors determined that it was not feasible

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<sup>14</sup> Fourth Clark Affidavit at para 23.

<sup>15</sup> Fourth Clark Affidavit at para 24.

or economical to transition the business to LFL/TGI and as such, exercised their business judgment to reject the Commitment Letters and pay the applicable rejection damages.<sup>16</sup>

16. In support of the Plan, on May 13, 2024, the Debtors filed declarations from the solicitation agent, Mr. Clark, and the investment banker to the Debtors, collectively demonstrating that the Debtors had satisfied the Bankruptcy Code requirements for confirmation of the Plan.<sup>17</sup>

**(ii) The Solicitation Process**

17. The Debtors commenced distribution of the solicitation materials for the Plan prior to the Petition Date.<sup>18</sup> On the Petition Date, the Debtors filed the Disclosure Statement and the Disclosure Statement Motion. Among other things, the Disclosure Statement Motion also sought approval of certain proposed procedures with respect to notice of the Disclosure Statement and the Plan and establishing certain deadlines in connection therewith.<sup>19</sup>

18. The Disclosure Statement Motion was heard on March 27, 2024.<sup>20</sup> On April 1, 2024, the U.S. Bankruptcy Court entered an order (the “**Disclosure Statement Order**”), among other things, (i) scheduling a hearing for the approval of the Plan and the Disclosure Statement (the “**Combined Hearing**”); (ii) conditionally approving the Disclosure Statement; and (iii) establishing certain deadlines in connection with confirmation of the Plan (the “**Confirmation Schedule**”).<sup>21</sup>

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<sup>16</sup> Fourth Clark Affidavit at para 26.

<sup>17</sup> Fourth Clark Affidavit at para 27.

<sup>18</sup> Fourth Clark Affidavit at para 28.

<sup>19</sup> Fourth Clark Affidavit at para 29.

<sup>20</sup> Fourth Clark Affidavit at paras 29 & 30.

<sup>21</sup> Fourth Clark Affidavit at para 30.

19. On May 10, 2024, the Debtors filed the Declaration of Stephanie Kjontvedt, detailing the results of the solicitation process and confirming that each class of voters entitled to vote on approval of the Plan had overwhelmingly voted in favour of approval thereof.<sup>22</sup>

20. At the U.S. Bankruptcy Court's direction, the Combined Hearing was scheduled for May 14, 2024. In accordance with the Confirmation Schedule, the Objection Deadline was May 7, 2024. The sole objection filed by the Objection Deadline was the objection filed by LFL/TGI. The Debtors also received informal comments from a limited number of interested parties, each of which were resolved consensually.<sup>23</sup>

### **C. The LFL/TGI Objection and the Estimation Motion**

21. On May 6, 2024, LFL and TGI collectively filed an objection to confirmation of the Plan (the "**Objection**"). In the Objection, LFL/TGI argue that (i) rejection of the Commitment Letters was not consistent with the business judgement standard; and (ii) if the Debtors are required to pay LFL/TGI rejection damages in the amounts claimed thereby in connection with the rejection of the Commitment Letters and related agreements, there would be insufficient remaining amounts of cash to satisfy the claims of unsecured creditors, as required under the Plan.<sup>24</sup>

22. On May 8, 2024, the Debtors filed an emergency motion (the "**Estimation Motion**") seeking an order from the U.S. Bankruptcy Court declaring for Plan feasibility purposes that, if damages are found to be owing to LFL/TGI, those damages are subject to a C\$5 million limitation on liability in accordance with a provision set out in the documentation negotiated between the

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<sup>22</sup> Fourth Clark Affidavit at para 32.

<sup>23</sup> Fourth Clark Affidavit at para 33.

<sup>24</sup> Fourth Clark Affidavit at para 35.

parties (the “**Estimation Order**”). The draft Estimation Order was intended to allow for the timely confirmation of the Plan.<sup>25</sup>

23. The Debtors had intended to seek the Estimation Order concurrently with the Combined Order on May 14, 2024. However, with the consent of the Company’s major stakeholders, the Debtors adjourned the hearing in respect of both orders to May 16, 2024 and advised the U.S. Bankruptcy Court that they were in discussions with LFL/TGI regarding a global resolution or an alternative that would allow confirmation of the Plan to go forward.<sup>26</sup> The Debtors have now reached an agreement in principle with LFL/TGI and expect to resolve the claim asserted by LFL/TGI in connection with the rejection of their agreements after entry of the Combined Order, thereby eliminating the need for the Estimation Order.

#### **D. The Second Interim Cash Management Order**

24. On May 14, 2024, the Debtors obtained a further interim order permitting the Debtors to continue to operate their cash management system, consistent with the relief previously granted in the Cash Management Order (the “**Second Interim Cash Management Order**”).<sup>27</sup>

25. The Debtors initially intended to seek an order on April 19, 2024, approving the relief set out in the Cash Management Order on a final basis. The hearing in respect of the final order was adjourned to May 14, 2024, to allow the Debtors to continue their discussions with the Office of the United States Trustee on the proposed final order. Prior to the May 14, 2024 hearing, the Debtors and the Office of the United States Trustee reached an agreement that grants the Debtors additional time to comply with certain Bankruptcy Code requirements to ensure all Debtors funds are deposited in bank accounts that meet certain statutory requirements under the Bankruptcy

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<sup>25</sup> Fourth Clark Affidavit at para 36.

<sup>26</sup> Third Report of the Information Officer to the Court dated May 16, 2024 at para 9.

<sup>27</sup> Fourth Clark Affidavit at para 39.

Code. Under the agreement with the Office of the United States Trustee, if the Plan is confirmed by May 21, 2024, the deadline to comply will be further extended through the effective date of the Plan.

### **PART III - STATEMENT OF ISSUES, LAW & AUTHORITIES**

26. The issue on this motion is whether the Court should grant the Third Recognition Order, recognizing the Foreign Orders in Canada pursuant to section 49 of the CCAA.

#### **A. This Court Has Jurisdiction to Grant the Recognition Order**

27. As this Court has noted, “[t]he purpose of Part IV of the CCAA is to effect cross-border insolvencies and create a system under which foreign insolvency proceedings can be recognized in Canada.”<sup>28</sup> Part IV of the CCAA is intended, among other things, to promote (i) cooperation between Canadian courts and courts in foreign jurisdictions; (ii) fair and efficient administration of cross-border insolvencies, which protects the interests of debtors, creditors and other interested persons; and (iii) the protection and maximization of the value of a debtor’s property.<sup>29</sup>

28. Pursuant to the Initial Recognition Order, this Court recognized the Chapter 11 Cases of the Canadian Debtors as “foreign main proceedings” under section 47 of the CCAA. When a foreign main proceeding has been recognized under Part IV of the CCAA, section 49(1) provides the Court with broad jurisdiction to grant “any order that it considers appropriate” with respect to such foreign proceedings if the Court is satisfied that it is necessary for the protection of the debtor company’s property or the interests of a creditor or creditors.<sup>30</sup> If an order recognizing a foreign proceeding is made, the Court is required to cooperate, “to the maximum extent possible, with

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<sup>28</sup> *Zochem Inc. (Re)*, [2016 ONSC 958](#) at para [15](#).

<sup>29</sup> CCAA, s. [44](#).

<sup>30</sup> CCAA, s. [49](#).

the foreign representative and the foreign court,” so long as the requested relief is not inconsistent with the CCAA and does not raise concerns regarding public policy.<sup>31</sup>

29. The Court has recognized the Chapter 11 Cases of the Canadian Debtors as foreign main proceedings and determined that in light of the requirements of subsection 52(1) of the CCAA and the circumstances facing the Canadian Debtors, granting the Supplemental Order and the April 4 Recognition Order, including recognition of certain prior U.S. Bankruptcy Court orders, was appropriate.<sup>32</sup> As described below, the same considerations apply to the Foreign Orders now before the Court.

#### **B. The Foreign Orders Should be Recognized and Enforced in Canada**

30. When deciding whether to recognize a foreign order, Canadian courts have considered, among other factors: (i) the promotion of comity and cooperation between the courts; (ii) respect of the “overall thrust of foreign bankruptcy and insolvency legislation in any analysis,” unless it diverges radically from the process in Canada; (iii) the equitable and, to the extent reasonably possible, equal treatment of common or like stakeholders regardless of their location; (iv) permitting the enterprise to reorganize as a global entity, including allowing for one jurisdiction to take charge of the principal administration of the enterprise’s reorganization; and (v) the notice given to creditors.<sup>33</sup>

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<sup>31</sup> CCAA, s. [50](#), [52\(1\)](#) & [61\(2\)](#).

<sup>32</sup> [Endorsement of Osborne J dated March 26, 2024](#), *CURO Canada Corp. and LendDirect Corp.*, Court File No. CV-24-00717178-00CL at paras 33 & 38.

<sup>33</sup> *Babcock & Wilcox Canada Ltd., Re*, [2000 CanLII 22482 \(ONSC\)](#) at para [21](#). See also *Xerium Technologies Inc., Re*, [2010 ONSC 3974](#) at paras [26](#) & [27](#); *Paladin Labs Canadian Holding Inc.*, [2024 ONSC 539](#) at para 22.

**(i) The Combined Order**

31. Recognition of the Combined Order, if granted, is consistent with prior Orders of this Court recognizing plans of compromise in cases under the Bankruptcy Code.<sup>34</sup>

32. The Plan, and the recapitalization contemplated thereby, is the result of significant efforts by the Debtors and their stakeholders in these Restructuring Proceedings. The Plan is supported by an overwhelming majority of the Debtors' stakeholders, provides a means by which the claims of unsecured creditors of the Debtors, including the Canadian Debtors, will be unimpaired, and is consistent with the objective and trajectory of these Restructuring Proceedings. Recognition of the Combined Order is necessary to permit the Debtors to implement the Plan and successfully emerge from these Restructuring Proceedings. The proposed Combined Order includes a finding that notice to stakeholders was appropriate under the circumstances and, other than TGI/LFL, no party has objected to the proposed Combined Order.

**(ii) Second Interim Cash Management Order**

33. The Second Interim Cash Management Order was granted on the basis that, among other things, it is necessary for the Debtors to continue to operate in the ordinary course during the Restructuring Proceedings and preserve the value of the Debtors' business while addressing the remaining concerns of the Office of the United States Trustee.

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<sup>34</sup> See for e.g., [Order \(Confirmation Order Recognition and Ancillary Relief\) dated February 26, 2024](#), *In the Matter of Instant Brands Acquisition Holdings Inc. et al.*, Court File No. CV-23-00701159-00CL; [Recognition Order \(Plan Confirmation Order and Termination of CCAA Proceedings\) dated April 21, 2023](#), *In the Matter of Revlon, Inc. et al.*, Court File No. CV-22-00682880-00CL; [Recognition Order \(Recognition of U.S. Plan Confirmation Order and Termination of the CCAA Proceedings\) dated June 30, 2021](#), *In the Matter of Knotel, Inc. and Knotel Canada, Inc.*, Court File No. CV-21-00658434-00CL.

34. Recognition of the Second Interim Cash Management Order is consistent with the prior Order of this Court recognizing the Cash Management Order in these Restructuring Proceedings and ought to be recognized on the same basis and in the furtherance of comity.<sup>35</sup>

**C. The Ancillary Relief in the Third Recognition Order Should be Granted**

35. In addition to the recognition of the Foreign Orders, the Third Recognition Order also provides for certain ancillary relief in connection with the implementation of the Plan and the termination of these proceedings. The Third Recognition Order, among other things (i) provides a means for the discharge of the Information Officer and the termination of their role; (ii) approves the activities of the Information Officer; (iii) approves the fees of the Information Officer and its counsel; and (iv) provides general releases for the Canadian professionals. In each case, the ancillary relief proposed in the Third Recognition Order follows the pattern of other CCAA recognition proceedings and is similar to that granted in other recognition proceedings before this Court.<sup>36</sup>

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<sup>35</sup> [Supplemental Order \(Foreign Main Proceeding\) dated March 26, 2024](#), *CURO Canada Corp. and LendDirect Corp.*, Court File No. CV-24-00717178-00CL at para 4.

<sup>36</sup> *In the Matter of Sungard Availability Services (Canada) Ltd./ Sungard, Services de Continuite des Affaires (Canada) Ltee*, Court File No. CV-22-00679628-00CL; *In the Matter of Knotel, Inc. and Knotel Canada, Inc.*, Court File No. CV-21-00658434-00CL; *In the Matter of LTL Management LLC*, Court File No. CV-23-00697824-00CL.

**PART IV - ORDER REQUESTED**

36. The Foreign Representative respectfully requests that the Court grant the Third Recognition Order in the form requested.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 16th day of May, 2024.

*Cassels Brock & Blackwell LLP*

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## SCHEDULE "A"

### LIST OF AUTHORITIES

1. *Babcock & Wilcox Canada Ltd., Re*, [2000 CanLII 22482 \(ONSC\)](#)
2. [Endorsement of Osborne J dated March 26, 2024](#), *CURO Canada Corp. and LendDirect Corp.*, Court File No. CV-24-00717178-00CL
3. *In the Matter of Knotel, Inc. and Knotel Canada, Inc.*, Court File No. CV-21-00658434-00CL
4. *In the Matter of LTL Management LLC*, Court File No. CV-23-00697824-00CL.
5. *In the Matter of Sungard Availability Services (Canada) Ltd./ Sungard, Services de Continuite des Affaires (Canada) Ltee*, Court File No. CV-22-00679628-00CL
6. [Order \(Confirmation Order Recognition and Ancillary Relief\) dated February 26, 2024](#), *In the Matter of Instant Brands Acquisition Holdings Inc. et al.*, Court File No. CV-23-00701159-00CL
7. [Order \(Recognition of Foreign Orders\) dated April 4, 2024](#), *CURO Canada Corp. and LendDirect Corp.*, Court File No. CV-24-00717178-00CL
8. *Paladin Labs Canadian Holding Inc.*, [2024 ONSC 539](#)
9. [Recognition Order \(Plan Confirmation Order and Termination of CCAA Proceedings\) dated April 21, 2023](#), *In the Matter of Revlon, Inc. et al.*, Court File No. CV-22-00682880-00CL
10. [Recognition Order \(Recognition of U.S. Plan Confirmation Order and Termination of the CCAA Proceedings\) dated June 30, 2021](#), *In the Matter of Knotel, Inc. and Knotel Canada, Inc.*, Court File No. CV-21-00658434-00CL
11. [Supplemental Order \(Foreign Main Proceeding\) dated March 26, 2024](#), *CURO Canada Corp. and LendDirect Corp.*, Court File No. CV-24-00717178-00CL
12. *Xerium Technologies Inc., Re*, [2010 ONSC 3974](#)
13. *Zochem Inc. (Re)*, [2016 ONSC 958](#)

## SCHEDULE "B"

### TEXT OF STATUTES, REGULATIONS & BY - LAWS

#### [Companies' Creditors Arrangement Act, RSC 1985, c. C-36, as amended](#)

### PART IV – CROSS-BORDER INSOLVENCIES

#### PURPOSE

##### *Purpose*

**44** The purpose of this Part is to provide mechanisms for dealing with cases of cross-border insolvencies and to promote

- (a) cooperation between the courts and other competent authorities in Canada with those of foreign jurisdictions in cases of cross-border insolvencies;
- (b) greater legal certainty for trade and investment;
- (c) the fair and efficient administration of cross-border insolvencies that protects the interests of creditors and other interested persons, and those of debtor companies;
- (d) the protection and the maximization of the value of debtor company's property; and
- (e) the rescue of financially troubled businesses to protect investment and preserve employment.

#### RECOGNITION OF FOREIGN PROCEEDING

##### *Order Recognizing Foreign Proceeding*

**47** (1) If the court is satisfied that the application for the recognition of a foreign proceeding relates to a foreign proceeding and that the applicant is a foreign representative in respect of that foreign proceeding, the court shall make an order recognizing the foreign proceeding.

##### *Nature of Foreign Proceeding to Be Specified*

(2) The court shall specify in the order whether the foreign proceeding is a foreign main proceeding or a foreign non-main proceeding.

##### *Other Orders*

**49** (1) If an order recognizing a foreign proceeding is made, the court may, on application by the foreign representative who applied for the order, if the court is satisfied that it is necessary for the protection of the debtor company's property or the interests of a creditor or creditors, make any order that it considers appropriate, including an order

- (a) if the foreign proceeding is a foreign non-main proceeding, referred to in subsection 48(1);
- (b) respecting the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor company's property, business and financial affairs, debts, liabilities and obligations; and

(c) authorizing the foreign representative to monitor the debtor company's business and financial affairs in Canada for the purpose of reorganization.

### ***Restriction***

(2) If any proceedings under this Act have been commenced in respect of the debtor company at the time an order recognizing the foreign proceeding is made, an order made under subsection (1) must be consistent with any order that may be made in any proceedings under this Act.

### ***Application of this and Other Acts***

(3) The making of an order under paragraph (1)(a) does not preclude the commencement or the continuation of proceedings under this Act, the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act* in respect of the debtor company.

### ***Terms and Conditions of Orders***

**50** An order under this Part may be made on any terms and conditions that the court considers appropriate in the circumstances.

[...]

## **OBLIGATIONS**

### ***Cooperation — Court***

**52** (1) If an order recognizing a foreign proceeding is made, the court shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding.

[...]

## **MISCELLANEOUS PROVISIONS**

### ***Court not prevented from applying certain rules***

**61** (1) Nothing in this Part prevents the court, on the application of a foreign representative or any other interested person, from applying any legal or equitable rules governing the recognition of foreign insolvency orders and assistance to foreign representatives that are not inconsistent with the provisions of this Act.

### ***Public policy exception***

(2) Nothing in this Part prevents the court from refusing to do something that would be contrary to public policy.

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

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