

**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 A PLAN OF COMPROMISE OR  
ARRANGEMENT OF SEARS CANADA INC., 9370-2751  
QUÉBEC INC., 191020 CANADA INC., THE CUT INC., SEARS  
CONTACT SERVICES INC., INITIUM LOGISTICS SERVICES  
INC., 9845488 CANADA INC., INITIUM TRADING AND  
SOURCING CORP., SEARS FLOOR COVERING CENTRES  
INC., 173470 CANADA INC., 2497089 ONTARIO INC., 6988741  
CANADA INC., 10011711 CANADA INC., 1592580 ONTARIO  
LIMITED, 955041 ALBERTA LTD., 4201531 CANADA INC.,  
168886 CANADA INC., AND 3339611 CANADA INC.

Applicants

**NOTICE OF MOTION  
(Returnable February 26, 2019)**

FTI Consulting Canada Inc., in its capacity as Court-appointed monitor (the "**Monitor**") in the proceedings of the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**") will make a motion to a Judge of the Ontario Superior Court of Justice (Commercial List), on February 26, 2019, at 9:30 am or as soon after that time as the motion can be heard, at the courthouse located at 330 University Avenue.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

1 An Order substantially in the form attached at Schedule A to this Notice of Motion, *inter alia*:

(a) abridging the time for service of this Notice of Motion; and

(b) ordering that the deadline for the Monitor to issue Notices of Revision or Disallowance<sup>1</sup> in respect of D&O Claims and Claims filed by Directors and Officers based upon claimed indemnity obligations of the Sears Canada Entities (as defined below) to such Directors and Officers, in each case pursuant to the Claims Procedure Orders, shall be extended until further Order of the Court; and

2 Such further and other relief as this Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

1 The Applicants and SearsConnect (together, the “**Sears Canada Entities**”) were granted protection from their creditors under the CCAA pursuant to the Initial Order of this Court dated June 22, 2017 (as amended and restated, the “**Initial Order**”);

2 FTI Consulting Canada Inc. was appointed in the Initial Order to act as the Monitor in these proceedings;

3 On December 8, 2017, this Court granted the Claims Procedure Order establishing a procedure for the identification and quantification of certain claims against the Sears Canada Entities and the Directors and Officers;

4 On February 22, 2018, this Court granted the Employee and Retiree Claims Procedure Order establishing a similar process for the identification and quantification of the claims of Retirees and Employees against the Sears Canada Entities and the Directors and Officers;

5 Under the terms of the Claims Procedure Orders, the Monitor was required to notify Claimants as to any revision or rejection of their Claims, including D&O Claims, by sending a

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<sup>1</sup> Each capitalized term used and not defined herein shall have the meaning ascribed to such term in the Claims Procedure Order dated December 8, 2017 (the “**Claims Procedure Order**”) in these proceedings, and the Employee and Retiree Claims Procedure Order dated February 22, 2018 in these proceedings (the “**Employee and Retiree Claims Procedure Order**”, and together with the Claims Procedure Order, the “**Claims Procedure Orders**”).

Notice of Revision or Disallowance to each such Claimant by no later than July 31, 2018 (the “**NORD Deadline**”) or such later date as ordered by the Court on application by the Monitor;

6 This Court granted Orders on each of July 24, 2018, September 20, 2018, and December 3, 2018 extending NORD Deadline, most recently to March 1, 2019;

7 The substantial majority of D&O Claims filed concern claims that are contingent in nature, including claims that relate to the litigation that this Court recently authorized pursuant to Orders made on December 3, 2018;

8 Certain Directors and Officers also asserted various Claims that are based upon claimed indemnity obligations of the Sears Canada Entities, many of which also cannot be finally determined at this time;

9 The Monitor is not yet in a position to fully assess these claims or to issue any Notices of Revision or Disallowance that may be appropriate in respect of these claims and, accordingly, a further extension of the NORD Deadline is required;

10 The provisions of the CCAA;

11 Rules 1.04, 1.05, 2.03, 16 and 37 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, and

12 Such further and other grounds as counsel may advise.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1 Such evidence as counsel may advise and this Court may permit.

February 25, 2019

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TO: **THE SERVICE LIST**

**SCHEDULE "A" -  
DRAFT EXTENSION ORDER**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. )  
 )  
JUSTICE HAINEY ) TUESDAY, THE 26TH  
 ) DAY OF FEBRUARY, 2019

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  
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168886 CANADA INC., AND 3339611 CANADA INC.

APPLICANTS

**ORDER**

**THIS MOTION**, made by FTI Consulting Canada Inc., in its capacity as monitor (the "**Monitor**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order extending certain deadlines set by the Claims Procedure Orders (as defined below) and certain other relief, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Notice of Motion of the Monitor, filed, and on hearing the submissions of counsel for the Monitor, and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of ● sworn February ●, 2019, filed:

## **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, herein is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that each capitalized term used and not defined herein shall have the meaning ascribed to such term in the Claims Procedure Order dated December 8, 2017 in these proceedings and the Employee and Retiree Claims Procedure Order dated February 22, 2018 in these proceedings (together the "**Claims Procedure Orders**").

## **EXTENSION OF THE DEADLINE TO ISSUE NOTICES OF REVISION OR DISALLOWANCE**

3. **THIS COURT ORDERS** that the deadline for the Monitor to issue Notices of Revision or Disallowance in respect of D&O Claims and claims filed by the Directors and Officers based upon claimed indemnity obligations of the Sears Canada Entities to such Directors and Officers, in each case pursuant to the Claims Procedure Orders, shall be extended until further Order of this Court.

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

Court File No.: CV-17-11846-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
SEARS CANADA INC., et al.

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

Proceeding commenced at TORONTO

**ORDER**

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C-36, AS AMENDED

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(Returnable February 26, 2019)**

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