

**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 TK HOLDINGS INC., AND THOSE OTHER
COMPANIES LISTED ON SCHEDULE "A" HERETO (the "Chapter 11 Debtors")**

**AND IN THE MATTER OF TAKATA CORPORATION, AND THOSE OTHER
COMPANIES LISTED ON SCHEDULE "B" HERETO (the "Japanese Debtors", and
collectively with the Chapter 11 Debtors, the "Debtors")**

**APPLICATION OF TK HOLDINGS INC. AND TAKATA CORPORATION UNDER
SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT***

**FACTUM OF THE FOREIGN REPRESENTATIVES
(re: Recognition of Claims Processes and Second Day Orders)
(Returnable October 13, 2017)**

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TO: THE SERVICE LIST

TABLE OF CONTENTS

I. OVERVIEW4

II. FACTS6

 A. Recognition of the Chapter 11 Proceedings 6

 B. Recognition of the Japanese Proceedings 6

 C. Canadian Creditors of the Debtors 7

 D. Claims Process Orders 8

 a) Chapter 11 Claims Process Order 9

 b) Japanese Claims Process 12

 E. U.S. Second Day Orders 16

III. ISSUES16

IV. THE LAW17

 A. This Court has Jurisdiction to Recognize the Orders 17

 B. The Claims Processes are Necessary and Important for the Global Transaction 18

 C. The Claims Process Orders Should be Recognized 20

 D. Recognition of the U.S. Second Day Orders is Appropriate 26

V. ORDER REQUESTED27

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I. OVERVIEW

1. On this motion, the Foreign Representatives¹ seek to recognize in Canada the claims process orders and certain "second day" orders made by the U.S. Bankruptcy Court and Japanese Court, which courts are exercising principal control over the Debtors' restructuring proceedings. The Chapter 11 Proceedings and the Japanese Proceedings have been recognized as "foreign main proceedings" by this Court.

2. The orders of the U.S. Bankruptcy Court and Japanese Court will assist the Debtors in restructuring their business and should be recognized for the following reasons:

¹ All capitalized terms used but not otherwise defined herein have the meanings given to them in the glossary attached hereto as **Schedule "C"**.

- (a) The **claims processes** in the Foreign Proceedings will assist the Debtors in ascertaining the total universe of claims against them and will facilitate the implementation of the Global Transaction, which is expected to result in the best possible outcome in the circumstances for Takata's creditors, employees and other stakeholders, including the driving public;
- (b) To the extent reasonably practicable, potential Canadian creditors are treated in the same manner as other similarly situated creditors in the U.S., Japan and around the world;
- (c) The proposed claims and noticing processes are designed to provide notice to all known and unknown creditors of the Debtors, including those situated in Canada, and are at least as robust as claims and noticing processes that have been approved by the Canadian courts in other cases;
- (d) The claims deadlines provide sufficient time for all parties in interest to assert their claims against the Debtors in the Foreign Proceedings; and
- (e) The **second day orders** will permit the Chapter 11 Debtors to continue operating their respective businesses and retain certain professionals during the course of the Chapter 11 Proceedings.

3. Recognition of the orders in Canada is thus appropriate and necessary for the protection of the Debtors' property and the interests of creditors in a successful restructuring and the consummation of the Global Transaction.

4. There is no basis to second guess the orders of the Principal Foreign Courts² and the Foreign Representatives respectfully submit that they should be recognized by this Court.

II. FACTS

A. *Recognition of the Chapter 11 Proceedings*

5. On June 25, 2017, the Chapter 11 Debtors commenced the Chapter 11 Proceedings.³ On June 27, 2017, certain first day orders were issued in the Chapter 11 Proceedings (the “**U.S. First Day Orders**”).⁴

6. On June 28, 2017, this Court granted the Canadian Recognition Orders pursuant to Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”) which, among other things, (i) recognized the Chapter 11 Proceedings as “foreign main proceedings”, (ii) stayed all proceedings brought against the Chapter 11 Debtors or affecting their business or property, and (iii) recognized the U.S. First Day Orders.⁵

B. *Recognition of the Japanese Proceedings*

7. On June 26, 2017, the Japanese Debtors commenced the Japanese Proceedings.⁶ On June 26, 2017 and June 28, 2017, the Japanese Court issued the Japanese Court Orders that,

² *Hartford Computer Hardware, Inc. (Re)*, 2012 ONSC 964 at para. 14 [*Hartford*], Brief of Authorities of the Foreign Representatives (re: Recognition of Claims Processes and Second Day Orders), dated October 5, 2017 (“**BOA**”), Tab 1.

³ Affidavit of Keith Teel, sworn October 5, 2017 at para. 11 (the “**Teel Affidavit**”), Motion Record of the Foreign Representatives (re: Recognition of Claims Processes and Second Day Orders), dated October 5, 2017 – Volume I of II (“**Motion Record Vol. I**”), Tab 2.

⁴ Teel Affidavit at para. 11, Motion Record Vol. I, Tab 2.

⁵ Teel Affidavit at para. 13, Motion Record Vol. I, Tab 2.

⁶ Affidavit of Hiroshi Shimizu, sworn July 28, 2017 at para. 10 (the “**Shimizu Affidavit**”), Exhibit “B” to the Affidavit of Hiroshi Kasuya, sworn October 2, 2017 (the “**Kasuya Affidavit**”), Motion Record of the Foreign Representatives (re: Recognition of Claims Processes and Second Day Orders), dated October 5, 2017 – Volume II of II (“**Motion Record Vol. II**”), Tab 3B, p. 386.

among other things, approved the commencement of the Japanese Proceedings, (ii) appointed the Supervisor, and (iii) established a schedule for the Japanese Proceedings, including a deadline for filing proofs of rehabilitation claims, which is detailed further below.⁷

8. On August 7, 2017, the Supervisor authorized the Japanese Debtors to obtain recognition of the Japanese Proceedings and the Japanese Court Orders in the United States and Canada.⁸

9. On September 1, 2017, this Court amended the Canadian Recognition Orders pursuant to Part IV of the CCAA to, among other things, (i) recognize the Japanese Proceedings as “foreign main proceedings”, (ii) stay all proceedings brought against the Japanese Debtors or affecting their business or property, and (iii) recognize the portions of the Japanese Court Orders that approved the commencement of proceedings and appointed the Supervisor.⁹

C. Canadian Creditors of the Debtors

10. The potential Canadian creditors of the Debtors whose identities are known to Takata (collectively, the “**Known Canadian Creditors**”) are:

- (a) the putative representative plaintiffs in the Canadian Class Actions;
- (b) the putative representative plaintiffs in the Canadian Competition Class Actions;

⁷ Declaration of Nobuaki Kobayashi, sworn August 9, 2017 at paras. 33-34 (the “**Kobayashi Declaration**”), Exhibit “A” to the Kasuya Affidavit, Motion Record Vol. II, Tab 3A, p. 399.

⁸ Supervisor Consent, Exhibit “I” to the Kobayashi Declaration, Motion Record Vol. II, Tab 3A, p. 401.

⁹ Teel Affidavit at para. 14, Motion Record Vol. I, Tab 2.

- (c) the plaintiffs in the two Canadian Personal Injury Actions that have been commenced against TKH and the one Canadian Personal Injury Action that has been commenced against TKJP; and
- (d) the 137 General Canadian Creditors of TKH and one known general creditor of TKJP.¹⁰

11. The unknown potential Canadian creditors of the Debtors largely consist of PPICs that may assert a claim against the Debtors arising out of the recall of over 5.2 million Takata airbag inflators in Canada.¹¹

D. Claims Process Orders

12. The claims process deadlines for the Japanese Proceedings were set out in the Japanese Court Orders issued on June 28, 2017.¹² While other aspects of those Japanese Court Orders were recognized on September 1, 2017, recognition of the claims process provisions was not sought at that time to allow recognition of the claims processes in the Japanese Proceedings and the Chapter 11 Proceedings to be sought at the same time. After several adjournments, the claims process in the Chapter 11 Proceedings was established by order of the U.S. Bankruptcy Court on October 2, 2017.¹³

¹⁰ Teel Affidavit at para. 20, Motion Record Vol. I, Tab 2; Kasuya Affidavit at para. 10, Motion Record Vol. II, Tab 3.

¹¹ Teel Affidavit at para. 21, Motion Record Vol. I, Tab 2.

¹² Kobayashi Declaration at para. 34, Motion Record Vol. II, Tab 3A, p. 399.

¹³ Teel Affidavit at para. 17, Motion Record Vol. I, Tab 2; Chapter 11 Claims Process Order, Exhibit "D" to the Teel Affidavit, Motion Record Vol. I, Tab 2D, p. 121.

a) Chapter 11 Claims Process Order

13. On October 2, 2017, the U.S. Bankruptcy Court issued an order that establishes deadlines for filing proofs of claim against the Chapter 11 Debtors in the Chapter 11 Proceedings, and establishes the form and manner for providing notice of the claims process (the “**Chapter 11 Claims Process Order**”).¹⁴ The proposed claims and noticing process is the result of thorough consideration and analysis by the Chapter 11 Debtors and their advisors over the course of several months, reflects considerable amendments to the notice plan made to accommodate concerns expressed by various stakeholders, and has been approved by the U.S. Bankruptcy Court.¹⁵

i. Claims Bar Dates and Filing Proofs of Claim

14. Proofs of claim by any person or entity *other* than PPICs and Governmental Units¹⁶ must be filed by November 27, 2017 at 5:00 p.m. EST (the “**General Bar Date**”);¹⁷

15. Proofs of Claim by Governmental Units must be filed by December 22, 2017 at 5:00 p.m. EST (the “**Governmental Bar Date**”);¹⁸ and

16. Proofs of claim by PPICs must be filed by December 27, 2017 at 5:00 p.m. EST (the “**PPIC Bar Date**” and collectively with the General Bar Date and the Governmental Bar Date, the “**Bar Dates**”).¹⁹

¹⁴ *Ibid.*

¹⁵ Teel Affidavit at para. 9, Motion Record Vol. I, Tab 2.

¹⁶ As defined in the Chapter 11 Claims Process Order.

¹⁷ Teel Affidavit at para. 19(a), Motion Record Vol. I, Tab 2.

¹⁸ Teel Affidavit at para. 19(b), Motion Record Vol. I, Tab 2.

¹⁹ Teel Affidavit at para. 19(c), Motion Record Vol. I, Tab 2.

17. Proofs of claim may be filed either electronically or by delivering the original Proof of Claim form by hand or mail to the Claims Processing Center established by Prime Clerk LLC.²⁰ Any claimant that fails to file a Proof of Claim by the applicable Bar Date will not be treated as a creditor for the purposes of distribution in the Chapter 11 Proceedings and their claims may be discharged under the Chapter 11 Plan of the Chapter 11 Debtors.²¹

ii. Notice to Known Potential Creditors

18. The Chapter 11 Debtors will cause to be mailed a General Proof of Claim Form and a General Bar Date Notice to known potential creditors of the Chapter 11 Debtors, including the Known Canadian Creditors, by October 5, 2017.²² The General Bar Date Notice sets forth the Claims Bar Dates, advises creditors of the circumstances under which they may file a General Proof of Claim, and sets forth the method for submitting their Proof of Claim for filing.²³

iii. Notice to U.S. PPICs

19. Out of an abundance of caution, and in light of the significant number of PPICs, the Chapter 11 Debtors made arrangements to purchase contact information for U.S. PPIC Notice Parties from a third-party service provider.²⁴ The Chapter 11 Debtors will cause to be mailed a postcard-sized notice (the “**PPIC Combined Notice**”) to all U.S. PPIC Notice

²⁰ Teel Affidavit at para. 26, Motion Record Vol. I, Tab 2.

²¹ Teel Affidavit at para. 34, Motion Record Vol. I, Tab 2.

²² Teel Affidavit at para. 19, Motion Record Vol. I, Tab 2; General Proof of Claim, Exhibit A-1 to the Chapter 11 Claims Process Order, Motion Record Vol. II Tab 2D, p. 137.

²³ Teel Affidavit at para. 25, Motion Record Vol. I, Tab 2; General Bar Date Notice, Exhibit B-1 to the Chapter 11 Claims Process Order, Motion Record Vol. II, Tab 2D, p. 159.

²⁴ Teel Affidavit at para. 28, Motion Record Vol. I, Tab 2.

Parties by November 4, 2017.²⁵ The PPIC Combined Notice will provide notice of the commencement of the Chapter 11 Proceedings, the PPIC Bar Date, and direct the parties to a website specifically designed for PPICs.²⁶

iv. Notice to Canadian PPICs and Other Unknown Creditors

20. Since Takata does not sell its products directly to consumers, with certain very limited exceptions, the Chapter 11 Debtors do not have name and address data identifying any PPICs and such information is not reasonably ascertainable by searching any publicly available databases or other sources of which Takata is aware.²⁷ Unlike in the U.S. in which recalls are centrally managed and it is possible to purchase name and address information for vehicles subject to a recall, to the best of Takata's knowledge, name and address information for PPICs is not available from any third-party vendor in Canada and is not reasonably ascertainable to Takata.²⁸

21. The U.S. Foreign Representative has made reasonable efforts to obtain this information through other means, including by contacting Transport Canada, the Canadian Council of Motor Transport Administrators and the OEMs, but has been unable to obtain such information to date.²⁹

22. In order to provide notice to unknown potential creditors, including PPICs in Canada, the Chapter 11 Debtors will publish notice of the Bar Dates as soon as practicable

²⁵ Teel Affidavit at para. 19, Motion Record Vol. I, Tab 2; PPIC Combined Notice, Exhibit B-2 to the Chapter 11 Claims Process Order, Motion Record Vol. II, Tab 2D, p. 165.

²⁶ Teel Affidavit at para. 33, Motion Record Vol. I, Tab 2; PPIC Proof of Claim, Exhibit A-2 to the Chapter 11 Claims Process Order, Motion Record Vol. II, Tab 2D, p. 150.

²⁷ Teel Affidavit at para. 27, Motion Record Vol. I, Tab 2.

²⁸ Teel Affidavit at para. 31, Motion Record Vol. I, Tab 2.

²⁹ Teel Affidavit at para. 32, Motion Record Vol. I, Tab 2.

in 58 different publications in 38 countries, including publication in The Globe and Mail (National Edition) and Le Devoir in Canada.³⁰

23. Additionally, a general notice regarding the commencement of the Chapter 11 Proceedings and their recognition in Canada was published in The Globe and Mail (National Edition) and National Post on July 5, 2017 and July 12, 2017.³¹ The notice included the URL for the website established by Prime Clerk with respect to the Chapter 11 Proceedings (the “**Prime Clerk Website**”) and the website established by the Information Officer with respect to these proceedings (the “**FTI Website**”).³²

24. Information regarding the Chapter 11 Proceedings is also posted on the FTI Website.

b) Japanese Claims Process

25. The Japanese Court Orders made on June 28, 2017 set out the claims deadline for all creditors of the Japanese Debtors (collectively with the Chapter 11 Claims Process Order, the “**Claims Process Orders**”).³³ Beginning shortly thereafter, the Japanese Debtors gave notice to the Known Canadian Creditors of the Japanese Debtors and also took steps to provide notice to unknown Canadian creditors such as PPICs in Canada. While recognition of the Japanese claims process provisions of the Japanese Court Orders is being sought now to coincide with recognition of the U.S. claims process, the notification procedures relating to the Japanese claims process have already been completed.

³⁰ Teel Affidavit at para. 33, Motion Record Vol. I, Tab 2; Form of Publication, Exhibit A-3 to the Chapter 11 Claims Process Order, Motion Record Vol. II, Tab 2D, p. 153.

³¹ First Report of FTI Consulting Canada Inc., in its capacity as Information Officer, dated September 28, 2017 at para. 24 (“**Information Officer’s Report**”).

³² Schedule “F” to the Information Officer’s Report.

³³ Kobayashi Declaration at para. 34, Motion Record Vol. II, Tab 3A, p. 399.

i. Japanese Claims Deadline

26. Pursuant to the Japanese Court Orders, a potential creditor of the Japanese Debtors must file a proof of rehabilitation claim by August 25, 2017 or such later date as may be permitted by the Japanese Court (the “**Japanese Claims Deadline**”), in order to participate in the Japanese Proceedings.³⁴ This claims deadline provides a claims period that is double the 30-day claims period than is typical in civil rehabilitation proceedings in Japan.³⁵

27. In addition to this extended initial time period, a creditor may submit a proof of claim in Japan up to October 30, 2017 where the reason for their failure to submit a claim prior to the Japanese Claims Deadline was not attributable to them.³⁶ The Japanese Debtors have indicated they will make best efforts to ask the Japanese Court to accept proofs of claims from foreign creditors that are received by October 30, 2017.³⁷ As of September 18, 2017, the Japanese Court had accepted (though not necessarily allowed, as the claims will still be assessed) all of the 27 proofs of claim that had been filed after the Japanese Claims Deadline.³⁸

³⁴ Kobayashi Declaration at para. 34, Motion Record Vol. II, Tab 3A, p. 399.

³⁵ Kobayashi Declaration at para. 26, Motion Record Vol. II, Tab 3A, p. 396.

³⁶ Kasuya Affidavit at para. 9, Motion Record Vol. II, Tab 3; Kobayashi Declaration at para. 26, Motion Record Vol. II, Tab 3A, p. 396.

³⁷ Kasuya Affidavit at paras. 9, 11, Motion Record Vol. II, Tab 3.

³⁸ Kasuya Affidavit at para. 9, Motion Record Vol. II, Tab 3.

ii. Notice to Known and Unknown Creditors

28. The Japanese Debtors have already provided notice of the Japanese Claims Deadline to known and unknown Canadian creditors of the Japanese Debtors. The notice to Known Canadian Creditors of the Japanese Debtors was provided as follows:

- (a) On July 14, 2017, the Japanese Debtors sent a claims package to their sole non-litigation creditor; and
- (b) During the week of July 24, 2017, the Japanese Debtors sent a claims package to counsel of record for the individual plaintiffs and proposed representative plaintiffs in the Canadian Actions;³⁹

29. The notice to unknown Canadian creditors of the Japanese Debtors was provided as follows:

- (a) On July 5, 2017 and July 12, 2017, following recognition of the Chapter 11 Proceedings in Canada, a general notice was published in The Globe and Mail (National Edition) and National Post that provided a link to the Prime Clerk Website and the FTI Website;⁴⁰
- (b) On July 10, 2017, the Japanese Debtors posted a document providing answers in the English language to frequently asked questions about the claims process in the Japanese Proceeding (the “**Claims Process FAQ**”) on the TKJP Website.⁴¹ The Claims Process FAQ was updated on August 7, 2017 to

³⁹ Kasuya Affidavit at para. 10, Motion Record Vol. II, Tab 3.

⁴⁰ Information Officer’s Report at para. 24.

⁴¹ Kasuya Affidavit at para. 11, Motion Record Vol. II, Tab 3.

provide the following information about the possibility of filing claims after the Japanese Claims Deadline:

Q12: I have received a proof of claim form from the court recently, but it is difficult for me to file a proof of claim by the deadline, August 25, 2017. May I file a proof of claim after August 25, 2017?

A12: Proof of Claims filed after the deadline are acceptable, if the delays in filings are caused by reasons that are not attributable to the creditors. Considering the circumstances of foreign creditors, Takata will make best efforts to ask the court to accept proof of claims from foreign creditors that are received by October 30, 2017.⁴²

- (c) On July 18, 2017, the following was published on the FTI Website with respect to the Japanese Proceedings and the Japanese Claims Deadline:

On June 26, 2017, Takata Corporation, Takata Kyushu K.K., and Takata Service K.K. (collectively, "Takata Japan"), have commenced a proceeding under the Civil Rehabilitation Act ("CRA") in Tokyo, Japan. Parties who believe they have claims against Takata Japan can obtain information about the CRA proceeding, including the deadline to file claims (August 25, 2017) at <http://www.takata.com>.⁴³

- (d) On August 15, 2017, the Japanese claims package was posted on the FTI Website;⁴⁴ and
- (e) On September 12, 2017 and September 19, 2017, following recognition of the Japanese Proceedings in Canada, a notice was published in The Globe and Mail (National Edition) and National Post that provided a link to the

⁴² Claims Process FAQ, Exhibit "E" to the Kasuya Affidavit, Motion Record Vol. II, Tab 2E, p. 469.

⁴³ Information Officer's Report at para. 29.

⁴⁴ Information Officer's Report at para. 30.

Prime Clerk Website and the FTI Website. The following notice of the Japanese Claims Deadline was also provided:

PLEASE TAKE FURTHER NOTICE that the deadline for potential creditors to file a proof of rehabilitation claim with respect to the Japanese Debtors in the Japanese Proceedings was August 25, 2017. Proofs of claim filed after the deadline may be accepted for a limited period if the delay in filing is caused by reasons that are not attributable to the creditor. The Japanese Debtors have indicated they will make best efforts to ask the Japanese Court to accept proofs of claims from foreign creditors that are received by October 30, 2017.⁴⁵

E. U.S. Second Day Orders

30. From July to October 2017, the U.S. Bankruptcy Court granted orders (the “**U.S. Second Day Orders**”) that are chiefly final versions of the U.S. First Day Orders which were previously granted by the U.S. Bankruptcy Court on an interim basis to apply until a full hearing on notice could be held.⁴⁶ The U.S. First Day Orders were previously recognized by this Court on June 28, 2017.⁴⁷ Additionally, the U.S. Second Day Orders include orders regarding the employment and retention of professionals by the Chapter 11 Debtors.⁴⁸

III. ISSUES

31. The issues to be determined on this motion are as follows:

- (a) Should this Court recognize and give effect to the Claims Process Orders?
- (b) Should this Court recognize and give effect to the U.S. Second Day Orders?

⁴⁵ Information Officer’s Report at para. 32 and Schedule “G”.

⁴⁶ Teel Affidavit at para. 36, Motion Record Vol. I, Tab 2.

⁴⁷ Teel Affidavit at para. 13, Motion Record Vol. I, Tab 2.

⁴⁸ Teel Affidavit at para. 44, Motion Record Vol. I, Tab 2.

32. The Foreign Representatives submit that each of these questions should be answered in the affirmative and that it is appropriate to grant the relief requested on this motion.

IV. THE LAW

A. This Court has Jurisdiction to Recognize the Orders

33. The stated purpose of Part IV of the CCAA 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 the 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 the debtor company's property; and

(e) the rescue of financially troubled businesses to protect investment and preserve employment.⁴⁹

34. Once the Canadian Court has recognized a foreign proceeding, it may make any order that it considers appropriate if the court is satisfied that the order is necessary for the protection of the debtor company's property or the interests of creditors.⁵⁰ Such an order may be made on any terms and conditions that the Court considers appropriate in the circumstances.⁵¹

⁴⁹ *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, s. 44 [CCAA].

⁵⁰ *Ibid.*, s. 49(1).

⁵¹ *Ibid.*, s. 50.

35. Recognizing the appropriate orders of the foreign courts presiding over foreign main proceedings is consistent with these sections as well as the underlying principles of comity and cooperation in which respect should be accorded to foreign bankruptcy and insolvency legislation and the discretion exercised by foreign courts pursuant to such legislation. Such principles are intended to avoid a multiplicity of proceedings, conflicting judgments and uncertainty.⁵²

36. The Chapter 11 Proceedings have been recognized by this Court as “foreign main proceedings” with respect to the Chapter 11 Debtors.⁵³ The Japanese Proceedings have been recognized by this Court as “foreign main proceedings” with respect to the Japanese Debtors.⁵⁴ This Court may, therefore, recognize the Orders that have been issued by these courts pursuant to section 49 of the CCAA and it is appropriate to do so in this case.

B. The Claims Processes are Necessary and Important for the Global Transaction

37. It is of fundamental importance for debtor companies to determine the entire universe of potential claims against them in order to be able to negotiate and put forward a plan of arrangement with respect to these claims.⁵⁵ The importance of establishing an effective claims process was noted by this Court in *Timminco*:

It is also necessary to return to first principles with respect to claims-bar orders. The CCAA is intended to facilitate a compromise or arrangement between a debtor company and its creditors or shareholders. For a debtor company engaged in restructuring under the CCAA, which may include a liquidation of its assets, it is of fundamental importance to determine the quantum of liabilities to which the debtor and,

⁵² *Xerium Technologies Inc., Re*, 2010 ONSC 3974 at para. 26 [*Xerium*], BOA, Tab 2; *Babcock & Wilcox Canada Ltd., Re*, 2000 CarswellOnt 704 at para. 21 (SCJ), BOA, Tab 3; *Matlack Inc., Re*, 2001 CarswellOnt 1830 at paras. 6-10 (SCJ) [*Matlack*], BOA, Tab 4.

⁵³ Teel Affidavit at para. 13, Motion Record Vol. I, Tab 2.

⁵⁴ Teel Affidavit at para. 14, Motion Record Vol. I, Tab 2.

⁵⁵ *Muscletech Research & Development Inc., Re*, 2007 CarswellOnt 1029 at para. 8, BOA, Tab 5.

in certain circumstances, third parties are subject. It is this desire for certainty that led to the development of the practice by which debtors apply to court for orders which establish a deadline for filing claims.⁵⁶

38. Canadian Courts have frequently recognized claims processes ordered by foreign courts that contemplate Canadian creditors filing claims in a claims process that is supervised by the foreign court, and *vice versa*.⁵⁷ Coordination of claims processes between the courts in different jurisdictions avoids the debtor having to conduct multiple claims processes, which can be time-consuming and costly.⁵⁸

39. In this case, the Claims Process Orders are necessary for the protection of Takata's property and the interests of creditors since they will permit the Debtors to ascertain the claims against them and assist in the consummation of the Global Transaction for the benefit of Takata's stakeholders.⁵⁹

⁵⁶ *Timminco Limited (Re)*, 2014 ONSC 3393 at paras. 41-43, BOA, Tab 6. See also *ScoZinc Ltd., Re*, 2009 NSSC 136 at para. 23 [*ScoZinc*], BOA, Tab 7.

⁵⁷ See e.g. *Xerium*, BOA, Tab 2; *Muscletech Research and Development Inc, Re*, Ontario Superior Court of Justice (Commercial List), Court File No. 06-CL-6241, Order of Farley J. issued March 3, 2006 [*Muscletech 2006*], BOA, Tab 8; *Horsehead Holding Corp., Re*, Ontario Superior Court of Justice (Commercial List), Court File No. CV-16-11271-00CL, Order of Swinton J. issued April 13, 2016 [*Horsehead*], BOA, Tab 9; *Lightsquared LP, Re*, Ontario Superior Court of Justice (Commercial List), Court File No. CV-12-9719-00CL, Order of Newbould J. issued August 21, 2012 [*Lightsquared*], BOA, Tab 10; *Xinergy Ltd., Re*, Ontario Superior Court of Justice (Commercial List), Court File No. CV-15-10936-00CLL, Order of Newbould J. issued June 18, 2015 [*Xinergy*], BOA, Tab 11.

⁵⁸ *Xerium* at para. 29, BOA, Tab 2.

⁵⁹ Teel Affidavit at para. 18, Motion Record Vol. I, Tab 2.

C. The Claims Process Orders Should be Recognized

40. The Debtors respectfully submit that recognition of the Claims Process Orders in Canada is appropriate and necessary for the Debtors' restructuring efforts, for the following reasons.

41. **First**, to the extent reasonably practicable, the Claims Process Orders treat Canadian creditors in the same manner as other similarly situated creditors in the primary jurisdiction and around the world.

42. With respect to the Chapter 11 Claims Process Order:

- (a) The Bar Dates apply equally to Canadian, U.S. and global claimants;⁶⁰
- (b) Known Canadian Creditors have already, or will, receive a claims package by mail, the same level of notice as their U.S. and global counterparts;⁶¹ and
- (c) PPICs in Canada will receive notice of the claims process through newspaper publication in *The Globe and Mail* (National Edition) and *Le Devoir* as well as certain additional public noticing in Canada via the FTI Website and notice of the recognition proceedings published in *The Globe and Mail* (National Edition) and *National Post*.⁶² Given that no Takata entity sold products directly to end consumers in Canada, PPICs are generally not known to the Debtors.⁶³ While the Chapter 11 Debtors have arranged for PPICs in the U.S. to receive a postcard-sized notice of the Chapter 11

⁶⁰ Teel Affidavit at para. 19, Motion Record Vol. I, Tab 2.

⁶¹ Teel Affidavit at para. 19, Motion Record Vol. I, Tab 2.

⁶² Teel Affidavit at para. 33, Motion Record Vol. I, Tab 2; Information Officer's Report at para. 24.

⁶³ Teel Affidavit at para. 31, Motion Record Vol. I, Tab 2.

Proceedings and the claims process by purchasing the contact information for these potential claimants from a third-party service provider, there is no comparable third-party service provider in Canada.⁶⁴ The U.S. Foreign Representative has made reasonable efforts to obtain this information, without success.⁶⁵ Notice to the Canadian PPICs through newspaper publication is consistent with the notice given to other PPICs globally for which contact information was not reasonably ascertainable.⁶⁶

43. With respect to the Japanese Court Orders:

- (a) The Claims Deadline applies equally to Canadian, Japanese and global claimants;⁶⁷
- (b) Known Canadian Creditors will receive a claims package by mail, the same level of notice as their Japanese and global counterparts;⁶⁸ and
- (c) Unknown potential creditors in Canada, including PPICs, will receive notice of the claims process through the notice of the recognition proceedings published in The Globe and Mail (National Edition) and National Post in addition to information on the FTI Website and TKJP Website.⁶⁹ In Japan,

⁶⁴ Teel Affidavit at paras 28, 31, Motion Record Vol. I, Tab 2.

⁶⁵ Teel Affidavit at para. 32, Motion Record Vol. I, Tab 2.

⁶⁶ Teel Affidavit at para. 33, Motion Record Vol. I, Tab 2.

⁶⁷ Kobayashi Declaration at para. 26, Motion Record Vol. II, Tab 3A, p. 396.

⁶⁸ Kasuya Affidavit at para. 10, Motion Record Vol. II, Tab 3.

⁶⁹ Kasuya Affidavit at para. 11, Motion Record Vol. II, Tab 3; Information Officer's Report at paras. 27, 29 and Schedule "G".

beyond publication in the Official Gazette, no additional notice must be given to unknown potential creditors.⁷⁰

44. **Second**, the notice provided to Canadian creditors is consistent with notice approved in Canadian proceedings. As noted, **known creditors** of the Chapter 11 Debtors and the Japanese Debtors have received, or will receive, a claims package via mail.⁷¹ This method of providing notice to known creditors has been frequently implemented in CCAA proceedings,⁷² and has been implemented in foreign proceedings and subsequently recognized in Canada.⁷³

45. Canadian Courts have on various occasions approved noticing protocols in which notice to **unknown creditors** or claimants was provided through the use of newspaper advertising only.⁷⁴

46. For example, in *Muscletech*, which also involved a cross-border insolvency largely attributable to product liability claims that had been commenced against the debtor companies, the Canadian Court issued an order which included the following measures to notify all known and unknown creditors:

- (a) The claims package was sent to all known creditors of the debtor companies;
- (b) The claims package was posted on the court dockets of the class proceedings that had been brought against the debtor companies in the U.S.;

⁷⁰ Kobayashi Declaration at para. 9, Motion Record Vol. II, Tab 3A, p. 388.

⁷¹ Teel Affidavit at para. 22, Motion Record Vol. I, Tab 2; Kasuya Affidavit at para. 10, Motion Record Vol. II, Tab 3.

⁷² See e.g. *ScoZinc* at para. 23, BOA, Tab 7.

⁷³ See e.g. *Horsehead*, BOA, Tab 9; *Lightsquared*, BOA, Tab 10; *Xinergy*, BOA, Tab 11.

⁷⁴ See e.g. *Cline Mining Corporation (Re)*, 2014 ONSC 6998 at para. 22, BOA, Tab 12; *Roman Catholic Episcopal Corp. of St. George's, Re*, 2007 NLTD 20 at para. 6, aff'd 2007 NLCA 17, BOA, Tab 13.

- (c) The claims package was posted on the website of the court-appointed Monitor; and
- (d) A notice was published in The Globe and Mail (National Edition), The Wall Street Journal, and USA Today.⁷⁵

47. The noticing plan for unknown creditors in this case is even more robust as it includes newspaper notices on multiple occasions, including twice following recognition of the Chapter 11 Proceedings, twice following recognition of the Japanese Proceedings, and once following the issuance of Chapter 11 Claims Process Order.⁷⁶ Additionally, further information about the claims processes has been available for some time on the FTI Website, Prime Clerk Website and TKJP Website.⁷⁷

48. **Third**, sufficient time has been or will be provided to submit claims. The Chapter 11 Claims Process Order will provide sufficient notice of the Bar Dates and sufficient notice of the Japanese Claims Deadline has already been provided to all known and unknown creditors of the Debtors.

49. With respect to the Chapter 11 Claims Process Order:

- (a) A claims package will be mailed to all known creditors of the Chapter 11 Debtors in Canada by October 5, 2017;⁷⁸
- (b) Newspaper notices regarding the recognition of the Chapter 11 Proceedings in Canada were published in The Globe and Mail and National Post on July

⁷⁵ *Muscletech 2006* at paras. 7-8, BOA, Tab 8.

⁷⁶ Information Officer's Report at paras. 27 and 32; Teel Affidavit at para. 33, Motion Record Vol. I, Tab 2.

⁷⁷ Information Officer's Report at paras. 11 and 29; Kasuya Affidavit at para. 11, Motion Record Vol. II, Tab 3.

⁷⁸ Teel Affidavit at para. 19, Motion Record Vol. I, Tab 2.

5, 2017 and July 12, 2017. The newspaper notice directed potential creditors to the FTI Website and the Prime Clerk Website for further information about the Chapter 11 Proceedings;⁷⁹

- (c) A further newspaper notice regarding the Chapter 11 Claims Process Order will be published in The Globe and Mail and Le Devoir as soon as practicable;⁸⁰
- (d) The Information Officer is expected to post information regarding the Bar Dates and relevant links on the FTI Website; and
- (e) The General Bar Date is not until November 27, 2017 and the PPIC Bar Date is not until December 27, 2017.⁸¹

50. With respect to the Japanese Court Orders:

- (a) A claims package was mailed to all known Canadian creditors of the Japanese Debtors in Canada by July 28, 2017;⁸²
- (b) On July 10, 2017, an FAQ providing information on the claims process in the Japanese Proceeding was posted on the TKJP Website;⁸³
- (c) On July 18, 2017, a copy of the claims package was posted on the TKJP Website;⁸⁴

⁷⁹ Information Officer's Report at para. 27 and Schedule "F".

⁸⁰ Teel Affidavit at para. 33, Motion Record Vol. I, Tab 2.

⁸¹ Teel Affidavit at para. 19, Motion Record Vol. I, Tab 2.

⁸² Kasuya Affidavit at para. 10, Motion Record Vol. II, Tab 3.

⁸³ Kasuya Affidavit at para. 11, Motion Record Vol. II, Tab 3.

⁸⁴ Kasuya Affidavit at para. 13, Motion Record Vol. II, Tab 3.

- (d) Also on July 18, 2017, the Information Officer posted a notice on the FTI Website that the deadline for filing claims was August 25, 2017 and noted that further information could be obtained on the TKJP Website;⁸⁵
- (e) On August 15, 2017, the claims package was posted on the FTI Website;⁸⁶
- (f) In addition to the newspaper notices that were published in July noted above, newspaper notices regarding the recognition of the Japanese Proceedings in Canada and the Japanese Claims Deadline were published in The Globe and Mail and National Post on September 12, 2017 and September 19, 2017;⁸⁷ and
- (g) Canadian creditors may submit a proof of claim in Japan up to October 30, 2017 where the reason for their failure to submit a claim prior to the Japanese Claims Deadline was not attributable to them. The Japanese Court has accepted all such claims to date.⁸⁸

51. Accordingly, the Chapter 11 Claims Process Order and the provisions of the Japanese Court Orders that establish the Claims Deadline in Canada are appropriate and necessary for the protection of the Debtors' property and the interests of creditors in a successful restructuring and the consummation of the Global Transaction and it is appropriate to grant the order requested.

⁸⁵ Information Officer's Report at para. 29.

⁸⁶ Information Officer's Report at para. 30.

⁸⁷ Information Officer's Report at para. 32 and Schedule "G".

⁸⁸ Kasuya Affidavit at para. 9, Motion Record Vol. II, Tab 3.

D. Recognition of the U.S. Second Day Orders is Appropriate

52. On June 28, 2017, this Court recognized the U.S. First Day Orders granted by the U.S. Bankruptcy Court.⁸⁹ The U.S. First Day Orders granted relief that: (i) is similar to the relief typically granted to debtors under the CCAA; and (ii) is appropriate and necessary for protection of the Chapter 11 Debtors' property, in particular to provide for the implementation of the Global Transaction.

53. The U.S. First Day Orders were granted on an interim basis to apply until a full hearing on notice could be held by the U.S. Bankruptcy Court.⁹⁰ The U.S. Second Day Orders are chiefly final versions of these Orders, which have already been recognized by this Court.⁹¹ Additionally, the U.S. Second Day Orders include orders regarding the employment and retention of professionals by the Chapter 11 Debtors.⁹²

54. Where a cross-border proceeding is most closely connected to another jurisdiction, it is appropriate for the Court in that jurisdiction to exercise principal control over the insolvency process in light of the principles of comity and in order to avoid a multiplicity of proceedings.⁹³

55. Recognition of the U.S. Second Day Orders in Canada is appropriate and necessary for the protection of the Chapter 11 Debtors' property, as they are each important to the Chapter 11 Debtors' continued operations and progress towards implementation of the Global Transaction.

⁸⁹ Teel Affidavit at para. 13, Motion Record Vol. I, Tab 2.

⁹⁰ Teel Affidavit at para. 36, Motion Record Vol. I, Tab 2.

⁹¹ Teel Affidavit at para. 44, Motion Record Vol. I, Tab 2.

⁹² Teel Affidavit at para. 44, Motion Record Vol. I, Tab 2.

⁹³ *Matlack* at para. 7, BOA, Tab 4.

V. ORDER REQUESTED

56. For the reasons set out above, the Foreign Representatives request that this Court grant relief by making orders substantially in the forms of the Orders included at Tabs 4 and 5 of their Motion Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 5th day of October, 2017.



McCarthy Tétrault LLP

Lawyers for the Foreign Representatives

Schedule "A" – Chapter 11 Debtors

1. TK Holdings Inc.
2. Takata Americas
3. TK Finance, LLC
4. TK China, LLC
5. TK Mexico Inc.
6. TK Mexico LLC
7. Interiors in Flight, Inc.
8. Takata Protection Systems Inc.
9. TK Holdings de Mexico S. de R.L. de C.V.
10. Industrias Irvin de Mexico, S.A. de C.V.
11. Takata de Mexico, S.A. de C.V.
12. Strosshe-Mex, S. de R.L. de C.V.

Schedule “B” – Japanese Debtors

1. Takata Corporation
2. Takata Kyushu Corporation
3. Takata Service Corporation

Schedule “C” – Glossary

Defined Term	Definition
Abeyance Actions	<p>The five Canadian Class Actions that are currently being held in abeyance, specifically:</p> <ul style="list-style-type: none"> • <i>Rai v. Takata Corporation et al.</i>, B.C. Supreme Court File No. S-148694 • <i>Loewenthal v. Takata Corporation et al.</i>, B.C. Supreme Court File No. S149072 • <i>Covill v. Takata Corporation et al.</i>, Saskatchewan Court of Queen’s Bench File No. QBG 2561/2014 • <i>Hall v. Takata Corporation et al.</i>, Saskatchewan Court of Queen’s Bench File No. QBG 1284/2015 • <i>Vitoratos et al. v. Takata Corporation et al.</i>, 500-06-000723-144
Canadian Actions	<p>Collectively, the Canadian Class Actions, the Canadian Competition Class Actions and the Canadian Personal Injury Actions.</p>
Canadian Class Actions	<p>14 putative class actions commenced in four Canadian provinces (British Columbia, Saskatchewan, Quebec and Ontario) which name TKH, TKJP and certain non-Debtor subsidiaries, as well as certain OEMs, as Defendants.</p>
Canadian Competition Class Actions	<p>Four putative competition class actions commenced in four Canadian provinces (British Columbia, Ontario, Saskatchewan, Quebec) against TKH, TKJP, along with certain OEMs, specifically:</p> <ul style="list-style-type: none"> • <i>Sheridan Chevrolet Cadillac Ltd. v. Autoliv ASP, et al.</i>, Ontario Superior Court of Justice File No. CV-13-472259-00CP • <i>M. Serge Asselin v. Autoliv Inc., et al.</i>, Quebec Superior Court File No. 200-06-000158-132 • <i>Ewert v. Autoliv, Inc., et al.</i>, B.C. Supreme Court File No. S132959 • <i>Cindy Retallick and Jagjeet Singh Rajput v. Autoliv ASP Inc. et al.</i>, Saskatchewan Court of Queen’s Bench File No.

Defined Term	Definition
	Q.B. No. 988 of 2014
Canadian Personal Injury Actions	<p>Three personal injury actions commenced by individual plaintiffs against TKH and/or TKJ in Ontario, specifically:</p> <ul style="list-style-type: none"> • <i>Bluestone et al. v. Takata Corporation et al.</i>, Ontario Superior Court of Justice File No. CV-15-535772 • <i>Hallett v. Takata Corporation et al.</i>, Ontario Superior Court of Justice File No. CV-16-55579700CP • <i>Gordon v. Takata Corporation et al.</i>, Ontario Superior Court of Justice File No. CV-17-577414
Canadian Recognition Orders	The Initial Recognition Order (Foreign Main Proceeding) and Supplemental Recognition Order (Foreign Main Proceeding) issued by the Ontario Superior Court of Justice on June 28, 2017, as amended by the Japanese Recognition Order.
CCAA	<i>Companies' Creditors Arrangement Act</i> , R.S.C. 1985, c. C-36, as amended.
Chapter 11 Proceedings	The proceedings commenced by the Chapter 11 Debtors in the U.S. Bankruptcy Court.
Continuing Actions	<p>The five Canadian Class Actions that have been consolidated into national class actions proceeding in Ontario, specifically:</p> <ul style="list-style-type: none"> • <i>Des-Rosiers et al. v. Takata Corporation et al.</i>, Ontario Superior Court of Justice File No. CV-16-543767-00CP • <i>McIntosh v. Takata Corporation et al.</i>, Ontario Superior Court of Justice File No. CV-16-543833-00CP • <i>Coles v. Takata Corporation et al.</i>, Ontario Superior Court of Justice File No. CV-16-543764-00CP • <i>Mailloux v. Takata Corporation et al.</i>, Ontario Superior Court of Justice File No. CV-16-543763-00CP • <i>D'Haene et al. v. Takata Corporation et al.</i>, Ontario Superior Court of Justice File No. CV-16-543766-00CP
Foreign Proceedings	Collectively, the Chapter 11 Proceedings and the Japanese Proceedings.

Defined Term	Definition
Foreign Representatives	Collectively, the U.S. Foreign Representative and the Japanese Foreign Representative.
Global Transaction	The global sale transaction of substantially all of Takata's assets to Key Safety Systems, Inc.
Information Officer	FTI Consulting Canada Inc., in its capacity as information officer appointed pursuant to the Canadian Recognition Orders.
Japanese Court	The 20 th Department of the Civil Division of the Tokyo District Court.
Japanese Court Orders	The Orders issued by the Japanese Court on June 26, 2017 and June 28, 2017 (i) appointing the Supervisor, and (ii) approving the commencement of the Japanese Debtors' proceedings under the Civil Rehabilitation Act and establishing a schedule for the civil rehabilitation proceedings.
Japanese Foreign Representative	TKJP in its capacity as foreign representative of the Japanese Debtors.
Japanese Proceedings	The civil rehabilitation proceedings commenced by the Japanese Debtors in the Japanese Court.
Japanese Recognition Order	The Japanese Recognition Order issued by the Ontario Superior Court of Justice on September 1, 2017.
OEMs	Original Equipment Manufacturers
PPICs	Potential PSAN Inflator Claimants
Prime Clerk	Prime Clerk LLC, the official claims and noticing agent for the Chapter 11 Debtors
Principal Foreign Courts	Collectively, the U.S. Bankruptcy Court and the Japanese Court.
Supervisor	Mr. Katsuyuki Miyakawa, a Japanese attorney, appointed as the Japanese Debtors' supervisor pursuant to the Japanese Court Orders.
Takata	TKJP collectively with TKH and all of TKJP's direct and indirect subsidiaries.
TKH	TK Holdings Inc.

Defined Term	Definition
TKJP	Takata Corporation
U.S. Bankruptcy Court	The United States Bankruptcy Court for the District of Delaware.
U.S. First Day Orders	Certain first day orders that were issued in the Chapter 11 Proceedings on June 27, 2017.
U.S. Foreign Representative	TKH, in its capacity as foreign representative of the Chapter 11 Debtors.

Schedule “D” – List of Authorities

Jurisprudence

1. *Babcock & Wilcox Canada Ltd., Re*, 2000 CarswellOnt 704 (SCJ)
2. *Cline Mining Corporation (Re)*, 2014 ONSC 6998
3. *Hartford Computer Hardware, Inc. (Re)*, 2012 ONSC 964
4. *Horsehead Holding Corp., Re*, Ontario Superior Court of Justice (Commercial List), Court File No. CV-16-11271-00CL, Order of Swinton J. issued April 13, 2016
5. *Lightsquared LP, Re*, Ontario Superior Court of Justice (Commercial List), Court File No. CV-12-9719-00CL, Order of Newbould J. issued August 21, 2012
6. *Matlack Inc., Re*, 2001 CarswellOnt 1830 (SCJ)
7. *Muscletech Research and Development Inc, Re*, Ontario Superior Court of Justice (Commercial List), Court File No. 06-CL-6241, Order of Farley J. issued March 3, 2006
8. *Muscletech Research & Development Inc., Re*, 2007 CarswellOnt 1029 (SCJ)
9. *Roman Catholic Episcopal Corp. of St. George's, Re*, 2007 NLTD 20, *aff'd* 2007 NLCA 17
10. *ScoZinc Ltd., Re*, 2009 NSSC 136
11. *Timminco Limited (Re)*, 2014 ONSC 3393
12. *Xerium Technologies Inc., Re*, 2010 ONSC 3974
13. *Xinergy Ltd., Re*, Ontario Superior Court of Justice (Commercial List), Court File No. CV-15-10936-00CLL, Order of Newbould J. issued June 18, 2015

Schedule “E” – Statutes Cited

Companies’ Creditors Arrangement Act, R.S.C., 1985, c. C-36

PART IV: Cross-border Insolvencies

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.

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.

Obligations

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 proceeding.

Cooperation—other authorities in Canada

(2) If any proceedings under this Act have been commenced in respect of a debtor company and an order recognizing a foreign proceeding is made in respect of the debtor company, every person who exercises powers or performs duties and functions under the proceedings under this Act shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the proceeding.

Forms of cooperation

(3) For the purpose of this section, cooperation may be provided by any appropriate means, including

- (a) the appointment of a person to act at the direction of the court;
- (b) the communication of information by any means considered appropriate by the court;
- (c) the coordination of the administration and supervision of the debtor company's assets and affairs;
- (d) the approval or implementation by courts of agreements concerning the coordination of proceedings; and
- (e) the coordination of concurrent proceedings regarding the same debtor company.

IN THE MATTER OF APPLICATION OF AN APPLICATION BY TK HOLDINGS INC.
AND TAKATA CORPORATION UNDER SECTION 46 OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT

Court File No. CV-17-11857-00CL

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

Proceeding Commenced at Toronto

**FACTUM OF THE
FOREIGN REPRESENTATIVES
(re: Recognition of Claims Processes
and Second Day Orders)
(Returnable October 13, 2017)**

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