

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

No: 500-11-048114-157

SUPERIOR COURT
(Commercial Division)

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

IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT
OF:

BLOOM LAKE GENERAL PARTNER
LIMITED, QUINTO MINING CORPORATION,
8568391 CANADA LIMITED, CLIFFS QUÉBEC
IRON MINING ULC, WABUSH IRON CO.
LIMITED, WABUSH RESOURCES INC.

Petitioners

-and-

THE BLOOM LAKE IRON ORE MINE
LIMITED PARTNERSHIP, BLOOM LAKE
RAILWAY COMPANY LIMITED,
WABUSH MINES, ARNAUD RAILWAY
COMPANY, WABUSH LAKE RAILWAY
COMPANY LIMITED

Mises-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

-and-

MICHAEL KEEPER, TERENCE WATT,
DAMIEN LABEL AND NEIL JOHNSON

PETITIONERS-Mises-en-cause

-and-

UNITED STEELWORKERS, LOCAL 6254,
UNITED STEELWORKERS, LOCAL 6285

Mises-en-cause

-and-

MORNEAU SHEPELL
Mise-en-cause

**MOTION TO AMEND THE REPRESENTATION ORDER AND FOR AN ORDER FOR
LEGAL COSTS OF SALARIED/NON-UNION EMPLOYEES AND RETIREES**

(Sections 11 and 11.52 of the *Companies' Creditors Arrangement Act*)

TO THE HONOURABLE MR. JUSTICE STEPHEN W. HAMILTON, J.S.C., OR TO ONE OF THE HONOURABLE JUDGES SITTING IN THE COMMERCIAL DIVISION IN AND FOR THE JUDICIAL DISTRICT OF MONTRÉAL, THE PETITIONERS-MISES-EN-CAUSE RESPECTFULLY SUBMIT THE FOLLOWING:

INTRODUCTION

1. Pursuant to the Order of the Honourable Stephen W. Hamilton J.S.C. dated June 22, 2015 (the "**Representation Order**"), Michael Keeper, Terence Watt, Damien Lebel and Neil Johnson are the Court-appointed representatives (the "**Representatives**") of all Salaried/Non-union employees and retirees of the Wabush CCAA Parties (the "**Salaried Members**") in the CCAA proceedings and the firm of Koskie Minsky LLP ("**KM**") of Toronto, and Nicholas Scheib of Montreal, Québec are the Representative Counsel of the Salaried Members.
2. The Representatives and Representative Counsel are responsible for the representation of 656 former non-union employees and retirees (the "**Salaried Members**") in the CCAA proceedings. The Salaried Members are a significant creditor group of Wabush Mines who have claims for \$27,450,000 for the Salaried Pension Plan wind-up deficit and approximately \$43,452,000 for their terminated OPEBs.
3. As of June 26, 2017, Mr. Scheib resigned as Québec Representative Counsel. Attached hereto as **Exhibit P-1** is a copy of Mr. Scheib's resignation notice dated June 26, 2017.
4. In the period following Mr. Scheib's resignation, KM discussed with the Monitor that it was appropriate and necessary to locate a replacement Québec Representative Counsel, and KM entered into discussions with Québec lawyers to locate a suitable replacement and to discuss retainers, qualifications, conflict checks and interest to take on the role in this proceeding.
5. Given that:
 - a) the CCAA proceeding is before the Québec courts and involves the application of Québec laws and civil procedures;
 - b) the proceedings are in both official languages;

- c) the CCAA proceeding involves a company whose head office is in Montreal and one of its major operations (the Sept-Iles processing plant) was located in Québec;
- d) the Salaried Members are comprised of a large number of Québécois;
- e) since June 9, 2015, the Monitor has been conducting the SISP to sell all of Wabush Mines' assets;
- f) in the decision of this Court dated September 11, 2017 (the "**Pension Direction Decision**"), this Court held that Wabush Mines CCAA proceedings are a liquidation since the CCAA filing date of May 20, 2015;
- g) the Monitor reports that it is currently holding \$105,913,000 for all the Bloom Lake estates and \$48,447,000 for the Wabush Mines estates. The sales proceeds to date are substantially less than the quantum of creditors' claims. There are insufficient assets realized in the SISP to date to pay creditors' claims in full;
- h) therefore, all of the funds in the estates conceptually belong to the Wabush Mines' creditors. The only issue is to which creditor(s) to distribute the assets and in what priority;
- i) the Monitor has reported the estimated ranges of potential unsecured distributions from the estates as very low (other than Quinto Mining), and for some estates, are *de minimus* or non-existent¹:

	Low	High
Bloom Lake LP	1.77%	2.89%
Bloom Lake GP	0.00%	0.00%
CQIM	2.58%	3.05%
Quinto Mining	55.09%	61.86%
Arnaud Railway	0.00%	23.38%
WICL	0.00%	1.33%
Wabush Lake Railway	0.00%	0.01%
Wabush Mines ¹	0.00%	0.00%
WRI	0.00%	2.59%

¹Wabush Mines is an unincorporated joint venture, accordingly it has no assets or liabilities of its own and distributions would be through the joint venturers, WICL and WRI

- j) it appears that to date the only estate from which the Salaried Members (and USW) members can seek meaningful recovery with respect to the amounts owing to them due to their 25% pension benefit reductions will be Arnaud Railway (who is an "employer" under the Salaried Plan); however, this is not confirmed;
- k) it is estimated that the estate of Arnaud Railway currently holds approximately \$27,629,209 (to be confirmed by the Monitor). If the Salaried Members' deemed

¹ Monitor's 41st Report, para. 56

trust priority claims are held to be valid on appeal, the Representatives' position is that they recover with priority from the Arnaud Railway estate;

- l) assuming that the deemed trust priority is also valid for the USW Pension Plan, this would mean that the Salaried Members could recover approximately \$13 million in respect of their pension losses from the estate of Arnaud Railway. In contrast, without priority and based on current estimates, the Salaried Members could only recover a maximum of 23.38% or approximately \$6,417,810 from Arnaud Railway;
- m) it is critical for the Salaried Members to advance an appeal before the Québec Court of Appeal of the Pension Directions Decision of this Court, pursuant to which they were effectively rendered unsecured creditors, and opposing the Monitor's and Sept-Iles' Incidental Appeals from that decision in order to try and obtain a meaningful recovery for the significant losses to their monthly pension benefits (and total loss of their OPEBs);
- n) the Salaried Members' OPEB unsecured claims against WICL, Wabush Lake Railway, Wabush Mines JV and WRI currently show 0% to *de minimus* recoveries;
- o) there are significant unresolved issues in the CCAA proceedings involving inter-company debts and claims ("**Related Party Claims**"), as well as the on-going 2014 Reorganization of Cliffs Natural Resources (the "**2014 Reorganization**") issue that was initially reported in the Monitor's Pre-Filing Report dated January 26, 2015. Both of these issues, once resolved, (among others) appear that they will have significant impact on creditors' recoveries;
- p) with respect to Related Party Claims, the Monitor states that "No conclusion has yet been reached with respect to the issue"²;
- q) with respect to the 2014 Reorganization, the Monitor states that "the Monitor is in the process of reviewing the circumstances of these [Related Party] payments...and has continued its discussions with CNR and has requested that a proposal for a potential settlement be tabled for consideration. While no proposal has yet been tabled, the parties have had some conceptual discussions..."³;
- r) in the absence of "meaningful progress" with CNR the Monitor says it will "consider seeking the necessary authority to commence appropriate proceedings with respect to the 2014 Reorganization"⁴;
- s) the Monitor and the CCAA Parties together behave as highly adversarial opponents of the Salaried Members and seek to uphold the result from the

² Monitor's 41st Report, para. 42

³ Monitor's 41st Report, paras 46-47.

⁴ Monitor's 41st Report, para. 47

Pension Direction Decision that the Salaried Members are effectively unsecured creditors; and

- t) the Monitor has even appealed from the CCAA Court's decision in the Monitor's own Pension Direction Motion and is challenging the CCAA Court's finding that the Wabush CCAA proceedings are a liquidation that commenced as of the filing date (in addition to the Monitor appealing other determinations of the CCAA Court). The appeal by the Monitor is presumably because the NLPBA and PBSA contain language that expressly states that the deemed trust for pension plan beneficiaries apply in the event of the "liquidation" of the employer which the Monitor seeks to render inoperative for the Salaried Members. The level of opposition from the Monitor in particular requires considerable time and effort by Representative Counsel in order to protect and advance the rights and claims of the Salaried Members before the Québec courts.

Therefore, Representative Counsel submits that retaining a replacement Québec Representative Counsel is both necessary and responsible in order for the Salaried Members to continue to have proper representation in this proceeding as the above issues move forward, both before and outside the Québec courts, and resolving issues so that a distribution to creditors can eventually occur.

6. Representative Counsel understands that the Monitor agreed that obtaining replacement Québec Representative Counsel was appropriate. The Monitor also suggested the names of certain Québec lawyers for KM to contact as potential replacements.
7. In early October, 2017 KM consulted the firm of Fishman Flanz Meland Paquin LLP ("**FFMP**"). FFMP is a respected Montreal firm with expertise in Québec insolvency and commercial litigation. FFMP was identified by KM internally, and is not one of the Monitor's suggestions.
8. After discussing the case and clearing conflicts, FFMP agreed to be appointed as Québec Representative Counsel to replace Mr. Scheib.
9. As Representative Counsel to the Salaried Members, KM recommended to the four Court-appointed Representatives in October, 2017 that FFMP be retained. All four Representatives have instructed KM to retain FFMP and to proceed with a motion to have them added to the Representation Order to replace Mr. Scheib and to request payment of the costs of the Salaried Members to cover the fees of FFMP. The Representatives have confirmed their instructions in email notes to Representative Counsel attached hereto as **Exhibit P-2**.
10. KM consulted FFMP during the preparation of an Application for Leave to Appeal and Notice of Appeal to the Québec Court of Appeal from the Pension Directions Decision of the CCAA Court released on September 11, 2017. FFMP was asked to assist on the Salaried Members' Leave Application, as well as to review those of other parties, and subsequently on the Monitor's and City of Sept-Iles' Incidental Appeals, and also to assist

on the appointment of a Québec Court of Appeal case management judge for the hearing of the appeals and, if authorized, the Incidental Appeals.

11. KM determined that it was important to consult a Québec counsel who have expertise in the Québec litigation procedures and forms, in the context of insolvency law and the appeals from a decision of a Québec CCAA Court that involves issues of Québec law (e.g., whether assets in Québec can be attached to the NLPBA deemed trusts). FFMP was consulted on a time sensitive basis (leave to appeal is to be filed within 21 days from the date of the Pension Directions Decision) and they assisted throughout October and November 2017, pending the amendment of the Representation Order for them to be appointed the replacement Québec Representative Counsel. As such, FFMP was also required to spend the necessary time to become familiar with the status of the voluminous CCAA proceeding which has been underway since June, 2015, which included numerous discussions and written exchanges between FFMP and KM and extensive reviews of the CCAA materials by FFMP.
12. Representative Counsel informed the Monitor of its discussions with FFMP. FFMP attended in the Québec Court of Appeal on October 31, 2017 at the Salaried Members' Leave Application hearing, as well as at the Monitor's and City of Sept-Iles' Leave Applications for their Incidental Appeals on November 9, 2017.
13. FFMP also participated in a number of conference calls with counsel for the other appellants as well as with the Monitor and/or the Monitor's counsel in relation to the appeal process and other CCAA matters.
14. In the last cost order dated June 28, 2017 (attached hereto as **Exhibit P-3**), the Court approved the legal fees of the Salaried Members in the amount of a cap of \$40,000/month for a five-month stay period for a total of \$200,000. There was no amount budgeted for Québec Representative Counsel in that amount. The actual fees of Representative Counsel for that period were as follows:

Date	Fee Amount
July 2017	\$7,281.00
Aug/Sept 2017	\$38,669.00
October 2017	\$49,098.00
November 2017	\$53,373.00
TOTAL	\$148,421.00
Amount remaining in last Stay Period cap	(\$51,579.00)

15. FFMP have rendered services in October and November, 2017 in the amount of approximately \$60,000, but at the request of KM, has agreed to reduce total fees (net of taxes and disbursements) to the amount of \$51,579 for that period. Thus, there are no fees being sought herein in excess of the amount approved in the last costs order.

16. For the sake of comparison, Mr. Scheib, a sole practitioner in Montreal, charged fees in total of \$141,257.93 from the time of his appointment on June 22, 2015 to his resignation. There are no fees of Mr. Scheib in the above amounts.
17. Through Representative Counsel, the Representatives hereby request that this Honourable Court exercise its discretion under section 11 of the *Companies' Creditors Arrangement Act*, R.S.C. c. C-36, ("CCAA") to issue the following orders:
 - (a) appoint FFMP as Québec Representative Counsel to replace Mr. Scheib effective as of October 1, 2017, and, if necessary, approve payment of their fees incurred for October and November 2017 in the amount of \$51,579, payable under the past costs cap; and
 - (b) approve the legal costs of the Representatives for the period from December 1, 2017 to March 31, 2018 (the "**Stay Period**") in the amount of \$65,000 per month comprised notionally of \$40,000 per month for KM (the same amount as under the previous fee order issued on June 28, 2017), and \$25,000 per month notionally for FFMP.
18. Despite agreeing with Representative Counsel that retaining replacement Québec Representative Counsel was appropriate for the Salaried Members in this proceeding, and despite many discussions and encouragement from the Monitor to obtain replacement Québec Representative Counsel, and despite providing names of certain Montreal lawyers for Representative Counsel to contact, and despite requesting a budget for the costs of FFMP (which was provided), the Monitor advised on Saturday, December 2, 2017 that it would only approve additional costs in the amount of \$40,000 per month (the same amount as last court order, which did not contain a budget for Québec counsel) and would not approve the payment of any additional costs for FFMP, and that any costs of Québec Representative Counsel would have to be paid from the amount budgeted for KM for the next Stay Period (i.e. from the \$40,000/month amount, assuming the Court approves that amount).
19. The refusal of the Monitor to agree to additional costs for Québec counsel as communicated on December 2, 2017, if accepted by this Court, would prevent FFMP from being retained by the Representatives going forward and disadvantage the Salaried Members in this proceeding from having appropriate representation in a complex and adversarial CCAA proceeding before the Québec courts involving the application of Québec laws and procedures.
20. It is neither reasonable nor fair for the additional costs of proposed Québec Representative Counsel to be required to be paid out of the limited cost budget of KM.

The Monitor's Fee Budget for the four-month Stay Period is \$1 million to \$2 million

21. The Monitor has budgeted fees for itself, its counsel, and the CCAA Applicants' counsel and Representative Counsel for the Stay Period amount of "\$1 million to 2 million, excluding taxes"⁵.
22. Given that the Monitor is only willing to approve the payment of costs for the same \$40,000/month as in the last cost order (for which a Québec Representative Counsel was not budgeted), this means that the fees that the Monitor has budgeted for itself, its counsel, and the CCAA Applicants' counsel are approximately \$210,000 to \$460,000 per month.
23. The costs requested by the Representatives, for KM and FFMP, are a fraction of the substantial fees that the Monitor has budgeted for itself, its counsel, and the CCAA Applicants' counsel.
24. The fees as requested by Representative Counsel herein will not have any material impact on distributions from the estate.

BACKGROUND

25. On May 20, 2015, Wabush Iron Co. Limited, Wabush Resources Inc., Wabush Mines, Arnaud Railway Company, and Wabush Lake Railway Company Limited (collectively, the "**Wabush CCAA Parties**") obtained protection from their creditors under the CCAA. FTI Consulting Inc. was appointed as Monitor.
26. This case involves pension and insolvency issues in the jurisdictions of Québec, Newfoundland and Labrador, and the federal jurisdiction.
27. On June 22, 2015, as part of the Representation Order of Mr. Justice Hamilton, the legal costs of the Representatives incurred from the inception of the CCAA proceedings to June 22, 2015 were ordered to be paid by the Wabush CCAA Parties in the amount as set out in the June 22, 2015 Order.
28. On October 28, 2016, by Order of Mr. Justice Hamilton, the legal costs of the Representatives incurred prior to October 1, 2016 that were incurred in excess of the amount ordered in the June 22, 2015 Court Order, and the Representatives' legal costs for the period from October 1, 2016 until January 31, 2017, inclusive, were directed to be paid by the Wabush CCAA Parties.
29. On May 31, 2017, by Order of Mr. Justice Hamilton, the legal costs of the Representatives prior to February 1, 2017 that were incurred in excess of the amount ordered in the October 28, 2016 Court Order, and the Representatives' legal costs for the

⁵ Monitor's 41st Report, para. 59

period from February 1, 2017 until June 30, 2017, inclusive, were directed to be paid by the Wabush CCAA Parties.

30. On June 28, 2017, by Order of Mr. Justice Hamilton, the legal costs of the Representatives prior to July 1, 2017 that were incurred in excess of the amount ordered in the May 31, 2017 Court Order, and the Representatives' legal costs for the period from July 1, 2017 until November 30, 2017, inclusive, were directed to be paid by the Wabush CCAA Parties.
31. As a consequence of the on-going CCAA proceedings and its prejudicial impact on the Salaried Members' by reductions to their monthly pension benefits and total loss of retiree health and life insurance benefits, and the extension of the Stay Period to March 31, 2018, this motion seeks coverage for the future costs of the Salaried Members from December 1, 2017 to March 31, 2018.

THE ACTIVITIES OF THE REPRESENTATIVES AND REPRESENTATIVE COUNSEL

32. To date, the Representatives and Representative Counsel have been actively involved in assisting the Salaried Members with respect to a large number of issues and proceedings including the following:
 - (a) advising with respect to a Sales and Investment Solicitation Process (“SISP”) to sell all of the assets of the Wabush CCAA Parties;
 - (b) reviewing numerous motion materials and Monitor’s Reports, and advising the Representatives and individual employees and retirees on issues arising in and as a result of the SISP;
 - (c) representing Salaried Members in the motion to the CCAA Court, objecting to the no-notice termination of health benefits and life insurance on the basis that, *inter alia*, the company failed to comply with section 32 of the CCAA (which requires a minimum 30 day notice for a disclaimer of contracts) and on a motion for leave to appeal to the Québec Court of Appeal from the decision of the CCAA Court upholding the terminations;
 - (d) preparing employee and retiree claims in respect of the total loss of their health benefits and life insurance and the 25% reductions to their monthly pension benefits for submission in the CCAA claims process, including the assertion of deemed trust statutory priorities for Salaried Plan beneficiaries pursuant to the Newfoundland and Labrador *Pension Benefits Act*, 1997, S.N.L. 1996, c. P-4.01, the Québec *Supplemental Pension Plan Act*, chapter R-15.1, and the federal *Pension Benefits Standards Act*, 1985, R.S.C., 1985, c. 32 (2nd Supp.);

- (e) in March, 2016, arranging and attending on-site meetings in Sept-Iles, Québec , and the town of Wabush, Newfoundland & Labrador to give presentations to Salaried Members on the status of the CCAA proceedings, and answering questions about the terminated OPEBs, monthly pension reductions, the pension plan wind up process and the CCAA process;
 - (f) preparing and conducting a webinar for those Salaried Members who were unable to attend the on-site meetings in Sept-Iles and Wabush due to the distances some members would have to travel to these towns, and posting the recording on the KM website;
 - (g) in July 2016, attending second on-site meetings organized by the pension plan administrator, Morneau Shepell at the request of the Representatives, in Sept-Iles and Wabush, to further explain the pension plan wind up process and the CCAA process;
 - (h) dealing with a large number of salaried employee and retiree inquiries and questions with respect to claims calculations, the ongoing employment of the remaining active employees, and reporting to the employees and retirees on numerous individual issues relating to the CCAA proceedings;
 - (i) maintaining a website with our firm to provide information for the Wabush retirees and employees; and
 - (j) preparing for a two-day adversarial hearing on June 28 and 29, 2017 with multiple parties for the Monitor's Amended Motion for Directions regarding Pension Matters dated April 13, 2017 in which the Monitor sought orders from the CCAA court that would render the bulk of the Salaried Members' pension deficit claims as unsecured claims, except for a *de minimus* amount as a deemed trust claim in relation to the amounts owing for unpaid current service costs and special payments as of the CCAA filing date.
33. In addition to continuing the above-described work, Representative Counsel has also assisted the Salaried Members in the period from July 1, 2016 to November 30, 2017, including with respect to:
- (a) finalizing the Salaried Members Claim for their terminated health benefits, life insurance benefits and supplemental pension benefits, which the actuary (the actuary is jointly retained by the Salaried Members and the USW to streamline the claim calculations, generate consistent methodologies and to save costs) has calculated at approximately \$1,483,182.35 for both the Salaried and USW employees and retirees (subject to on-going negotiations on specific actuarial items with the Monitor);

- (b) reviewing the wind-up report prepared by Morneau Shepell for the Wabush Mines Salaried Pension Plan setting out the wind-up deficiency and the amount owing to the Salaried Pension Plan by Wabush Mines of \$27,450,000;
- (c) reviewing motions and Monitor's Reports and discussions with other stakeholders regarding issues impacting the estate and recovery scenarios;
- (d) reviewing the Pension Directions Decision of this Court released on September 11, 2017, and advising the Representatives and discussions with other stakeholders regarding same;
- (e) preparing a Leave Application and Notice of Appeal to the Québec Court of Appeal in respect of certain determinations in the Pension Directions Decision;
- (f) reviewing the Notices of Appeal and Leave Applications of the Attorney-General of Canada, the Superintendent and USW. Retraite Québec has not appealed;
- (g) attending before the Québec Court of Appeal on the Leave Applications and to seek the appointment of a case management judge;
- (h) reviewing the Notices of Incidental Appeals and Leave Applications of the Monitor and City of Sept-Iles with respect to the Pension Directions Decision;
- (i) attending before the Québec Court of Appeal on the Leave Applications for the Monitor's and City of Sept-Iles' Incidental Appeals;
- (j) on November 21, 2017, attending before the Québec Court of Appeal case management judge to discuss the procedures for the appeal, and reviewing the Memorandum from that case conference, a copy of which is attached hereto as **Exhibit P-4**;
- (k) preparing a Grounds for Appeal Chart for the appeal as directed by the case management judge and extensive discussions with Monitor's counsel and other parties' counsel regarding same;
- (l) discussions with the five other pension stakeholders throughout, namely:
 - 1) Morneau Shepell;
 - 2) the Superintendent of Pensions of Newfoundland & Labrador;
 - 3) United Steelworkers International and Locals 6254 and 6285 (USW);
 - 4) Office of the Superintendent of Financial Institutions (OSFI); and
 - 5) Retraite Québec ,

in order to determine those parties' positions, the commonalities of interests, and the presentation of these parties' positions in an efficient and coordinated manner;

- (m) discussions with the Monitor toward a consensual resolution of numerous claims of certain employees post-filing and certain active employees in respect of issues involving employer contributions to the Salaried Pension Plan for Salaried Members and the wind-up of that plan;
- (n) reviewing and responding as required to motions brought in the CCAA proceedings;
- (o) discussions with the Monitor and other stakeholders regarding on-going issues in the CCAA proceedings, which include outstanding issues related to characterization of Specific Claims Components, as detailed most recently in the Monitor's 39th Report;
- (p) discussions with the Monitor in relation to Related Party Claims, specifically with reference to the effects of the 2014 Reorganization, which the Monitor has been investigating since the Pre-filing Report dated January 26, 2015 and continues to investigate as of the 40th Report of the Monitor dated November 23, 2017; and
- (q) since the beginning of October, 2017, coordinating efforts with FFMP to best represent the interests of the Salaried Members in the context of the appeals and incidental appeals as well as in respect of general matters related to the CCAA proceeding.

The next four-month Stay Period

34. Over the next four months, it is expected that the work involved for the Salaried Members will be substantial. In particular, the anticipated events that will require representation and advice for the Representatives and the Salaried Members include, but are not limited to:
- (a) preparing facts and appeal materials for the appeal hearing before the Québec Court of Appeal;
 - (b) finalizing a remaining aspect of the actuarial methodology for the OPEB claims for submission in the claims process (a specific actuarial issue remain to be resolved) failing which a claims hearing will need to be convened;
 - (c) finalizing issues with respect to severance and other claims of terminated employees (this is virtually complete at this stage);
 - (d) advising with respect to this Court's decision in the Monitor's Pension Directions Motion released on September 11, 2017, and the appeals and incidental appeals of that decision, scheduled to be heard by the Québec Court of Appeal in June, 2018;
 - (e) reviewing and advising on the issues reported primarily in the Monitor's 39th Report pertaining to complex related party transactions and the possible

recharacterization of Related Party Claims from debt to equity that may significantly impact the recovery scenarios for creditors;

- (f) reviewing and advising on the Monitor's reports relating to the 2014 Reorganization of CNR, its impact on the Wabush CCAA Parties and creditor recovery scenarios, and next steps regarding a possible proposal from CNR which may impact the recovery scenarios for creditors;
 - (g) reviewing and advising on all other applicable issues in the CCAA proceeding; and
 - (h) responding to individual employee and retiree inquiries regarding pensions and other CCAA-related matters.
35. Accordingly, given the anticipated work over the next four month period, the Representatives respectfully request approval for the funding of their reasonable legal fees in the on-going CCAA proceedings from the Wabush CCAA Parties for the period from December 1, 2017 to March 31, 2018, in the amount of \$40,000 per month notionally for the fees of KM and \$25,000 per month notionally for the fees of FFMP, with an aggregate cap of \$260,000, plus approval of the fees in relation to the work performed by FFMP in October and November, 2017 in the amount of \$51,579 (the latter payable under the last cost order amount).

The Reference by the Newfoundland government to the Newfoundland Court of Appeal

36. On March 27, 2017, the Newfoundland government directed a Reference for interpretations of the Newfoundland and Labrador *Pension Benefits Act* to the Newfoundland Court of Appeal under section 13 of the Newfoundland *Judicature Act*, RSNL 1990 c. J-4 (the "NL Reference").
37. Representative Counsel, the USW, the Superintendent, the Monitor, the CCAA Parties, City of Sept-Iles and Retraite Québec are intervenors in the NL Reference.
38. The Representatives requested that Representative Counsel participate in the NL Reference to protect and advance the interests and rights of the Salaried Members.
39. The NL Reference was heard over a two-day contested hearing on September 21 and 22, 2017. The decision of the Newfoundland Court of Appeal is under reserve.
40. The Monitor, City of Sept-Iles and the CCAA Parties all took adversarial positions against the Salaried Members.
41. The Attorney General of Canada, Retraite Québec, and the Superintendent also took adversarial positions on certain aspects against the Salaried Members, arguing that their statutes applied mutually exclusively to those Salaried (and Union) plan members who

worked on the Wabush railway, those who reported for work in Québec, and those who reported for work in Newfoundland, respectively.

42. The PBSA and SPPA deemed trusts do not extend to the pension plan wind-up deficit and are significantly less beneficial remedies for the losses to the Salaried Members than the NLPBA.
43. At this time, Representative Counsel does not seek as part of this motion funding for representing the Salaried Members with respect to legal advice and representation relating to the NL Reference.

General

44. Representative Counsel has provided the Representatives with reporting and an understanding and opportunity to participate in the CCAA proceedings in an organized and efficient manner on behalf of the Salaried Members who require representation in an adversarial proceeding with numerous complex issues that directly affects their rights and retirement income security on which they base their livelihoods. Representative Counsel has also responded, and continues to respond, to a large number of inquiries from individual employees and retirees on various issues that impact them in the CCAA proceedings.
45. The Representatives have reviewed these motion materials and they approve and support the relief sought herein.
46. The shutdown of Wabush Mines and the CCAA proceeding are a highly sensitive matter given the losses imposed on the Québec and Newfoundland employees and retirees and their families.
47. Legal representation and funding for the Salaried Members' legal costs has ensured, and will continue to ensure, that the Salaried Members' rights and claims in respect of the amounts owing in respect of their registered pension plans and their OPEBs are protected and advanced throughout these adversarial proceedings, thereby helping to mitigate the on-going prejudicial effects of the CCAA proceedings on the Salaried Members.
48. Representative Counsel has also ensured the uniformity of claims submissions and has avoided to the extent possible a multiplicity of claims being submitted by numerous individuals. This will also ensure that the Salaried Members' submissions about their relative priority of such claims, vis-à-vis other creditors in these CCAA proceedings, continue to be put before the Court in a uniform, and cost-effective manner. Representative Counsel provides a single voice for Salaried Members in the CCAA proceedings, ensuring that an important and large creditor group is appropriately represented.

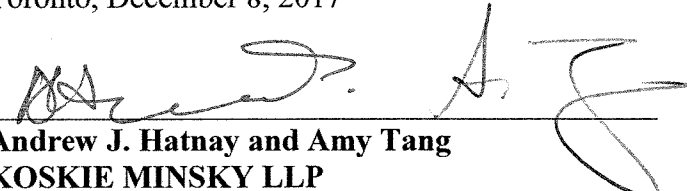
49. The Representatives and Representative Counsel have worked closely with the other above-mentioned pension interests in an effort to develop consistent positions and to streamline the issues before this Court.
50. Consistent with the Representation Order and, in accordance with section 11.52 of the CCAA, it is respectfully submitted that the funding for the next tranche of legal costs of the Salaried Members for the period from December 1, 2017 to March 31, 2018 also be paid by the Wabush CCAA Parties upon the rendering of sufficiently detailed accounts (subject to reasonable redaction due to solicitor-client privilege) to the Wabush CCAA Parties, and subject to the invoices being approved by the Monitor;

FOR THESE REASONS THE PETITIONERS-MISES-EN-CAUSE ASK THAT THIS HONOURABLE COURT:

- [A] **GRANT** the present Motion;
- [B] **ISSUE** an Order in the form of the Draft Order communicated herewith as **Exhibit P-5**; and
- [D] **DECLARE** that service and notice of this Motion was good and sufficient.

THE WHOLE without costs, save and except in case of contestation.

Toronto, December 8, 2017



Andrew J. Hatnay and Amy Tang
KOSKIE MINSKY LLP

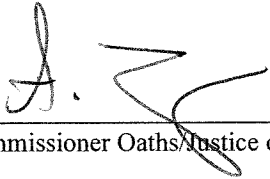
Representative Counsel for the Petitioners-Mises-en-cause Michael Keeper, Terence Watt, Damien Lebel and Neil Johnson, the Representatives of the Salaried Members.

AFFIDAVIT

I, the undersigned Andrew J. Hatnay, resident for the purposes hereof at 20 Queen Street West, Suite 900, in the City of Toronto, Province of Ontario, M5H 3R3, hereby solemnly declare and make oath and say the following:

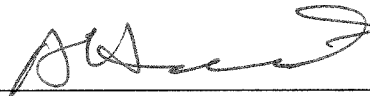
1. I am a partner with the firm of Koskie Minsky LLP, the Court-appointed Representative Counsel to all the Salaried Members of the Wabush CCAA Parties;
2. All of the facts alleged in the present *Motion to Amend the Representation Order and for an Order for Legal Costs of Salaried/Non-Union Employees and Retirees* are true.

SWORN BEFORE ME at Toronto,
in the Province of Ontario,
December 8, 2017.



A Commissioner Oaths/Justice of the Peace

LSUC # 70164K



ANDREW J. HATNAY

NOTICE OF PRESENTATION

in support of Petitioners-Mise-en-causes' Motion to Amend the Representation Order and for an Order for Legal Costs of Salaried/Non-Union Employees and Retirees

TO: **Me Bernard Boucher** (bernard.boucher@blakes.com)
Me Sébastien Guy (sebastien.guy@blakes.com)
BLAKE, CASSELS & GRAYDON LLP
600 de Maisonneuve West, Suite 2200
Montreal, Québec H3A 3J2
Counsel for the Petitioners and the Mises-en-cause (i.e., Wabush CCAA Parties)

AND TO: **Me Sylvain Rigaud** (sylvain.rigaud@nortonrosefulbright.com)
NORTON ROSE FULBRIGHT CANADA LLP
1 Place Ville Marie, Suite #2500
Montreal, Québec H3B 1R1
Counsel for the Monitor

AND TO: SERVICE LIST

TAKE NOTICE that the present *Motion to Amend the Representation Order and for an Order for Legal Costs of Salaried/Non-Union Employees and Retirees* will be presented for adjudication before The Honourable Mr. Justice Stephen W. Hamilton, J.S.C., or another of the Honourable Justices of the Superior Court, Commercial Division, sitting in and for the district of Montreal, at the Montreal Courthouse located at 1 Notre-Dame Street East, Montreal, Québec, on a date and in a room to be determined by the Court.

GOVERN YOURSELF ACCORDINGLY.

TORONTO, December 8, 2017



KOSKIE MINSKY LLP

Attorneys for the Petitioners-Mises-en-cause Michael Keeper, Terence Watt, Damien Lebel and Neil Johnson

LIST OF EXHIBITS

(In support of the *Motion to Amend the Representation Order and for an Order for Future Legal Costs of Salaried/Non-Union Employees and Retirees*)

Exhibit P-1	<i>Notice of Intention of Co-Counsel to the Representatives to Cease to Represent</i> dated June 26, 2017
Exhibit P-2	Instructions from Representatives to Representative Counsel dated December 4, 2017
Exhibit P-3	Order in respect of Representative Counsel's Motion for an order for legal costs of the Salaried/Non-union Employees and Retirees dated June 28, 2017
Exhibit P-4	Québec Court of Appeal Minutes of Case Conference held on November 21, 2017, with Unofficial English Translation
Exhibit P-5	<i>Draft Fifth Order for Future Legal Costs of Salaried/Non-Union Employees and Retirees, and Appointment of Replacement Québec Representative Counsel</i>

TORONTO, December 8, 2017



KOSKIE MINSKY LLP

Attorneys for the Petitioners-Mises-en-cause Michael Keeper, Terence Watt, Damien Lebel and Neil Johnson

EXHIBIT P-1

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-11-048114-157

SUPERIOR COURT
(Commercial Division)

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

IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT
OF:

BLOOM LAKE GENERAL PARTNER
LIMITED, QUINTO MINING CORPORATION,
8568391 CANADA LIMITED, CLIFFS QUEBEC
IRON MINING ULC, WABUSH IRON CO.
LIMITED, WABUSH RESOURCES INC.

Petitioners

-and-

THE BLOOM LAKE IRON ORE MINE
LIMITED PARTNERSHIP, BLOOM LAKE
RAILWAY COMPANY LIMITED,
WABUSH MINES, ARNAUD RAILWAY
COMPANY, WABUSH LAKE RAILWAY
COMPANY LIMITED

Mises-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

-and-

MICHAEL KEEPER, TERENCE WATT,
DAMIEN LEBEL AND NEIL JOHNSON

Representatives-Mises-en-cause

N° / No.: 500-11-048114-157

SUPERIOR COURT
(COMMERCIAL DIVISION)

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

IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF:

BLOOM LAKE GENERAL PARTNER LIMITED, QUINTO MINING CORPORATION, 8568391 CANADA LIMITED, CLIFFS QUÉBEC IRON MINING ULC, WABUSH IRON CO. LIMITED, WABUSH RESOURCES INC.,

Petitioners

- and -

THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP, BLOOM LAKE RAILWAY COMPANY LIMITED, WABUSH MINES, ARNAUD RAILWAY COMPANY, WABUSH LAKE RAILWAY COMPANY LIMITED

Mises-en-cause

- and -

FTI CONSULTING CANADA INC.

Monitor

- and -

MICHAEL KEEPER, TERENCE WATT, DAMIEN LEBEL & NEIL JOHNSON

REPRESENTATIVES-Mises-en-cause

NOTICE OF INTENTION OF CO-COUNSEL TO THE REPRESENTATIVES
TO CEASE TO REPRESENT

M^o NICHOLAS SCHEIB

Co-Attorney for the REPRESENTATIVES-Mises-en-cause Michael Keeper, Terence Watt, Damien Lebel and Neil Johnson

AS-0G41

Scheib Legal | Étude Légale
600 de Maisonnette O. | W., #1700
Montréal, Québec H3A 3J2
T: 514.297.2631 | F: 514.360.2790
nick@scheib.ca

ORIGINAL

EXHIBIT P-2

Andrew J. Hatnay

From: a1wj53@aliant <njohnson@nf.sympatico.ca>
Sent: December-04-17 1:34 PM
To: Andrew J. Hatnay
Cc: Keeper, Mike; Watt, Terry; Rita Pynn; Lebel, Damien
Subject: Employment of Quebec legal council'

As a court appointed representative I take the position that we choose the best person to represent us in this case. I am happy with the selection of Marc Meland to represent us in PQ. Of the firm of Mark E Meland flanz Paquin..I recommend that you contact the court judge Hamilton for the appropriate funding at the appropriate rates.to secure his services.

yours truly. Neil Johnson Court appointed representative.

Andrew J. Hatnay

From: M. K. <aruca4@outlook.com>
Sent: December-04-17 11:37 AM
To: Andrew J. Hatnay
Subject: Employment of Quebec Legal Counsel

Hello Andrew;

Since the beginning of our CCAA court proceedings in June 2015 your firm, Koskie Minsky, has employed a Montreal, Quebec based lawyer to assist with our case. I believe this assistance was necessary and will continue to be necessary as our case continues through the court process. I am writing to say that I agree with your request to employ Mark E. Meland of the law firm Fishman Flanz Meland Paquin and that you submit a request to the Quebec court requesting the approval of the appropriate funds required.

Thank you.

Michael E. Keeper
Court Appointment Representative of the Wabush Mine Salaried Retirees

From: Andrew J. Hatnay
Sent: December-08-17 5:08 PM
To: Veronica De Leoz
Subject: FW: Quebec counsel

From: Damien Lebel [<mailto:daleb@cooptel.qc.ca>]
Sent: December-07-17 3:23 PM
To: Andrew J. Hatnay
Subject: Quebec counsel

Hi!Andrew,

Since the beginning of our CCAA court proceedings in June 2015, your firm has employed a Montreal, Quebec based lawyer to assist with our case. I believe this assistance was necessary and will continue to be necessary as our case continues through the court process. I am writing to say that I agree with your request to employ Mark E. Meland of the firm Fishman Flanz Meland Paquin and that you submit a request to the Quebec court requesting the approval of the appropriate funds required.

Thank you,
Damien Lebel

Court Appoinment Repräsentative of the Wabush Mine Salaried Retirees

Terence W. Watt

SUITE 1001 – 6 WILLOW STREET
WATERLOO, ONTARIO N2J 4S3

Koskie Minsky LLP
20 Queen Street West, Suite 900
Toronto Ontario M5H 3R3

ATTENTION: Andrew J. Hatnay

Dear Sir:

Since the beginning of our CCAA court proceedings in June 2015 a Montreal, Quebec based attorney has assisted with our case. I believe this assistance is necessary as our case continues through the court process.

I support your decision to employ **Mark E. Meland of Fishman Flanz Meland Paquin LLP** in that role and ask that you take the necessary steps to ensure we continue to have a Quebec based attorney representing our case in the Quebec Court.

Yours truly,

Terence W. Watt

Court Appointed Representative of the Wabush Mines Salaried Retirees

EXHIBIT P-3

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Commercial Division)

File: No: 500-11-048114-157

Montreal, June 23, 2017

Presiding: The Honourable Mr. Justice Stephen W.
Hamilton, J.S.C.

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

**IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT
OF:**

**BLOOM LAKE GENERAL PARTNER
LIMITED, QUINTO MINING CORPORATION, 8568391
CANADA LIMITED, CLIFFS QUEBEC IRON
MINING ULC, WABUSH IRON CO. LIMITED,
WABUSH RESOURCES INC.**

Petitioners

-and-

**THE BLOOM LAKE IRON ORE MINE
LIMITED PARTNERSHIP, BLOOM LAKE
RAILWAY COMPANY LIMITED, WABUSH
MINES, ARNAUD RAILWAY COMPANY, WABUSH
LAKE RAILWAY COMPANY LIMITED**

Mises-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

-and-

**MICHAEL KEEPER, TERENCE WATT,
DAMIEN LEBEL, and NEIL JOHNSON**

Petitioners-Mises-en-cause

-and-

**UNITED STEELWORKERS, LOCAL 6254,
UNITED STEELWORKERS, LOCAL 6285**

Mises-en-cause

-and-

MORNEAU SHEPELL

Mise-en-cause

**FOURTH ORDER FOR LEGAL COSTS OF SALARIED/NON-UNION EMPLOYEES
AND RETIREES**

1. **THE COURT**, upon reading the Petitioners'-Mises-en-cause *Motion for an Order for Future Legal Costs of Salaried/Non-union Employees and Retirees* dated June 16, 2017 and having examined the affidavit of Barbara Walancik affirmed June 16, 2017;
2. **CONSIDERING** the submissions of counsel for the Petitioners-Mises-en-cause, the submissions of counsel for the Wabush CCAA Parties, the submissions of counsel for the Monitor, and of such other counsel as were present;
3. **GIVEN** the Monitor's 7th Report, the Monitor's 38th Report, and the recommendations contained therein concerning the appointment of the Representatives and Representative Counsel for the Salaried Members, as defined below;
4. **GIVEN** the Order approving the appointment of the Representatives and Representative Counsel for the Salaried Members dated June 22, 2015;
5. **GIVEN** the *Order for Legal Costs of Salaried/Non-union Employees and Retirees* dated October 28, 2016;
6. **GIVEN** the *Third Order for Legal Costs of Salaried/Non-union Employees and Retirees* dated May 31, 2016; and
7. **GIVEN** the provisions of the *Companies' Creditors Arrangement Act*;

FOR THESE REASONS, THE COURT HEREBY:


8. **GRANTS** the motion of the Petitioners-Mises-en-cause (the "**Representatives**") of all salaried/non-Union employees and retirees of the Wabush CCAA Parties (namely, Wabush Iron Co. Limited, Wabush Resources Inc., Wabush Mines, Arnaud Railway company and Wabush Lake Railway Company Limited) or any person claiming an

interest under or on behalf of such employees or former employees or pensioners and surviving spouses, or group or class of them (collectively, the “**Salaried Members**”), in these CCAA proceedings, for the legal costs of the Salaried Members;

9. **ORDERS** that the legal fees, taxes and disbursements by the Representatives and by Representative Counsel for the period from July 1, 2017 to November 30, 2017 inclusive in the CCAA proceedings, shall be paid by the Wabush CCAA Parties, up to an amount of \$40,000 (CDN) per month in legal fees subject to a total cap of \$200,000 (CDN), however, such amounts shall not be in respect of the Newfoundland Reference, subject to further order of the court. Any amount that is remaining in the cap in a given month can be carried forward to be applied to increase the cap in a future month, or can be applied toward the legal fees incurred in a past month(s), including for the month of June, 2017 if necessary, that exceeded the cap in such past month(s) which has not been paid. In each case, the Representatives and Representative Counsel shall render sufficiently detailed accounts (subject to reasonable redaction due to solicitor-client privilege) to the Wabush CCAA Parties and subject to the invoices being approved by the Monitor. Notwithstanding any other provision of this Order, the Wabush CCAA Parties shall not pay any legal fees, taxes or disbursements of the Representatives and Representative Counsel in respect of (i) any litigation that may be brought or supported by the Representatives or Representative Counsel against the directors of the Wabush CCAA parties in their personal capacity, (ii) the Newfoundland Reference, as defined in the Monitor’s 38th Report, or (iii) any other proceedings other than the CCAA Proceedings, without further Order of the Court;
10. **DIRECTS** that any disagreement regarding the legal fees, taxes and disbursements of the Representatives and Representative Counsel may be remitted to this Court for determination;
11. **AUTHORIZES** the Representatives and Representative Counsel to take all steps and to perform all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body and other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto;

12. **DECLARES** that service and notice of this motion was good and sufficient and hereby dispenses with further service thereof;
13. **WITHOUT COSTS.**

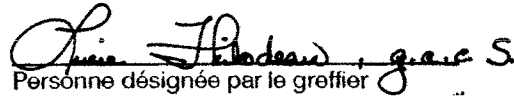
June 28, 2017



STEPHEN W. HAMILTON, J.S.C.

KM-2878150v1

COPIE CERTIFIÉE CONFORME
AU DOCUMENT DÉTENU PAR LA COUR



Personne désignée par le greffier

EXHIBIT P-4

COUR D'APPEL

No. 500-09-027075-175, 500-09-027076-173, 500-09-027077-171,
500-09-027082-171
(500-11-048114-157)

PROCÈS-VERBAL – CONFÉRENCE DE GESTION

DATE : 21 novembre 2017

En appel d'un jugement rendu le **11 septembre 2017**
par l'honorable juge **Stephen W. Hamilton**
de la Cour **Supérieure**
district de **Montréal**

PRÉSIDENTE : L'honorable Manon Savard, J.C.A.

GREFFIÈRE : Me Julie Devroede

Dans l'affaire de la Loi sur les arrangements avec les créanciers des compagnies, L.R.C. 1985, Ch. C-36, telle qu'amendée.

No : 500-09-027075-175	
APPELANTS	AVOCAT
SYNDICAT DES MÉTALLOS, SECTION LOCALE 6254 SYNDICAT DES MÉTALLOS, SECTION LOCALE 6285	Me JEAN-FRANÇOIS BEAUDRY (Philon, Leblanc, Beaudry, avocats, S.A.)
INTIMÉE	AVOCATS
FTI CONSULTING CANADA INC.	Me CRYSTAL ASHBY (Norton Rose Fulbright Canada S.E.N.C.R.L., s.r.l.)

MIS EN CAUSE	AVOCATS
<p>BLOOM LAKE GENERAL PARTNER LIMITED</p> <p>QUINTO MINING CORPORATION</p> <p>8568391 CANADA LIMITED</p> <p>CLIFFS QUÉBEC IRON MINING ULC</p> <p>WABUSH IRON CO. LIMITED</p> <p>WABUSH RESOURCES INC.</p> <p>THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP</p> <p>BLOOM LAKE RAILWAY COMPANY LIMITED</p> <p>WABUSH MINES</p> <p>ARNAUD RAILWAY COMPANY</p> <p>WABUSH LAKE RAILWAY COMPANY LIMITED</p>	<p>Me BERNARD BOUCHER <i>(Blake, Cassels & Graydon s.e.n.c.r.l.)</i></p>
<p>MICHAEL KEEPER</p> <p>TERENCE WATT</p> <p>DAMIEN LABEL</p> <p>NEIL JOHNSON, en leur qualité de représentants désignés</p>	<p>Me ANDREW J. HATNAY</p> <p>Me ANTHONY GANDON <i>(Koskie Minsky LLP)</i></p>
<p>PROCUREURE GÉNÉRALE DU CANADA</p>	<p>Me PIERRE LECAVALIER <i>(Ministère de la Justice Canada)</i></p>
<p>THE SUPERINTENDANT OF PENSIONS <i>représentant</i> HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR</p>	<p>Me EDWARD BÉCHARD-TORRES <i>(IMK S.E.N.C.R.L./IMK L.L.P.)</i></p>
<p>VILLE DE SEPT-ÎLES</p>	<p>Me MARTIN ROY <i>(Stein Monast S.E.N.C.R.L. Avocats)</i></p>
<p>MORNEAU SHEPELL LTD.</p>	<p><i>ABSENTE ET NON REPRÉSENTÉE</i></p>

RETRAITE QUÉBEC	<i>ABSENTE ET NON REPRÉSENTÉE</i>
------------------------	-----------------------------------

No : 500-09-027076-173	
APPELANTE	AVOCAT
PROCUREURE GÉNÉRALE DU CANADA	Me PIERRE LECAVALIER <i>(Ministère de la Justice Canada)</i>
INTIMÉE	AVOCATE
FTI CONSULTING CANADA INC.	Me CHRYSTAL ASHBY <i>(Norton Rose Fulbright Canada S.E.N.C.R.L., s.r.l.)</i>
MIS EN CAUSE	AVOCATS
BLOOM LAKE GENERAL PARTNER LIMITED QUINTO MINING CORPORATION 8568391 CANADA LIMITED CLIFFS QUÉBEC IRON MINING ULC WABUSH IRON CO. LIMITED WABUSH RESOURCES INC. THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP BLOOM LAKE RAILWAY COMPANY LIMITED WABUSH MINES ARNAUD RAILWAY COMPANY WABUSH LAKE RAILWAY COMPANY LIMITED	Me BERNARD BOUCHER <i>(Blake, Cassels & Graydon s.e.n.c.r.l.)</i>
MICHAEL KEEPER TERENCE WATT DAMIEN LABEL	Me ANDREW J. HATNAY Me ANTHONY GANDON <i>(Koskie Minsky LLP)</i>

NEIL JOHNSON, en leur qualité de représentants désignés	
THE SUPERINTENDANT OF PENSIONS <i>représentant</i> HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR	Me EDWARD BÉCHARD-TORRES (<i>IMK S.E.N.C.R.L/IMK L.L.P.</i>)
VILLE DE SEPT-ÎLES	Me MARTIN ROY (<i>Stein Monast S.E.N.C.R.L. Avocats</i>)
SYNDICAT DES MÉTALLOS, SECTION LOCALE 6254 SYNDICAT DES MÉTALLOS, SECTION LOCALE 6285	Me JEAN-FRANÇOIS BEAUDRY (<i>Phillion, Leblanc, Beaudry, avocats, S.A.</i>)
MORNEAU SHEPELL LTD.	<i>ABSENTE ET NON REPRÉSENTÉE</i>
RETRAITE QUÉBEC	<i>ABSENTE ET NON REPRÉSENTÉE</i>

No : 500-09-027077-171

APPELANTS	AVOCATS
MICHAEL KEEPER TERENCE WATT DAMIEN LEBEL NEIL JOHNSON, en leur qualité de représentants désignés	Me ANDREW J. HATNAY Me ANTHONY GANDON (<i>Koskie Minsky LLP</i>)
INTIMÉE	AVOCATE
FTI CONSULTING CANADA INC.	Me CHRYSTAL ASHBY (<i>Norton Rose Fulbright Canada S.E.N.C.R.L., s.r.l.</i>)

MIS EN CAUSE	AVOCATS
<p>BLOOM LAKE GENERAL PARTNER LIMITED</p> <p>QUINTO MINING CORPORATION</p> <p>8568391 CANADA LIMITED</p> <p>CLIFFS QUÉBEC IRON MINING ULC</p> <p>WABUSH IRON CO. LIMITED</p> <p>WABUSH RESOURCES INC.</p> <p>THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP</p> <p>BLOOM LAKE RAILWAY COMPANY LIMITED</p> <p>WABUSH MINES</p> <p>ARNAUD RAILWAY COMPANY</p> <p>WABUSH LAKE RAILWAY COMPANY LIMITED</p>	<p>Me BERNARD BOUCHER <i>(Blake, Cassels & Graydon s.e.n.c.r.l.)</i></p>
<p>MORNEAU SHEPELL LTD.</p>	<p><i>ABSENTE ET NON REPRÉSENTÉE</i></p>
<p>RETRAITE QUÉBEC</p>	<p><i>ABSENTE ET NON REPRÉSENTÉE</i></p>
<p>THE SUPERINTENDANT OF PENSIONS <i>représentant</i> HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR</p>	<p>Me EDWARD BÉCHARD-TORRES <i>(IMK S.E.N.C.R.L./IMK L.L.P.)</i></p>
<p>VILLE DE SEPT-ÎLES</p>	<p>Me MARTIN ROY <i>(Stein Monast S.E.N.C.R.L. Avocats)</i></p>
<p>SYNDICAT DES MÉTALLOS, SECTION LOCALE 6254</p> <p>SYNDICAT DES MÉTALLOS, SECTION LOCALE 6285</p>	<p>Me JEAN-FRANÇOIS BEAUDRY <i>(Philion, Leblanc, Beaudry, avocats, S.A.)</i></p>

<p>PROCUREURE GÉNÉRALE DU CANADA</p>	<p>Me PIERRE LECAVALIER <i>(Ministère de la Justice Canada)</i></p>
<p>No : 500-09-027082-171</p>	
<p>APPELANTE</p>	<p>AVOCAT</p>
<p>THE SUPERINTENDANT OF PENSIONS <i>représentant</i> HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR</p>	<p>Me EDWARD BÉCHARD-TORRES <i>(IMK S.E.N.C.R.L./IMK L.L.P.)</i></p>
<p>INTIMÉE</p>	<p>AVOCATE</p>
<p>FTI CONSULTING CANADA INC.</p>	<p>Me CHRYSTAL ASHBY <i>(Norton Rose Fulbright Canada S.E.N.C.R.L., s.r.l.)</i></p>
<p>MIS EN CAUSE</p>	<p>AVOCATS</p>
<p>BLOOM LAKE GENERAL PARTNER LIMITED</p> <p>QUINTO MINING CORPORATION</p> <p>8568391 CANADA LIMITED</p> <p>CLIFFS QUÉBEC IRON MINING ULC</p> <p>WABUSH IRON CO. LIMITED</p> <p>WABUSH RESOURCES INC.</p> <p>THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP</p> <p>BLOOM LAKE RAILWAY COMPANY LIMITED</p> <p>WABUSH MINES</p> <p>ARNAUD RAILWAY COMPANY</p> <p>WABUSH LAKE RAILWAY COMPANY LIMITED</p>	<p>Me BERNARD BOUCHER <i>(Blake, Cassels & Graydon s.e.n.c.r.l.)</i></p>

<p>MICHAEL KEEPER TERENCE WATT DAMIEN LABEL NEIL JOHNSON, en leur qualité de représentants désignés</p>	<p>Me ANDREW J. HATNAY Me ANTHONY GANDON <i>(Koskie Minsky LLP)</i></p>
<p>MORNEAU SHEPELL LTD.</p>	<p><i>ABSENTE ET NON REPRÉSENTÉE</i></p>
<p>RETRAITE QUÉBEC</p>	<p><i>ABSENTE ET NON REPRÉSENTÉE</i></p>
<p>VILLE DE SEPT-ÎLES</p>	<p>Me MARTIN ROY <i>(Stein Monast S.E.N.C.R.L. Avocats)</i></p>
<p>SYNDICAT DES MÉTALLOS, SECTION LOCALE 6254 SYNDICAT DES MÉTALLOS, SECTION LOCALE 6285</p>	<p>Me JEAN-FRANÇOIS BEAUDRY <i>(Philion, Leblanc, Beaudry, avocats, S.A.)</i></p>
<p>PROCUREURE GÉNÉRALE DU CANADA</p>	<p>Me PIERRE LECAVALIER <i>(Ministère de la Justice Canada)</i></p>

PROCÈS-VERBAL D'UNE CONFÉRENCE DE GESTION TENUE LE 21 NOVEMBRE 2017**1- Introduction**

[1] La juge Savard explique l'objectif de la rencontre. Après discussions, les parties procéderont selon les modalités suivantes.

2- Les questions en litige

[2] Dans le contexte où il y a ici 4 appels principaux et 2 appels incidents concernant le même jugement de première instance, afin d'éviter les recoupements et de mieux structurer l'argumentation en vue de la rédaction des mémoires, la juge Savard requiert que les avocats de toutes les parties communiquent entre eux afin d'identifier l'ensemble des questions en litige dont la Cour est saisie.

[3] Le tout sera présenté sous forme de tableau synthèse, faisant état de l'ensemble des questions en litige et de la position de chacune des parties, ou, le cas échéant, de son intention de ne pas faire de représentations, quant à chacune des questions. Il est convenu que les parties travailleront à partir du document déjà élaboré par Me Hatney, auquel ils apporteront les modifications nécessaires, notamment pour y ajouter les questions en litige soulevées dans les appels incidents, la question de la nécessité des appels incidents (à la suite du jugement de la juge Bich du 17 novembre 2017), ainsi que celle de la (ou les) norme(s) d'intervention applicable. De plus, les conclusions recherchées dans chacun des dossiers d'appel (appels principaux et appels incidents) devront être formulées distinctement, dans un document joint audit tableau synthèse.

[4] Tant dans le tableau que dans les mémoires, les questions en litige seront énumérées en fonction de l'ordre logique dans lequel elles devraient être abordées et sans égard au fait qu'elles soient soulevées dans le cadre d'un appel principal ou incident. Chaque partie devra suivre la numérotation et le libellé des questions en litige identifiées dans le tableau synthèse lors de la rédaction de leur mémoire respectif, étant entendu que leurs argumentations respectives ne porteront que sur les seules questions en litige qui les concernent.

[5] Il demeure par ailleurs que les conclusions de chaque mémoire devront être clairement divisées pour chaque dossier, et ce, tant pour les appels principaux qu'incidents.

[6] La version finale de ce tableau devra être transmise à la Cour, par l'entremise de Me Julie Devroede, au plus tard le 24 novembre 2017. Il sera également reproduit à l'annexe II conjointe. De plus, les parties conviennent que ce tableau sera mis à jour une fois tous les mémoires déposés afin d'y ajouter, pour chacune des questions en litige, la référence aux paragraphes pertinents de leurs mémoires respectifs.

3- Les mémoires

[7] Les mémoires seront déposés en versions papier et technologique, dans le second cas sur clé USB, en conformité avec le *Règlement de procédure civile (Cour d'appel)* (articles 41 à 52) (ci-après : « *Règlement* »), tout en tenant compte des modalités de ce procès-verbal.

3.1 Nombre de pages

[8] Après discussions, il est convenu que les parties disposeront du nombre de pages suivant pour leurs argumentations. Contrairement à la règle usuelle édictée à l'article 44 du *Règlement*, la partie IV des argumentations (les conclusions) sera exclue du décompte des pages.

- Pour les appelants Michael Keeper, Terence Watt, Damien Lebel, Neil Johnson, en leur qualité de représentants désignés : une argumentation n'excédant pas 30 pages;
- Pour les autres appelants : des argumentations n'excédant pas 25 pages chacune;
- Pour l'intimée – appelante incidente FTI Consulting Canada Inc. : Une seule argumentation n'excédant pas 65 pages, à diviser à sa convenance entre les appels principaux et son appel incident;
- Pour les mis en cause Bloom Lake General Partner Limited et als. : une argumentation n'excédant pas 25 pages;
- Pour la mise en cause – appelante incidente la Ville de Sept-Îles : Une seule argumentation n'excédant pas 30 pages, à diviser à sa convenance entre les appels principaux et son appel incident;
- Pour les intimés incidents : des argumentations n'excédant pas 15 pages chacune.

[9] Les appelants s'engagent à communiquer ensemble avant le dépôt de leurs argumentations respectives afin d'éviter toutes répétitions.

[10] Il en sera de même du côté des mis en cause au regard de l'argumentation du contrôleur. Un délai leur est d'ailleurs accordé afin de s'assurer du respect de cet engagement (voir ci-dessous la section relative aux délais).

4- Les mémoires : annexes

[11] Il est convenu que les parties déposeront des annexes conjointes.

4.1 Modalités de dépôt des annexes I et II

[12] À l'annexe I sera reproduit le jugement dont appel du 11 septembre 2017.

[13] À l'annexe II seront reproduits les éléments suivants :

- Le tableau synthèse des questions en litige en appel et des conclusions recherchées par dossier d'appel;
- La dernière version (amendée) de la demande pour directives déposée par le contrôleur en première instance;
- Les autres jugements rendus dans le cadre des procédures en première instance, dans la seule mesure où ils sont pertinents aux questions en litige en appel;
- Les décisions déjà rendues par les juges de la Cour d'appel dans les présents dossiers.

[14] Conformément à l'article 45 du *Règlement*, seront également reproduits à l'annexe II les procès-verbaux de l'audition au fond en première instance, de même que les dispositions légales invoquées, autres que celles du *C.c.Q.* et du *C.p.c.*

4.2 Modalités de dépôt de l'annexe III – La reproduction de la preuve

[15] La juge Savard rappelle aux parties qu'elles doivent déterminer les éléments de preuve pertinents à reproduire en annexe des mémoires, conformément aux articles 370 *C.p.c.* et 45 du *Règlement*. Après discussion, les parties conviennent de déposer une annexe III conjointe pour les 4 dossiers valant tant pour les appels principaux qu'incidents. Les volumes porteront donc l'ensemble des numéros de dossiers et comporteront l'information pertinente aux 4 dossiers.

[16] À cette annexe III conjointe sera reproduite l'ensemble de la preuve pertinente, notamment les éléments suivants :

- Les pièces jointes à la demande pour directives du contrôleur en première instance;
- Toutes les autres pièces déposées en première instance aux fins de ladite demande;
- La déclaration assermentée de M. Terry Watt;
- Les rapports du contrôleur déposés en première instance, dans la seule mesure où ils sont pertinents aux questions en litige en appel.

[17] Les annexes conjointes seront déposées en versions papier et technologique (clé USB)

en 7 exemplaires (1 original + 6 copies).

[18] Il est entendu que les plans de plaidoirie, notes et autorités ou toute argumentation écrite déposés en première instance, de même que les transcriptions des plaidoiries en première instance, ne constituent pas des éléments de preuve et ainsi, ne doivent pas être reproduits en annexe des mémoires.

5- Index et hyperliens

[19] Chaque partie pourra insérer des hyperliens entre la table des matières de la version technologique de son mémoire et les procédures et pièces reproduites à l'annexe III, comme prévu à l'article 11 du *Règlement*.

[20] Également, la version technologique des argumentations pourra contenir des hyperliens permettant d'accéder rapidement aux procédures et pièces invoquées. L'utilisation d'hyperliens est facultative. Afin de faciliter la réalisation de ce travail, les parties bénéficieront d'un délai supplémentaire après le dépôt de leurs mémoires pour le dépôt d'une nouvelle version technologique des mémoires, avec hyperliens.

[21] Si les parties souhaitent substituer à nouveau la version technologique de leur mémoire après cette seconde échéance, elles devront obtenir l'autorisation préalable de la juge gestionnaire, en suivant la procédure prévue à la section 11- du présent procès-verbal.

[22] Si une partie est autorisée à déposer une nouvelle version technologique de son mémoire, il devra être clairement indiqué que celle-ci remplace la version déjà déposée au dossier de la Cour. Dans un tel cas, le personnel de la Cour procédera à la destruction de la première version technologique du mémoire pour éviter toute confusion.

6- Délais

[23] Après discussions, il est convenu de l'échéancier suivant :

- Notification et dépôt des mémoires des appelants : au plus tard le 19 janvier 2018;
- Notification et dépôt du mémoire de l'intimée – appelante incidente : au plus tard le 16 mars 2018;
- Notification et dépôt des mémoires des mis en cause et de la mise en cause – appelante incidente : au plus tard le 29 mars 2018;
- Notification et dépôt des mémoires des intimés incidents : au plus tard le 11 avril 2018.

7- Recueils condensés

[24] Afin de faciliter le travail de la Cour, et à la demande de la juge Savard, les parties produiront des recueils condensés dans lesquels seront reproduits les extraits précis de la preuve et des sources auxquels chaque partie entend référer lors de son argumentation orale (art. 78 du *Règlement*). Les recueils condensés seront remis à la partie adverse et déposés à la Cour en 5 exemplaires (1 original + 4 copies) sur support papier, au plus tard en début d'audience, et pourront être accompagnés de plans de plaidoirie d'au plus deux pages (article 78 du *Règlement*).

[25] Le recueil condensé comporte une table des matières et des onglets numérotés sous lesquels sont reproduits les seuls extraits précis d'éléments de preuve et des sources auxquels les parties référeront dans leurs plaidoiries. Il n'est pas nécessaire de reproduire dans les recueils condensés les extraits du jugement dont appel auxquels les parties référeront dans leurs plaidoiries. Les recueils condensés devront faire référence à la pagination de l'annexe III conjointe.

8- Cahiers de sources

[26] La juge Savard rappelle aux parties l'existence la directive G-8, quant à la liste des arrêts réputés faire partie du cahier de sources et que les parties ne doivent pas y reproduire (article 57 du *Règlement*).

[27] Les parties communiqueront entre elles afin de produire, dans la mesure du possible, un cahier de sources conjoint, ce qui facilitera le travail de la Cour en regroupant l'ensemble des sources pertinentes à un seul endroit et en évitant les doublons. Chaque partie pourra y signaler les passages qu'elle juge pertinents par une ligne simple ou double en marge ou un autre système clairement identifié par une légende.

[28] Les cahiers de sources seront déposés, sur support papier et en version technologique, au plus tard le 18 avril 2018 et en conformité avec les règles habituelles concernant la confection et le nombre d'exemplaires, à l'exception du délai de production (articles 56 et 58 du *Règlement*).

9- Date et durée d'audience

[29] Les parties sont avisées que les 11 et 12 juin 2017 sont réservés pour l'audition des dossiers.

[30] Quant à la durée d'audience, conformément à l'article 47 du *Règlement*, chaque partie indiquera dans l'attestation finale de son mémoire le temps souhaité pour sa plaidoirie

[31] Par ailleurs, la juge Savard encourage les parties à communiquer entre elles afin de soumettre à la Cour une proposition conjointe quant à la répartition du temps d'audience, étant par ailleurs entendu que la Cour ne sera pas liée par une telle proposition et qu'elle informera les parties, en temps opportun, du temps qui leur sera respectivement alloué.

10-Résumé

[32] Documents à être déposés par les parties et échéances :

Pour toutes les parties:

Échéance #1 (au plus tard le 24 novembre 2017) :

- Transmission à la Cour du tableau synthèse des questions en litige et des conclusions recherchées par dossier d'appel.

Pour les parties appelantes :

Date de dépôt #1 (au plus tard le 19 janvier 2018) :

- Sur support papier ET en version technologique (Clé USB)
 - Mémoires conformes au *Règlement* de la Cour et aux exigences du présent procès-verbal (7 exemplaires, soit 1 original et 6 copies), incluant :
 - Argumentation n'excédant pas 30 pages pour les appelants Michael Keeper, Terence Watt, Damien Lebel, Neil Johnson, en leur qualité de représentants désignés;
 - Argumentations n'excédant pas 25 pages pour chacun des autres appelants;
 - Annexes conjointes :
 - Annexe I;
 - Annexe II, incluant le tableau synthèse des questions en litige et des conclusions recherchées par dossier d'appel;
 - Annexe III.

Pour la partie intimée – appelante incidente:

Date de dépôt #2 (au plus tard le 16 mars 2018) :

- Sur support papier ET en version technologique (clé USB)
 - Mémoire conforme au *Règlement* de la Cour et aux exigences du présent procès-verbal (7 exemplaires, soit 1 original et 6 copies), incluant :
 - Argumentation n'excédant pas 65 pages.

Pour les parties mises en cause et mise en cause – appelante incidente:

Date de dépôt #3 (au plus tard le 29 mars 2018) :

- Sur support papier ET en version technologique (clé USB)
 - Mémoires conformes au *Règlement* de la Cour et aux exigences du présent procès-verbal (7 exemplaires, soit 1 original et 6 copies), incluant :
 - Argumentation n'excédant pas 30 pages pour la mise en cause – appelante incidente la Ville de Sept-Îles;
 - Argumentation n'excédant pas 25 pages pour les mis en cause Bloom Lake General Partner Limited et als.

Pour les parties intimées incidentes:

Date de dépôt #4 (au plus tard le 11 avril 2018) :

- Sur support papier ET en version technologique (clé USB)
 - Mémoires conforme au *Règlement* de la Cour et aux exigences du présent procès-verbal (7 exemplaires, soit 1 original et 6 copies), incluant :
 - Argumentation n'excédant pas 15 pages.

Pour toutes les parties:

Date de dépôt #5 (dans un délai d'un mois suivant la date de dépôt #4) :

- Sur support papier
 - Tableau à jour des questions en litige, incluant la référence aux paragraphes pertinents des mémoires.
- En version technologique (clé USB)
 - Mémoires, incluant les argumentations de toutes les parties, avec hyperliens (7 exemplaires – facultatif).

Date de dépôt #6 (au plus tard le 18 avril 2018) :

- Sur support papier et en version technologique (clé USB)
 - Cahiers de sources (conjointes dans la mesure du possible) (5 exemplaires, soit 1 original et 4 copies).

Date de dépôt #7 (au plus tard en début d'audience) :

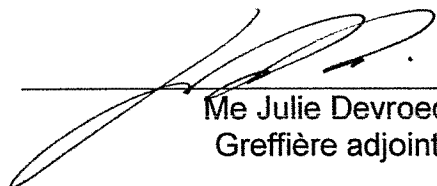
- Sur support papier
 - Recueils condensés, pouvant inclure un plan de plaidoirie n'excédant pas 2

pages (5 exemplaires, soit 1 original et 4 copies).

11-Demande ou requête

[33] Si les parties le souhaitent, toute demande incidente pourra être présentée à la juge gestionnaire jusqu'à ce qu'une date d'audience soit déterminée. Une telle demande devra être formulée sous forme de lettre dans laquelle seront mentionnés les motifs, les conclusions recherchées et la position de la partie adverse. La lettre devra être adressée à la juge gestionnaire et expédiée à Me Julie Devroede avec copie aux avocats des autres parties. À la réception d'une demande, la juge assumant la gestion pourra informer les parties que la demande devra plutôt être formulée sous forme de requête présentable devant le juge unique ou devant la Cour, selon le cas. Les parties devront alors se conformer aux règles de procédure de la Cour.

[34] Les parties peuvent s'adresser à Me Julie Devroede (514-393-2022, poste 51259 / julie.devroede@judex.qc.ca) pour toute demande ou question relative au processus de gestion de l'instance.



Me Julie Devroede
Greffière adjointe

**UNOFFICIAL TRANSLATION OF THE MINUTES OF A CASE CONFERENCE
HELD ON NOVEMBER 21, 2017**

1. Introduction

1. Madam Justice Savard explained the purpose of the meeting. Following further discussions, the parties have agreed to proceed as follows.

2. Questions at Issue

2. Because there are four principal appeals and two incidental appeals with respect to the same judgment at first instance, in order to avoid repetition and to better structure the argumentation in the facta, Madam Justice Savard requires that all counsel communicate amongst themselves in order to identify the questions the Court is seized of.

3. These questions will be submitted in the form of a table, outlining all of the questions at issue and of the position of each party, or, if applicable, the parties' intention not to make submissions, on each question. It is understood that the parties will begin working from the document prepared by Me Hatnay, to which they will make the necessary changes, notably to add the questions raised in the incidental appeals, the question of the requirement for the incidental appeals (following the judgment of Madam Justice Bich on November 17, 2017), as well as the applicable standard(s) of review. In addition, conclusions sought by each party under each of the appeals (both principle and incidental) will have to be formulated distinctly, in a document appended to the table.

4. In both the table and the facta, the questions at issue will be enumerated in a logical order, in which they can be considered without regard to the fact they are raised in either the principle or incidental appeals. Each party will have to follow the order and structure of the questions identified in the table in the drafting of their facta, it being understood that their respective arguments will be limited to those questions applicable to each party.

5. It is understood that the conclusions sought in each factum will have to be clearly divided for each file, both under the principle and incidental appeals.

6. The final version of this table shall be submitted to the Court, via Me Julie Devroede, no later than November 24, 2017. It will also be included in the Joint Annex II. Furthermore, the parties agree that the table will be updated once all of the facta have been filed, in order to make appropriate references in the parties' respective facta.

3. Facta

7. The facta will be filed both in paper and electronically, the latter on a USB key, pursuant to the *Civil Procedure Regulations (Court of Appeal)* (ss. 41-52) (the "Regulations"), and in keeping with the parties' agreement at this case conference.

3.1 Number of Pages

8. Following discussions, it was agreed that the parties will limit the number of pages in their facta as follows. Notwithstanding the normal rules applicable pursuant to s. 44 of the *Regulations*, Part IV of the facta (conclusions) will be excluded from the page count.

- For the appellants Michael Keeper, Terence Watt, Damien Lebel, Neil Johnson, in their capacity as appointed representatives: a factum not exceeding 30 pages;
- For the other appellants: facta not exceeding 25 pages;
- For the respondent/incidental appellant, FTI Consulting Canada Inc.: a single factum not exceeding 65 pages, divided at its discretion between its response to the principle and incidental appeals;
- For the interpled party, Bloom Lake General Partner Limited et al.: a factum not exceeding 25 pages;
- For the interpled party/incidental appellant the Ville de Sept-Iles: a single factum not exceeding 30 pages, divided at its discretion between its response to the principle and incidental appeals;
- For the respondents on the incidental appeals: facta not exceeding 15 pages each.

9. The appellants have agreed to communicate amongst themselves prior to filing their facta to avoid repetition.

10. The same applies to the interpled parties and the monitor. A delay is granted in respect of their filings to ensure they conform to this agreement (see deadline section below).

4. Facta: Annexes

11. It was agreed that the parties will file joint Annexes.

4.1 Contents of Annex I and II

12. Annex I will include the judgment being appealed, issued September 11, 2017.

13. Annex II will include the following:

- The table outlining the questions at issue on appeal and the conclusions sought in each appeal;
- The last version (amended) of the motion for directions filed by the Monitor at first instance;
- the other judgments issued at first instance in these proceedings, to the extent that they are relevant to the questions on appeal;
- the orders already issued by the judges of the Court of appeal in this matter.

14. Pursuant to s. 45 of the *Regulations*, Annex will also include the minutes of the hearing at first instance, as well as the legal authority cited, other than those under the CCQ and the CCP.

4.2 Contents of Annex III - Evidence

15. Madam Justice Savard reminds the parties that they will have to determine the relevant evidence to include as annexes to the facta, pursuant to s. 370 of the CCP and s. 45 of the *Regulations*. Following discussions, the parties agreed to file a joint Annex III for the four principle appeals, as well as the incidental appeals. The volumes will include all relevant file numbers for the four appeals.

16. Annex III will include all relevant evidence, notably the following:

- the evidence filed on the motion for directions of the controller at first instance;

- all other evidence filed at first instance on the motion for directions;
- the affidavit sworn by M. Terry Watt;
- The Monitor's reports filed at first instance, to the extent they are relevant to the appeals.

17. The joint annexes will be filed in paper and electronically (USB key) with seven total (i.e. one original, and six copies).

18. The parties are reminded that the pleadings, notes and authorities, and all written arguments filed at first instance, as well as the transcription of the proceedings at first instance, are not evidence, and as such, do not have to be included in the Annex to the facta.

5. Indexes and Hyperlinks

19. Each party shall insert hyperlinks between their table of contents in the electronic copy of their facta and the evidence included in Annex III, pursuant to s. 11 of the *Regulations*.

20. In addition, the electronic version of the facta shall contain hyperlinks permitting the reader to access the cited references. Use of hyperlinks is of assistance. In order to assist in the completion of this work, the parties will be provided additional time following the filing of their facta to file a new electronic version of their facta, with hyperlinks.

21. If the parties wish to resubmit the electronic version of their facta following the first extension, they will have to obtain approval of the case management judge, further to section 11 of these minutes.

22. If a party is permitted to file a new electronic version of its factum, it will have to clearly indicate that this replaces the original factum filed with the Court. In this case, Court personnel will proceed to destroy the first electronic version of the factum to avoid confusion.

6. Deadlines

23. Following discussions, the following timetable was agreed to:

- service and filing of the appellants' facta: January 19, 2018 at the latest;
- service and filing of the respondent/incidental appellant: March 16, 2018 at the latest;
- service and filing of the facta of the interpleaded parties/incidental appellants: March 29, 2018 at the latest;
- Service and filing of the facta of the respondents to the incidental appeals: April 11, 2018 at the latest.

7. Condensed Summaries

24. In order to assist the Court, and at the request of Justice Savard, the parties will produce condensed summaries in which they will include pinpoint reproductions of the evidence and sources to which each party will refer in their oral argument (s. 78 of the *Regulations*). The condensed summaries will be served on opposing parties and filed with the Court (five copies – 1 original and four copies) in paper, no later than the beginning of the hearing, and may be accompanied by a summary of the party's argument, to a maximum of two pages (s. 78 of the *Regulations*).

25. The condensed summaries will include a table of contents and numbered tabs under which pinpoint copies of evidence and secondary sources referred to during oral argument will be included.

8. Book of Authorities

26. Justice Savard reminded the parties of directive G-8, with respect to the list of appeals presumed to form part of the book of authorities, which the parties are not required to reproduce.

27. The parties will communicate amongst themselves in order to produce, to the extent possible, a single joint book of authorities, which will assist the Court in reviewing the relevant sources in a single location, and to avoid duplication. Each party may pinpoint their references by a single or double line on the margins, or other system clearly identified.

28. The books of authorities will be filed, both in paper and electronic formats, at the latest by April 18, 2018, and in accordance with the normal rules regarding the assembly and number of copies, with the exception of the deadline for submission (ss. 56 and 58 of the *Regulations*).

9. Date and Length of Hearing

29. The parties are advised that June 11 and 12, 2017 [SIC?] have been reserved for the hearing of the appeals.

30. With respect to the length of the hearing, pursuant to s. 47 of the *Regulations*, each party will indicate in their final attestation the duration of their oral submissions being requested.

31. At the same time, Justice Savard encourages the parties to communicate in order to submit to the Court a joint proposal regarding time allocation, it being understood that the Court will not be bound by such a proposal and will inform the parties, in advance, of their time allocation.

10. Summary

32. Documents to be produced by the parties and deadlines:

For all the parties:

Deadline #1 (no later than November 24, 2017)

- Filing a table summarizing the questions at issue and conclusions sought in the appeals with the Court.

For the appellants:

Date of first filing (no later than January 19, 2018):

- Paper and electronic (USB) versions
 - Facts complying with the *Regulations* and the directions issued at this case-conference (7 total, one original and six copies), including:
 - Argument not exceeding 30 pages for the appellants Michael Keeper, Terence Watt, Damien Lebel, Neil Johnson, in their capacity as appointed representatives;

- Argument not exceeding 25 pages for each of the other appellants;
- Joint Annexes:
 - Annex I;
 - Annex II, including the table summarizing the questions at issue and conclusions sought in the appeals;
 - Annex III.

For the Respondent/Incidental appellant

Filing date #2 (no later than March 16, 2018):

- In paper and electronic version (USB)
 - Factum complying with the *Regulations* and the directions issued at this case-conference (7 total, one original and six copies), including:
 - Argument not exceeding 65 pages.

For the interpled party and interpled party/incidental appellant:

Filing date #3 (no later than March 29, 2018):

- In paper and electronic version (USB)
 - Facta complying with the *Regulations* and the directions issued at this case-conference (7 total, one original and six copies), including:
 - Argument not exceeding 30 pages for the interpled party/incidental appellant, the Ville de Sept-Iles;
 - Argument not exceeding 25 pages for the interpled party Bloom Lake General Partner Limited et al.

For the respondents on the incidental appeal:

Filing date #4 (no later than April 11, 2018):

- In paper and electronic version (USB)
 - Facta complying with the *Regulations* and the directions issued at this case-conference (7 total, one original and six copies), including:
 - Argument not exceeding 15 pages.

For all parties:

Filing date #5 (within one month following filing date #4):

- In paper
 - Updated table of questions at issue, including references to paragraphs in facta.
- Electronically (USB)
 - Facta, including arguments of all parties, with hyperlinks (seven total).

Filing date #6 (no later than April 18, 2018):

- In paper and electronic version (USB)
 - Book of authorities (joint, to the extent possible) (5 versions, 1 original and four copies).

Filing date #7 (no later than the beginning of the hearing):

- In paper
 - Condensed summary, which may include a two page outline of argument (5 versions, one original and four copies).

11. Request or Application

33. If the parties wish, all incidental requests may be submitted to the case management judge up to the point where a hearing date is finalized. Such a request shall be submitted in the form of a letter in which the grounds and conclusions sought, as well as the positions of the other parties, shall be included. The letter shall be addressed to the case management judge and submitted to Me Julie Devroede with copies to all other counsel. On receipt of a request, the case management judge may inform the parties that the request must be submitted in the form of an application before a single judge or before the Court, as the case may be. The parties will be required to comply with the Court's procedure.

34. The parties may contact Me Julie Devroede (514-393-2022, ext. 51259/Julie.devroede@judex.qc.ca) for all questions or requests related to case management.

EXHIBIT P-5

DRAFT

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Commercial Division)

File: No: 500-11-048114-157

Montreal, December __, 2017

Presiding: The Honourable Mr. Justice Stephen W.
Hamilton, J.S.C.

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

**IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT
OF:**

**BLOOM LAKE GENERAL PARTNER
LIMITED, QUINTO MINING CORPORATION, 8568391
CANADA LIMITED, CLIFFS QUÉBEC IRON
MINING ULC, WABUSH IRON CO. LIMITED,
WABUSH RESOURCES INC.**

Petitioners

-and-

**THE BLOOM LAKE IRON ORE MINE
LIMITED PARTNERSHIP, BLOOM LAKE
RAILWAY COMPANY LIMITED, WABUSH
MINES, ARNAUD RAILWAY COMPANY, WABUSH
LAKE RAILWAY COMPANY LIMITED**

Mises-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

-and-

**MICHAEL KEEPER, TERENCE WATT,
DAMIEN LEBEL, and NEIL JOHNSON**

PETITIONERS-Mises-en-cause

-and-

**UNITED STEELWORKERS, LOCAL 6254,
UNITED STEELWORKERS, LOCAL 6285**

Mises-en-cause

-and-

MORNEAU SHEPELL

Mise-en-cause

**FIFTH ORDER FOR FUTURE LEGAL COSTS OF SALARIED/NON-UNION
EMPLOYEES AND RETIREES and APPOINTMENT OF REPLACEMENT
QUÉBEC REPRESENTATIVE COUNSEL**

1. **THE COURT**, upon reading the Petitioners'-Mises-en-cause *Motion to Amend the Representation Order and for an Order for Future Legal Costs of Salaried/Non-union Employees and Retirees and Appointment of Replacement Québec Representative Counsel* dated December 8, 2017 (the "**Motion**") and having examined the affidavit of Andrew J. Hatnay sworn on December 8, 2017;
2. **CONSIDERING** the submissions of counsel for the Petitioners-Mises-en-cause, the submissions of counsel for the Wabush CCAA Parties, the submissions of counsel for the Monitor, and of such other counsel as were present;
3. **GIVEN** the Monitor's 41ST Report dated November 23, 2017 and the comments contained therein concerning the appointment of the Representatives and Representative Counsel for the Salaried Members, as defined below;
4. **GIVEN** the *Order Appointing Representatives and Representative Counsel* dated June 22, 2015;
5. **GIVEN** the *Order for Legal Costs of Salaried/Non-union Employees and Retirees* dated October 28, 2016;
6. **GIVEN** the *Third Order for Legal Costs of Salaried/Non-union Employees and Retirees* dated May 31, 2017;
7. **GIVEN** the *Fourth Order for Legal Costs of Salaried/Non-union Employees and Retirees* dated June 28, 2017; and
8. **GIVEN** the provisions of the *Companies' Creditors Arrangement Act*;

FOR THESE REASONS, THE COURT HEREBY:

9. **GRANTS** the motion of the Petitioners-Mises-en-cause (the “**Representatives**”) of all salaried/non-Union employees and retirees of the Wabush CCAA Parties (namely, Wabush Iron Co. Limited, Wabush Resources Inc., Wabush Mines, Arnaud Railway company and Wabush Lake Railway Company Limited) or any person claiming an interest under or on behalf of such employees or former employees or pensioners and surviving spouses, or group or class of them (collectively, the “**Salaried Members**”), in the present CCAA proceedings (the “**CCAA Proceedings**”), for the deletion of Nicholas Scheib as Québec Representative Counsel effective as of June 26, 2017, and for the appointment of Fishman Flanz Meland Paquin LLP (“**FFMP**”) as replacement Québec Representative Counsel effective as of October 1, 2017;

10. **ORDERS** that the legal fees, taxes and disbursements by the motion of the Petitioners-Mises-en-cause (the “**Representatives**”) of all salaried/non-Union employees and retirees of the Wabush CCAA Parties (namely, Wabush Iron Co. Limited, Wabush Resources Inc., Wabush Mines, Arnaud Railway company and Wabush Lake Railway Company Limited) or any person claiming an interest under or on behalf of such employees or former employees or pensioners and surviving spouses, or group or class of them (collectively, the “**Salaried Members**”), in the present CCAA proceedings, and by Representative Counsel for the period from December 1, 2017 to March 31, 2018 inclusive in the CCAA proceedings, shall be paid by the Wabush CCAA Parties, up to an amount of \$65,000 (CDN) per month in legal fees notionally split with \$40,000 per month attributable to Koskie Minsky LLP and \$25,000 per month to FFMP, for a total cap for this period of \$260,000 (CDN) plus applicable taxes and disbursements. Any amount that is remaining in the cap in a given month can be carried forward to be applied to increase the cap in a future month, or can be applied toward the legal fees incurred in a past month(s) that exceeded the cap in such past month(s) which has not been paid. In each case, the Representatives and Representative Counsel shall render sufficiently detailed accounts (subject to reasonable redaction due to solicitor-client privilege) to the Wabush CCAA Parties and subject to the invoices being approved by the Monitor. Notwithstanding any other provision of this Order, the Wabush CCAA Parties shall not

pay any legal fees, taxes or disbursements of the Representatives and Representative Counsel in respect of (i) any litigation that may be brought or supported by the Representatives or Representative Counsel against the directors of the Wabush CCAA parties in their personal capacity; (ii) the Newfoundland Reference, as defined in the Monitor's 38th Report, or; (iii) any other proceedings other than the CCAA Proceedings, without further Order of the Court, it being understood, however, that any and all appeals from a decision rendered in the CCAA Proceedings shall be deemed to be a proceeding in the CCAA Proceeding;

11. **ORDERS** that the legal fees of FFMP for the months of October and November 2017, in the aggregate amount of \$51,579 plus applicable taxes and disbursements, be paid by the Wabush CCAA Parties provided that FFMP renders sufficiently detailed accounts (subject to reasonable redaction due to solicitor-client privilege) to the Wabush CCAA Parties and subject to the invoices being approved by the Monitor;
12. **DIRECTS** that any disagreement regarding the legal fees, taxes and disbursements of the Representatives and Representative Counsel may be submitted to this Court for determination;
12. **AUTHORIZES** the Representatives and Representative Counsel to take all steps and to perform all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body and other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto;
13. **DECLARES** that service and notice of this motion was good and sufficient and hereby dispenses with further service thereof;
14. **WITHOUT COSTS.**

, 2017

STEPHEN W. HAMILTON, J.S.C.

N° / No. C.S.: 500-11-048114-157

SUPERIOR COURT OF DISTRICT OF MONTREAL
(Commercial Division)

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

IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF:

BLOOM LAKE GENERAL PARTNER LIMITED, QUINTO MINING CORPORATION, 8568391 CANADA LIMITED, CLIFFS QUÉBEC IRON MINING ULC, WABUSH IRON CO. LIMITED, WABUSH RESOURCES INC.

Petitioners

THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP, BLOOM LAKE RAILWAY COMPANY LIMITED, WABUSH MINES, ARNAUD RAILWAY COMPANY, WABUSH LAKE RAILWAY COMPANY LIMITED

SYNDICAT DES METALLOS SECTIONS LOCALES 6254 ET 6285, MORNEAU SHEPELL LTD., in its capacity as Replacement Pension Plan Administrator, RETRAITE QUÉBEC, THE ATTORNEY GENERAL OF CANADA, acting on behalf of the OFFICE OF THE SUPERINTENDENT OF FINANCIAL INSTITUTIONS HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR, as represented by the SUPERINTENDENT OF PENSIONS, VILLE DE SEPT-ÎLES

Mises-en-cause

MICHAEL KEEPER, TERENCE WATT, DAMIEN LABEL AND NEIL JOHNSON as Representatives of the Salaried/Non-Union Employees and Retirees)

Petitioners- Mises-en-cause

- and -

FTI CONSULTING CANADA INC.

Respondent - Monitor

MOTION TO AMEND THE REPRESENTATION ORDER AND FOR AN ORDER FOR LEGAL COSTS OF SALARIED/NON-UNION EMPLOYEES AND RETIREES
(Sections 11 and 11.52 of the Companies' Creditors Arrangement Act)

ANDREW HATNAY, AMY TANG

Attorneys for the Petitioners-Mises-en-cause Michael Keeper, Terence Watt, Damien Lebel and Neil Johnson

AS-0G41

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