

Court File No. CV-19-615862-00CL  
Court File No. CV-19-616077-00CL  
Court File No. CV-19-616779-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF **JTI-MACDONALD CORP.**

AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF **IMPERIAL TOBACCO CANADA LIMITED**  
AND **IMPERIAL TOBACCO COMPANY LIMITED**

AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF **ROTHMANS, BENSON & HEDGES INC.**

Applicants

**MOTION RECORD**

**(PCC Representative Counsel's Motion for Injunctive Relief  
Returnable on December 9, 2024)**

December 8, 2024

**WAGNERS**

1869 Upper Water Street, Suite PH301  
3rd Floor, Historic Properties  
Halifax, NS B3J 1S9

**Raymond F. Wagner, K.C.**

Tel: 902 425 7330

Email: raywagner@wagners.co

**Kate Boyle (LSO# 69570D)**

Tel: 902 425 7330

Email: kboyle@wagners.co

PCC Representative Counsel

**TO: Ms. Andrea Grass**  
500 Place d'Armes, Suite 1800  
Montreal, Quebec  
H2Y 2W2

Email : [agrass@actislaw.org](mailto:agrass@actislaw.org)

**-and-**

**Actis Law Group**  
500 Place d'Armes, Suite 1800  
Montreal, Quebec  
H2Y 2W2

**-and-**

**THE COMMON SERVICE  
LIST**

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OR ARRANGEMENT OF **IMPERIAL TOBACCO CANADA  
LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED**

AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF **ROTHMANS, BENSON & HEDGES INC.**

**NOTICE OF MOTION**

**(PCC Representative Counsel's Motion for Injunctive Relief)**

**TAKE NOTICE** that The Law Practice of Wagner & Associates, Inc. ("**PCC Representative Counsel**") will make a motion before the Honourable Chief Justice Geoffrey B. Morawetz presiding over the Commercial List on December 9, 2024, at 4:00 pm.

**PROPOSED METHOD OF HEARING:** The motion is to be heard by videoconference, detail of which shall be provided by the Monitors.

**THE MOTION IS FOR** an Order substantially in the form included at Tab 3 of the Motion Record:

1. abridging the time for service of the Notice of Motion and Motion Record and, if necessary, validating service thereof;
2. declaring that all defined terms used in this Order have the meanings ascribed to them in the Affidavit of Kate Boyle dated December 8, 2024, or in the CCAA Plans;
3. ordering that the request for interlocutory injunctive relief is justified, PCC Representative Counsel having shown a clear right to the relief sought, that serious and irreparable harm will result if the order is not granted, that the balance of inconvenience weighs in their favour and that the requested relief is urgent;
4. ordering that the interlocutory injunctive relief granted pursuant to the order to be rendered shall remain in effect until the Sanction Order is rendered or until any such later date if this Order is thereafter extended or made permanent;
5. ordering that Actis Law Group and/or its principal, Ms. Andrea Grass (collectively “**Actis Law Group**”) immediately take down and remove:
  - a. the web-pages entitled “Canadian Tobacco Class Action Settlement Representation”, found at the following link: <https://actislaw.org/class-actions/canadian-tobacco-class-action-settlement-representation>; and its French language equivalent, “Représentation au règlement canadien de l’actions collectives sur le tabac”, found at the following link: <https://actislaw.org/actions-collectives/representation-au-reglement-canadien-de-laction-collective-sur-le-tabac>; and
  - b. any other pages or websites in which they have any involvement whatsoever containing communications or other information relating to the Canadian Tobacco Settlement and claims and distribution processes under the CCAA Plans or the Pan-Canadian Claimants’ Compensation Plan (“**PCC Compensation Plan**”), for the purpose of soliciting Pan-Canadian Claimants (or “**PCCs**”) for representation or to provide any other services to them in connection with their Tobacco Claims;

(collectively the “**Actis Website**”)

6. ordering Actis Law Group to cease and desist from soliciting, communicating with, approaching, entering into retainer agreements with, and/or providing information or advice to any PCCs in connection with the CCAA Plans, including the PCC Compensation Plan and/or any compensation due thereunder.
7. ordering Actis Law Group to provide PCC Representative Counsel with the list of all Persons who signed up or provided information through the Actis Website or otherwise, including all contact and other information obtained and/or collected by them (the “**Actis List**”) by December 10, 2024 at 3 pm;
8. ordering Actis Law Group to destroy all copies of the Actis List in their possession, whether in electronic or paper form, and to provide PCC Representative Counsel with an affidavit confirming such destruction and that no information in connection therewith has been retained by them, by no later than December 10, 2024 at 5 pm;
9. dispensing the PCC Representative Counsel from the requirement to provide an undertaking as to damages in respect of the Order sought; and
10. ordering any other relief that the Court considers just and appropriate in the circumstances.

**THE GROUNDS FOR THE MOTION ARE:**

BACKGROUND

11. On December 9, 2019, Wagners was appointed by the Honourable Justice McEwen to represent the PCCs (referred to as the “TRW Claimants” in those Orders) in the CCAA Proceedings (“**PCC Representative Counsel Orders**”). Since then, PCC Representative Counsel has been representing the interests of the PCCs for nearly six years in the context of the CCAA Proceedings.
12. On November 22, 2024, the PCC Representative Counsel Orders were amended and restated by the Honourable Chief Justice Morawetz. The amended orders extended PCC Representative Counsel’s mandate to include all necessary steps, actions, and services in connection with its duties both before and after the Plan Implementation Date in the CCAA proceedings, under the CCAA Plans (including the PCC Compensation Plan), and as

otherwise required by the CCAA Plan Administrators (the “**Amended and Restated PCC Representative Counsel Orders**”).

13. In accordance with the Meeting Order issued by the CCAA Court on October 31, 2024, PCC Representative Counsel have been appointed as sole proxy for all PCCs, and pursuant to the PCC Compensation Plan, as the legal representatives of the PCCs.
14. The CCAA Plans allocate \$2.521 billion to the PCC Compensation Plan and \$1 billion to the Cy-Près Fund in settlement of the PCC Claims. Of the QCAP Settlement Amount, \$131 million will be contributed by the QCAPs to the Cy-Près Fund to make up the total \$1 billion, providing full and final settlement of the claims of *Létourneau* Class Members.
15. Under the CCAA Plans, the amounts allocated to PCCs suffering from certain tobacco-related diseases (“**PCC Compensable Diseases**”) will be distributed in accordance with the PCC Compensation Plan.
16. The PCC Compensation Plan was designed with simplicity as a priority, to make it easy and straightforward for PCC-Claimants to complete the Claim Form and submit the Claim Package for consideration and approval by the Claims Administrator.
17. PCC Representative Counsel has engaged Epiq (the “**Claims Administrator**”), a class action claims administration company, as its Agent to assist PCC Claimants throughout the claims process. Epiq’s responsibilities as Agent include:
  - a. Establishing a call centre, website, and registration portal;
  - b. Assisting PCC Claimants or their Legal Representatives in preparing Claim Packages;
  - c. Providing support after Notices are distributed by the Claims Administrator; and
  - d. Reporting to PCC Representative Counsel, the Mediator, and the Monitors.
18. Under the CCAA Plans, all fees, costs, disbursements, and expenses incurred by PCC Representative Counsel in administering the claims process, including the services of

advisors or agents like Epiq, will be paid directly by the Tobacco Companies. These costs will not be deducted from the PCC Compensation Plan Amount, and PCC Claimants will not be charged for any services related to the processing of their claims.

THE ACTIS WEBSITE

19. On December 5, 2024, Ms. Kate Boyle was informed by email from Mark Meland, a member of the Quebec Class Counsel, of the existence of the Actis Website.
20. As appears from the Actis Website, copies of which are attached to the Boyle Affidavit as **Exhibit “D”**:

- a. Actis Law Group falsely purports to be responsible for the representation of PCC-Claimants, stating that they are “*representing persons who are smokers or former smokers of tobacco cigarettes.*”
- b. Actis Law Group falsely implies that PCC-Claimants must sign up with Actis Law Group in order to participate in the proposed settlement:

Join for Legal Representation

IF YOU WOULD LIKE TO PARTICIPATE IN THE CLASS ACTION OR TO SIMPLY GET MORE INFORMATION, PLEASE COMPLETE THE FORM BELOW.

-and-

There are no fees or costs associated with joining this class action.

- c. Actis Law Group asserts that they will charge for their services on a contingency basis, which they assert means that they “*receive payment only if the class action is successful.*” However, Actis Law Group has no legal right to be paid anything based on the resolution for PCCs set out in the CCAA Plans (in which they played no role whatsoever) and would be charging PCC-Claimants a portion of the compensation they are entitled to receive under the CCAA Plans.



21. The Actis Website also presents a misleading and inaccurate picture of the CCAA Plans and the process for asserting claims under the Quebec Class Action Administration Plan and PCC Compensation Plan, which misleads and creates confusion for individual tobacco harm victims across Canada (including Quebec Class Members and PCCs).
22. The Actis Website also omits critical information, such as the complete eligibility criteria for compensation and the role of Epiq, acting as Agent to PCC Representative Counsel, in assisting claimants with the process free of charge.
23. The Actis Website appears to be a deceptive attempt to persuade PCCs to sign up for unnecessary legal representation, leading to charges for redundant services that are already provided at no cost.

#### THE RIGHT TO INJUNCTIVE RELIEF

24. PCC Representative Counsel has been representing the PCCs since 2019 in the CCAA Proceedings.
25. Actis Law Group are attempting to pass themselves off as PCC Representative Counsel and are attempting to intentionally mislead PCCs to sign up with them for representation services in exchange for a share of their compensation.
26. Actis Law Group has no right to mislead PCCs in this manner into believing that such law firm and lawyer have had any involvement whatsoever in the settlements under the CCAA Plans.
27. PCCs, and indeed all members of the public, have the right to not be misled by legal professionals, and must be protected from predatory practices which bring the profession into disrepute.
28. The relief requested herein is required to prevent serious and irreparable harm to PCCs and the claims administration processes contemplated under the CCAA Plans.
29. The Actis Website and the communication to PCCs found on that site constitute false and misleading attempts to lure PCCs to pay for legal services in order to participate in the PCC

Compensation Plan, when such process was specifically designed not to require PCCs to pay any out of pocket costs for assistance.

30. As a result, PCCs may be misled to sign up with Actis Law Group, instead of the PCC Compensation Plan website ([www.tobaccoclaimscanada.ca](http://www.tobaccoclaimscanada.ca)), available in English and French, thereby depriving them from receiving crucial communications concerning the PCC Compensation Plan.
31. Allowing this practice to continue would furthermore entice others to engage in similarly predatory behavior to the detriment of the PCCs.
32. Given the PCC Representative Counsel's clear and apparent right and mandate to represent the PCCs, and the egregious conduct of Actis Law Group and Ms. Grass, the balance of convenience does not need to be considered. However, even if it did, it would clearly favour the protection of rights of vulnerable PCCs to not be misled, over any purported right for a law firm to solicit clients in an unlawful and misleading manner.
33. Finally, the need for intervention is urgently required to prevent any additional PCCs from being misled by the Actis Website and to prevent any other unlawful attempts to take advantage of individual tobacco harm victims across Canada (including Quebec Class Members and PCCs).

#### ADDITIONAL GROUNDS

34. The previous Orders granted in the CCAA Proceedings;
35. The *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 and the inherent and equitable jurisdiction of the Court;
36. The *Ontario Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;
37. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

38. The Affidavit of Kate Boyle dated December 8, 2024, including Exhibits “A”, “B”, “C” and “D” thereto.

December 8, 2024

**WAGNERS**

1869 Upper Water Street, Suite PH301  
3rd Floor, Historic Properties  
Halifax, NS B3J 1S9

**Raymond F. Wagner, K.C.**

Tel: 902 425 7330

Email: raywagner@wagners.co

**Kate Boyle (LSO# 69570D)**

Tel: 902 425 7330

Email: kboyle@wagners.co

PCC Representative Counsel

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AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF **ROTHMANS, BENSON & HEDGES INC.**

Applicants

**AFFIDAVIT OF KATE BOYLE**

I, Kate Boyle, of the city of Halifax, in the Province of Nova Scotia, AFFIRM AND SAY:

1. I am a Partner at The Law Practice of Wagner & Associates, Inc. (“**Wagners**”).
2. On December 9, 2019, Wagners was appointed by the Honourable Justice McEwen to represent the Pan-Canadian Claimants (“**PCCs**”) in the context of the present proceedings (“**CCAA Proceedings**”) under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (“**CCAA**”) before the Ontario Superior Court of Justice (Commercial List) in Toronto (the “**CCAA Court**”).
3. Since December 9, 2019, PCC Representative Counsel has been representing the interests of the PCCs in the context of the CCAA Proceedings. As such, I have knowledge of the matters to which I hereinafter depose. Where I make statements about information that is not within my personal knowledge, I have stated the source of that information and believe it to be true.

4. Unless otherwise defined herein, all defined terms used in the present affidavit have the meanings ascribed to them in the Mediator's and Monitors' Plans of Compromise and Arrangement dated October 17, 2024 in respect of each of the Applicants in these CCAA Proceedings, and including any amendments and restatements thereto (collectively the "**CCAA Plans**").
5. I affirm this affidavit in support of PCC Representative Counsel's Motion for Injunctive Relief before the Honourable Chief Justice Geoffrey B. Morawetz presiding over the Commercial List on December 9, 2024, at 4:00 pm, and for no other or improper purpose.
6. I am informed by Mark Meland and Andre Lesperance, members of Quebec Class Counsel, and verily believe that they are bringing a concurrent motion, to be heard at the same time, seeking the same relief.

#### **PCC REPRESENTATIVE COUNSEL APPOINTMENT AND MANDATE**

7. On December 9, 2019, Wagners was appointed by the Honourable Justice McEwen to represent the PCCs (referred to as the "TRW Claimants" in that Order) in the CCAA Proceedings ("**PCC Representative Counsel Order**"). Attached hereto and marked as **Exhibit "A"** are true copies of the PCC Representative Counsel Orders in respect of the three Applicants dated December 9, 2019.
8. On November 22, 2024, the PCC Representative Counsel Order was amended and restated by the Honourable Chief Justice Morawetz ("**Amended and Restated PCC Representative Counsel Order**"). Attached hereto and marked as **Exhibit "B"** are true copies of the Amended and Restated PCC Representative Counsel Orders in respect of the three Applicants dated November 22, 2024.

#### **THE MEDIATION AND CCAA PLANS**

9. Since the appointment on December 9, 2019, PCC Representative Counsel has represented the interests of the PCCs in the context of the CCAA Proceedings pursuant to the terms of the PCC Representative Counsel Order and Amended and Restated PCC Representative Counsel Order.

10. Over the course of five years, PCC Representative Counsel has participated in thousands of hours of mediation with the Court-Appointed Mediator, Monitors and other Claimants during an extensive and complex mediation process.
11. On October 17, 2024, the Court-Appointed Mediator and Monitors filed the CCAA Plans. The CCAA Plans propose a global settlement of all Affected Claims against the Applicants, including the claims of the PCCs and the claims of the Quebec Class Members, as set out in the CCAA Plans.
12. I am informed by Raymond Wagner, K.C., and verily believe that he attended a press conference in Montreal, Quebec on October 18, 2024, to publicize the compensation achieved under the CCAA Plans for individual tobacco harm victims across Canada, including Quebec Class Members and PCCs.
13. I am informed by Mr. Wagner and verily believe that there was significant media attention and presence at the press conference.
14. After the filing of the CCAA Plans on October 17, 2024, I also kept track of the media coverage regarding the CCAA Plans, and specifically with respect to the PCCs, the PCC Compensation Plan, and funds for individual tobacco harm victims across Canada. The filing of the CCAA Plans received significant media attention across Quebec and Canada.
15. On December 5, 2024, the Court-Appointed Mediator and Monitors filed the First Amended and Restated CCAA Plans in respect of the Applicants. When I refer to the CCAA Plans hereinafter, I am referencing the First Amended and Restated CCAA Plans.
16. I have read the CCAA Plans (including the First Amended and Restated CCAA Plans) in their entirety and PCC Representative Counsel was involved in the review and drafting of portions of the CCAA Plans which pertain to the PCCs.
17. The CCAA Plans have not yet been sanctioned by the CCAA Court. I am informed by an email dated November 18, 2024, from Sethi Chanakya, a lawyer at Davies, and verily believe that the Sanction Hearing is scheduled to take place from January 29 to January 31, 2025.

## COMPENSATION FOR PCCS UNDER THE CCAA PLANS

18. The CCAA Plans allocate \$2.521 billion to the PCC Compensation Plan and \$1 billion to the Cy-Près Fund in settlement of the PCC Claims. The Cy-Près Fund of \$1 billion will include \$131 million from the QCAP Settlement Amount contributed by QCAP, to provide full and final settlement of the claims of *Létourneau* Class Members via the Cy-Près Fund.
19. Under the CCAA Plans, the amounts allocated to PCCs suffering from certain tobacco-related diseases (“**PCC Compensable Diseases**”) will be distributed in accordance with the PCC Compensation Plan.
20. The PCC Compensation Plan was designed with simplicity as a priority, to make it easy and straightforward for PCC-Claimants to complete the Claim Form and submit the Claim Package for consideration and approval by the Claims Administrator.
21. Under the PCC Compensation Plan, a PCC-Claimant’s diagnosis of a PCC Compensable Disease – Lung Cancer, Throat Cancer, or Emphysema/COPD (GOLD Grade III or IV) – must be confirmed through medical evidence.
22. The PCC Compensation Plan, and Claim Forms attached thereto, provide a list of acceptable medical documents for proving diagnosis with a PCC Compensable Disease, including:
  - a. For cancer diagnosis: a pathology report confirming the PCC-Claimant was diagnosed with lung or throat cancer between March 8, 2015, and March 8, 2019 (inclusive);
  - b. For COPD (GOLD Grade III or IV) diagnosis: a spirometry test report from between March 8, 2015, and March 8, 2019 (inclusive) showing a non-reversible FEV1 of less than 50% of the predicted value;
  - c. if the PCC-Claimant is unable to submit a copy of a pathology report or a spirometry report, then other documents are acceptable, including:
    - i. A copy of an extract from a medical file;

- ii. A completed Physician Form (attached as Appendix “E” to the PCC Compensation Plan); or
  - iii. A written statement from a Physician of the PCC-Claimant, or another physician having access to the medical record, confirming the diagnosis with one of the PCC Compensable Diseases, along with proof from the medical file.
23. For claims submitted by a Legal Representative on behalf of a PCC Claimant or their estate, clear instructions are provided. A separate Claim Form includes a checklist of required documents to verify the Legal Representative’s authority to act on behalf of the PCC Claimant or estate, tailored to the jurisdiction of the PCC Claimant.

**AGENT TO PCC REPRESENTATIVE COUNSEL FOR ASSISTING PCCS**

24. Under the CCAA Plans (Article 1.1, Definitions), the Claims Administrator, proposed to be Epiq Class Action Services Canada Inc. (“**Epiq**”), will (i) manage the overall administration of the individual claims process and perform all other duties and responsibilities assigned to it in regard to the PCC Compensation Plan, including acting as agent for the PCCs, and (ii) manage the overall administration of the individual claims process and perform all other duties and responsibilities assigned to it in regard to the Quebec Administration Plan.
25. Under the CCAA Plans (Article 1.1, Definitions), the appointment of Epiq as the Claims Administrator will be upon the recommendation of the Court-Appointed Mediator and the Monitors and subject to the approval of the CCAA Court.
26. Given the anticipated number of PCC-Claimants who will be eventually filing claims under the PCC Compensation Plan, PCC Representative Counsel engaged Epiq as an Agent to assist PCC-Claimants.
27. On or about September 13, 2024, PCC Representative Counsel confirmed its retention of Epiq as Agent for the PCCs within the CCAA Proceedings. Attached hereto and marked as **Exhibit “C”** is a true copy of the September 13, 2024, letter from PCC Representative Counsel to Epiq.



28. Epiq's responsibilities as Agent include:
  - a. Establishing a call centre, website, and registration portal to communicate with PCCs;
  - b. Assisting PCC Claimants or their Legal Representatives in preparing Claim Packages;
  - c. Providing support after Notices are distributed by the Claims Administrator; and
  - d. Reporting to PCC Representative Counsel, the Mediator, and the Monitors.
29. Under the CCAA Plans, all fees, costs, disbursements, and expenses incurred by PCC Representative Counsel in administering the claims process, including the services of advisors or agents like Epiq, will be paid directly by the Tobacco Companies. Importantly, these costs will not be deducted from the PCC Compensation Plan Amount. PCC Claimants will not be charged for any services by the Agent that are related to the assistance provided to them.
30. On October 17, 2024, Epiq launched a website in English and French ([www.tobaccoclaimscanada.ca](http://www.tobaccoclaimscanada.ca)) providing information about the PCC Compensation Plan, and allowing PCCs or anyone interested to Register for Updates. Those who register for updates will receive important updates relating to the CCAA Proceedings, including if and when the CCAA Court approves the PCC Compensation Plan and when it's time to complete and submit a claim for compensation.
31. The website currently answers 24 Frequently Asked Questions (FAQs), which are intended to provide information to PCCs about the PCC Compensation Plan, eligibility requirements, how to eventually submit a claim for compensation and what documents will be required.
32. On October 18, 2024, Epiq also launched its call centre, which provides assistance to PCCs in English or French.
33. PCCs or any individual with questions may contact Epiq at a toll-free number or by email, free of charge.

## THE ACTIS WEBSITE

34. On December 5, 2024, I was informed by email from Mark Meland, a member of the Quebec Class Counsel, about the existence of a website hosted by Actis Law Group, and its principal, Ms. Andrea Grass (collectively, “**Actis Law Group**”) purporting to provide settlement representation for the “Canadian Tobacco Class Action” (“**Actis Website**”). Attached hereto as **Exhibit “D”** are screenshots from the Actis Website accessed by me on December 8, 2024.

35. As it appears from the Actis Website:

- a. Actis Law Group falsely purports to be responsible for the representation of PCC-Claimants, stating that they are “*representing persons who are smokers or former smokers of tobacco cigarettes.*”
- b. Actis Law Group falsely implies that PCC-Claimants must sign up with Actis Law Group in order to participate in the proposed settlement:

Join for Legal Representation

IF YOU WOULD LIKE TO PARTICIPATE IN THE CLASS ACTION OR TO SIMPLY GET MORE INFORMATION, PLEASE COMPLETE THE FORM BELOW.

-and-

There are no fees or costs associated with joining this class action.

- c. Actis Law Group asserts that they will charge for their services on a contingency basis, which they assert means that they “*receive payment only if the class action is successful.*” However, Actis Law Group has no legal right to be paid anything based on the resolution for PCCs set out in the CCAA Plans (in which they played no role whatsoever) and would be charging PCC-Claimants a portion of the compensation they are entitled to receive under the CCAA Plans.
36. The Actis Website also presents a misleading and inaccurate picture of the CCAA Plans and the process for asserting claims under the Quebec Class Action Administration Plan and

PCC Compensation Plan, which misleads and creates confusion for individual tobacco harm victims across Canada (including Quebec Class Members and PCCs).

37. By way of example, Actis Law Group states that \$32.5 billion will be available for distribution to smokers and former smokers. In reality, a total of \$7.639 billion is allocated under the CCAA Plans to compensate individual tobacco harm victims across Canada, including Quebec Class Members and PCCs, through the PCC Compensation Plan and the Cy-près Foundation.
38. The Actis Website also omits critical information, such as the complete eligibility criteria for compensation and the role of Epiq, acting as Agent to PCC Representative Counsel, in assisting claimants with the process free of charge.
39. In essence, the Actis Website appears to be a deceptive attempt to persuade PCCs to sign up for unnecessary legal representation, leading to charges for redundant services that are already provided at no cost.
40. I am informed by Mr. André Lespérance and verily believe that on December 5, 2024, Quebec Class Counsel, through Mr. Pierre Boivin, contacted Actis Law Group to demand, *inter alia*, the immediate removal of the Actis Website.
41. As of the date of swearing this affidavit, the Actis Website remains live and has not been taken down.

### **THE RIGHT TO INJUNCTIVE RELIEF**

42. Actis Law Group are attempting to pass themselves off as PCC Representative Counsel and are attempting to intentionally mislead PCCs to sign up with them for unnecessary legal representation and charging them for services that are redundant.
43. Actis Law Group has no right to mislead PCCs in this manner into believing that such law firm and lawyer have had any involvement whatsoever in the settlements under the CCAA Plans.

44. PCCs, and indeed all members of the public, have the right to not be misled by legal professionals, and must be protected from predatory practices which bring the profession into disrepute.
45. The relief requested by the PCC Representative Counsel in this Motion is required to prevent serious and irreparable harm to PCCs and the claims administration processes contemplated under the CCAA Plans.
46. The Actis Website and the communication to PCCs found on that site constitute false and misleading attempts to lure PCCs to pay for legal services in order to participate in the PCC Compensation Plan, when such process was specifically designed not to require PCCs to pay any out-of-pocket costs for assistance.
47. I am deeply concerned that the existence of the Actis Website will mislead PCCs into entering into unnecessary contingency fee agreements with Actis or Ms. Grass. Such agreements would result in PCCs paying a portion of their eventual compensation for services that are already provided free of charge by Epiq, as part of the PCC Compensation Plan. This would cause PCCs to suffer financial harm that cannot be remedied after the fact, as it would reduce the compensation intended to address their losses.
48. I am also concerned that PCCs may be misled to sign up with Actis Law Group, instead of the PCC Compensation Plan website ([www.tobaccoclaimscanada.ca](http://www.tobaccoclaimscanada.ca)), thereby depriving them from crucial communications concerning the PCC Compensation Plan.
49. Given the PCC Representative Counsel's mandate to represent the PCCs, and the egregious conduct of Actis Law Group and Ms. Grass, the balance of convenience does not need to be considered. However, even if it did, it would favour the protection of rights of vulnerable PCCs to not be misled, over any purported right for a law firm to solicit clients in an unlawful and misleading manner.
50. Finally, the need for intervention is urgently required to prevent any additional PCCs from being misled by the Actis Website and to prevent any other unlawful attempts to take advantage of individual tobacco harm victims across Canada including Quebec Class Members and PCCs.

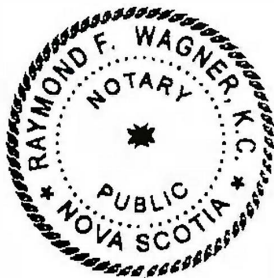
**UNDERTAKING**

- 51. I am aware that, pursuant to Rule 40.03 of the Ontario Rules of Civil Procedure, the moving party on a motion for an interlocutory injunction or mandatory order is required to undertake to abide by any order concerning damages that the court may make if it is ultimately determined that the granting of the order caused damage to the responding party for which the moving party ought to compensate the responding party.
  
- 52. I respectfully request that this requirement be dispensed with in this matter. The nature of the relief sought in this motion does not give rise to a realistic risk of damages to the responding party, and it would be unnecessary to impose such an undertaking in the circumstances.

**AFFIRMED BEFORE ME** at the City of  
Halifax, in the Province of Nova Scotia on the  
8<sup>th</sup> day of December, 2024.



\_\_\_\_\_  
A Notary Public in and for the Province of  
of Nova Scotia

  
\_\_\_\_\_  
Kate Boyle

This is Exhibit "A" referred to in the  
Affidavit of Kate Boyle affirmed  
before me on the 8<sup>th</sup> day of  
December, 2024.



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Signature



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

*monique sassi*

THE HONOURABLE )  
 )  
MR. JUSTICE MCEWEN )  
 )  
FRIDAY, THE 6TH  
DAY OF DECEMBER, 2019

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF IMPERIAL TOBACCO CANADA LIMITED  
AND IMPERIAL TOBACCO COMPANY LIMITED**

Applicant



**ORDER  
(APPOINTMENT OF REPRESENTATIVE COUNSEL)**

**THIS JOINT MOTION** made by the Tobacco Monitors being FTI Consulting Canada Inc. in its capacity as court-appointed Monitor (the "**Imperial Monitor**") of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively, "**Imperial**"), Ernst & Young Inc. in its capacity as court-appointed Monitor of Rothmans, Benson & Hedges Inc. ("**RBH**") and Deloitte Restructuring Inc. in its capacity as court-appointed Monitor of JTI-Macdonald Corp. ("**JTIM**" and together with Imperial and RBH, the "**Applicants**") for advice and directions regarding an order appointing representative counsel in these proceedings was heard this day at 330 University Avenue, Toronto, Ontario,

**ON READING** the Joint Notice of Motion of the Tobacco Monitors dated November 25, 2019 including the Sixth Report to Court of the Imperial Monitor dated November 26, 2019 (the "**Sixth Report**") filed, and on hearing the submissions of counsel for each of the Tobacco Monitors, the Applicants and such other counsel as were present, no one else appearing although duly served as appears from the affidavits of service of Monique Sassi sworn

November 25 and November 26, 2019 and the affidavit of service of Robert Nicholls sworn November 27, 2019.

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and this Court hereby dispenses with further service of this motion and of this Order.

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meaning given to them in the Sixth Report.

3. **THIS COURT ORDERS** that The Law Practice of Wagner & Associates, Inc. (the "**Representative Counsel**") be and is hereby appointed to represent in these proceedings the TRW Claimants as defined in Schedule "A" hereto, which definition may be amended following consultation among the Court-Appointed Mediator, the Tobacco Monitors and Representative Counsel and as approved by further order of this Court.

4. **THIS COURT ORDERS** that, subject to further order of this Court, Representative Counsel shall represent the interests of the TRW Claimants as set out in paragraph 5 below without any obligation to consult with or seek individual instructions from those on whose behalf they have been appointed to represent, provided however, that Representative Counsel is hereby authorized, but not obligated, to establish a committee (the "**Representative Committee**") on such terms as may be agreed to by the Court-Appointed Mediator and the Tobacco Monitors or established by further order of this Court.

5. **THIS COURT ORDERS** that Representative Counsel be and is hereby authorized to take all steps and to perform all acts necessary or desirable to carry out the terms of this Order, including, without limitation, by:

- (a) participating in and negotiating on behalf of the TRW Claimants in the Mediation;



- (b) working with the Court-Appointed Mediator and the Tobacco Monitors to develop a process for the identification of valid and provable claims of TRW Claimants, and as appropriate, addressing such claims in the Mediation or the CCAA Proceedings;
- (c) responding to inquiries from TRW Claimants in the CCAA Proceedings; and
- (d) performing such other actions as approved by this Court.

For greater certainty, nothing in this Order shall be construed as determining the validity of any claims of any TRW Claimants.

6. **THIS COURT ORDERS** that Representative Counsel be and is hereby authorized, at its discretion, on such terms as may be consented to by the Court-Appointed Mediator and the Tobacco Monitors or further order of this Court to retain and consult with subject area experts and other professional and financial advisors as the Representative Counsel may consider necessary to assist it with the discharge of its mandate.

7. **THIS COURT ORDERS** that paragraphs 36 and 38 of the Second Amended and Restated Initial Order are hereby amended and are deemed from and after the date hereof to include Representative Counsel as appointed herein among the parties who shall be paid their reasonable professional fees and disbursements in each case on an hourly basis, from and after the date of this Order and among those who benefit from the Administration Charge as defined therein and shall be paid by the Applicants in accordance with an agreement among the Applicants.

8. **THIS COURT ORDERS** that Representative Counsel shall not be liable for any act or omission in respect of their appointment or the fulfillment of their duties in carrying out the provisions of this Order, other than for gross negligence or willful misconduct. No action or

other proceedings shall be commenced against Representative Counsel in respect of alleged gross negligence or willful misconduct, except with prior leave of this Court on at least 7 days' notice to Representative Counsel and upon such further order as this Court may make in respect of security for costs to be given by the plaintiff for the costs of the Representative Counsel in connection with any such action or proceeding.

9. **THIS COURT ORDERS** that the Representative Counsel may from time to time apply to this Court for advice and directions in respect of their appointment or the fulfillment of their duties in carrying out the provisions of this Order, upon notice to the Applicants and the Tobacco Monitors and to other interested parties, unless otherwise ordered by this Court.



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PER / PAR: 

(C) *Kenneth Knight v. Imperial Tobacco*, Court File No. L031300  
(Vancouver, British Columbia).

**"BAT Group"** means, collectively, British American Tobacco p.l.c., B.A.T. International Finance p.l.c., B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, Carreras Rothmans Limited or entities related to or affiliated with them other than the ITL Applicants and the ITCAN Subsidiaries.

**"ITCAN Subsidiaries"** means Imperial Tobacco Services Inc., Imperial Tobacco Products Limited, Marlboro Canada Limited, Cameo Inc., Medallion Inc., Allan Ramsay and Company Limited, John Player & Sons Ltd., Imperial Brands Ltd., 2004969 Ontario Inc., Construction Romir Inc., Genstar Corporation, Imasco Holdings Group, Inc., ITL (USA) limited, Genstar Pacific Corporation, Imasco Holdings Inc., Southward Insurance Ltd., Liggett & Myers Tobacco Company of Canada Limited or entities related to or affiliated with them other than the ITL Applicants and the BAT Group.

**"JTIM Group"** means the entities currently or formerly related to or affiliated with JTIM.

**"PMI Group"** means Phillip Morris International Inc. and all entities related to or affiliated with it, other than RBH.

**"Tobacco Products"** means any product made in whole or in part of tobacco that is intended for human consumption or use, including any component, part, or accessory of or used in connection with a tobacco product, including cigarettes, tobacco sticks (intended for smoking and requiring further preparation before they are smoked), loose tobacco intended for incorporation into cigarettes, cigars, cigarillos, pipe tobacco, kreteks, bidis and smokeless tobacco (including chewing tobacco, nasal snuff and oral snuff), but does not include Vapour Products.

**"Vapour Products"** means:

- (i) a device that produces emissions in the form of an aerosol and is intended to be brought to the mouth for inhalation of the aerosol without burning of (i) a substance or (ii) a mixture of substances;
- (ii) a part or accessory that may be used with those devices; and
- (iii) a substance or mixture of substances, whether or not it contains tobacco or nicotine, that is intended for use with or without those devices to produce emissions in the form of an aerosol without burning.

IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.1985, c. C-36,  
AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
IMPERIAL TOBACCO CANADA LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED

Court File No. CV-19-616077-00CL



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

Proceeding commenced at Toronto

**ORDER  
(RE APPOINTMENT OF  
REPRESENTATIVE COUNSEL)**

**DAVIES WARD PHILLIPS & VINEBERG LLP**  
155 Wellington Street West  
Toronto, ON M5V 3J7

**Jay Swartz** (LSO #15417L)  
Tel: 416.863.5502

**Natasha MacParland** (LSO #42383G)  
Tel: 416.863.5567

Fax: 416.863.0871

Lawyers for FTI Consulting Canada Inc.



Court File No. CV-19-615862-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

*in*  
~~MONDAY~~ *9/2/19*  
FRIDAY, THE 6<sup>th</sup>

THE HONOURABLE )

MR. JUSTICE MCEWEN )

DAY OF DECEMBER, 2019

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF JTI-MACDONALD CORP.**

Applicant

**ORDER  
(APPOINTMENT OF REPRESENTATIVE COUNSEL)**

**THIS JOINT MOTION** made by the "**Tobacco Monitors**", being Deloitte Restructuring Inc. in its capacity as court-appointed Monitor (the "**JTIM Monitor**") of JTI-Macdonald Corp. ("**JTIM**"), Ernst & Young Inc. in its capacity as court-appointed Monitor of Rothmans, Benson & Hedges Inc. ("**RBH**") and FTI Consulting Canada Inc. in its capacity as court-appointed Monitor of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively, the "**ITL Applicants**") and together with JTIM and RBH, the "**Applicants**") for advice and directions regarding an order appointing representative counsel in these proceedings was heard this day at 330 University Avenue, Toronto, Ontario,

**ON READING** the Joint Notice of Motion of the Tobacco Monitors dated November 25, 2019 including the Sixth Report of the JTIM Monitor dated November 26, 2019 (the "**Sixth Report**") filed, and on hearing the submissions of counsel for each of the Tobacco Monitors, the Applicants and such other counsel as were present, no one else appearing although duly served

as appears from the affidavits of service of Monique Sassi sworn November 25 and 26, 2019 and the affidavit of service of Melissa Feriozzo sworn December 2, 2019.

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and this Court hereby dispenses with further service of this motion and of this Order.

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meaning given to them in the Sixth Report.

3. **THIS COURT ORDERS** that The Law Practice of Wagner & Associates, Inc. (the "**Representative Counsel**") be and is hereby appointed to represent in these proceedings the TRW Claimants as defined in Schedule "A" hereto, which definition may be amended following consultation among the Court-Appointed Mediator, the Tobacco Monitors and Representative Counsel and as approved by further order of this Court.

4. **THIS COURT ORDERS** that, subject to further order of this Court, Representative Counsel shall represent the interests of the TRW Claimants as set out in paragraph 5 below without any obligation to consult with or seek individual instructions from those on whose behalf they have been appointed to represent, provided however, that Representative Counsel is hereby authorized, but not obligated, to establish a committee (the "**Representative Committee**") on such terms as may be agreed to by the Court-Appointed Mediator and the Tobacco Monitors or established by further order of this Court.

5. **THIS COURT ORDERS** that Representative Counsel be and is hereby authorized to take all steps and to perform all acts necessary or desirable to carry out the terms of this Order, including, without limitation, by:

- (a) participating in and negotiating on behalf of the TRW Claimants in the Mediation;

- (b) working with the Court-Appointed Mediator and the Tobacco Monitors to develop a process for the identification of valid and provable claims of TRW Claimants and as appropriate, addressing such claims in the Mediation or the CCAA Proceedings;
- (c) responding to inquiries from TRW Claimants in the CCAA Proceedings; and
- (d) performing such other actions as approved by this Court.

For greater certainty, nothing in this Order shall be construed as determining the validity of any claims of any TRW Claimants.

6. **THIS COURT ORDERS** that Representative Counsel be and is hereby authorized, at its discretion, on such terms as may be consented to by the Court-Appointed Mediator and the Tobacco Monitors or further order of this Court to retain and consult with subject area experts and other professional and financial advisors as the Representative Counsel may consider necessary to assist it with the discharge of its mandate.

7. **THIS COURT ORDERS** that paragraphs 38 and 40 of the JTIM Initial Order are hereby amended and are deemed from and after the date hereof to include Representative Counsel as appointed herein among the parties who shall be paid their reasonable professional fees and disbursements in each case on an hourly basis, from and after the date of this Order and among those who benefit from the Administration Charge as defined therein and shall be paid by the Applicants in accordance with an agreement among the Applicants.

8. **THIS COURT ORDERS** that Representative Counsel shall not be liable for any act or omission in respect of their appointment or the fulfillment of their duties in carrying out the provisions of this Order, other than for gross negligence or willful misconduct. No action or other proceedings shall be commenced against Representative Counsel in respect of alleged gross negligence or willful misconduct, except with prior leave of this Court, on at least 7 days' notice to

Representative Counsel and upon such further order as this Court may make in respect of security for costs to be given by the plaintiff for the costs of the Representative Counsel in connection with any such action or proceeding.

9. **THIS COURT ORDERS** that the Representative Counsel may from time to time apply to this Court for advice and directions in respect of their appointment or the fulfillment of their duties in carrying out the provisions of this Order, upon notice to the Applicants and the Tobacco Monitors and to other interested parties, unless otherwise ordered by this Court.

A handwritten signature in black ink, appearing to be 'M. J. T.', written over a horizontal line.

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Schedule "A"

**Definition of TRW Claimants**

"**TRW Claimants**" means all individuals (including their respective successors, heirs, assigns, litigation guardians and designated representatives under applicable provincial family law legislation) who assert or may be entitled to assert a claim or cause of action as against one or more of the Applicants, the ITCAN subsidiaries, the BAT Group, the JTIM Group or the PMI Group, each as defined below, or persons indemnified by such entities, in respect of:

- (i) the development, manufacture, importation, production, marketing, advertising, distribution, purchase or sale of Tobacco Products (defined below),
- (ii) the historical or ongoing use of or exposure to Tobacco Products; or
- (iii) any representation in respect of Tobacco Products,

in Canada or in the case of the Applicants, anywhere else in the world, including, without limitation, claims for contribution or indemnity, personal injury or tort damages, restitutionary recovery, non-pecuniary damages or claims for recovery grounded in provincial consumer protection legislation but specifically excluding claims:

- (i) in any person's capacity as a trade supplier, contract counterparty, employee, pensioner, or retiree;
- (ii) captured by any of the following commercial class actions:
  - (A) *The Ontario Flue-Cured Tobacco Growers' Marketing Board v. JTI-Macdonald Corp.*, Court File No. 64462 CP (London, Ontario);
  - (B) *The Ontario Flue-Cured Tobacco Growers' Marketing Board v. Rothmans, Benson & Hedges Inc.*, Court File No. 1056/10CP (London, Ontario);
  - (C) *The Ontario Flue-Cured Tobacco Growers' Marketing Board v. Imperial Tobacco Canada Ltd.*, Court File No. 64757 CP (London, Ontario);
- (iii) captured by any of the following class actions:
  - (A) *Conseil québécois sur le tabac et la santé et al. v. JTI-Macdonald Corp. et al.*, Court File No. 500-06-000076-980 (Montreal, Quebec);
  - (B) *Cécilia Létourneau et al. v. Imperial Tobacco Canada Ltd., et al.*, Court File No. 500-06-000070-983 (Montreal, Quebec);
  - (C) *Kenneth Knight v. Imperial Tobacco*, Court File No. L031300 (Vancouver, British Columbia).

**"BAT Group"** means, collectively, British American Tobacco p.l.c., B.A.T. International Finance p.l.c., B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, Carreras Rothmans Limited or entities related to or affiliated with them other than the ITL Applicants and the ITCAN Subsidiaries.

**"ITCAN Subsidiaries"** means Imperial Tobacco Services Inc., Imperial Tobacco Products Limited, Marlboro Canada Limited, Cameo Inc., Medallion Inc., Allan Ramsay and Company Limited, John Player & Sons Ltd., Imperial Brands Ltd., 2004969 Ontario Inc., Construction Romir Inc., Genstar Corporation, Imasco Holdings Group, Inc., ITL (USA) limited, Genstar Pacific Corporation, Imasco Holdings Inc., Southward Insurance Ltd., Liggett & Myers Tobacco Company of Canada Limited or entities related to or affiliated with them other than the ITL Applicants and the BAT Group.

**"JTIM Group"** means the entities currently or formerly related to or affiliated with JTIM.

**"PMI Group"** means Phillip Morris International Inc. and all entities related to or affiliated with it, other than RBH.

**"Tobacco Products"** means any product made in whole or in part of tobacco that is intended for human consumption or use, including any component, part, or accessory of or used in connection with a tobacco product, including cigarettes, tobacco sticks (intended for smoking and requiring further preparation before they are smoked), loose tobacco intended for incorporation into cigarettes, cigars, cigarillos, pipe tobacco, kreteks, bidis and smokeless tobacco (including chewing tobacco, nasal snuff and oral snuff), but does not include Vapour Products.

**"Vapour Products"** means:

- (i) a device that produces emissions in the form of an aerosol and is intended to be brought to the mouth for inhalation of the aerosol without burning of (i) a substance or (ii) a mixture of substances;
- (ii) a part or accessory that may be used with those devices; and
- (iii) a substance or mixture of substances, whether or not it contains tobacco or nicotine, that is intended for use with or without those devices to produce emissions in the form of an aerosol without burning

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF **JTI-MACDONALD CORP.**

Court File No. CV-19-615862-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(RE APPOINTMENT OF REPRESENTATIVE COUNSEL)**

**Blake, Cassels & Graydon LLP**  
Barristers & Solicitors  
199 Bay Street  
Suite 4000, Commerce Court West  
Toronto ON M5L 1A9

**Pamela Huff** LSO #27344V  
Tel: 416-863-2958  
pamela.huff@blakes.com

**Linc Rogers** LSO #43562N  
Tel: 416-863-4168  
linc.rogers@blakes.com

**Chris Burr** LSO #55172H  
Tel: 416-863-3261  
Fax: 416-863-2653  
chris.burr@blakes.com

Lawyers for the JTIM Monitor

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

*menon ahm*

THE HONOURABLE )  
 )  
MR. JUSTICE MCEWEN )

~~FRIDAY, THE 6<sup>th</sup>~~

DAY OF DECEMBER, 2019

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

AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.

Applicant



ORDER  
(APPOINTMENT OF REPRESENTATIVE COUNSEL)

**THIS JOINT MOTION** made by the "Tobacco Monitors" being Ernst & Young Inc. in its capacity as court-appointed Monitor (the "**RBH Monitor**") of Rothmans, Benson & Hedges Inc. ("**RBH**"), Deloitte Restructuring Inc. in its capacity as court-appointed Monitor of JTI-Macdonald Corp. ("**JTIM**") and FTI Consulting Canada Inc. in its capacity as court-appointed Monitor of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively, the "**ITL Applicants**" and together with RBH and JTIM, the "**Applicants**") for advice and directions regarding an order appointing representative counsel in these proceedings was heard this day at 330 University Avenue, Toronto, Ontario,

**ON READING** the Joint Notice of Motion of the Tobacco Monitors dated November 25, 2019 including the Fourth Report to Court of the RBH Monitor dated November 26, 2019 (the "**Fourth Report**") filed, and on hearing the submissions of counsel for each of the Tobacco Monitors, the Applicants and such other counsel as were present, no one else appearing although

duly served as appears from the affidavits of service of Monique Sassi sworn November 25 and November 26, 2019.

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and this Court hereby dispenses with further service of this motion and of this Order.

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meaning given to them in the Fourth Report.

3. **THIS COURT ORDERS** that The Law Practice of Wagner & Associates, Inc. (the "**Representative Counsel**") be and is hereby appointed to represent in these proceedings the TRW Claimants as defined in Schedule "A" hereto, which definition may be amended following consultation among the Court-Appointed Mediator, the Tobacco Monitors and Representative Counsel and as approved by further order of this Court.

4. **THIS COURT ORDERS** that, subject to further order of this Court, Representative Counsel shall represent the interests of the TRW Claimants as set out in paragraph 5 below without any obligation to consult with or seek individual instructions from those on whose behalf they have been appointed to represent, provided however, that Representative Counsel is hereby authorized, but not obligated, to establish a committee (the "**Representative Committee**") on such terms as may be agreed to by the Court-Appointed Mediator and the Tobacco Monitors or established by further order of this Court.

5. **THIS COURT ORDERS** that Representative Counsel be and is hereby authorized to take all steps and to perform all acts necessary or desirable to carry out the terms of this Order, including, without limitation, by:

- (a) participating in and negotiating on behalf of the TRW Claimants in the Mediation;

- (b) working with the Court-Appointed Mediator and the Tobacco Monitors to develop a process for the identification of valid and provable claims of TRW Claimants and as appropriate, addressing such claims in the Mediation or the CCAA Proceedings;
- (c) responding to inquiries from TRW Claimants in the CCAA Proceedings; and
- (d) performing such other actions as approved by this Court.

For greater certainty, nothing in this Order shall be construed as determining the validity of any claims of any TRW Claimants.

6. **THIS COURT ORDERS** that Representative Counsel be and is hereby authorized, at its discretion, on such terms as may be consented to by the Court-Appointed Mediator and the Tobacco Monitors or further order of this Court to retain and consult with subject area experts and other professional and financial advisors as the Representative Counsel may consider necessary to assist it with the discharge of its mandate.

7. **THIS COURT ORDERS** that paragraphs 36 and 38 of the RBH Initial Order are hereby amended and are deemed from and after the date hereof to include Representative Counsel as appointed herein among the parties who shall be paid their reasonable professional fees and disbursements in each case on an hourly basis, from and after the date of this Order and among those who benefit from the Administration Charge as defined therein and shall be paid by the Applicants in accordance with an agreement among the Applicants.

8. **THIS COURT ORDERS** that Representative Counsel shall not be liable for any act or omission in respect of their appointment or the fulfillment of their duties in carrying out the provisions of this Order, other than for gross negligence or willful misconduct. No action or other proceedings shall be commenced against Representative Counsel in respect of alleged gross negligence or willful misconduct, except with prior leave of this Court on at least 7 days'


notice to Representative Counsel and upon such further order as this Court may make in respect of security for costs to be given by the plaintiff for the costs of the Representative Counsel in connection with any such action or proceeding.

9. **THIS COURT ORDERS** that the Representative Counsel may from time to time apply to this Court for advice and directions in respect of their appointment or the fulfillment of their duties in carrying out the provisions of this Order, upon notice to the Applicants and the Tobacco Monitors and to other interested parties, unless otherwise ordered by this Court.

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## Schedule "A"

### Definition of TRW Claimants

"**TRW Claimants**" means all individuals (including their respective successors, heirs, assigns, litigation guardians and designated representatives under applicable provincial family law legislation) who assert or may be entitled to assert a claim or cause of action as against one or more of the Applicants, the ITCAN subsidiaries, the BAT Group, the JTIM Group or the PMI Group, each as defined below, or persons indemnified by such entities, in respect of:

- (i) the development, manufacture, importation, production, marketing, advertising, distribution, purchase or sale of Tobacco Products (defined below),
- (ii) the historical or ongoing use of or exposure to Tobacco Products; or
- (iii) any representation in respect of Tobacco Products,

in Canada or in the case of the Applicants, anywhere else in the world, including, without limitation, claims for contribution or indemnity, personal injury or tort damages, restitutionary recovery, non-pecuniary damages or claims for recovery grounded in provincial consumer protection legislation but specifically excluding claims:

- (i) in any person's capacity as a trade supplier, contract counterparty, employee, pensioner, or retiree;
- (ii) captured by any of the following commercial class actions:
  - (A) *The Ontario Flue-Cured Tobacco Growers' Marketing Board v. JTI-Macdonald Corp.*, Court File No. 64462 CP (London, Ontario);
  - (B) *The Ontario Flue-Cured Tobacco Growers' Marketing Board v. Rothmans, Benson & Hedges Inc.*, Court File No. 1056/10CP (London, Ontario);
  - (C) *The Ontario Flue-Cured Tobacco Growers' Marketing Board v. Imperial Tobacco Canada Ltd.*, Court File No. 64757 CP (London, Ontario);
- (iii) captured by any of the following class actions:
  - (A) *Conseil québécois sur le tabac et la santé et al. v. JTI-Macdonald Corp. et al.*, Court File No. 500-06-000076-980 (Montreal, Quebec);
  - (B) *Cécilia Létourneau et al. v. Imperial Tobacco Canada Ltd., et al.*, Court File No. 500-06-000070-983 (Montreal, Quebec);



(C) *Kenneth Knight v. Imperial Tobacco*, Court File No. L031300  
(Vancouver, British Columbia).

**"BAT Group"** means, collectively, British American Tobacco p.l.c., B.A.T. International Finance p.l.c., B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, Carreras Rothmans Limited or entities related to or affiliated with them other than the ITL Applicants and the ITCAN Subsidiaries.

**"ITCAN Subsidiaries"** means Imperial Tobacco Services Inc., Imperial Tobacco Products Limited, Marlboro Canada Limited, Cameo Inc., Medallion Inc., Allan Ramsay and Company Limited, John Player & Sons Ltd., Imperial Brands Ltd., 2004969 Ontario Inc., Construction Romir Inc., Genstar Corporation, Imasco Holdings Group, Inc., ITL (USA) limited, Genstar Pacific Corporation, Imasco Holdings Inc., Southward Insurance Ltd., Liggett & Myers Tobacco Company of Canada Limited or entities related to or affiliated with them other than the ITL Applicants and the BAT Group.

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- (ii) a part or accessory that may be used with those devices; and
- (iii) a substance or mixture of substances, whether or not it contains tobacco or nicotine, that is intended for use with or without those devices to produce emissions in the form of an aerosol without burning

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.

Court File No. CV-19-616779-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
PROCEEDING COMMENCED AT  
TORONTO

ORDER  
(RE APPOINTMENT OF REPRESENTATIVE COUNSEL)

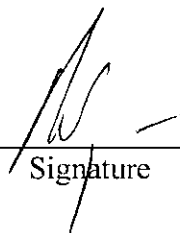
**Cassels Brock & Blackwell LLP**  
2100 Scotia Plaza  
40 King Street West  
Toronto, ON M5H 3C2

Shayne Kukulowicz LSO #: 30729S  
Tel: 416.860.6463  
Fax: 416.640.3176  
skukulowicz@cassels.com

Jane Dietrich LSO #: 49301U  
Tel: 416.860.5223  
Fax: 416.640.3144  
jdietrich@cassels.com

Lawyers for the RBH Monitor

This is Exhibit "B" referred to in the  
Affidavit of Kate Boyle affirmed  
before me on the 8<sup>th</sup> day of  
December, 2024.



A handwritten signature in black ink, appearing to be 'RB', is written over a horizontal line.

Signature





**ON READING** the Joint Notice of Motion of the Tobacco Monitors dated November 13, 2024 (the “**Joint Motion Record**”) including the Twenty-Second Report to Court of the Imperial Monitor dated November 13, 2024 (the “**Twenty-Second Report**”) filed, and upon being advised by counsel to the Tobacco Monitors that no party has provided notice of objection to this motion for an amendment and restatement of the Representative Counsel Order although duly served as appears from the affidavits of service of Jasman Singh Gill sworn November 13, 2024.

### **SERVICE**

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and this Court hereby dispenses with further service of this motion and of this Order.
2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meanings given to them in the Twenty-Second Report, or the CCAA Plan in respect of Imperial.
3. **THIS COURT ORDERS** that, effective as of the date hereof, the Representative Counsel Order be and hereby is amended and restated in the form attached as Appendix “A” hereto.

### **GENERAL**

4. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicant in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to

provide such assistance to the Applicant and its court-appointed monitor as may be necessary or desirable to give effect to this Order or assist in carrying out the terms of this Order.



Chief Justice G.B. Morawetz

**Appendix "A"**

Court File No. CV-19-616077-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE )  
 )  
MR. JUSTICE MCEWEN ) MONDAY, THE 9th  
 DAY OF DECEMBER, 2019

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF *IMPERIAL TOBACCO CANADA  
LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED***

Applicant

**AMENDED AND RESTATED ORDER  
(APPOINTMENT OF PCC REPRESENTATIVE COUNSEL)**

**THIS JOINT MOTION** made by the "Tobacco Monitors" being Ernst & Young Inc. in its capacity as court-appointed Monitor of Rothmans, Benson & Hedges Inc. ("**RBH**"), Deloitte Restructuring Inc. in its capacity as court-appointed Monitor of JTI-Macdonald Corp. ("**JTIM**") and FTI Consulting Canada Inc. in its capacity as court-appointed Monitor (the "**Imperial Monitor**") of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively, "**Imperial**" and together with RBH and JTIM, the "**Applicants**") for advice and directions regarding an order appointing representative counsel in these proceedings was heard this day at 330 University Avenue, Toronto, Ontario.



**ON READING** the Joint Notice of Motion of the Tobacco Monitors dated November 25, 2019 including the Sixth Report to Court of the Imperial Monitor dated November 26, 2019 (the “**Sixth Report**”) filed, and on hearing the submissions of counsel for each of the Tobacco Monitors, the Applicants and such other counsel as were present, no one else appearing although duly served as appears from the affidavits of service of Monique Sassi sworn November 25 and November 26, 2019 and the affidavit of service of Robert Nicholls sworn November 27, 2019.

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and this Court hereby dispenses with further service of this motion and of this Order.

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order (including in Schedule “A”) shall have the meanings given to them in the Twenty-Second Report to Court of the Imperial Monitor dated November 13, 2024, or the CCAA Plan in respect of Imperial.

3. **THIS COURT ORDERS** that The Law Practice of Wagner & Associates, Inc. (the “**PCC Representative Counsel**”) be and is hereby appointed to represent in these proceedings the Pan-Canadian Claimants as defined in Schedule “A” hereto, which definition may be amended following consultation among the Court-Appointed Mediator, the Tobacco Monitors and PCC Representative Counsel and as approved by further order of this Court.

4. **THIS COURT ORDERS** that, subject to further order of this Court, PCC Representative Counsel shall represent the interests of the Pan-Canadian Claimants as set out in paragraph 5 below without any obligation to consult with or seek individual instructions from those on whose behalf they have been appointed to represent, provided however, that PCC Representative Counsel is

hereby authorized, but not obligated, to establish a committee (the “**Representative Committee**”) on such terms as may be agreed to by the Court-Appointed Mediator and the Tobacco Monitors or established by further order of this Court.

5. **THIS COURT ORDERS** that PCC Representative Counsel be and is hereby authorized to take all steps and to perform all acts necessary or desirable to carry out the terms of this Order, including, without limitation, by:

- (a) participating in and negotiating on behalf of the Pan-Canadian Claimants in the Mediation;
- (b) working with the Court-Appointed Mediator and the Tobacco Monitors to develop a process for the identification of valid and provable claims of Pan-Canadian Claimants and as appropriate, addressing such claims in the Mediation or the CCAA Proceedings;
- (c) responding to inquiries from Pan-Canadian Claimants in the CCAA Proceedings;
- (d) taking all steps or actions and providing all services in connection with its duties both before and after the Plan Implementation Date, as applicable:
  - (i) in these CCAA Proceedings; and
  - (ii) subject to the implementation of the CCAA Plan:
    - a. under the CCAA Plan, including the PCC Compensation Plan; and
    - b. as may otherwise be required by the CCAA Plan Administrators; and

(e) performing such other actions as approved by this Court.

For greater certainty, nothing in this Order shall be construed as determining the validity of any claims of any Pan-Canadian Claimants.

6. **THIS COURT ORDERS** that PCC Representative Counsel be and is hereby authorized, at its discretion, on such terms as may be consented to by the Court-Appointed Mediator and the Tobacco Monitors, or, subject to the implementation of the CCAA Plan, the CCAA Plan Administrators following the Plan Implementation Date, or further order of this Court to retain and consult with subject area experts and other professional and financial advisors as the PCC Representative Counsel may consider necessary to assist it with the discharge of its mandate.

7. **THIS COURT ORDERS** that paragraphs 36 and 38 of the Second Amended and Restated Initial Order are hereby amended and are deemed from and after the date hereof to include PCC Representative Counsel as appointed herein among the parties who shall be paid its reasonable professional fees and disbursements in each case on an hourly basis, from and after the date of this Order and among those who benefit from the Administration Charge as defined therein and shall be paid by the Applicants in accordance with an agreement among the Applicants until the Plan Implementation Date.

8. **THIS COURT ORDERS** that, subject to the implementation of the CCAA Plan, all costs associated with the PCC Representative Counsel (including its advisors) after the Plan Implementation Date, shall be paid in accordance with the CCAA Plan.

9. **THIS COURT ORDERS** that PCC Representative Counsel shall not be liable for any act or omission in respect of its appointment or the fulfillment of its duties in carrying out the

provisions of this Order, other than for gross negligence or willful misconduct. No action or other proceedings shall be commenced against PCC Representative Counsel in respect of alleged gross negligence or willful misconduct, except with prior leave of this Court, on at least 7 days' notice to PCC Representative Counsel, and upon such further order as this Court may make in respect of security for costs to be given by the plaintiff for the costs of the PCC Representative Counsel in connection with any such action or proceeding.

10. **THIS COURT ORDERS** that the PCC Representative Counsel may from time to time apply to this Court for advice and directions in respect of its appointment or the fulfillment of its duties in carrying out the provisions of this Order, upon notice to the Applicants and the Tobacco Monitors (or, subject to the implementation of the CCAA Plan, the CCAA Plan Administrators after the Plan Implementation Date) and to other interested parties, unless otherwise ordered by this Court.

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Chief Justice G.B. Morawetz

## Schedule "A"

### Definitions

For the purposes of this Schedule "A", capitalized terms not otherwise defined herein shall have the meaning given to them in the CCAA Plan (as defined below).

**"Alternative Product"** means (i) any device that produces emissions in the form of an aerosol and is intended to be brought to the mouth for inhalation of the aerosol without burning of (a) a substance; or (b) a mixture of substances; (ii) any substance or mixture of substances, whether or not it contains tobacco or nicotine, that is intended for use with or without those devices to produce emissions in the form of an aerosol without burning; (iii) any non-combustible tobacco (other than smokeless tobacco) or nicotine delivery product; or (iv) any component, part, or accessory of or used in connection with any such device or product referred to above.

**"CCAA Plan"**, or **"Plan"**, means the Court-Appointed Mediator's and Monitor's plan of compromise and arrangement pursuant to the CCAA concerning, affecting and involving Imperial, including all Schedules thereto.

**"Individuals"** means all individuals residing in a Province or Territory of Canada.

**"Pan-Canadian Claimants"** or **"PCCs"**, means Individuals, excluding *Blais* Class Members and *Létourneau* Class Members in relation to QCAP Claims, who have asserted or may be entitled to assert a PCC Claim.

**"PCC Claim"** means any Claim of any Pan-Canadian Claimant that has been made or may in the future be asserted or made in whole or in part against or in respect of the Released Parties, or any one of them (either individually or with any other Person), that has been advanced, could have been advanced or could be advanced, whether on such Pan-Canadian Claimant's own account, or on their behalf, or on behalf of a certified or proposed class, to recover damages or any other remedy in respect of the development, design, manufacture, production, marketing, advertising, distribution, purchase or sale of Tobacco Products, including any representations or omissions in respect thereof, the historical or ongoing use of or exposure (whether directly or indirectly) to Tobacco Products or their emissions and the development of any disease or condition as a result thereof, whether existing or hereafter arising, in each case based on, arising from or in respect of any conduct, act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing, fact, matter or occurrence existing or taking place at or prior to the Effective Time (whether or not continuing thereafter) including, all Claims that have been advanced, could have been advanced or could be advanced in the following actions commenced by Individuals under provincial class proceedings legislation and actions commenced by Individuals, or in any other similar proceedings:

- (a) *Barbara Bourassa v. Imperial Tobacco Canada Limited et al.* (Supreme Court of British Columbia, Court File No. 10-2780 and Court File No. 14-4722);
- (b) *Roderick Dennis McDermid v. Imperial Tobacco Canada Limited et al.* (Supreme Court of British Columbia, Court File No. 10-2769);

- (c) *Linda Dorion v. Canadian Tobacco Manufacturers' Council et al.* (Alberta Court of Queen's Bench, Court File No. 0901-08964);
- (d) *Thelma Adams v. Canadian Tobacco Manufacturers' Council et al.* (Saskatchewan Court of Queen's Bench, Court File No. 916 of 2009);
- (e) *Deborah Kunta v. Canadian Tobacco Manufacturers' Council et al.* (Manitoba Court of Queen's Bench, Court File No. C109-01-61479);
- (f) *Suzanne Jacklin v. Canadian Tobacco Manufacturers' Council* (Ontario Superior Court of Justice, Court File No. 53794/12);
- (g) *Ben Semple v. Canadian Tobacco Manufacturers' Council et al.* (Supreme Court of Nova Scotia, Court File No. 312869);
- (h) *Victor Todd Sparkes v. Imperial Tobacco Canada Limited* (Newfoundland and Labrador Supreme Court - Trial Division, Court File No. 200401T2716 CP);
- (i) *Peter Stright v. Imperial Tobacco Canada Limited* (Supreme Court of Nova Scotia, Court File No. 177663);
- (j) *Ljubisa Spasic as estate trustee of Mirjana Spasic v. Imperial Tobacco Limited and Rothmans, Benson & Hedges Inc.* (Ontario Superior Court of Justice, Court File No. C17773/97);
- (k) *Ljubisa Spasic as estate trustee of Mirjana Spasic v. B.A.T. Industries P.L.C.* (Ontario Superior Court of Justice, Court File No. C18187/97);
- (l) *Ragoonanan v. Imperial Tobacco Canada Limited* (Ontario Superior Court of Justice, Court File No. 00-CV-183165-CP00);
- (m) *Scott Landry v. Imperial Tobacco Canada Limited* (Ontario Superior Court of Justice, Court File No. 1442/03);
- (n) *Joseph Battaglia v. Imperial Tobacco Canada Limited* (Ontario Superior Court of Justice, Court File No. 21513/97);
- (o) *Roland Bergeron v. Imperial Tobacco Canada Limited* (Quebec Superior Court, Court File No. 750-32-700014-163);
- (p) *Paradis, in personal capacity and on behalf of estate of Lorraine Trepanier v. Rothmans, Benson & Hedges Inc.* (Quebec Small Claims Court);
- (q) *Couture v. Rothmans, Benson & Hedges Inc.* (Quebec Superior Court); and

including any such Claim that is a Section 5.1(2) Claim or Section 19(2) Claim.

“Section 5.1(2) Claims” means any Claims against the Directors that:

- (a) arose before the commencement of the CCAA Proceeding;
- (b) relate to the obligations of Imperial where the Directors are by law liable in their capacity as Directors for the payment of such obligations; and
- (c) either relate to contractual rights of one or more creditors, or are based on allegations of misrepresentations made by Directors to creditors, or of wrongful or oppressive conduct by Directors.

**“Section 19(2) Claims”** means any Claims against Imperial that relate to any of the following debts or liabilities, present or future, to which Imperial is subject on the day on which the CCAA Proceeding commenced, or to which Imperial may become subject before the compromise or arrangement is sanctioned by reason of any obligation incurred by Imperial before the day on which the CCAA Proceeding commenced, unless the compromise or arrangement in respect of Imperial explicitly provides for the Claim’s compromise, and the creditor in relation to that debt has voted for the acceptance of the compromise or arrangement:

- (a) any fine, penalty, restitution order or other order similar in nature to a fine, penalty or restitution order, imposed by a court in respect of an offence;
- (b) any award of damages by a court in civil proceedings in respect of:
  - (i) bodily harm intentionally inflicted, or sexual assault, or
  - (ii) wrongful death resulting from an act referred to in subparagraph (i);
- (c) any debt or liability arising out of fraud, embezzlement, misappropriation or defalcation while acting in a fiduciary capacity or, in Quebec, as a trustee or an administrator of the property of others;
- (d) any debt or liability resulting from obtaining property or services by false pretences or fraudulent misrepresentation, other than a debt or liability of the company that arises from an equity claim; or
- (e) any debt for interest owed in relation to an amount referred to in any of paragraphs (a) to (d).

**“Tobacco Product”** means any product made in whole or in part of tobacco that is intended for human consumption or use, including any component, part, or accessory of or used in connection with a tobacco product, including cigarettes, tobacco sticks (intended for smoking and requiring further preparation before they are smoked), loose tobacco intended for incorporation into cigarettes, cigars, cigarillos, pipe tobacco, kreteks, bidis and smokeless tobacco (including chewing tobacco, nasal snuff and oral snuff), but does not include any Alternative Product.

Court File No: CV-19-616077-00CL

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF IMPERIAL TOBACCO CANADA  
LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED

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

Proceeding commenced at Toronto

**AMENDED AND RESTATED**  
**APPOINTMENT OF REPRESENTATIVE COUNSEL ORDER**

**DAVIES WARD PHILLIPS & VINEBERG LLP**  
155 Wellington Street West  
Toronto, On M5V 3J7

**Natasha MacParland (LSO# 42383G)**  
Tel: 416.863.5567  
Email: nmacparland@dwvpv.com

**Chanakya A. Sethi (LSO# 63492T)**  
Tel: 416.863.5516  
Email: csethi@dwvpv.com

*Lawyers for FTI Consulting Canada Inc., in its capacity as the Court-  
appointed Monitor of Imperial Tobacco Canada Limited and Imperial  
Tobacco Company Limited*



Court File No: CV-19-616077-00CL

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF IMPERIAL TOBACCO CANADA  
LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED

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

Proceeding commenced at Toronto

**ORDER**  
**(RE AMENDED APPOINTMENT OF REPRESENTATIVE**  
**COUNSEL ORDER)**

**DAVIES WARD PHILLIPS & VINEBERG LLP**  
155 Wellington Street West  
Toronto, ON M5V 3J7

**Natasha MacParland (LSO# 42383G)**  
Tel: 416.863.5567  
Email: nmacparland@dwpv.com

**Chanakya A. Sethi (LSO# 63492T)**  
Tel: 416.863.5516  
Email: csethi@dwpv.com

*Lawyers for FTI Consulting Canada Inc., in its capacity as the  
Court-appointed Monitor of Imperial Tobacco Canada Limited  
and Imperial Tobacco Company Limited*



Court File No. CV-19-00615862-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE CHIEF )  
 )  
JUSTICE MORAWETZ )  
 )  
FRIDAY, THE 22<sup>nd</sup>  
DAY OF NOVEMBER, 2024

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF JTI-MACDONALD CORP.**

Applicant

**ORDER**

**THIS JOINT MOTION** made by the "**Tobacco Monitors**" being Ernst & Young Inc. in its capacity as court-appointed Monitor of Rothmans, Benson & Hedges Inc. ("**RBH**"), Deloitte Restructuring Inc. in its capacity as court-appointed Monitor (the "**JTIM Monitor**") of JTI-Macdonald Corp. ("**JTIM**") and FTI Consulting Canada Inc. in its capacity as court-appointed Monitor of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively, "**Imperial**" and together with RBH and JTIM, the "**Applicants**") for an order amending and restating the Appointment of Representative Counsel Order of Mr. Justice McEwen dated December 9, 2019 (the "**Representative Counsel Order**") was determined this day in writing at Toronto, Ontario.

**ON READING** the Joint Notice of Motion of the Tobacco Monitors dated November 13, 2024 (the "**Joint Motion Record**") including the Nineteenth Report to Court of the JTIM

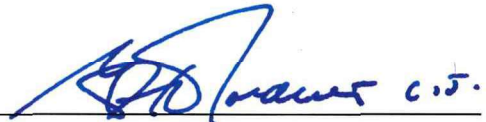
Monitor dated November 13, 2024 (the “**Nineteenth Report**”) filed, and upon being advised by counsel to the Tobacco Monitors that no party has provided notice of objection to this motion for an amendment and restatement of the Representative Counsel Order although duly served as appears from the affidavits of service of Jasman Singh Gill sworn November 13, 2024.

### **SERVICE**

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and this Court hereby dispenses with further service of this motion and of this Order.
2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meanings given to them in the Nineteenth Report, or the CCAA Plan in respect of JTIM.
3. **THIS COURT ORDERS** that, effective as of the date hereof, the Representative Counsel Order be and hereby is amended and restated in the form attached as Appendix “A” hereto.

### **GENERAL**

4. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicant in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and its court-appointed monitor as may be necessary or desirable to give effect to this Order or assist in carrying out the terms of this Order.



Chief Justice G.B. Morawetz

**Appendix "A"**

Court File No. CV-19-00615862-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE )  
 )  
MR. JUSTICE MCEWEN ) MONDAY, THE 9th  
 DAY OF DECEMBER, 2019

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF JTI-MACDONALD CORP.**

Applicant

**AMENDED AND RESTATED ORDER  
(APPOINTMENT OF PCC REPRESENTATIVE COUNSEL)**

**THIS JOINT MOTION** made by the “**Tobacco Monitors**” being Ernst & Young Inc. in its capacity as court-appointed Monitor of Rothmans, Benson & Hedges Inc. (“**RBH**”), Deloitte Restructuring Inc. in its capacity as court-appointed Monitor (the “**JTIM Monitor**”) of JTI-Macdonald Corp. (“**JTIM**”) and FTI Consulting Canada Inc. in its capacity as court-appointed Monitor of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively, the “**ITL Applicants**” and together with RBH and JTIM, the “**Applicants**”) for advice and directions regarding an order appointing representative counsel in these proceedings was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Joint Notice of Motion of the Tobacco Monitors dated November 25, 2019 including the Sixth Report to Court of the JTIM Monitor dated November 26, 2019 (the “**Sixth Report**”) filed, and on hearing the submissions of counsel for each of the Tobacco Monitors, the Applicants and such other counsel as were present, no one else appearing although duly served as appears from the affidavits of service of Monique Sassi sworn November 25 and November 26, 2019 and the affidavit of service of Melissa Feriozzo dated November 26, 2019.

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and this Court hereby dispenses with further service of this motion and of this Order.

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order (including in Schedule “A”) shall have the meanings given to them in the Nineteenth Report of the JTIM Monitor dated November 13, 2024, or the CCAA Plan in respect of JTIM.

3. **THIS COURT ORDERS** that The Law Practice of Wagner & Associates, Inc. (the “**PCC Representative Counsel**”) be and is hereby appointed to represent in these proceedings the Pan-Canadian Claimants as defined in Schedule “A” hereto, which definition may be amended following consultation among the Court-Appointed Mediator, the Tobacco Monitors and PCC Representative Counsel and as approved by further order of this Court.

4. **THIS COURT ORDERS** that, subject to further order of this Court, PCC Representative Counsel shall represent the interests of the Pan-Canadian Claimants as set out in paragraph 5 below without any obligation to consult with or seek individual instructions from those on whose behalf they have been appointed to represent, provided however, that PCC Representative Counsel is hereby authorized, but not obligated, to establish a committee (the “**Representative Committee**”)

on such terms as may be agreed to by the Court-Appointed Mediator and the Tobacco Monitors or established by further order of this Court.

5. **THIS COURT ORDERS** that PCC Representative Counsel be and is hereby authorized to take all steps and to perform all acts necessary or desirable to carry out the terms of this Order, including, without limitation, by:

- (a) participating in and negotiating on behalf of the Pan-Canadian Claimants in the Mediation;
- (b) working with the Court-Appointed Mediator and the Tobacco Monitors to develop a process for the identification of valid and provable claims of Pan-Canadian Claimants and as appropriate, addressing such claims in the Mediation or the CCAA Proceedings;
- (c) responding to inquiries from Pan-Canadian Claimants in the CCAA Proceedings;
- (d) taking all steps or actions and providing all services in connection with its duties both before and after the Plan Implementation Date, as applicable:
  - (i) in these CCAA Proceedings; and
  - (ii) subject to the implementation of the CCAA Plan:
    - a. under the CCAA Plan, including the PCC Compensation Plan; and
    - b. as may otherwise be required by the CCAA Plan Administrators.
- (e) performing such other actions as approved by this Court.

For greater certainty, nothing in this Order shall be construed as determining the validity of any claims of any Pan-Canadian Claimants.

6. **THIS COURT ORDERS** that PCC Representative Counsel be and is hereby authorized, at its discretion, on such terms as may be consented to by the Court-Appointed Mediator and the Tobacco Monitors, or, subject to the implementation of the CCAA Plan, the CCAA Plan Administrators following the Plan Implementation Date, or further order of this Court to retain and consult with subject area experts and other professional and financial advisors as the PCC Representative Counsel may consider necessary to assist it with the discharge of its mandate.

7. **THIS COURT ORDERS** that paragraphs 38 and 40 of the JTIM Initial Order are hereby amended and are deemed from and after the date hereof to include PCC Representative Counsel as appointed herein among the parties who shall be paid its reasonable professional fees and disbursements in each case on an hourly basis, from and after the date of this Order and among those who benefit from the Administration Charge as defined therein and shall be paid by the Applicants in accordance with an agreement among the Applicants until the Plan Implementation Date.

8. **THIS COURT ORDERS** that, subject to the implementation of the CCAA Plan, all costs associated with the PCC Representative Counsel (including its advisors) after the Plan Implementation Date shall be paid in accordance with the CCAA Plan.

9. **THIS COURT ORDERS** that PCC Representative Counsel shall not be liable for any act or omission in respect of its appointment or the fulfillment of its duties in carrying out the provisions of this Order, other than for gross negligence or willful misconduct. No action or other proceedings shall be commenced against PCC Representative Counsel in respect of alleged gross



negligence or willful misconduct, except with prior leave of this Court, on at least 7 days' notice to PCC Representative Counsel, and upon such further order as this Court may make in respect of security for costs to be given by the plaintiff for the costs of the PCC Representative Counsel in connection with any such action or proceeding.

10. **THIS COURT ORDERS** that the PCC Representative Counsel may from time to time apply to this Court for advice and directions in respect of its appointment or the fulfillment of its duties in carrying out the provisions of this Order, upon notice to the Applicants and the Tobacco Monitors (or, subject to the implementation of the CCAA Plan, the CCAA Plan Administrators after the Plan Implementation Date) and to other interested parties, unless otherwise ordered by this Court.

---

Chief Justice G.B. Morawetz

## Schedule "A"

### Definitions

For the purposes of this Schedule "A", capitalized terms not otherwise defined herein shall have the meaning given to them in the CCAA Plan (as defined below).

**"Alternative Product"** means (i) any device that produces emissions in the form of an aerosol and is intended to be brought to the mouth for inhalation of the aerosol without burning of (a) a substance; or (b) a mixture of substances; (ii) any substance or mixture of substances, whether or not it contains tobacco or nicotine, that is intended for use with or without those devices to produce emissions in the form of an aerosol without burning; (iii) any non-combustible tobacco (other than smokeless tobacco) or nicotine delivery product; or (iv) any component, part, or accessory of or used in connection with any such device or product referred to above.

**"CCAA Plan"**, or **"Plan"**, means the Court-Appointed Mediator's and Monitor's plan of compromise and arrangement pursuant to the CCAA concerning, affecting and involving JTIM, including all Schedules thereto.

**"Individuals"** means all individuals residing in a Province or Territory of Canada.

**"Pan-Canadian Claimants"** or **"PCCs"**, means Individuals, excluding *Blais* Class Members and *Létourneau* Class Members in relation to QCAP Claims, who have asserted or may be entitled to assert a PCC Claim.

**"PCC Claim"** means any Claim of any Pan-Canadian Claimant that has been made or may in the future be asserted or made in whole or in part against or in respect of the Released Parties, or any one of them (either individually or with any other Person), that has been advanced, could have been advanced or could be advanced, whether on such Pan-Canadian Claimant's own account, or on their behalf, or on behalf of a certified or proposed class, to recover damages or any other remedy in respect of the development, design, manufacture, production, marketing, advertising, distribution, purchase or sale of Tobacco Products, including any representations or omissions in respect thereof, the historical or ongoing use of or exposure (whether directly or indirectly) to Tobacco Products or their emissions and the development of any disease or condition as a result thereof, whether existing or hereafter arising, in each case based on, arising from or in respect of any conduct, act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing, fact, matter or occurrence existing or taking place at or prior to the Effective Time (whether or not continuing thereafter) including, all Claims that have been advanced, could have been advanced or could be advanced in the following actions commenced by Individuals under provincial class proceedings legislation and actions commenced by Individuals, or in any other similar proceedings:

- (a) *Barbara Bourassa v. Imperial Tobacco Canada Limited et al.* (Supreme Court of British Columbia, Court File No. 10-2780 and Court File No. 14-4722);
- (b) *Roderick Dennis McDermid v. Imperial Tobacco Canada Limited et al.* (Supreme Court of British Columbia, Court File No. 10-2769);

- (c) *Linda Dorion v. Canadian Tobacco Manufacturers' Council et al.* (Alberta Court of Queen's Bench, Court File No. 0901-08964);
- (d) *Thelma Adams v. Canadian Tobacco Manufacturers' Council et al.* (Saskatchewan Court of Queen's Bench, Court File No. 916 of 2009);
- (e) *Deborah Kunta v. Canadian Tobacco Manufacturers' Council et al.* (Manitoba Court of Queen's Bench, Court File No. C109-01-61479);
- (f) *Suzanne Jacklin v. Canadian Tobacco Manufacturers' Council* (Ontario Superior Court of Justice, Court File No. 53794/12);
- (g) *Ben Semple v. Canadian Tobacco Manufacturers' Council et al.* (Supreme Court of Nova Scotia, Court File No. 312869);
- (h) *Victor Todd Sparkes v. Imperial Tobacco Canada Limited* (Newfoundland and Labrador Supreme Court - Trial Division, Court File No. 200401T2716 CP);
- (i) *Peter Stright v. Imperial Tobacco Canada Limited* (Supreme Court of Nova Scotia, Court File No. 177663);
- (j) *Ljubisa Spasic as estate trustee of Mirjana Spasic v. Imperial Tobacco Limited and Rothmans, Benson & Hedges Inc.* (Ontario Superior Court of Justice, Court File No. C17773/97);
- (k) *Ljubisa Spasic as estate trustee of Mirjana Spasic v. B.A.T. Industries P.L.C.* (Ontario Superior Court of Justice, Court File No. C18187/97);
- (l) *Ragoonanan v. Imperial Tobacco Canada Limited* (Ontario Superior Court of Justice, Court File No. 00-CV-183165-CP00);
- (m) *Scott Landry v. Imperial Tobacco Canada Limited* (Ontario Superior Court of Justice, Court File No. 1442/03);
- (n) *Joseph Battaglia v. Imperial Tobacco Canada Limited* (Ontario Superior Court of Justice, Court File No. 21513/97);
- (o) *Roland Bergeron v. Imperial Tobacco Canada Limited* (Quebec Superior Court, Court File No. 750-32-700014-163);
- (p) *Paradis, in personal capacity and on behalf of estate of Lorraine Trepanier v. Rothmans, Benson & Hedges Inc.* (Quebec Small Claims Court);
- (q) *Couture v. Rothmans, Benson & Hedges Inc.* (Quebec Superior Court); and

including any such Claim that is a Section 5.1(2) Claim or Section 19(2) Claim.

“Section 5.1(2) Claims” means any Claims against the Directors that:

- (a) arose before the commencement of the CCAA Proceeding;
- (b) relate to the obligations of JTIM where the Directors are by law liable in their capacity as Directors for the payment of such obligations; and
- (c) either relate to contractual rights of one or more creditors, or are based on allegations of misrepresentations made by Directors to creditors, or of wrongful or oppressive conduct by Directors.

“**Section 19(2) Claims**” means any Claims against JTIM that relate to any of the following debts or liabilities, present or future, to which JTIM is subject on the day on which the CCAA Proceeding commenced, or to which JTIM may become subject before the compromise or arrangement is sanctioned by reason of any obligation incurred by JTIM before the day on which the CCAA Proceeding commenced, unless the compromise or arrangement in respect of JTIM explicitly provides for the Claim’s compromise, and the creditor in relation to that debt has voted for the acceptance of the compromise or arrangement:

- (a) any fine, penalty, restitution order or other order similar in nature to a fine, penalty or restitution order, imposed by a court in respect of an offence;
- (b) any award of damages by a court in civil proceedings in respect of:
  - (i) bodily harm intentionally inflicted, or sexual assault, or
  - (ii) wrongful death resulting from an act referred to in subparagraph (i);
- (c) any debt or liability arising out of fraud, embezzlement, misappropriation or defalcation while acting in a fiduciary capacity or, in Quebec, as a trustee or an administrator of the property of others;
- (d) any debt or liability resulting from obtaining property or services by false pretences or fraudulent misrepresentation, other than a debt or liability of the company that arises from an equity claim; or
- (e) any debt for interest owed in relation to an amount referred to in any of paragraphs (a) to (d).

“**Tobacco Product**” means any product made in whole or in part of tobacco that is intended for human consumption or use, including any component, part, or accessory of or used in connection with a tobacco product, including cigarettes, tobacco sticks (intended for smoking and requiring further preparation before they are smoked), loose tobacco intended for incorporation into cigarettes, cigars, cigarillos, pipe tobacco, kreteks, bidis and smokeless tobacco (including chewing tobacco, nasal snuff and oral snuff), but does not include any Alternative Product.

Court File No: CV-19-00615862-00CL

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JTI-MACDONALD CORP.

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

Proceeding commenced at Toronto

**ORDER**  
**(RE AMENDED APPOINTMENT OF REPRESENTATIVE**  
**COUNSEL ORDER)**

**BLAKE, CASSELS & GRAYDON LLP**  
199 Bay Street  
Suite 4000, Commerce Court West  
Toronto, ON M5V 3J7

**Pamela Huff** (LSO# 27344V)  
Tel: 416.863.2958  
Email: [pam.huff@blakes.com](mailto:pam.huff@blakes.com)

**Linc Rogers** (LSO# 43562N)  
Tel: 416.863.4168  
Email: [linc.rogers@blakes.com](mailto:linc.rogers@blakes.com)

*Lawyers for Deloitte Restructuring Inc., in its capacity as the  
Court-appointed Monitor of JTI-Macdonald Corp.*

Court File No: CV-19-00615862-00CL

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JTI-MACDONALD CORP.

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

Proceeding commenced at Toronto

**AMENDED AND RESTATED**  
**APPOINTMENT OF REPRESENTATIVE COUNSEL ORDER**

**BLAKE, CASSELS & GRAYDON LLP**  
199 Bay Street  
Suite 4000, Commerce Court West  
Toronto, ON M5V 3J7

**Pamela Huff** (LSO# 27344V)  
Tel: 416.863.2958  
Email: [pam.huff@blakes.com](mailto:pam.huff@blakes.com)

**Linc Rogers** (LSO# 43562N)  
Tel: 416.863.4168  
Email: [linc.rogers@blakes.com](mailto:linc.rogers@blakes.com)

*Lawyers for Deloitte Restructuring Inc., in its capacity as the Court-appointed Monitor of JTI-Macdonald Corp.*

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST



THE HONOURABLE CHIEF ) FRIDAY, THE 22nd  
)  
JUSTICE MORAWETZ ) DAY OF NOVEMBER, 2024

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

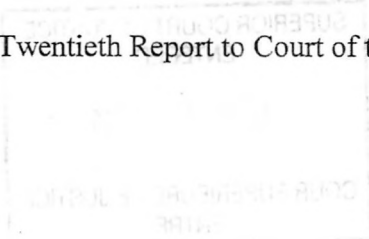
**AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.**

Applicant

**ORDER**

**THIS JOINT MOTION** made by the "Tobacco Monitors" being Ernst & Young Inc. in its capacity as court-appointed Monitor (the "RBH Monitor") of Rothmans, Benson & Hedges Inc. ("RBH"), Deloitte Restructuring Inc. in its capacity as court-appointed Monitor of JTI-Macdonald Corp. ("JTIM") and FTI Consulting Canada Inc. in its capacity as court-appointed Monitor of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively, the "ITL Applicants" and together with RBH and JTIM, the "Applicants") for an order amending and restating the Appointment of Representative Counsel Order of Mr. Justice McEwen dated December 9, 2019 (the "Representative Counsel Order") was determined this day in writing at Toronto, Ontario.

**ON READING** the Joint Notice of Motion of the Tobacco Monitors dated November 13, 2024 (the "Joint Motion Record") including the Twentieth Report to Court of the RBH Monitor



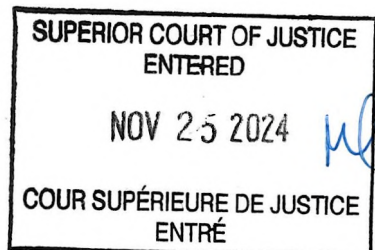
dated November 13, 2024 (the “**Twentieth Report**”) filed, and upon being advised by counsel to the Tobacco Monitors that no party has provided notice of objection to this motion for an amendment and restatement of the Representative Counsel Order although duly served as appears from the affidavits of service of Jasman Singh Gill sworn November 13, 2024.

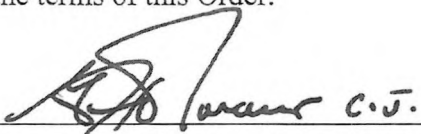
**SERVICE**

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and this Court hereby dispenses with further service of this motion and of this Order.
2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meanings given to them in the Twentieth Report, or the CCAA Plan in respect of RBH.
3. **THIS COURT ORDERS** that, effective as of the date hereof, the Representative Counsel Order be and hereby is amended and restated in the form attached as Appendix “A” hereto.

**GENERAL**

4. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicant in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and its court-appointed monitor as may be necessary or desirable to give effect to this Order or assist in carrying out the terms of this Order.

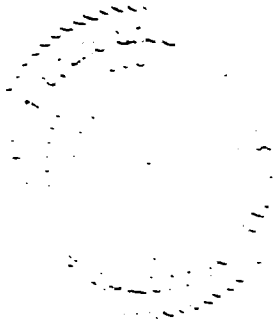


  
Chief Justice G.B. Morawetz



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**Appendix "A"**



ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE

)

MONDAY, THE 9<sup>th</sup>

)

MR. JUSTICE MCEWEN

)

DAY OF DECEMBER, 2019

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

AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.

Applicant

AMENDED AND RESTATED ORDER  
(APPOINTMENT OF PCC REPRESENTATIVE COUNSEL)

**THIS JOINT MOTION** made by the "Tobacco Monitors" being Ernst & Young Inc. in its capacity as court-appointed Monitor (the "RBH Monitor") of Rothmans, Benson & Hedges Inc. ("RBH"), Deloitte Restructuring Inc. in its capacity as court-appointed Monitor of JTI-Macdonald Corp. ("JTIM") and FTI Consulting Canada Inc. in its capacity as court-appointed Monitor of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively, the "ITL Applicants" and together with RBH and JTIM, the "Applicants") for advice and directions regarding an order appointing representative counsel in these proceedings was heard this day at 330 University Avenue, Toronto, Ontario,

ON READING the Joint Notice of Motion of the Tobacco Monitors dated November 25, 2019 including the Fourth Report to Court of the RBH Monitor dated November 26, 2019 (the “**Fourth Report**”) filed, and on hearing the submissions of counsel for each of the Tobacco Monitors, the Applicants and such other counsel as were present, no one else appearing although duly served as appears from the affidavits of service of Monique Sassi sworn November 25 and November 26, 2019.

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and this Court hereby dispenses with further service of this motion and of this Order.

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order (including in Schedule “A”) shall have the meanings given to them in the Twentieth Report of the RBH Monitor dated November 13, 2024, or the CCAA Plan in respect of RBH.

3. **THIS COURT ORDERS** that The Law Practice of Wagner & Associates, Inc. (the “**PCC Representative Counsel**”) be and is hereby appointed to represent in these proceedings the Pan-Canadian Claimants as defined in Schedule “A” hereto, which definition may be amended following consultation among the Court-Appointed Mediator, the Tobacco Monitors and PCC Representative Counsel and as approved by further order of this Court.

4. **THIS COURT ORDERS** that, subject to further order of this Court, PCC Representative Counsel shall represent the interests of the Pan-Canadian Claimants as set out in paragraph 5 below without any obligation to consult with or seek individual instructions from those on whose behalf they have been appointed to represent, provided however, that PCC Representative Counsel is hereby authorized, but not obligated, to establish a committee (the “**Representative Committee**”)

on such terms as may be agreed to by the Court-Appointed Mediator and the Tobacco Monitors or established by further order of this Court.

5. **THIS COURT ORDERS** that PCC Representative Counsel be and is hereby authorized to take all steps and to perform all acts necessary or desirable to carry out the terms of this Order, including, without limitation, by:

- (a) participating in and negotiating on behalf of the Pan-Canadian Claimants in the Mediation;
- (b) working with the Court-Appointed Mediator and the Tobacco Monitors to develop a process for the identification of valid and provable claims of Pan-Canadian Claimants and as appropriate, addressing such claims in the Mediation or the CCAA Proceedings;
- (c) responding to inquiries from Pan-Canadian Claimants in the CCAA Proceedings;
- (d) taking all steps or actions and providing all services in connection with its duties both before and after the Plan Implementation Date, as applicable:
  - (i) in these CCAA Proceedings; and
  - (ii) subject to the implementation of the CCAA Plan:
    - a. under the CCAA Plan, including the PCC Compensation Plan; and
    - b. as may otherwise be required by the CCAA Plan Administrators.
- (e) performing such other actions as approved by this Court.

For greater certainty, nothing in this Order shall be construed as determining the validity of any claims of any Pan-Canadian Claimants.

6. **THIS COURT ORDERS** that PCC Representative Counsel be and is hereby authorized, at its discretion, on such terms as may be consented to by the Court-Appointed Mediator and the Tobacco Monitors, or, subject to the implementation of the CCAA Plan, the CCAA Plan Administrators following the Plan Implementation Date, or further order of this Court to retain and consult with subject area experts and other professional and financial advisors as the PCC Representative Counsel may consider necessary to assist it with the discharge of its mandate.

7. **THIS COURT ORDERS** that paragraphs 36 and 38 of the RBH Initial Order are hereby amended and are deemed from and after the date hereof to include PCC Representative Counsel as appointed herein among the parties who shall be paid its reasonable professional fees and disbursements in each case on an hourly basis, from and after the date of this Order and among those who benefit from the Administration Charge as defined therein and shall be paid by the Applicants in accordance with an agreement among the Applicants until the Plan Implementation Date.

8. **THIS COURT ORDERS** that, subject to the implementation of the CCAA Plan, all costs associated with the PCC Representative Counsel (including its advisors) after the Plan Implementation Date, shall be paid in accordance with the CCAA Plan.

9. **THIS COURT ORDERS** that PCC Representative Counsel shall not be liable for any act or omission in respect of its appointment or the fulfillment of its duties in carrying out the provisions of this Order, other than for gross negligence or willful misconduct. No action or other proceedings shall be commenced against PCC Representative Counsel in respect of alleged gross

negligence or willful misconduct, except with prior leave of this Court, on at least 7 days' notice to PCC Representative Counsel, and upon such further order as this Court may make in respect of security for costs to be given by the plaintiff for the costs of the PCC Representative Counsel in connection with any such action or proceeding.

10. **THIS COURT ORDERS** that the PCC Representative Counsel may from time to time apply to this Court for advice and directions in respect of its appointment or the fulfillment of its duties in carrying out the provisions of this Order, upon notice to the Applicants and the Tobacco Monitors (or, subject to the implementation of the CCAA Plan, the CCAA Plan Administrators after the Plan Implementation Date) and to other interested parties, unless otherwise ordered by this Court.

---

Chief Justice G.B. Morawetz

## Schedule "A"

### Definitions

For the purposes of this Schedule "A", capitalized terms not otherwise defined herein shall have the meaning given to them in the CCAA Plan (as defined below).

**"Alternative Product"** means (i) any device that produces emissions in the form of an aerosol and is intended to be brought to the mouth for inhalation of the aerosol without burning of (a) a substance; or (b) a mixture of substances; (ii) any substance or mixture of substances, whether or not it contains tobacco or nicotine, that is intended for use with or without those devices to produce emissions in the form of an aerosol without burning; (iii) any non-combustible tobacco (other than smokeless tobacco) or nicotine delivery product; or (iv) any component, part, or accessory of or used in connection with any such device or product referred to above.

**"CCAA Plan"**, or **"Plan"**, means the Court-Appointed Mediator's and Monitor's plan of compromise and arrangement pursuant to the CCAA concerning, affecting and involving RBH including all Schedules thereto.

**"Individuals"** means all individuals residing in a Province or Territory of Canada.

**"Pan-Canadian Claimants"** or **"PCCs"**, means Individuals, excluding *Blais* Class Members and *Létourneau* Class Members in relation to QCAP Claims, who have asserted or may be entitled to assert a PCC Claim.

**"PCC Claim"** means any Claim of any Pan-Canadian Claimant that has been made or may in the future be asserted or made in whole or in part against or in respect of the Released Parties, or any one of them (either individually or with any other Person), that has been advanced, could have been advanced or could be advanced, whether on such Pan-Canadian Claimant's own account, or on their behalf, or on behalf of a certified or proposed class, to recover damages or any other remedy in respect of the development, design, manufacture, production, marketing, advertising, distribution, purchase or sale of Tobacco Products, including any representations or omissions in respect thereof, the historical or ongoing use of or exposure (whether directly or indirectly) to Tobacco Products or their emissions and the development of any disease or condition as a result thereof, whether existing or hereafter arising, in each case based on, arising from or in respect of any conduct, act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing, fact, matter or occurrence existing or taking place at or prior to the Effective Time (whether or not continuing thereafter) including, all Claims that have been advanced, could have been advanced or could be advanced in the following actions commenced by Individuals under provincial class proceedings legislation and actions commenced by Individuals, or in any other similar proceedings:

- (a) *Barbara Bourassa v. Imperial Tobacco Canada Limited et al.* (Supreme Court of British Columbia, Court File No. 10-2780 and Court File No. 14-4722);
- (b) *Roderick Dennis McDermid v. Imperial Tobacco Canada Limited et al.* (Supreme Court of British Columbia, Court File No. 10-2769);

- (c) *Linda Dorion v. Canadian Tobacco Manufacturers' Council et al.* (Alberta Court of Queen's Bench, Court File No. 0901-08964);
- (d) *Thelma Adams v. Canadian Tobacco Manufacturers' Council et al.* (Saskatchewan Court of Queen's Bench, Court File No. 916 of 2009);
- (e) *Deborah Kunta v. Canadian Tobacco Manufacturers' Council et al.* (Manitoba Court of Queen's Bench, Court File No. C109-01-61479);
- (f) *Suzanne Jacklin v. Canadian Tobacco Manufacturers' Council* (Ontario Superior Court of Justice, Court File No. 53794/12);
- (g) *Ben Semple v. Canadian Tobacco Manufacturers' Council et al.* (Supreme Court of Nova Scotia, Court File No. 312869);
- (h) *Victor Todd Sparkes v. Imperial Tobacco Canada Limited* (Newfoundland and Labrador Supreme Court - Trial Division, Court File No. 200401T2716 CP);
- (i) *Peter Stright v. Imperial Tobacco Canada Limited* (Supreme Court of Nova Scotia, Court File No. 177663);
- (j) *Ljubisa Spasic as estate trustee of Mirjana Spasic v. Imperial Tobacco Limited and Rothmans, Benson & Hedges Inc.* (Ontario Superior Court of Justice, Court File No. C17773/97);
- (k) *Ljubisa Spasic as estate trustee of Mirjana Spasic v. B.A.T. Industries P.L.C.* (Ontario Superior Court of Justice, Court File No. C18187/97);
- (l) *Ragoonanan v. Imperial Tobacco Canada Limited* (Ontario Superior Court of Justice, Court File No. 00-CV-183165-CP00);
- (m) *Scott Landry v. Imperial Tobacco Canada Limited* (Ontario Superior Court of Justice, Court File No. 1442/03);
- (n) *Joseph Battaglia v. Imperial Tobacco Canada Limited* (Ontario Superior Court of Justice, Court File No. 21513/97);
- (o) *Roland Bergeron v. Imperial Tobacco Canada Limited* (Quebec Superior Court, Court File No. 750-32-700014-163);
- (p) *Paradis, in personal capacity and on behalf of estate of Lorraine Trepanier v. Rothmans, Benson & Hedges Inc.* (Quebec Small Claims Court);
- (q) *Couture v. Rothmans, Benson & Hedges Inc.* (Quebec Superior Court); and

including any such Claim that is a Section 5.1(2) Claim or Section 19(2) Claim.

“Section 5.1(2) Claims” means any Claims against the Directors that:



- (a) arose before the commencement of the CCAA Proceeding;
- (b) relate to the obligations of RBH where the Directors are by law liable in their capacity as Directors for the payment of such obligations; and
- (c) either relate to contractual rights of one or more creditors, or are based on allegations of misrepresentations made by Directors to creditors, or of wrongful or oppressive conduct by Directors.

**“Section 19(2) Claims”** means any Claims against RBH that relate to any of the following debts or liabilities, present or future, to which RBH is subject on the day on which the CCAA Proceeding commenced, or to which RBH may become subject before the compromise or arrangement is sanctioned by reason of any obligation incurred by RBH before the day on which the CCAA Proceeding commenced, unless the compromise or arrangement in respect of RBH explicitly provides for the Claim’s compromise, and the creditor in relation to that debt has voted for the acceptance of the compromise or arrangement:

- (a) any fine, penalty, restitution order or other order similar in nature to a fine, penalty or restitution order, imposed by a court in respect of an offence;
- (b) any award of damages by a court in civil proceedings in respect of:
  - (i) bodily harm intentionally inflicted, or sexual assault, or
  - (ii) wrongful death resulting from an act referred to in subparagraph (i);
- (c) any debt or liability arising out of fraud, embezzlement, misappropriation or defalcation while acting in a fiduciary capacity or, in Quebec, as a trustee or an administrator of the property of others;
- (d) any debt or liability resulting from obtaining property or services by false pretences or fraudulent misrepresentation, other than a debt or liability of the company that arises from an equity claim; or
- (e) any debt for interest owed in relation to an amount referred to in any of paragraphs (a) to (d).

**“Tobacco Product”** means any product made in whole or in part of tobacco that is intended for human consumption or use, including any component, part, or accessory of or used in connection with a tobacco product, including cigarettes, tobacco sticks (intended for smoking and requiring further preparation before they are smoked), loose tobacco intended for incorporation into cigarettes, cigars, cigarillos, pipe tobacco, kreteks, bidis and smokeless tobacco (including chewing tobacco, nasal snuff and oral snuff), but does not include any Alternative Product.

Court File No: CV-19-616779-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER  
(RE AMENDED APPOINTMENT OF REPRESENTATIVE  
COUNSEL ORDER)**

**Cassels Brock & Blackwell LLP**  
Suite 3200, Bay Adelaide Centre – North Tower  
40 Temperance St.  
Toronto, On M5H 0B4

**R. Shayne Kukulowicz LSO# 30729S**  
Tel: 416-860-6463  
Email: skukulowicz@cassels.com

**Joseph Bellissimo LSO# 46555R**  
Tel: 416-860-6572  
Email: jbellissimo@cassels.com

*Lawyers for Ernst & Young Inc., in its capacity as the Court-  
appointed Monitor of Rothmans, Benson & Hedges Inc.*

Court File No: CV-19-616779-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.

---

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

Proceeding commenced at Toronto

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**AMENDED AND RESTATED  
APPOINTMENT OF REPRESENTATIVE COUNSEL ORDER**

---

**Cassels Brock & Blackwell LLP**  
Suite 3200, Bay Adelaide Centre – North Tower  
40 Temperance St.  
Toronto, On M5H 0B4

**R. Shayne Kukulowicz LSO# 30729S**  
Tel: 416-860-6463  
Email: skukulowicz@cassels.com

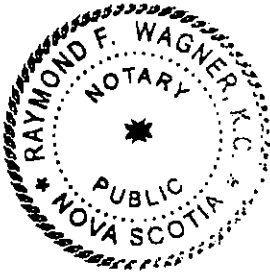
**Joseph Bellissimo LSO# 46555R**  
Tel: 416-860-6572  
Email: jbellissimo@cassels.com

*Lawyers for Ernst & Young Inc., in its capacity as the Court-  
appointed Monitor of Rothmans, Benson & Hedges Inc.*

This is Exhibit "C" referred to in the  
Affidavit of Kate Boyle affirmed  
before me on the 8<sup>th</sup> day of  
December, 2024.

A handwritten signature in black ink, appearing to be 'K. Boyle', is written over a horizontal line.

Signature





W A G N E R S

EST. 1982

Raymond F. Wagner, K.C.

raywagner@wagners.co

September 13, 2024

**VIA EMAIL**

Brenda Weiss - [Brenda.Weiss@epiqglobal.ca](mailto:Brenda.Weiss@epiqglobal.ca);  
Dawn McPherson - [Dawn.Mcpherson@epiqglobal.com](mailto:Dawn.Mcpherson@epiqglobal.com)

Dear Ms. McPherson and Ms. Weiss;

**Re: Retention of Epiq as Agent for Pan-Canadian Claimants**

---

We write to confirm your retention as an Agent for the Pan-Canadian Claimants (“PCCs”) within the Tobacco<sup>1</sup> *Companies’ Creditors Arrangement Act* Proceedings (“Tobacco CCAA Proceedings”). We confirm that you have agreed to assist Wagners in its role as PCC Representative Counsel, as appointed by the Order of the Honourable Justice McEwan of the Ontario Superior Court of Justice (Commercial List) dated December 9, 2019 (“Representative Counsel Order”).

We are authorized under paragraph 6 of the Representative Counsel Order, upon consent of the Mediator and Monitors, to retain and consult with professional advisors as PCC Representative Counsel considers necessary to assist with the discharge of its mandate. The Mediator and Monitors have consented to your retention as Agent, and we retain you under that provision subject to further approval of the CCAA Court.

Under your role as Agent, you will have the following responsibilities, which include but are not limited to: establishing a pre-settlement call centre and pre-settlement website and registration portal; managing communications efficiently and providing the necessary support to PCCs or their Legal Representatives; preparing Claim Packages with PCCs or their Legal Representatives; and reporting to Representative Counsel, the Mediator and Monitors. These responsibilities may be refined as the process evolves to align with project needs.

To be clear, this retention does not engage Epiq to be the Claims Administrator for the overall administration of the individual claims process in regard to the PCC Compensation Plan and the Quebec Administration Plan. Such appointment of Epiq as the Claims Administrator will be upon the recommendation of the Court-Appointed Mediator and the Monitors and subject to the approval of the CCAA Court.

Here forward, until otherwise directed, please bill Wagners on a monthly basis on the terms agreed to with the Mediator and Monitors for your work performed as Agent in the Tobacco CCAA Proceedings, and for the related taxes, reasonable disbursements and expenses.

---

<sup>1</sup> The Tobacco Companies (the “Applicants”) in the CCAA Proceedings are Imperial Tobacco Canada Limited, Rothmans, Benson & Hedges Inc., and JTI-MacDonald Corp.

P.O. BOX 756 CENTRAL RPO, HALIFAX, NOVA SCOTIA B3J 2V2

SUITE PH301, 1869 UPPER WATER STREET, HALIFAX, NOVA SCOTIA B3J 1S9

OFFICE: (902) 425-7330 TOLL-FREE: 1-800-465-8794 FAX: (902) 422-1233

www.wagners.co

We understand that you have agreed to abide by the confidentiality and non-disclosure provisions provided by the Mediator and Monitors, which will extend to this engagement until further notice or instruction.

We welcome a conference call early next week. Please advise us of your availability.

Thank you for your willingness to work as an Agent for the PCCs in the Tobacco CCAA Proceedings, and we look forward to working with you.

Yours truly,

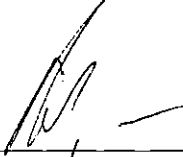


Raymond F. Wagner, K.C.

RFW/kb

cc: Kate Boyle – [kboyle@wagners.co](mailto:kboyle@wagners.co)

This is Exhibit "D" referred to in the  
Affidavit of Kate Boyle affirmed  
before me on the 8<sup>th</sup> day of  
December, 2024.



Signature



# Canadian Tobacco Class Action Settlement Representation



[JOIN](#)





ACTIS LAW GROUP is representing persons who are smokers or former smokers of tobacco cigarettes.

There is a proposed settlement for persons who smoked cigarettes between January 1, 1950 and November 20, 1998 and who were diagnosed with either Lung Cancer, Throat Cancer or Emphysema/Chronic obstructive pulmonary disease (COPD).

Tobacco firms have agreed to pay \$32.5 billion in a proposed Canadian settlement.

If you are a surviving family member of someone who meets the above criteria, please register on their behalf.

The following brands of cigarettes are those at issue:

Accord  
B&H  
Belmont  
Belvedere  
Camel  
Cameo  
Craven "A"  
Craven "M"  
du Maurier  
Dunhill  
Export  
LD  
Macdonald  
Mark Ten  
Matinee  
Medallion  
More  
North American Spirit  
Number 7  
Peter Jackson  
Players  
Rothmans  
Vantage  
Viscount  
Winston

**IMPORTANT: Click the « Follow » button to get important updates on this Class Action.**

[fb @ActisLaw](#)

 Like 8

 Follow @ActisLaw

**TO JOIN THIS CLASS ACTION OR TO SIMPLY GET MORE INFORMATION, PLEASE COMPLETE THE FORM BELOW.**

First Name\*

Last Name\*

Email\*

Address

City

Province\*

Province 

Country

Canada 

Postal Code

Telephone

Please describe your damages

Winston  
Accord KF  
Avanti/Light  
B&H 100 Del.UL.LT/MEN  
B&H 100 F  
B&H 100 F Menthol  
B&H Light Menthol  
B&H Lights  
B&H Special KF  
B&H Special Lights KF  
Belmont KF  
Belvedere Extra Mild  
Cameo Extra Mild  
Craven "A" Special  
Craven "M" KF  
Craven "M" Special  
Craven "A" Light  
Craven "A" Ultra Light/Mild  
du Maurier Extra Light  
du Maurier Light  
du Maurier Special  
du Maurier Ultra Light  
Dunhill KF  
Export "A"  
Export "A" Lights  
Export "A" Medium  
Export "A" Extra Light  
Export "A" Special Edition  
Export "A" Ultra Light  
Export Mild  
Export Plain  
John Player's Special  
Macdonald Menthol  
Mark Ten Filter  
Matinee Extra Mild  
Matinee Slims/Menthol  
Matinee Special/Menthol  
Number 7 Lights  
Peter Jackson Extra Light KF  
Player's Extra Light  
Player's Filter

You agree to receive email from actislaw.org and have accepted our Terms & Conditions.

Please note that providing your information creates no financial obligation for you. You are not charged any fee or cost for joining this class action. Our law firm is paid a contingency fee from the compensation recovered, only if the class action is successful. All information contained in this transmission is confidential and Actis Law Group agrees to protect this information against unauthorized use, publication or disclosure.

I'm not a robot



**SUBMIT**

Player's Light  
Player's Medium  
Player's Plain  
Rothmans Extra Light  
Rothmans KF  
Rothmans Light  
Rothmans Special  
Rothmans UL LT KF  
Select Special/Ultra Mild/Menthol  
Vantage KF  
Vantage Light/Menthol  
Viscount #1 KF  
Viscount Extra Mild/Menthol

[Join for legal representation.](#)

IF YOU WOULD LIKE TO PARTICIPATE IN THE CLASS ACTION OR TO SIMPLY GET MORE INFORMATION, PLEASE COMPLETE THE FORM BELOW. Please note that providing your information does not create any financial obligation for you. There are no fees or costs associated with joining this class action. Our law firm operates on a contingency fee basis, meaning that we receive payment only if the class action is successful. All information transmitted is confidential and Actis Law Group will protect it against unauthorized use, publication or disclosure.



the submissions of PCC Representative Counsel and other such counsel requesting to be heard, all other parties having been duly served with the Motion Record;

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

2. **THIS COURT ORDERS** that all capitalized terms used herein, unless herein otherwise defined, shall have the meanings ascribed to them in the Boyle Affidavit and the CCAA Plans;

3. **THIS COURT ORDERS** that the request for interlocutory mandatory injunctive relief is justified, PCC Representative Counsel having shown a clear right to the relief sought, that serious and irreparable harm will result if the order is not granted, that the balance of inconvenience weighs in their favour and that the requested relief is urgent;

4. **THIS COURT ORDERS** that the interlocutory injunctive relief granted hereunder shall remain in effect until the Sanction Order is rendered or until any such later date if this Order is thereafter extended or made permanent.

5. **THIS COURT ORDERS** that Actis Law Group shall immediately take down and remove:

a. the web-pages entitled “Canadian Tobacco Class Action Settlement Representation”, found at the following link: <https://actislaw.org/class-actions/canadian-tobacco-class-action-settlement-representation>; and its French language equivalent, “Représentation au règlement canadien de l’actions collectives sur le tabac”, found at the following link: <https://actislaw.org/actions-collectives/representation-au-reglement-canadien-de-laction-collective-sur-le-tabac>; and

b. any other pages or websites in which they have any involvement whatsoever containing communications or other information relating to the Canadian Tobacco Settlement and claims and distribution processes under the CCAA Plans or the Pan-Canadian Claimants’ Compensation Plan (“**PCC Compensation Plan**”), for the

purpose of soliciting Pan-Canadian Claimants (or “PCCs”) for representation or to provide any other services to them in connection with their Tobacco Claims;

(collectively the “**Actis Website**”)

6. **THIS COURT ORDERS** Actis Law Group to cease and desist from soliciting, communicating with, approaching, entering into retainer agreements with, and/or providing information or advice to any Tobacco-Victims, including PCCs, in connection with the CCAA Plans, including the PCC Compensation Plan and/or any compensation due thereunder;

7. **THIS COURT ORDERS** Actis Law Group to provide PCC Representative Counsel with the list of all persons who signed up or provided information through the Actis Website or otherwise, including all contact and other information obtained and/or collected by them (the “**Actis List**”) by December 10, 2024 at 3 pm.

8. **THIS COURT ORDERS** Actis Law Group to destroy all copies of the Actis List in their possession, whether in electronic or paper form, and provide PCC Representative Counsel with an affidavit confirming such destruction and that no information in connection therewith has been retained by them, by no later than December 10, 2024 at 5 pm.

9. **DISPENSE** the PCC Representative Counsel from the requirement to provide an undertaking as to damages in respect of the Order sought.

#### **AID AND RECOGNITION**

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body or agency having jurisdiction in Canada or in any other foreign jurisdiction, to give effect to this Order. All courts, tribunals, regulatory and administrative bodies and agencies are hereby respectfully requested to make such Orders and to provide such assistance, as may be necessary or desirable to give effect to this Order.

---

Chief Justice Geoffrey B. Morawetz

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c.C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF:

**JTI-MACDONALD CORP.**

**IMPERIAL TOBACCO CANADA LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED**

**ROTHMANS, BENSON & HEDGES INC.**

**Court File No. CV-19-615862-00CL**

**Court File No. CV-19-616077-00CL**

**Court File No. CV-19-616779-00CL**

*ONTARIO*  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

**MOTION RECORD**  
**PCC Representative Counsel's Motion for Injunctive Relief**  
**(Returnable December 9, 2024)**

**WAGNERS**

1869 Upper Water Street, Suite PH301  
3rd Floor, Historic Properties  
Halifax, NS B3J 1S9

**Raymond F. Wagner, K.C.**

Tel: 902 425 7330

Email: raywagner@wagners.co

**Kate Boyle (LSO# 69570D)**

Tel: 902 425 7330

Email: kboyle@wagners.co

**PCC Representative Counsel**