Court of Appeal File No.: COA-24-OM-0248
Court File No.: CV-2300696017-00CL

COURT OF APPEAL FOR ONTARIO

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 LOYALTYONE, CO.

Applicant

REPLY FACTUM OF THE MOVING PARTIES
LOYALTYONE, CO. AND THE MONITOR
(MOTION FOR LEAVE TO APPEAL)

October 15, 2024

CASSELS BROCK & BLACKWELL LLP
Suite 3200, Bay Adelaide Centre
North Tower, 40 Temperance Street
Toronto, ON M5H 0B4

Timothy Pinos LSO#: 20027U
Tel: 416.869.5784 / tpinos@cassels.com
Alan Merskey LSO#: 41377I
Tel: 416.860.2948 / amerskey@cassels.com
John M. Picone LSO#: 58406N
Tel: 416.640.6041 / jpicone@cassels.com

Lawyers for the Applicant

GOODMANS LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Brendan O'Neill LSO#: 43331J
Tel: 416.849.6017 / boneill@goodmans.ca
Peter Ruby LSO#: 38439P
Tel: 416.597.4184 / pruby@goodmans.ca
Chris Armstrong LSO#: 55148B
Tel: 416.849.6013 / carmstrong@goodmans.ca

Lawyers for the Monitor

TO: **STIKEMAN ELLIOTT LLP**
Barristers & Solicitors
5300 Commerce Court West,
199 Bay Street
Toronto, ON M5L 1B9

Eliot Kolers LSO#: 38304R
Tel: 416.869.5637 / ekolers@stikeman.com
Maria Konyukhova LSO#: 52880V
Tel: 416.869.5230 / mkonyukhova@stikeman.com
Lesley Mercer LSO#: 54491E
Tel: 416.869.6859 / lmercer@stikeman.com
RJ Reid LSO#: 88760P
Tel: 416.869.5614 / rreid@stikeman.com

Lawyers for Bread Financial Holdings, Inc.

AND TO: **BENNETT JONES LLP**
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, ON M5X 1A4

Robert W. Staley LSO#: 27115J
Tel: 416.863.1200 / staleyr@bennettjones.com
Kevin J. Zych LSO#: 33129T
Tel: 416.863.1200 / zychk@bennettjones.com
Jesse Mighton LSO#: 62291J
Tel: 416.863.1200 / mightonj@bennettjones.com

Lawyers for the Ad Hoc Group of Term B Lenders

AND TO: **BORDEN LADNER GERVAIS LLP**
Barristers and Solicitors
Bay Adelaide Centre, East Tower
22 Adelaide Street West, Suite 3400
Toronto ON M5H 4E3

Markus Kremer LSO#: 41893I
Tel: 416.367.6658 / MKremer@blg.com
Alex Moser LSO#: 87652M
Tel: 416.367.6426 / AMoser@blg.com

Lawyers for Bank of America, N.A. as administrative agent and Term Loan A Lenders

AND TO: **JUSTICE CANADA**
Tax Law Services Division
120 Adelaide St W., Suite 400
Toronto, Ontario M5H 1T1

Edward Park LSO#: 45496L
Tel: 647-256-7429 / edward.park@justice.gc.ca

CRA, Department of Justice Canada

AND TO: **THE SERVICE LIST**

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SCHEDULE "B"

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REPLY FACTUM OF THE MOVING PARTIES LOYALTYONE, CO. AND THE MONITOR (MOTION FOR LEAVE TO APPEAL)

PART I - EMERGENT CONFLICT IN THE LAW

1. Bread's argument is that the law may be applied or not applied at the discretion of a CCAA supervising judge. That is not the case. No CCAA judge has discretion (i) to change settled law on when disclaimer – a critical and frequently used tool in restructurings – is available to debtor companies or (ii) to change the meaning of "insolvent person" under the BIA. In doing so, the Motion Judge created a direct conflict with fundamental and long-standing principles of insolvency law (including as set out in numerous decisions by Chief Justice Morawetz).

2. The Motion Judge's decision has also created a divergence in the case law on the availability of disclaimer and TUV. This will force future debtors, their stakeholders, and the courts to guess whether and when these critical tools are available to maximize value, inevitably leading to an increase in disputes that will frustrate the progress of CCAA cases and cause additional costs to be incurred by insolvent debtors. This Court's intervention is necessary to settle these emergent conflicts and clarify the law in two areas critical to the restructuring practice.

PART II - THE DISCLAIMER ISSUE

A. Appeal is Highly Significant to the Practice / Strong *Prima Facie* Case

(i) Limiting Availability of Disclaimer Creates Conflict in the Law

3. The legal principles applicable to disclaimer were settled by Chief Justice Morawetz in *Target*, *Laurentian*, and *Timminco*.[1] In those cases, consistent with the intended purposes of disclaimer, Chief Justice Morawetz:

(a) approved disclaimers to allow the debtor companies to "reverse the bargain" and to "secure funds for [themselves] that [the debtor company] was never entitled to retain";

(b) interpreted section 32(4)(b) broadly (consistent with the purpose of the CCAA) so as not to restrict the applicability of disclaimer to any particular type of CCAA case; and

(c) focused on the interests of all creditors to ensure that one creditor did not receive a priority over other creditors as a result of the failure to approve disclaimer.[2]

4. The Motion Judge, on the other hand, found that the use of disclaimer for its intended purposes, as set out by Chief Justice Morawetz, was not a reason to permit it, but instead to prohibit it:

> I find that the Disclaimer is being used to get out of the deal that was made in the Spin Transaction, secure the funds for LoyaltyOne that

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[1] *Target Canada Co. (Re)*, 2015 ONSC 1028 ("*Target*"); *Laurentian University of Sudbury*, 2021 ONSC 3272 ("*Laurentian*"); *Timminco Limited (Re)*, 2012 ONSC 4471 ("*Timminco*").

[2] *LoyaltyOne, Co. (Re)*, 2024 ONSC 3866 ("*LoyaltyOne*"), paras. 54, 59; *Target*, paras. 4-8, 24-28; *Laurentian*, paras. 46, 52; *Timminco*, paras. 51-57, 62.

> it was never entitled to retain, and assist the Lenders in recovering the losses that they sustained on the transaction. That is not the intended purpose of a disclaimer under s. 32(4) of the CCAA.[3]

5. The Motion Judge's reasoning, which conflicts directly with the reasoning of Chief Justice Morawetz, restricts or eliminates the use of the statutory disclaimer tool in future liquidating CCAAs, contrary to settled law. Bread's defence of the Motion Judge's error in prohibiting disclaimer rests on a gross oversimplification of the law: "Ultimately, it is a discretionary decision to determine whether the disclaimer should be upheld."[4] But discretion must be exercised in accordance with the words of the statute and established legal principles.[5] The Motion Judge did not have the discretion to ignore those principles.

6. Bread claims that *Target* is distinguishable because, unlike in *Target*, if the disclaimer were approved here Bread would be in a "substantially worse" position but LoyaltyOne would "only 'lose' the Tax Refund".[6] The Motion Judge did not find that Bread would be in a "substantially worse" position. Rather, the Motion Judge found that Bread "did not provide evidence as to the impact that failing to receive the Tax Refund [would] have on Bread's overall financial position".[7]

7. Fundamentally, and contrary to what Bread claims, disclaimer has been approved for a variety of agreements on the grounds that if they are not disclaimed

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[3] *LoyaltyOne*, para. 60. [emphasis added]
[4] *Laurentian*, para. 44.
[5] *9354-9186 Québec inc. v. Callidus Capital Corp.*, 2020 SCC 10 ("*Callidus*"), para. 49; *Century Services Inc. v. Canada (Attorney General),* 2010 SCC 60, paras. 58-59; *John Doe (G.E.B. #26) v. Roman Catholic Episcopal Corporation of St. John's*, 2024 NLCA 26, paras. 69-71, 188-190; *Stelco Inc. (Bankruptcy), Re*, 2005 CanLII 8671 (ON CA), para. 44.
[6] Responding Factum of Bread dated October 4, 2024 ("Bread Responding Factum"), para. 41(a).
[7] *LoyaltyOne*, para. 55.

then money owed by the debtor would be paid to the counterparty as an effective preference, rather than retained for the general benefit of creditors.[8] That is consistent with the law and those are precisely the facts here.

8. Bread claims that *Laurentian* is distinguishable because Chief Justice Morawetz approved the disclaimer on the basis that "it would result in millions of dollars of cost savings and enable the debtor to put forward a plan acceptable to its stakeholders".[9] However, contrary to what Bread suggests, the Chief Justice in no way narrowed the application of disclaimer to circumstances where the debtor company had proposed or intended to propose a plan. Rather, Chief Justice Morawetz followed his own reasoning in *Timminco*: "disclaimer does not need to be essential to the restructuring, it only need be advantageous and beneficial."[10]

9. Bread also claims that LoyaltyOne has misstated the law by failing to include a "crucial paragraph" from *Aveos* in its Leave Factum. However, LoyaltyOne did in fact include that "crucial paragraph":[11]

> (c) ***Aveos Fleet Performance Inc.***: The debtor company sought to disclaim a service agreement that the Monitor considered too expensive and ill-suited to the debtor, as LoyaltyOne points out in its Leave Factum.[56] But Justice Schrager's (as he then was) approval of the disclaimer went beyond these considerations. The Leave Factum omits a crucial paragraph from His Honour's reasons: "It is accepted by the case law that the disclaimer need not be essential but merely advantageous to a plan. There need not be any certainty that there will be a plan of arrangement but just that cancellation of the contract in question would be beneficial to the making of a plan."[57] Here, there is no plan and no restructuring to speak of. All that remains to be done is a distribution to creditors before terminating the *CCAA*.

> 34. For example, in one case, the contractual counterparty explicitly argued that section 32 was not available in a circumstance where the debtor company had "ceased to carry on business, is being liquidated, and as such will not propose an arrangement to its creditors."[30] The court squarely rejected that argument:
>
> > It is accepted by the case law that the disclaimer need not be essential but merely advantageous to a plan. There need not be any certainty that there will be a plan of arrangement but just that cancellation of the contract in question would be beneficial to the making of a plan. Section 32 C.C.A.A. applies even where there is a sales process in place as is the situation with Aveos. Prior to Section 36 C.C.A.A. coming into force in 2009, it was broadly accepted that liquidating while under C.C.A.A. protection was not contrary to the Act. Now, Section 36 C.C.A.A. explicitly provides for sales out of the ordinary course of business, with Court approval.[31]

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[8] *Target*, para. 24; *Timminco*, para. 62; *Laurentian*, para. 52; *Aveos Fleet Performance Inc./Aveos Fleet performance aéronautique inc. (Arrangement relatif à)*, 2012 QCCS 6796 ("*Aveos*"), paras. 48, 51.
[9] Bread Responding Factum, para. 41(b).
[10] *Laurentian*, para. 46(b); *Timminco*, paras. 51-54.
[11] Bread Responding Factum, para. 41(c); Factum of the Moving Parties LoyaltyOne, Co. and the Monitor dated September 9, 2024 ("Leave Factum"), para. 34.

10. Ironically, Bread's own omission of the paragraphs following that "crucial paragraph" cause *it* to misstate the import of *Aveos*. In that case, Justice Schrager (now Schrager J.A.) held that neither the existence nor prospect of a plan are necessary for disclaimer.[12] This is consistent with the language of the CCAA, which does not contain any such requirement.

11. Finally, Bread claims that *Timminco* is distinguishable because LoyaltyOne has "no continuing operations to preserve and the sale of operating assets is already complete".[13] However, in that case (which itself was a liquidating CCAA), Chief Justice Morawetz expressly held that section 32(4) should "not be interpreted so narrowly as to apply only in the context of a restructuring process leading to a plan of arrangement for a newly restructured entity".[14] Bread's mischaracterization of that holding as "non-binding *obiter*" is surprising given that the Chief Justice's confirmation of the requirement to broadly interpret section 32(4)(b) "with a view to the expanded scope of the [CCAA]" has been followed in numerous cases.[15]

12. What is clear in the context of a liquidating CCAA (but what the Motion Judge ignored at Bread's prompting) is that, as stated in *Target*:

> The interests of all creditors must be taken into account. In this case, store closures and liquidation are inevitable. The Applicants should focus on an asset realization and a maximization of return to creditors on a timely basis. Setting aside the disclaimer might provide limited assistance to the Pharmacists, but it would come at the expense of other creditors. This is not a desirable outcome.[16]

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[12] *Aveos*, paras. 49-51.
[13] Bread Responding Factum, para. 41(d).
[14] *Timminco*, paras. 51, 55-56.
[15] *Timminco*, para. 52; *Target*, paras. 22-24; *Laurentian*, para. 46; *Aveos*, paras. 48-51.
[16] *Target*, para. 24. [emphasis added]

13. The Supreme Court of Canada has been clear that maximizing creditor recovery is a fundamental objective of the CCAA, particularly in the context of liquidating CCAAs which "do not result in the emergence of the pre-filing debtor company in a restructured state, but rather involve some form of liquidation of the debtor's assets".[17] Nowhere is that acknowledged in the decision below.

14. There can be no question that the Motion Judge diverges sharply from established principles of disclaimer set out by Chief Justice Morawetz on numerous occasions. Without appellate intervention to settle this emergent conflict in the case law, serious confusion will result in the law of disclaimer.

(ii) Motion Judge Wrongly Ignored Interests of All Stakeholders

15. Just as the Motion Judge was not permitted to ignore the purposes of disclaimer in exercising discretion, the Motion Judge was not permitted to outright ignore the interests of all stakeholders. What is "fair, appropriate and reasonable" must be considered "in **all** the circumstances", not just some of the circumstances or with regard to only some stakeholders.[18]

16. The Motion Judge concluded wrongly that this proceeding was an inter-creditor dispute between Bread and the Lenders only.[19] In fact, there may be almost 100 unique creditors beyond Bread and the Lenders, including numerous Canadian companies, who are owed nearly $80 million (without taking into account additional claims arising from LoyaltyOne's successful disclaimer of 59 other

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[17] *Callidus*, para. 42.
[18] *Laurentian*, para. 44. [emphasis added]
[19] *LoyaltyOne*, paras. 56-60.

contracts).[20] The Motion Judge failed to provide any explanation or authority for the decision to ignore the interests of these creditors.

17. Bread itself ignores and then seeks to obscure the error in that binary approach. The law is clear that "the interests of all creditors must be taken into account" in considering a disclaimer.[21] The exercise of discretion to balance the interests of stakeholders cannot be done where the interests of certain stakeholders are ignored.[22]

18. Even if the equities as between Bread and the Lenders were a relevant consideration (which they were not), the Motion Judge has potentially created a preference in favour of Bread to the prejudice of all other creditors of LoyaltyOne, who were never even considered.

B. Appeal Is Significant to the Proceeding / No Impact on Progress

19. The proposed appeal on the disclaimer issue is significant to this proceeding for the reasons outlined above.

20. The proposed appeal will not hinder the progress of the proceeding. The reluctance to review decisions made by CCAA courts is based on the desire to avoid disrupting a "real-time" dynamic.[23] There is no such risk in the present case, and no urgency to the proposed appeal.

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[20] Fifth Report of the Monitor dated November 23, 2023, section 2.3, para. 4, Moving Parties Motion Record for Leave to Appeal ("MPMR") Tab 18; Supplement to the Fifth Report of the Monitor dated March 13, 2024, section 2.0, MPMR Tab 19.
[21] *Target*, para. 24.
[22] *Target*, paras. 24-25; *Timminco*, para. 62; *Laurentian*, paras. 45-46.
[23] *Edgewater Casino Inc. (Re)*, 2009 BCCA 40, paras. 21-22.

PART III - LEAVE TO APPEAL: THE TUV ISSUE

A. Appeal Is Highly Significant to the Practice / Strong *Prima Facie* Case

(i) Motion Judge Changed Meaning of "Insolvent Person"

21. Bread does not dispute that the test for "insolvent person" is disjunctive – and therefore that the balance sheet test must be considered. Bread argues that the Motion Judge did consider that test. However, it is apparent from the Motion Judge's decision that she did not.[24] Instead, the Motion Judge wrongly conflated the cash flow test and the balance sheet test, and Bread's argument attempts to ignore this error.

22. The Motion Judge preferred the evidence of Bread's expert, specifically because she was not prepared to make a finding on foreseeability of Sobeys' departure.[25] However, the expert evidence on both sides was consistent in not taking a future departure of Sobeys into account in connection with the balance sheet analysis as of the Spin Date.[26] The Motion Judge erred in focusing squarely and exclusively on a factor relevant to the cash flow test without considering factors relevant to the balance sheet test, as required.[27]

23. In failing to apply the balance sheet test independently, the Motion Judge narrowed the meaning of "insolvent person" under the BIA by considering only one of the two distinct tests for insolvency.

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[24] *LoyaltyOne*, paras. 42-47.
[25] *LoyaltyOne*, paras. 44-47.
[26] Affidavit of Andrew Harington affirmed May 1, 2024, Exhibit A ("Harington Report 1") paras. 200, 204-217, MPMR Tab 9; Affidavit of A. Scott Davidson affirmed February 14, 2024, Exhibit A para. 8.53 (p. 53), MPMR Tab 14; Cross-examination of Scott Davidson ("Davidson Cross") Qs. 114-115, 244-247, Joint Transcript and Exhibit Brief ("JTEB"), MPMR Tab 22.
[27] *LoyaltyOne*, paras. 44-47.

(ii) Motion Judge Failed to Consider Material Evidence

24. Bread's claim that the Motion Judge properly applied the balance sheet test must also fail on the basis that the Motion Judge was not alive to the evidence in the record required to conduct that analysis. According to the Motion Judge:

> There is no analysis of how the debt was allocated among the three companies and whether the portion allocated to LoyaltyOne exceeded its fair market value.[28]

25. That is patently incorrect on the record before the Motion Judge. Both experts analyzed how LVI's debt ought to be allocated based on:

(a) LoyaltyOne's liabilities under the Credit Agreement; and

(b) whether those liabilities exceeded LoyaltyOne's fair market value.[29]

26. The Motion Judge failed to address the analysis of LoyaltyOne's legal responsibility for 100% of the debt under the Credit Agreement as "primary obligor" with joint and several liability.

27. The Motion Judge erred by ignoring these legal and evidentiary analyses, which were necessary to properly conduct the required balance sheet solvency test.[30] Bread attempts to cure that error by claiming that the Motion Judge accepted "Bread's evidence that both LoyaltyOne and BrandLoyalty were expected to contribute to LVI's debt".[31]

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[28] *LoyaltyOne*, para. 43. [emphasis added]
[29] Harington Report 1 paras. 48-49, MPMR Tab 9; Affidavit of A. Scott Davidson affirmed April 15, 2024, Exhibit A paras. 7.9-7.10 (p. 12), MPMR Tab 16; Cross-examination of Andrew Harington Qs. 141-144, 405-421, JTEB, MPMR Tab 22; Davidson Cross Qs. 615-618, JTEB, MPMR Tab 22.
[30] *LoyaltyOne*, para. 43.
[31] Bread Responding Factum, para. 63.

28. However, contrary to Bread's submission, the Motion Judge failed to consider all relevant evidence relating to the LVI debt. It is clear from the uncontroverted evidence of LoyaltyOne's affiant that:

> it was evident that LoyaltyOne was going to have to supply the funds to allow LVI to make interest and principal payments in the ordinary course. […] That expectation became fact after the Spin Transaction. LoyaltyOne did indeed provide all of the funds to LVI to make interest and principal payments and did so by way of dividends, which is the usual practice.[32]

29. In failing to (i) recognize legal and expert analyses of how the debt was allocated and (ii) consider material evidence relating to the burden of LVI's debt on LoyaltyOne, the Motion Judge made a palpable and overriding error which exacerbated her error of failing to give effect to the balance sheet solvency test.[33]

B. Appeal Is Significant to the Proceeding / No Impact on Progress

30. The proposed appeal on the TUV issue is significant to this proceeding for the reasons outlined above. The proposed appeal will not hinder the progress of the proceeding for the reasons outlined above.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 15th day of October, 2024

Kiyan Jamal

CASSELS BROCK & BLACKWELL LLP
Lawyers for the Applicant

Meghan De Snoo

GOODMANS LLP
Lawyers for the Monitor

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[32] Affidavit of Cynthia Hageman affirmed May 1, 2024 para. 14, MPMR Tab 10.
[33] *Bayford v. Boese*, 2021 ONCA 442, para. 28.

SCHEDULE “A”

LIST OF AUTHORITIES

Caselaw

1. *9354-9186 Québec inc. v. Callidus Capital Corp.*, 2020 SCC 10
2. *Aveos Fleet Performance Inc./Aveos Fleet performance aéronautique inc. (Arrangement relatif à)*, 2012 QCCS 6796
3. *Bayford v. Boese*, 2021 ONCA 442
4. *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60
5. *Edgewater Casino Inc. (Re)*, 2009 BCCA 40
6. *John Doe (G.E.B. #26) v. Roman Catholic Episcopal Corporation of St. John’s*, 2024 NLCA 26
7. *Laurentian University of Sudbury*, 2021 ONSC 3272
8. *LoyaltyOne, Co. (Re)*, 2024 ONSC 3866
9. *Stelco Inc. (Bankruptcy), Re*, 2005 CanLII 8671 (ON CA)
10. *Target Canada Co. (Re)*, 2015 ONSC 1028
11. *Timminco Limited (Re)*, 2012 ONSC 4471

SCHEDULE "B"

TEXT OF STATUTES, REGULATIONS & BY – LAWS

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

Leave to appeal

13 Except in Yukon, any person dissatisfied with an order or a decision made under this Act may appeal from the order or decision on obtaining leave of the judge appealed from or of the court or a judge of the court to which the appeal lies and on such terms as to security and in other respects as the judge or court directs.

Disclaimer or resiliation of agreements

32 **(1)** Subject to subsections (2) and (3), a debtor company may — on notice given in the prescribed form and manner to the other parties to the agreement and the monitor — disclaim or resiliate any agreement to which the company is a party on the day on which proceedings commence under this Act. The company may not give notice unless the monitor approves the proposed disclaimer or resiliation.

Court may prohibit disclaimer or resiliation

(2) Within 15 days after the day on which the company gives notice under subsection (1), a party to the agreement may, on notice to the other parties to the agreement and the monitor, apply to a court for an order that the agreement is not to be disclaimed or resiliated.

Court-ordered disclaimer or resiliation

(3) If the monitor does not approve the proposed disclaimer or resiliation, the company may, on notice to the other parties to the agreement and the monitor, apply to a court for an order that the agreement be disclaimed or resiliated.

Factors to be considered

(4) In deciding whether to make the order, the court is to consider, among other things,

(a) whether the monitor approved the proposed disclaimer or resiliation;

(b) whether the disclaimer or resiliation would enhance the prospects of a viable compromise or arrangement being made in respect of the company; and

(c) whether the disclaimer or resiliation would likely cause significant financial hardship to a party to the agreement.

Date of disclaimer or resiliation

(5) An agreement is disclaimed or resiliated

> **(a)** if no application is made under subsection (2), on the day that is 30 days after the day on which the company gives notice under subsection (1);
>
> **(b)** if the court dismisses the application made under subsection (2), on the day that is 30 days after the day on which the company gives notice under subsection (1) or on any later day fixed by the court; or
>
> **(c)** if the court orders that the agreement is disclaimed or resiliated under subsection (3), on the day that is 30 days after the day on which the company gives notice or on any later day fixed by the court.

Intellectual property

(6) If the company has granted a right to use intellectual property to a party to an agreement, the disclaimer or resiliation does not affect the party’s right to use the intellectual property — including the party’s right to enforce an exclusive use — during the term of the agreement, including any period for which the party extends the agreement as of right, as long as the party continues to perform its obligations under the agreement in relation to the use of the intellectual property.

Loss related to disclaimer or resiliation

(7) If an agreement is disclaimed or resiliated, a party to the agreement who suffers a loss in relation to the disclaimer or resiliation is considered to have a provable claim.

Reasons for disclaimer or resiliation

(8) A company shall, on request by a party to the agreement, provide in writing the reasons for the proposed disclaimer or resiliation within five days after the day on which the party requests them.

Exceptions

(9) This section does not apply in respect of

> **(a)** an eligible financial contract;
>
> **(b)** a collective agreement;
>
> **(c)** a financing agreement if the company is the borrower; or
>
> **(d)** a lease of real property or of an immovable if the company is the lessor.

Preferences and Transfers at Undervalue

Application of sections 38 and 95 to 101 of the *Bankruptcy and Insolvency Act*

36.1 **(1)** Sections 38 and 95 to 101 of the *Bankruptcy and Insolvency Act* apply, with any modifications that the circumstances require, in respect of a compromise or arrangement unless the compromise or arrangement provides otherwise.

Interpretation

(2) For the purposes of subsection (1), a reference in sections 38 and 95 to 101 of the *Bankruptcy and Insolvency Act*

> **(a)** to "date of the bankruptcy" is to be read as a reference to "day on which proceedings commence under this Act";
>
> **(b)** to "trustee" is to be read as a reference to "monitor"; and
>
> **(c)** to "bankrupt", "insolvent person" or "debtor" is to be read as a reference to "debtor company".

Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3

Definitions

2 In this Act,

[…]

insolvent person means a person who is not bankrupt and who resides, carries on business or has property in Canada, whose liabilities to creditors provable as claims under this Act amount to one thousand dollars, and

> **(a)** who is for any reason unable to meet his obligations as they generally become due,
>
> **(b)** who has ceased paying his current obligations in the ordinary course of business as they generally become due, or
>
> **(c)** the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due.

Transfer at undervalue

96 **(1)** On application by the trustee, a court may declare that a transfer at undervalue is void as against, or, in Quebec, may not be set up against, the trustee — or order that a party to the transfer or any other person who is privy to the transfer, or all of those persons, pay to the estate the difference between the value of the consideration received by the debtor and the value of the consideration given by the debtor — if

(a) the party was dealing at arm's length with the debtor and

(i) the transfer occurred during the period that begins on the day that is one year before the date of the initial bankruptcy event and that ends on the date of the bankruptcy,

(ii) the debtor was insolvent at the time of the transfer or was rendered insolvent by it, and

(iii) the debtor intended to defraud, defeat or delay a creditor; or

(b) the party was not dealing at arm's length with the debtor and

(i) the transfer occurred during the period that begins on the day that is one year before the date of the initial bankruptcy event and ends on the date of the bankruptcy, or

(ii) the transfer occurred during the period that begins on the day that is five years before the date of the initial bankruptcy event and ends on the day before the day on which the period referred to in subparagraph (i) begins and

(A) the debtor was insolvent at the time of the transfer or was rendered insolvent by it, or

(B) the debtor intended to defraud, defeat or delay a creditor.

Establishing values

(2) In making the application referred to in this section, the trustee shall state what, in the trustee's opinion, was the fair market value of the property or services and what, in the trustee's opinion, was the value of the actual consideration given or received by the debtor, and the values on which the court makes any finding under this section are, in the absence of evidence to the contrary, the values stated by the trustee.

Meaning of person who is privy

(3) In this section, a person who is privy means a person who is not dealing at arm's length with a party to a transfer and, by reason of the transfer, directly or indirectly, receives a benefit or causes a benefit to be received by another person.

Court of Appeal File No. COA-24-OM-0248
Court File No. CV-23-00696017-00CL

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 LOYALTYONE, CO.

COURT OF APPEAL FOR ONTARIO
PROCEEDING COMMENCED AT TORONTO

REPLY FACTUM OF THE MOVING PARTIES
(MOTION FOR LEAVE TO APPEAL)

CASSELS BROCK & BLACKWELL LLP
Suite 3200, Bay Adelaide Centre - North Tower
40 Temperance Street, Toronto, ON M5H 0B4

Timothy Pinos LSO#: 20027U
Tel: 416.869.5784 / tpinos@cassels.com
Alan Merskey LSO#: 41377I
Tel: 416.860.2948 / amerskey@cassels.com
John M. Picone LSO#: 58406N
Tel: 416.640.6041 / jpicone@cassels.com

Lawyers for the Applicant

GOODMANS LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400, Toronto, ON M5H 2S7

Brendan O'Neill LSO#: 43331J
Tel: 416.849.6017 / boneill@goodmans.ca
Peter Ruby LSO#: 38439P
Tel: 416.597.4184 / pruby@goodmans.ca
Chris Armstrong LSO#: 55148B
Tel: 416.849.6013 / carmstrong@goodmans.ca

Lawyers for the Monitor