

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

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

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

Applicants

**SUPPLEMENT TO THE FIRST REPORT OF LAX O'SULLIVAN LISUS GOTTLIEB
LLP IN ITS CAPACITY AS LITIGATION INVESTIGATOR
NOVEMBER 16, 2018**

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Litigation Investigator

TO: THE SERVICE LIST

I. OVERVIEW

1. This is the supplemental report of Lax O'Sullivan Lisus Gottlieb LLP ("LOLG"), in its capacity as Litigation Investigator ("LI"). It supplements the first report of the LI dated November 5, 2018 (the "First Report").
2. Defined terms in this supplemental report have the same meaning as in the First Report.

II. PURPOSE OF THIS REPORT

3. The purpose of this supplementary report is to provide the Court with information regarding:
 - (a) further detail about the Hon. Douglas Cunningham, Q.C., the proposed Litigation Trustee;
 - (b) the LI's expectation that the claim of the Litigation Trustee will be based on the same facts as set out in the Monitor's Draft Statement of Claim (attached to the Monitor's Twenty-Seventh report), although the final decision on the claim will be the Litigation Trustee's;
 - (c) confirmation that in the course of the review of documents described in the First Report, the LI was not provided with, and did not review, any Potentially Shared Privileged Documents (as defined in the Amended Litigation Investigator Order); and
 - (d) a revised draft order to correct some oversights contained in the draft order attached to the First Report.
4. Each of these points is addressed in more detail below.

III. REPORT

A. Proposed Litigation Trustee

5. The First Report, among other things, recommended the appointment of the Hon. Douglas Cunningham Q.C. as litigation trustee. It noted that the Creditors' Committee and the Monitor support this recommendation.

6. Mr. Cunningham has the necessary experience and expertise to act as litigation trustee. He is an experienced former trial judge of this Court, serving from 1991 to 2012, the latter ten years as Associate Chief Justice. He also served as President of the Ontario Superior Court Judges' Association and as Regional Senior Judge for the East Region. He was actively involved in mediating complex and high-stakes cases.

7. Prior to his appointment to the bench, Mr. Cunningham was a prominent civil litigation lawyer, focusing on complex civil litigation.

8. Since leaving the bench in 2012, he has conducted a civil arbitration and mediation practice. In 2015, Mr. Cunningham was appointed mediator in the insolvency proceeding of Stelco resolving the road block between the company, employees, current owner, and the prospective purchaser.

9. A copy of Mr. Cunningham's biography is attached as Appendix "A" to this supplemental report.

10. Mr. Cunningham has consented to the proposed appointment.

B. Anticipated Litigation Trustee Claim

11. The LI anticipates that the LT Claims (as defined in the LI's First Report) will be based largely on the same facts as those alleged in the Monitor's draft statement of claim (attached to the Monitor's Twenty-Seventh Report) concerning the Monitor's Claim.

12. Since the delivery of the LI's motion record, some stakeholders have asked the LI why it did not attach a draft statement of claim to its First Report. Based on its review of the Amended Litigation Investigator Order, the LI's view is that it would not be appropriate to do so, and that in any event it is ultimately up to the Litigation Trustee to decide which claims he should advance.

C. No Review of Potentially Shared Privileged Documents

13. Concerns have been raised with the LI in relation to its review of documents during the course of its investigation, including Potentially Shared Privileged Documents.

14. The LI can confirm that in the course of the document review described in the First Report, the LI did not review any Potentially Shared Privileged Documents as defined in the Amended Litigation Investigator Order. As a result, the process contained in the Amended Litigation Investigator Order to address Potentially Shared Privileged Documents was not engaged.

D. Revised Draft Order

15. The First Report attached a draft order. Since then, the LI has identified some aspects of the draft order that require correction or clarification, and attaches a revised draft order to this supplemental report. The main revisions contained in the revised order are set out below:

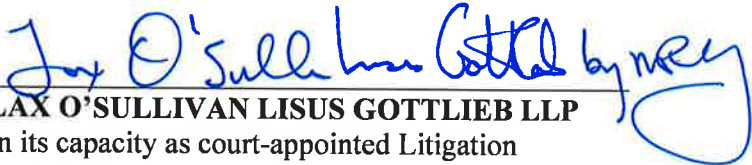
16. First, the draft order contained a heading (above paragraph 2) providing for the termination of the Creditors' Committee. This was an error. The body of the draft order itself does not provide

for the Creditors' Committee to be terminated. The heading has been amended accordingly in the revised draft order.

17. Second, the Common Issues Trial Protocol provided for and appended to the draft order did not address the Proposed Class Action. This was an oversight. The revised draft order and Common Issues Trial Protocol addresses the Proposed Class Action.

18. The LI respectfully submits to the Court this, its supplemental report.

Dated this 16th day of November, 2018.


LAX O'SULLIVAN LISUS GOTTLIEB LLP
In its capacity as court-appointed Litigation
Investigator

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985 c. C-36, AS AMENDED
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Court File No. CV-17-11846-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
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PROCEEDING COMMENCED AT TORONTO

**SUPPLEMENTAL REPORT TO THE COURT
OF LAX O'SULLIVAN LISUS GOTTLIEB LLP
IN ITS CAPACITY AS LITIGATION INVESTIGATOR
NOVEMBER 16, 2018**

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Litigation Investigator

Doug Cunningham, an experienced and highly respected litigator, was appointed to the Superior Court in 1991. For eleven years, he served in Ottawa, the last two and a half years as the Regional Senior Judge for the East Region. Doug is also a Past-President of the Ontario Superior Court Judges' Association.

In December 2002, Doug was appointed Associate Chief Justice of the Superior Court, based in Toronto, a position he held until his early retirement from the Court on September 30th, 2012. As a member of the Canadian Judicial Council, Doug served as a member of the Executive Committee, and chaired the Administration of Justice Committee. He was appointed to the Court Martial Appeals Court in 2010 and continues to serve as a member of the Pension Appeals Board, to which he was appointed in 1999.

Throughout his judicial career, Doug focused on complex civil litigation matters and was regularly called upon to mediate challenging, high stakes cases. His reputation for success in settling cases is well known throughout the Ontario Bar.

Doug is a problem solver. While he firmly believes that some cases are destined to be tried, he has never shied away from getting involved in even the most complex cases to determine if a better way might exist.

As an experienced mediator, Doug Cunningham has a unique ability to not only understand the legal issues, but also to quickly appreciate the dynamics and the interests of the parties involved in the dispute. A quick study, he is patient, an excellent listener and someone whose creativity in fashioning results in complex cases is well-known and appreciated. Simply put, he is a skilled (masterful) communicator.

Doug Cunningham has attended the Cornell and Harvard University mediation programs and is constantly in search of new and more productive and efficient resolutions in attempting to solve disputes. As a trial judge for over 20 years, he presided over all types of civil disputes and is well-known and respected for his firm but even-handed approach. As well, Doug conducted the Mississauga Judicial Inquiry and his report, released in October 2011, was universally praised as being fair and balanced, with very much a forward-looking approach to ethical issues at the municipal level. Rather than point fingers, Doug took the longer term approach, making some very significant recommendations as to how conflicts could be avoided in the future.

As a mediator, Doug's primary interests are:

- Commercial and corporate disputes
- Professional liability
- Serious personal injury/insurance litigation
- Employment law
- Product liability matters
- Class action lawsuits

Credentials

- BA - University of Western Ontario
- LL.B – Queen’s Law School
- Queen’s Counsel – appointed in 1980
- Specialist in Civil Litigation – designated by the LSUC in 1990
- LL.D (Hon.)

Doug is pleased to be able to offer his assistance in any of the following areas:

- | | | |
|-------------------------|---|--------------------|
| • Mediation | * | Neutral Evaluation |
| • Arbitration | * | Speedy Trials |
| • Mediation/Arbitration | * | Mentorship |

SCHEDULE "A"

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
)
MR. JUSTICE HAINEY) DAY OF NOVEMBER, 2018

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4201531 CANADA INC., 168886 CANADA INC., AND 3339611
CANADA INC.

(each, an "**Applicant**", and collectively, the "**Applicants**")

**ORDER
(APPOINTMENT OF LITIGATION TRUSTEE)**

THIS MOTION, made by the Litigation Investigator, for an Order pursuant to section 11 of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36., as amended (the "**CCAA**") and Rule 6.01 of the *Rules of Civil Procedure*, RRO 1990, Reg. 194, as amended (the "**Rules**") for an order, among other things, appointing a Litigation Trustee to pursue certain claims on behalf of the Applicants and/or any creditors of the Applicants and providing for the process by which a

common issues trial will be heard, was heard this day at 330 University Avenue, 8th Floor, Toronto, Ontario.

ON READING the Monitor's 27th Report to the Court dated November 5, 2018 and the Litigation Investigator's First Report to the Court dated November 5, 2018 (the "**First Report**"), and on reading and hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the Litigation Investigator, and such other counsel for various creditors and stakeholders as were present, no one else appearing although duly served as appears from the Affidavit of Service.

SERVICE

1. THIS COURT ORDERS that this motion is properly returnable today and hereby dispenses with further service thereof.

TERMINATION OF LITIGATION INVESTIGATOR APPOINTMENT

2. THIS COURT ORDERS that the appointment of the Litigation Investigator pursuant to the Amended Litigation Investigator Order dated April 26, 2018 (the "**Amended Litigation Investigator Order**"), is hereby terminated, effective immediately.

APPOINTMENT OF LITIGATION TRUSTEE

3. THIS COURT ORDERS that the Honourable J. Douglas Cunningham, Q.C. is hereby appointed as an officer of this Court to be the Litigation Trustee over and in respect of the Applicants' claims identified in the First Report of the Litigation Investigator (the "**Litigation Assets**" or the "**Claims**") on the terms described herein.

LITIGATION TRUSTEE'S POWERS

4. THIS COURT ORDERS that the Litigation Trustee is hereby empowered, authorized and directed to do all things and carry out all actions necessary to prosecute the Claims, including:

- (a) to engage, give instructions and pay counsel as well as consultants, appraisers, agents, advisors, experts, auditors, accountants, managers and such other persons from time to time on whatever basis the Litigation Trustee may agree, in consultation with the Monitor, to assist with the exercise of his powers and duties. Notwithstanding such authority, the Litigation Trustee shall be under no obligation to consult with its counsel, consultants, appraiser, agents, advisors, experts, auditors, accountants, managers and its good faith determination not to do so shall not result in the imposition of liability on the Litigation Trustee, unless such determination is based on gross negligence or willful misconduct;
- (b) to execute, assign, issue and endorse documents of whatever nature in the name of and on behalf of Sears Canada for any purpose in connection with the Claims or otherwise pursuant to this Order;
- (c) to consider and waive privilege over any communication, including written communication, of Sears Canada without further Order of the Court; and
- (d) to pursue the Claims, defend any counter claim, third party claim or other claim brought against Sears Canada, and subject to further Order of the Court, and in consultation with the Monitor, to settle or compromise, abandon, dismiss or otherwise dispose of such proceeding. The authority hereby conferred shall extend

to any appeals or applications for judicial review in respect of any order or judgment pronounced in such proceeding.

5. THIS COURT ORDERS that, notwithstanding the generality of paragraph 5(d) above, the Litigation Trustee is hereby authorized and empowered to commence claims, in his own name or on behalf of the Applicants, against ESL Investments Inc. (and certain affiliates), Edward Lampert, William C. Crowley, William R. Harker, Donald Campbell Ross, Ephraim J. Bird, Deborah E. Rosati, R. Raja Khanna, James McBurney and Douglas Campbell.

6. THIS COURT ORDERS that the stay of proceedings provided for in paragraph 25 of the Initial Order dated June 22, 2017 (the “**Initial Order**”), is hereby lifted as against William C. Crowley, William R. Harker, Donald Campbell Ross, Ephraim J. Bird, Deborah E. Rosati, R. Raja Khanna, James McBurney and Douglas Campbell for the purposes of permitting the claims referred to in the First Report, including those of the Litigation Trustee, to be commenced and pursued against those persons.

7. THIS COURT ORDERS that any recoveries received from any current and former directors and officers of Sears Canada pursuant to an action brought by the Litigation Trustee will be net of any distributions that would have been payable to such directors and officers on account of such directors’ and officers’ corresponding valid unsecured claims against Sears Canada, if any.

INDEMNITY

8. THIS COURT ORDERS that the Litigation Trustee and his designated agents, representatives and professionals, shall incur no liability or obligation as a result of his appointment or in carrying out of any of the provisions of this Order, save and except for any gross negligence or any willful misconduct. Sears Canada shall indemnify and hold harmless the

Litigation Trustee and his designated agents, representatives and professionals with respect to any liability or obligations as a result of his appointment or the fulfillment of his duties in carrying out the provisions of this Order, save and except for any gross negligence or willful misconduct. For clarity, in no event shall the Litigation Trustee be personally liable for any costs awarded against Sears Canada in the action. Any such costs awarded shall be a claim solely against Sears Canada estate. No action, application or other proceeding shall be commenced against the Litigation Trustee as a result of, or relating in any way to his appointment, the fulfillment of his duties or the carrying out of any Order of this Court except with leave of this Court being obtained. Notice of any such motion seeking leave of this Court shall be served upon Sears Canada, the Monitor and the Litigation Trustee at least seven (7) days prior to the return date of any such motion for leave.

9. THIS COURT ORDERS that the indemnity pursuant to paragraphs 4-8 above shall survive any termination, replacement or discharge of the Litigation Trustee. Upon any termination, replacement or discharge of the Litigation Trustee, on not less than 10 business days' notice, all claims against the Litigation Trustee, his designated agents, representatives and professionals for which leave of the Court has not already been sought and obtained shall be, and are hereby forever discharged, other than claims for which a party seeks leave prior to the discharge date to bring a claim against the Litigation Trustee and (i) such leave has been obtained; or (ii) the request for leave remains outstanding.

LITIGATION TRUSTEE'S ACCOUNTS

10. THIS COURT ORDERS that the Litigation Trustee and counsel to the Litigation Trustee (collectively, the "**Litigation Trustee Parties**") shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by Sears Canada as part of the costs of these proceedings. Sears Canada is authorized and directed to pay the accounts of the Litigation

Trustee Parties on a bi-weekly basis (or such other interval as may be mutually agreed upon) and, in addition, Sears Canada is hereby authorized to pay to the Litigation Trustee Parties retainers not exceeding \$50,000.00 each, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

11. THIS COURT ORDERS that the Litigation Trustee Parties shall pass their accounts from time to time, and for this purpose the accounts of the Litigation Trustee Parties are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

12. THIS COURT ORDERS that the Litigation Trustee Parties shall be entitled to the benefit of and are hereby granted a charge in the maximum amount of \$500,000.00 (the "**Litigation Trustee's Charge**") on the "**Property**" of Sears Canada as defined by paragraph 4 of the Initial Order, ranking *pari passu* with the Administration Charge (as defined in the Initial Order), in priority to all other security interests, trusts (statutory or otherwise), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any person, including all charges granted by the Initial Order (other than the Administration Charge) and all other Orders of this Court granted in these proceedings.

13. THIS COURT ORDERS that the filing, registration or perfection of the Litigation Trustee's Charge shall not be required, and that the Litigation Trustee's Charge shall be valid and enforceable for all purposes, notwithstanding any such failure to file, register, record or perfect.

14. THIS COURT ORDERS that the granting of the Litigation Trustee's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Litigation Trustee's Charge shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declaration of insolvency herein; (b) any application(s) for

bankruptcy order(s) issued pursuant to *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; or (d) the provisions of any federal or provincial statutes, and notwithstanding any provision to the contrary in any agreement.

15. THIS COURT ORDERS that the payments made by Sears Canada pursuant to this Order and the granting of the Litigation Trustee's Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Litigation Trustee to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Litigation Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Litigation Trustee shall not, as a result of this Order or anything done in pursuance of the Litigation Trustee's duties and powers under this Order, be deemed to be in Possession of

any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

COMMON ISSUES TRIAL

17. THIS COURT ORDERS that the common issues arising out of claims brought by the Monitor, the Litigation Trustee, the Pension Administrator, and the Class Action plaintiffs, will be heard together in a common issues trial to commence on a date as is fixed by this Court, pursuant to the common issues trial protocol attached hereto as Schedule “A” (the “**Common Issues Trial Protocol**”).

GENERAL

18. THIS COURT ORDERS that, without limiting any other provisions of this Order, the Litigation Trustee may from time to time apply to this Court for advice and directions in the discharge of his powers and duties hereunder.

19. THIS COURT ORDERS that the Monitor and the Litigation Trustee may report to the Court on their activities from time to time as any of them may see fit or as this Court may direct.

20. 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 Litigation Trustee and its agents 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 Litigation Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Litigation Trustee and its agents in carrying out the terms of this Order.

21. THIS COURT ORDERS that the Litigation Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Litigation Trustee is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

22. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Litigation Trustee and the Monitor and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

HAINY, J.

SCHEDULE "A"

COMMON ISSUES TRIAL PROTOCOL

1. **Pleadings:** Plaintiffs will commence actions through issuance of separate statements of claim, to be defended with separate statements of defence.
2. **Transfer of Franchisee Class Action to Commercial List:** The Franchisee Class Action will be transferred to the Commercial List and a certification motion will be heard on an expedited basis.
3. **Documents:**
 - a. Plaintiff(s) in each claim will serve separate affidavits of documents
 - b. Documents will be produced in one document production set, to be produced electronically from the document database that the Monitor's counsel is currently maintaining.
4. **Privilege:**
 - a. There shall be no waiver of privilege as a result of the sharing of Sears Canada Inc. documents between the Monitor, the Litigation Trustee, counsel to the pension claimants and the Class Action plaintiffs.
 - b. Prior to any production of documents by the Monitor or the Sears Canada Entities to the Litigation Trustee, the pension claimants, or the Class Action plaintiffs, the Monitor or the Sears Canada Entities, as the case may be, shall take reasonable steps to review such documents to identify any:
 - i. documents that contain any communication that is between a lawyer and the ESL parties and/or Sears Holdings Corporation;
 - ii. documents containing any communication by or to the ESL parties and/or Sears Holdings Corporation and/or any current or former directors or officers of the Sears Canada Entities (a "**Current or Former D&Os**") created on or after November 26, 2013 and related to the 1291079 Ontario Ltd and Sears Canada Inc. et. al. class action of November 6, 2015 (Ontario Superior Court of Justice) File No. 4114/15); and
 - iii. documents containing communications between a law firm and a Current or Former D&O for which privilege could reasonably be asserted, or documents that reflect legal advice or litigation work product prepared for the benefit of a Current or Former D&O, whether alone or as part of a joint retainer.
 - c. Hereafter, items i), ii), and iii) shall be referred to collectively as the "**Potentially Shared Privileged Documents**". No waiver of any privilege shall have occurred by the inadvertent delivery of documents to the Litigation Trustee, the pension claimants, or the Class Action plaintiffs should a Potentially Shared Privileged Document not be identified or if any other document subject to privilege (including solicitor-client privilege, litigation privilege, and common interest privilege) is produced or disclosed to the Litigation Trustee, the pension claimants, or the Class Action plaintiffs.

- d. In the event that the Monitor and/or Sears Canada Entities intend to produce any Potentially Shared Privileged Documents to the Litigation Trustee, the pension claimants, or the Class Action plaintiffs, the Monitor or the Sears Canada Entities, as the case may be, shall provide a list of such documents on reasonable notice, which shall be no less than seven days, to the ESL parties, Sears Holdings Corporation and/or the Current or Former D&Os to the extent that such parties may be able to assert privilege over the documents, so that any issue regarding privilege may be resolved by the parties or determined by this Court.

5. Examinations for Discovery of Defendants:

- a. Plaintiffs will coordinate examinations for discovery to avoid overlap
- b. One examination (and transcript) for each witness
 - i. One plaintiff takes lead
 - ii. Witness to attend second examination for follow up questions by other plaintiffs regarding questions specific to those claims

6. Discovery-Related Motions:

- a. The parties will jointly appoint a single arbitrator to determine any documentary or oral discovery motions.
- b. All discovery motions will be heard in writing, unless the arbitrator determines that oral submissions are necessary to decide the motion.
- c. Appeals of the arbitrator's decisions may be brought to the case management judge, to be heard summarily in chambers

7. Experts' reports:

- a. Plaintiffs' experts' reports to be served 12 weeks before trial
- b. Defendants' experts' reports to be served 6 weeks before trial

8. Common Issues Trial:

- a. Parties will file an Agreed Statement of Facts ("ASF")
- b. Parties will file a Joint Book of Documents ("JBD"), which will include all documents referred to in the ASF, plus any other documents the parties agree to include in the JBD
- c. Parties will deliver written opening submissions one week before trial
- d. Evidence in chief will be adduced by way of affidavits
 - i. Plaintiffs' affidavits to be delivered 4 weeks before trial
 - ii. Defendants' affidavits to be delivered 2 weeks before trial
- e. The trial will be conducted electronically pursuant to a protocol to be agreed upon by the parties and approved by the trial judge no later than 8 weeks before trial
- f. All plaintiffs' witnesses will testify first
- g. Then all defendants' witnesses
- h. Oral examinations-in-chief will be limited to a 10-minute "warm-up"
- i. Oral closing submissions will be heard 3 weeks after the last day of evidence, or as soon as possible thereafter
- j. Parties will agree to exchange written closing submissions on the same day (1 week before oral closing submissions)

- i. In the alternative, the Plaintiffs will deliver their written closing submissions 10 days before oral closing submissions, then Defendants will deliver responding closing submissions 5 days before oral closing submissions, then Plaintiffs will deliver reply closing submissions 2 days before oral closing submissions
- k. All documents referred to in written closing submissions will be compiled in an electronic joint compendium
- l. Parties will prepare a joint book of authorities for all cases relied upon in closing submissions

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The Litigation Investigator and Counsel for the Proposed
Litigation Trustee