

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
CANWEST PUBLISHING INC./PUBLICATIONS CANWEST INC., CANWEST
BOOKS INC. and CANWEST (CANADA) INC.

FACTUM
of the CanWest Salaried Employees and Retirees (CSER) Group

Date: February 16, 2010

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PART I – OVERVIEW

1. This factum is filed in support of a motion to appoint Russell Mills, Blair Mackenzie, Rejean Saumure and Les Bales as representatives (“the Representatives”) of the former Salaried Employees and Retirees (including surviving spouses of Retirees and employees) of Canwest Publishing Inc., Canwest Books Inc., Canwest (Canada) Inc. and Canwest Limited Partnership (collectively referred to as “Canwest”) in this proceeding under the *Companies’ Creditors Arrangement Act* (Canada) (“CCAA”), any proceeding under the *Bankruptcy and Insolvency Act* (Canada) or in any other proceeding which has been or may be brought before this Honourable Court.
2. Canwest has, in the past year, filed two applications under the *CCAA*: an initial application dated October 6, 2009 concerning other portions of the Canwest media empire, and then a second application dated January 8, 2010 concerning the companies involved in this motion. In the first *CCAA* proceeding, Canwest itself moved to appoint a law firm as representative counsel for former employees and retirees (excluding certain formerly unionized workers). That law firm is unable to represent former employees and retirees in this second Canwest *CCAA* proceeding. Therefore, the proposed representatives have brought this motion for the same order in this second *CCAA* proceedings for a different law firm.
3. Representative counsel should be appointed in this case as former employees and retirees are vulnerable creditors who have little means to pursue a claim in

complex *CCAA* proceedings. There is therefore a social benefit to providing a reliable resource for advice and representation for these vulnerable creditors. Finally, representative counsel would provide a benefit to the overall *CCAA* process by introducing efficiency to the process for all parties involved.

PART II – FACTS

Background to Motion

4. On January 8, 2010 Canwest obtained an order pursuant to the *Companies' Creditors Arrangement Act* ("*CCAA*"). This Initial Order stayed all proceedings and claims against Canwest. The order permits, but does not require, Canwest to make payments to employee and retirement benefit plans.

Affidavit of Steven Levitt, paragraph 5.

Specific impact of Initial Order on former employees and retirees

5. According to the Pre-Filing Report of the Monitor, there are approximately 66 employees (45 of whom were non-unionized) whose employment with Canwest ended prior to the Initial Order yet were still owed termination and severance payments. Canwest ceased making termination and severance payments to those former employees as of the date of the Initial Order.

Affidavit of Steven Levitt, paragraphs 6-8.

Affidavit of Rejean Saumure, paragraph 7.

6. This decision has also had the effect of decreasing the length of those former employees' pensionable service, as many employees were owed termination payments as part of a salary continuance scheme whereby they would continue to accrue pensionable service during a notice period. After the Initial Order, those former employees stopped accruing pensionable service.

Affidavit of Rejean Samure, paragraphs 5 and 10.

7. Approximately seven retirees and two current employees are (or would be) eligible for a pension benefit from Southam Executive Retirement Arrangements ("SERA"). SERA is a non-registered pension plan used to provide supplemental pension benefits to former executives of Canwest and its predecessors. These benefits are in excess of those earned under the Canwest Southam Publications Inc. Retirement Plan (whose benefits are capped as a result of certain provisions of the *Income Tax Act*).

Affidavit of Russell Mills, paragraphs 8-9.

8. Canwest advised SERA recipients, on or shortly after the date of the Initial Order, that their SERA payments would cease immediately. As a consequence, SERA recipients have lost significant income that they cannot replace. Their future retirement plans – and the plans of their spouses who are eligible for a joint survivorship option – are in jeopardy.

Affidavit of Russell Mills, paragraphs 13-14.

9. Canwest owes hundreds of millions of dollars to its former employees, retirees, and its pension plan. For example:

- (i) The three defined benefit pension plans in place at Canwest have a combined windup deficiency of \$106,349,581 (and a solvency deficit of \$10,295,196);
- (ii) The aggregate benefit obligation related to SERA is approximately \$14.4 million; and
- (iii) Canwest's obligation to provide post-employment and post-retirement benefits is approximately \$64.8 million;

Affidavit of Steven Levitt, paragraph 6.

10. As part of its initial filings, Canwest has prepared an Acquisition and Assumption Agreement for its eventual purchaser. That Agreement contemplates the purchasing company to pay for some of the claims of former employees and retirees, but allows the purchaser, after consultation, to elect not to assume:

- pension plans;
- benefit plans;
- liabilities for post-retirement and post-employment benefits;
- liabilities to employees and former employees for severance obligations; and
- any other liabilities of the LP Entities to employees and former employees.

Affidavit of Steven Levitt, paragraph 6.

11. The Agreement specifically excludes SERA and other supplemental pensions from the purchaser's obligations.

Affidavit of Steven Levitt, paragraph 6.

12. A Sale and Investor Solicitation Process (SISP) is currently being conducted. It is possible that a different purchaser(s) may come forward through the SISP and offer to purchase the assets on different terms and conditions. A different purchaser(s) may or may not accept employee and retiree related liabilities. Further, the proceeds of such a purchase could generate monies to address the claims of employees in this proceeding.

Proposed Representatives (Russell Mills, Blair MacKenzie, Rejean Saumure and Les Bale) and Nature of Claims

13. Russell Mills, Blair MacKenzie, Rejean Saumure and Les Bale seek an order permitting them to represent former salaried employees and retirees of Canwest. All four Representatives worked with Canwest for an extensive period of time before eventually leaving Canwest for various reasons. In particular:
 - (i) *Russell Mills*: Mr. Mills began his career as a reporter for the Oshawa Times. He eventually worked his way up to become the Publisher of *The Ottawa Citizen* until the end of his employment with Canwest in 2002. Mr. Mills also served as President of the Southam Newspaper Group for approximately three years from 1989 to 1992.

Affidavit of Russell Mills, paragraphs 3-4.

- (ii) *Blair MacKenzie*: Mr. MacKenzie was Vice President, General Counsel and Secretary for Southam Inc. and later Southam Publications Inc. from 1992 until his voluntary resignation on December 31, 2001.

Affidavit of Blair MacKenzie, paragraph 3.

- (iii) *Rejean Saumure*: Mr. Saumure worked from 1973 to 2008 for *The Ottawa Citizen*, ending up as Advertising Service Manager before opting to participate in a voluntary staff reduction program in November 2008.

Affidavit of Rejeaan Saumure, paragraphs 3-5.

- (iv) *Les Bale*: Mr. Bale also worked for *The Ottawa Citizen* and opted to participate in the voluntary staff reduction program.

14. All four proposed Representatives have claims against Canwest that are representative of the claims that would be advanced by former employees, namely pension benefits and compensation for involuntary terminations.

- (i) Mr. Mills and Mr. MacKenzie are entitled to payments under SERA, as described above at paragraphs 7 and 8.

Affidavit of Russell Mills, paragraphs 8-13.

Affidavit of Blair MacKenzie, paragraphs 4-9.

- (ii) Mr. Saumure and Mr. Bale are entitled to receive payments in the form of salary continuance under the voluntary staff reduction program as described above at paragraphs 5 and 6.

Affidavit of Rejean Saumure, paragraphs 5-8.

Affidavit of Steven Levitt, paragraph 8.

15. In addition to claims against Canwest, the proposed Representatives may have claims against the directors of Canwest that are currently impacted by these CCAA proceedings, particularly in light of the stay on proceedings against directors in paragraph 26 of the Initial Order.

Affidavit of Steven Levitt, paragraph 10.

Proposed Representative Counsel (Nelligan O'Brien Payne LLP and Shibley Righton LLP)

16. Nelligan O'Brien Payne, LLP has extensive experience in employment law generally. In addition, Nelligan O'Brien Payne, LLP has experience with *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("CCAA") Proceedings. It, together with Shibley Righton, was recently appointed by the Ontario Superior Court of Justice (Commercial List) as Court Appointed Representatives for continuing employees of *Nortel Networks Limited*.

Affidavit of Steven Levitt, paragraph 2.

17. Arthur Jacques and Thomas McRae, partners at Shibley Righton, have seasoned professional experience in restructuring. Both recently acted as court appointed co-counsel for the Ad Hoc Retail Creditors Committee (Brian Hunter et al.) in the matter sometimes known as the *Asset Backed Commercial Paper Program (Metcalf & Mansfield Alternative Investments II Corp et al. (ABCP))* (Court File No 08-CL-7440), and represented approximately 1800 retail investors in the

successful *ABCP* restructuring. Furthermore, Shibley Righton LLP (and, in particular, Messrs. Jacques and McRae) was named jointly with Nelligan O'Brien Payne LLP as Court Appointed Representatives for continuing employees in the proceedings commenced in the Ontario Superior Court of Justice (Commercial List) under the *Companies' Creditors Arrangement Act* by *Nortel Networks Corporation* (Court File No. 09-CL-7950).

Affidavit of Steven Levitt, paragraph 3.

18. The proposed Representatives – Rejean Saumure, Blair Mackenzie, Russell Mills and Les Bale – have instructed Nelligan O'Brien Payne LLP and Shibley Righton LLP to seek an order appointing them as representatives of all salaried former employees and retirees and to seek funding on behalf former salaried employees and retirees of Canwest, and for an order appointing Nelligan O'Brien Payne LLP and Shibley Righton LLP to act as representative counsel

Affidavit of Steven Levitt, paragraph 11.

PART III – ISSUES

19. The issue on this Motion is whether it is appropriate for the Court to appoint counsel to represent the interests of retirees and former employees in this *CCAA* proceeding.

PART IV – SUBMISSIONS

Jurisdiction to make representation order: Rule 10.01 and section 11 of CCAA

20. This Court's authority to appoint representative counsel derives from Rule 10.01 of the Ontario *Rules of Civil Procedure*, which provides as follows:

10.01(1) in a proceeding concerning,

...

(f) any other matter where it appears necessary or desirable to make an order under this subrule,

a judge may by order appoint one or more persons to represent any person or class of persons . . . who have a present, future, contingent or unascertained interest in or may be affected by the proceeding and who cannot be readily ascertained, found or served.

Rules of Civil Procedure, R.R.O. 1990, Reg. 194, Rule 10.01(1) [*Tab 1*]

21. In addition, section 11 of the *CCAA* grants this court a wide discretion to appoint representatives on behalf of a group of individuals with like interests in *CCAA* proceedings. That section reads:

11. Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

Companies' Creditors Arrangement Act, R.S.C. 1985, c. 36, s. 11 [*Tab 2*]

22. Section 11 of the *CCAA* and the *Rules of Civil Procedure* provide the Court with broad jurisdiction concerning representation orders.

Fraser Papers Inc. (Re) 2009 CanLII 55115 (Ont. SCJ) [**Tab 3**]

Representation orders for former employees/retirees are commonplace in *CCAA* proceedings

23. Representation orders for employee groups – particularly former employees and retirees – have become commonplace in *CCAA* proceedings. For example, courts have granted such orders in the following *CCAA* proceedings (with excerpts of reasons attached):

- (i) *Nortel Networks Corp.*: “[E]mployees and retirees are a vulnerable group of creditors in an insolvency because they have little means to pursue a claim in complex *CCAA* proceedings or other related insolvency proceedings. It was further submitted that the former employees of Nortel have little means to pursue their claims in respect of pension, termination, severance, retirement payments and other benefit claims and that the former employees would benefit from an order appointing representative counsel. In addition, the granting of a representation order would provide a social benefit by assisting former employees and that representative counsel would provide a reliable resource for former employees for information about the process. The appointment of representative counsel would also have the benefit of streamlining and introducing efficiency to the process for all parties involved in Nortel’s insolvency.”

Nortel Networks Corporation (Re) (2009), 75 C.C.P.B. 206 (Ont. SCJ) at para. 13 [Tab 4]

- (ii) *Fraser Papers Inc.*: “The employees and retirees not otherwise represented are a vulnerable group who require assistance in the restructuring process and it is beneficial that representative counsel be appointed. The balance of convenience favours the granting of such an order and it is in the interests of justice to do so.”

Fraser Papers, supra at para. 7 [Tab 3]

- (iii) *Canwest (1)*: “The balance of convenience favours the granting of the order and it is in the interests of justice to do so. The Retirees are a particularly vulnerable group and without professional and legal resources, they are likely at risk of being unable to understand and protect their interests in the restructuring. Clearly there is a social benefit associated with them being represented.”

Canwest Global Communications Corp., Court File No. CV-09-8396-OOCL (October 27, 2009) at para. 14 [Tab 5]

24. These representation orders for former employees have become an expected consequence of *CCAA* proceedings. In this case, Canwest’s own Human Resource Manager advised former employees that it was normal practice for the Court to appoint representation for former employees as a group.

Affidavit of Rejean Samure, paragraph 9.

25. These cases set out three principles that provide the rationale for appointing and funding representative counsel in the *CCAA* process:

- (i) Representative counsel should be appointed where vulnerable creditors have little means to pursue a claim in a complex *CCAA* proceeding.
- (ii) Representative counsel should be appointed where there is a social benefit by assisting vulnerable creditors (by, for example, providing a reliable resource for information about the *CCAA* process and assisting with the claims process).
- (iii) Representative counsel would provide a benefit to the overall *CCAA* process by introducing efficiency to the process for all parties involved.

Representation in this case would protect a vulnerable class and provide a benefit to the overall *CCAA* process

26. The retirees and former employees on behalf of whom a representative order is sought have claims against both Canwest and the Directors of Canwest that need to be explored through the *CCAA* procedure. These retirees and former employees have little means to pursue claims or representation in complex *CCAA* proceedings or in other related insolvency proceedings. They are thus a vulnerable group in this *CCAA* proceeding.

Affidavit of Russell Mills, paragraphs 25 and 28.

Affidavit of Rejean Saumure, paragraph 18.

Affidavit of Steven Levitt, paragraph 12.


27. The appointment of representative counsel in this case would also provide a benefit to the overall *CCAA* process by consolidating and streamlining the claims made by former employees and retirees in this matter. Representative counsel can:
- (i) Inform retirees and former employees, as a whole and with regard to each person's particular situation, of their rights and of the progression of the Canwest restructuring efforts;
 - (ii) Provide advice needed by retirees and former employees to protect their interests and participate in the Canwest restructuring process;
 - (iii) Represent the retirees and former employees for the purpose of all decisions which might affect their rights in the course of this *CCAA* proceeding and, if necessary, bring to the Court's attention any matters to be dealt with; and
 - (iv) Advise the retirees and former employees on matter related to any plan of compromise or arrangement.
28. Because the claims of retirees for lost benefits will be valued on actuarial assumptions and methodologies, it is likely that the retirees will require the assistance of actuarial and/or benefit experts to confirm any calculations made concerning the value of their claims for lost benefits. Most individual retirees do not have the means to obtain such expert advice in a cost effective and timely manner.

29. Without this representation order, there could be the following:
- (i) Multiplicity of representations for various retirees and former employees;
 - (ii) Impediment to the orderly course of restructuring process;
 - (iii) Inability of many of the retirees and former employees to be represented due to a lack of financial means; and
 - (iv) Potential stress and inconvenience for the retirees and former employees.


PART V – ORDER SOUGHT

30. The Representatives therefore request an Order substantially in the form of the draft order attached.


ALL OF WHICH IS RESPECTFULLY SUBMITTED,



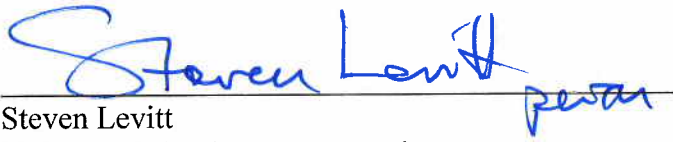
Janice B. Payne
Of Counsel for the Representatives *per TR*



Arthur O. Jacques
Of Counsel for the Representatives *per TR*



Thomas McRae
Of Counsel for the Representatives

Handwritten signature of Steven Levitt in blue ink, with a horizontal line drawn through the signature.

Steven Levitt
Of Counsel for the Representatives

LIST OF AUTHORITIES

1. *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, Rule 10.01(1)
2. *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. 36, s. 11.
3. *Fraser Papers Inc. (Re)* 2009 CanLII 55115 (Ont. SCJ).
4. *Nortel Networks Corporation (Re)* (2009), 75 C.C.P.B. 206 (Ont. SCJ)
5. *Canwest Global Communications Corp.*, Court File No. CV-09-8396-OOCL (October 27, 2009).

TAB A

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

**THE HONOURABLE MADAM) MONDAY, THE 22ND DAY OF
) FEBURAY, 2010
JUSTICE PEPALL)**

**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
CANWEST PUBLISHING INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS
INC. AND CANWEST (CANADA)**

ORDER

THIS MOTION, brought by Russell Mills, Blair MacKenzie, Rejean Saumure and Les Bale (collectively, the "Representatives") on behalf of the Former Salaried Employees and Retirees of Canwest Publishing Inc./Publications Canwest Inc., Canwest Books Inc., Canwest (Canada) and Canwest Limited Partnership and the Canwest Global Canadian newspaper entities (collectively "Canwest" or the "LP Entities") or any person claiming an interest under or on behalf of such Salaried Employee, Retiree including beneficiaries and surviving spouses was heard Tuesday, February 2nd, 2010 on the Commercial List at the courthouse at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Representatives and on hearing the submissions of counsel for the Representatives, Canwest, the Monitor and other parties,

1. **THIS COURT ORDERS** that further service of the Notice of Motion and Motion Record on any party not already served is hereby dispensed with, such that this motion was properly returnable.

2. **THIS COURT ORDERS** that, subject to paragraph 8 hereof, Russell Mills, Blair MacKenzie, Rejean Saumure and Les Bale (collectively, the “Representatives”) are hereby appointed as representatives of all the Former Salaried Employees and Retirees of Canwest Publishing Inc./Publications Canwest Inc., Canwest Books Inc., Canwest (Canada) and Canwest Limited Partnership and the Canwest Global Canadian newspaper entities (collectively “Canwest” or the “LP Entities”) or any person claiming an interest under or on behalf of such Salaried Employee, Retiree including beneficiaries and surviving spouses in the proceedings under the *Companies’ Creditors Arrangement Act* (Canada) (“CCAA”), the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”) or in any other proceeding which has been or may be brought before this Honourable Court (the “Proceedings”), including, without limitation, for the purpose of settling or compromising claims by the Former Salaried Employees and Retirees in the Proceedings.

3. **THIS COURT ORDERS** that, subject to paragraph 8 hereof, Nelligan O’Brien Payne LLP and Shibley Righton LLP are hereby appointed as co-counsel (“Representative Counsel”) for all Former Salaried Employees and Retirees in the Proceedings for any issues affecting the Former Salaried Employees and Retirees in the Proceedings.

4. **THIS COURT ORDERS** that Representative Counsel shall represent the interests of Former Salaried Employees and Retirees in all aspects of the Proceedings, without any

obligation to consult with or seek instructions from the Former Salaried Employees and Retirees other than the Representatives, unless otherwise ordered by the Court.

5. **THIS COURT ORDERS** that Canwest shall provide to the Representatives and their counsel, without charge:

- a. The names, last known addresses, phone numbers and last known e-mail addresses (if any) of all the Former Salaried Employees and Retirees, whom they represent, as well as the applicable data regarding all their entitlements, subject to a confidentiality agreement and the information to only be used for the purposes of the Proceedings;
- b. Provide all such documents and data, as may be relevant to matters relating to the issues in the Proceedings, including generally those pertaining to the various pension, retiree and employee benefits and supplementary pension, deferred compensation or any other entitlements, including up-to-date financial information regarding the funding and investments of any of these arrangements and any associated actuarial valuation and reports.

6. **THIS COURT ORDERS** that all reasonable legal, actuarial and financial expert and advisory fees and all other incidental fees and disbursements, as may have been or shall be incurred by the Representatives and their counsel, shall be paid by Canwest on a bi-weekly basis, forthwith upon the rendering of accounts to the Monitor. In the event of any disagreement regarding such fees, such matters may be remitted to this Court for determination.

7. **THIS COURT ORDERS** that notice of the granting of this Order be provided to the Salaried Retirees by advertisement in the national edition of the Globe and Mail and other local newspapers in such form and under such terms as to be agreed upon by the Representatives, Canwest and the Monitor and that notice be provided to the Former Salaried Employees and Retirees by the Monitor, together with the information attached in Schedule "A", by electronic transmission of a copy hereof as soon as practicable after the granting of this Order, together with the specific contact information provided by the Representatives and the Representative Counsel.

8. **THIS COURT ORDERS** that the Representatives, or their counsel on their behalf, are authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body and other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto.

9. **THIS COURT ORDERS** that any individual Former Salaried Employee or Retiree who does not wish to be bound by this Order and all other related Orders which may subsequently be made in these proceedings shall, within 30 days of publication of notice of this Order, notify the Monitor, Canwest and Representative Counsel, in writing, by facsimile, mail or delivery, and in the form attached as Schedule "B" hereto and shall thereafter not be bound and shall be represented themselves as an independent individual party to the extent they wish to appear in these Proceedings.

10. **THIS COURT ORDERS** that Salaried Retirees bound by this Order specifically excludes any former unionized employees who are represented by their former union pursuant to a Court approved representation order and that the Representatives have no obligation to represent such persons.

11. **THIS COURT ORDERS** that the Representatives and Nelligan O'Brien Payne LLP and Shibley Righton LLP shall have no liability as a result of their respective appointment or the fulfilment of their duties in carrying out the provision of this Order save and except for any gross negligence or unlawful misconduct on their part and that no action or other proceedings shall be commenced against the Representatives and/or Nelligan O'Brien Payne LLP and Shibley Righton LLP relating to their acting as such, except with prior leave of this Court, on at least 7 day's notice to the Representatives and Nelligan O'Brien Payne LLP and Shibley Righton LLP and upon further order in respect of security for costs, to be given by the plaintiff for the costs on a substantial indemnity basis, of the Representatives and Nelligan O'Brien Payne LLP and Shibley Righton LLP in connection with any such action or proceeding.

12. **THIS COURT ORDERS** that Nelligan O'Brien Payne LLP and Shibley Righton LLP shall be given notice of all motions to which the Former Salaried Employees and Retirees are entitled to receive notice in these Proceedings and that it shall be entitled to represent those on whose behalf it is hereby appointed in all such proceedings.

13. **THIS COURT ORDERS** that the Representatives shall be at liberty and are authorized at any time to apply to this Honourable Court for advice and directions in the discharge or variation of their powers and duties.

14. **THIS COURT ORDERS** that in the event that this Order is later amended by further Order of the Court, the Monitor may post such further Order on the Monitor's website and such posting shall constitute adequate notice to the Retirees of such amended Order.

SCHEDULE "A"

In an endorsement issued on _____ by the Ontario Superior Court of Justice in Canwest's outstanding CCAA proceedings (the "Proceedings"), Nelligan O'Brien Payne and Shibley Righton were jointly appointed as counsel for Canwest's salaried former employees and retirees and their beneficiaries. A copy of the Representation Order for the Former Salaried Employees and Retirees dated _____ is attached.

Justice Pepall stated that the Canwest's Former Salaried Employees and Retirees have an interest in the Proceedings and it is advisable that they have legal representation to provide general advice on retiree issues that affect them. The Commercial Court also appointed by Russell Mills, Blair MacKenzie, Rejean Saumure and Les Bale as representatives of the Former Salaried Employees and Retirees.

Canwest will be responsible for the reasonable legal fees incurred by the court-appointed counsel in carrying out their prescribed mandate.

If you do not wish to be bound by this order, you may opt-out of the group in accordance with paragraph 8 of the Order.

Salaried Retirees may in confidence directly contact Nelligan O'Brien Payne at – CSER@nelligan.ca (use your personal email) or by telephone to Ms. Leigh Norton (613) 231-8216 or 1-888-565-9912.

SCHEDULE "B"

Court File No. CV-09-8241-00CL

**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
CANWEST PUBLISHING INC./PUBLICATIONS CANWEST INC., CANWEST
BOOKS INC. AND CANWEST (CANADA)

OPT-OUT LETTER

**FTI Consulting
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8**

**Attention: Pamela Luthra
Tel: 1 888- 310-7627
Email: CanwestLP@fticonsulting.com**

I, _____, am a former employee or retiree of Canwest, as defined in the Order of Madam Justice Pepall dated _____.

Under Paragraph 8 of that Order, former employee or retiree who do not wish Nelligan O'Brien Payne LLP and Shibley Righton LLP to act as their representative counsel may opt out.

I hereby notify the Monitor that I do not wish to be bound by the Order and will be represented as an independent individual party at my own expense to the extent I wish to appear in these proceedings.

Date

Signature

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

Court File No. CV-10-8533-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANWEST
PUBLISHING INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS INC., and
CANWEST (CANADA) INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

Proceeding commenced at Toronto

FACTUM
dated February 16, 2010

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