



NO. S-1510120  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF WALTER  
ENERGY CANADA HOLDINGS, INC. AND THE OTHER PETITIONERS LISTED ON  
SCHEDULE "A"

PETITIONERS

**NOTICE OF APPLICATION**

**Name of applicant:** United Mine Workers of America 1974 Pension Plan and Trust  
(the "**applicant**" or "**1974 Plan**")

To: Service List attached hereto as Schedule "B"

TAKE NOTICE that an application will be made by the applicant to the Honourable Madam Justice Fitzpatrick at the courthouse at 800 Smithe Street, Vancouver, British Columbia on 28/Nov/2016 at 10:00 a.m. for the orders set out in Part 1 below.

**Part 1: ORDERS SOUGHT**

1. An order striking the expert report of Marc Abrams filed by the Petitioners.
2. An order that the Petitioners disclose to the 1974 Plan documents in their possession or control evidencing:
  - (a) managerial decision-making by the Petitioners, including without limitation the provision of managerial and administrative services by Walter Energy or other affiliated U.S. entities (the "**U.S. Entities**") after the date of the Western Acquisition;

- (b) the corporate relationship between the Petitioners and the U.S. Entities, including without limitation shareholdings from and after the date of the Western Acquisition; and
  - (c) the movement of funds between the U.S. Entities and the Petitioners as of and after the date of the Western Acquisition;
  - (d) authorizations or protocols established by the U.S. Entities for the Petitioners with respect to the conduct of the business, including without limitation strategic or investment decisions and the expenditure of funds;
  - (e) actions taken by the U.S. Entities to support the business of the Petitioners;
  - (f) the financial position of the U.S. Entities from and after the date of the Western Acquisition;
  - (g) the withdrawal liability of the U.S. Entities; and
  - (h) the locality of the management team and key-decision makers of the Petitioners from the incorporation of Walter Energy Canada Holdings, Inc. to April 1, 2016.
3. Costs of this application.
4. Such further relief as may be required in the circumstances and this Honourable Court deems just.

**Part 2: FACTUAL BASIS**

Overview

5. On October 26, 2016, the parties appeared before this Court pursuant to a direction made on August 16, 2016 to determine the procedural vehicle that would be used to determine the issues raised by the 1974 Plan Claim (the “**October Appearance**”).

6. At the October Appearance, the 1974 Plan submitted that the 1974 Plan Claim should be determined by summary trial, on the earliest hearing date that would accommodate targeted and necessary pre-trial discovery. The 1974 Plan submitted that an issue in the claim was whether U.S. law or Canadian law governed the 1974 Plan Claim, which involved a contextual and fact-dependent choice of law analysis.

7. The Petitioners submitted that discovery was not necessarily required for a threshold issue that arose in the case. The Petitioners characterized the threshold issue as the extraterritorial applicability of the *Employee Retirement Income Security Act of 1974, as amended*, 29 U.S.C. §§ 1001 *et seq.* (“**ERISA**”). The United Steelworkers, Local 1-424 characterized the threshold issue in the same manner.

8. Pursuant to a consent case plan order entered on November 14, 2016, the Petitioners have now filed a notice of application for summary trial (the “**Notice of Application**”) of four issues described by the Petitioners as “preliminary issues”.

9. The issues raised in the Petitioners’ Notice of Application go beyond what the Petitioners stated at the October Appearance would be before the Court on their summary trial application. Indeed, the first issue raised in the Petitioners’ Notice of Application is whether Canadian or U.S. law governs the adjudication of the 1974 Plan Claim. This is the exact issue that, at the October Appearance, the 1974 Plan submitted could not be determined without discovery at the October Appearance.

10. The 1974 Plan seeks an order for limited and targeted document discovery to allow it to meet the preliminary issues raised by the Petitioners’ summary trial application.

11. The 1974 Plan seeks a further order that the expert report of Marc Abrams filed by the Petitioners (the “**Abrams Report**”) be struck.

12. Mr. Abrams, prior to being retained by the Petitioners, was retained by KPMG LLP, in its capacity as monitor in these CCAA proceedings (the “**Monitor**”), with respect to issues relating to ERISA and U.S. employee benefits and bankruptcy law. Mr. Abrams, in his capacity as counsel to the Monitor, provided legal analysis on the merits of the very claim that will be before this Court.

13. Mr. Abrams is at once counsel to the Monitor and now also the expert witness for a party adverse to the 1974 Plan. The nature and extent of Mr. Abrams’ involvement in the claim before the Court compromises his ability to fulfill the duties of an expert witness.

#### Summary of the 1974 Plan Claim

14. The 1974 Plan relies on the facts set out in Part 1 of the 1974 Plan’s Amended Notice of Civil Claim filed November 9, 2016 (the “**Amended Notice of Civil Claim**”). Capitalized terms used but not defined herein have the meaning ascribed to them in the Amended Notice of Civil Claim.

15. The 1974 Plan Claim against the Petitioners arises under ERISA, as well as the United Mine Workers of America 1974 Pension Plan Document and United Mine Workers of America 1974 Pension Trust Documents, each effective December 6, 1974, and amended from time to time thereafter, and the CBA (as defined in the Amended Notice of Civil Claim).

16. The 1974 Plan alleges that pursuant thereto, each of the Petitioners, along with its U.S. affiliates, is jointly and severally liable to the 1974 Plan for the claimed pension withdrawal liability of Jim Walter Resources Inc. ("**Walter Resources**"), one of the Petitioners' U.S. affiliates.

17. Pursuant to a global settlement and a related effectuating order approved by the U.S. Bankruptcy Court (the "**Global Settlement**"), the 1974 Plan has been determined to hold a claim for withdrawal liability against each of the U.S. Entities in an amount equal to approximately US\$904 million. The anticipated distribution to the 1974 Plan under the Global Settlement is expected to be *de minimis*. The Global Settlement does not release claims of unsecured creditors against the U.S. Entities or their affiliates.

18. The 1974 Plan alleges that the 1974 Plan Claim is a valid and enforceable debt as against Walter Resources, and each foreign affiliate which meets the test under ERISA for a member of the same "controlled group" (*i.e.*, each entity that is at least 80% owned, either directly or indirectly, by Walter Energy), which includes the Petitioners.

#### Notice of Application for Summary Trial

19. The Petitioners' Notice of Application outlines the following preliminary issues which the Petitioners assert are appropriate for summary disposition:

- (a) Under Canadian conflict of laws rules, is the 1974 Plan's claim against the Petitioners governed by Canadian substantive law or United States substantive law (including ERISA)?
- (b) If the 1974 Plan's claim against the Petitioners is governed by United States substantive law (including ERISA), as a matter of United States law does controlled group liability for withdrawal liability related to a multi-employer pension plan under ERISA extend extraterritorially?
- (c) If the 1974 Plan's claim against the Petitioners is governed by United States substantive law (including ERISA), and ERISA applies extraterritorially, is that law unenforceable by Canadian courts as a penal, revenue or other public law of the United States?

- (d) If the 1974 Plan's claim against the Petitioners is governed by United States substantive law (including ERISA), and ERISA applies extraterritorially, is that law unenforceable by Canadian courts because it conflicts with Canadian public policy?

20. The Petitioners have filed their evidence for the summary trial. There are a number of facts pleaded in the Amended Notice of Civil Claim that have not been admitted by the Petitioners, including:

- (a) Walter Energy and its various affiliates, including the Petitioners, constitute a single global enterprise with integrated businesses (para. 15);
- (b) The management team and key-decision makers of Canada Holdings and the other Petitioners operated out of the United States, U.S. law was the legal system with which they were most familiar, they expected U.S. law to govern the business they directed, and they were guided by U.S. law in their actions (paras. 86-87);
- (c) After the date of the Western Acquisition, the President of Canada Holdings and the rest of the Canadian operations resided in and worked out of Birmingham, Alabama, in the United States (para. 88);
- (d) Additional members of the Petitioners' management team resided in the U.S. and operated out of the Birmingham, Alabama, office (para. 91);
- (e) Until his resignation, Danny L. Stickel, sole director of Canada Holdings, 0541237 B.C. Ltd., Walter Canadian Coal ULC, Wolverine Coal ULC, Cambrian Energybuild Holdings ULC, Willow Creek Coal ULC, and Brule Coal ULC, and one of two directors of Pine Valley Coal Ltd., resided in and worked out of the United States and held positions with Walter Energy (para. 92);
- (f) At least four of the five officers of Cambrian Energybuild Holdings ULC lived in and worked out of Birmingham, Alabama (para. 93);
- (g) At least one of the two officers of Canada Holdings, 0541237 B.C. Ltd., Walter Canadian Coal ULC, Wolverine Coal ULC, Willow Creek Coal ULC, and Brule Coal ULC lived in and worked out of Birmingham, Alabama (para. 94);
- (h) Withdrawal from the 1974 Plan occurred in the United States. The liability created thereby occurred in the United States (para. 96);
- (i) The directors of the Canadian entities were familiar with US law (para. 98);

- (j) In relation to operations generally, and the withdrawal liability in particular, the laws and legal system of the United States informed and guided the perceptions and actions of the key players of all of the following: the 1974 Plan; Walter Energy; Walter Resources; Canada Holdings; Walter Canadian Coal ULC; Wolverine Coal ULC; Brule Coal ULC; Cambrian Energybuild Holdings ULC; Willow Creek Coal ULC; Pine Valley Coal, Ltd.; and 0541237 BC Ltd. (para. 99);
- (k) As the legal system that guided the key players and directing minds of the entities listed in paragraph 99, and the legal system with which these individuals are the most familiar, U.S. law is the law that these individuals expected to govern their relationships and liabilities, including the 1974 Plan Claim for withdrawal liability (para. 100); and
- (l) The consolidated enterprise, which includes Walter Energy, Canada Holdings and their Canadian and US operations, benefits from the Petitioners' refusal to acknowledge the withdrawal liability (para. 101);

(the “**Unadmitted Facts**”).

#### Walter Energy Documents

21. In accordance with an order made by the United States Bankruptcy Court for the Northern District of Alabama, Southern Division, in the Chapter 11 proceedings of Walter Energy, certain records relating to dealings between U.S. and Canadian subsidiaries of Walter Energy that are dated or related to events occurring on or after January 1, 2011 (the “**U.S. Records**”) have been or will be transferred to counsel for the Petitioners.

22. Counsel for Walter Energy has advised the 1974 Plan that the U.S. Records would be sent to counsel for the Petitioners and that the 1974 Plan could access them through discovery in Canada.

23. The 1974 Plan has requested that the Petitioners review the documents in their possession, including the U.S. Records, and disclose documents related to targeted discovery categories itemized by the 1974 Plan.

#### The Abrams Report and Mr. Abrams' Prior Retainer

24. Mr. Abrams was asked to address the following question:

If the claim of the United Mine Workers of America 1974 Pension Plan and Trust (the “1974 Plan”) against the Walter Canada Group is governed by United States substantive law (including ERISA), as a matter of United States law does controlled group liability for withdrawal liability related to a multiemployer pension plan under ERISA extend extraterritorially?

25. Mr. Abrams, while retained by the Monitor, previously appears to have provided an opinion to the Monitor that ERISA was not intended to have extraterritorial effect. On July 20, 2016 (the “**July Letter**”) the Petitioners’ counsel advised the 1974 Plan that:

We have analyzed ERISA and are of the view that, among other things, (1) ERISA was not intended to have and does not have extra-territorial effect, such that it could give rise to a claim against Walter Canada; and (2) a Canadian court should not impose liability on Walter Canada on the basis of ERISA even if that statute purported to have extra-territorial effect. The Monitor and its Canadian and U.S. counsel have conducted their own independent review of the merits of the 1974 Plan claim and the Monitor shares Walter Canada’s view. (Emphasis added.)

26. Further, in the Monitor’s Fourth Report dated August 11, 2016, the Monitor advised that:

Counsel for the 1974 Pension Plan has provided a significant amount of information regarding the claim in response to requests from Walter Canada and the Monitor. Counsel to Walter Canada and Canadian and U.S. counsel to the Monitor have reviewed the documentation and information provided and have concluded that the claim of the 1974 Pension Plan is unenforceable in Canada. Counsel to the 1974 Pension Plan disputes this conclusion. (Emphasis added.)

27. The Abrams Report appended instructions from the Petitioners’ legal counsel for preparing the expert report, including a direction that Mr. Abrams not disclose any solicitor-client privileged material from his relationship with the Monitor.

### **Part 3: LEGAL BASIS**

#### The Abrams Report Should be Struck

28. The Court’s ability to evaluate Mr. Abrams’ opinion is impaired by his privileged relationship with a party in this proceeding. Mr. Abrams’ engagement as an expert witness instructed him to maintain the privilege and confidentiality of his client, the Monitor, whom he advised in respect of the very claim that is before this Court.

29. Contrary to what is required of an expert, his duty to his client prevents him from disclosing to the court everything in his knowledge that may affect his opinion and the court’s evaluation of it. The requisite impartiality is absent when an expert’s duty to a client conflicts with the expert’s role as witness.

30. Mr. Abrams involvement as an expert witness for the Petitioners also compromises the impartiality of the Monitor.

*Admissibility of Expert Evidence*

31. At any stage of the proceeding, the court may strike a document on the ground that the document may prejudice a fair trial or hearing of the proceeding.

***Supreme Court Civil Rules, Rule 9-5; Murray v. Galuska, 2002 BCSC 1532***

32. In order for proposed expert opinion evidence to be admissible it must be relevant, necessary, not be subject to an exclusionary rule, and come from a properly qualified witness.

***White Burgess Langille Inman v. Abbott and Haliburton Co., 2015 SCC 23 at para. 19 [White Burgess]***

33. The expert has a duty to assist the court and must not be an advocate for any party. The expert must be aware of his or her primary duty to the court and be willing and able to fulfill that duty.

***Supreme Court Civil Rules, Rule 11-2; White Burgess at para. 46***

34. An expert must be impartial, independent and unbiased. The impartiality, independence, and absence of bias of a proffered expert witness are to be examined as part of the proposed expert's qualifications to provide the intended evidence to the court.

***White Burgess at paras. 32 and 53***

35. If the proposed expert has an interest or connection with the litigation or a party thereto, the court will assess the nature and extent of that interest or connection to determine whether the expert is unable to carry out his or her duty.

***White Burgess at para. 49***

36. When a proposed expert has a substantial connection to the case before the court, the court may accept that the proposed expert is willing to serve as an independent and impartial expert but find that the individual is unable to do so.

***R. v. Fabos, 2015 ONSC 8013 at paras. 40 and 49***

*Monitor's Obligation of Neutrality*

37. The monitor is an officer of the court and must remain neutral as between various stakeholders in a CCAA proceeding. The court should strive to protect the monitor from close involvement in the adversarial process between the claimants.

***Re Pine Valley Mining Corp., 2008 BCSC 446 at para. 12 [Pine Valley]***



38. To permit either party to use the Monitor's conclusions on the very question the court must decide as opinion evidence offends the principle that the Monitor must remain entirely neutral as between competing claims of the various stakeholders.

***Pine Valley at para. 17***

***The Monitor's Counsel is Unable to Serve as an Expert Witness***

39. Mr. Abrams is unable to serve as an expert witness in these proceedings because of the nature and extent of his connection to this litigation. There are several points of concern.

40. Firstly, Mr. Abrams' connection to the 1974 Plan Claim is substantial. As counsel to the Monitor, Mr. Abrams received instructions and confidential information within a solicitor-client relationship in order to assess the merits of the 1974 Plan Claim. Mr. Abrams' legal analysis had a direct role in denying the 1974 Plan Claim, the same claim on which he is now proffered as an expert to provide impartial opinion evidence.

***Fellowes, McNeil v. Kansa General International Insurance Co. (1998), 40 O.R. (3d) 456 (Ont. Gen. Div.)***

41. Secondly, it is critical to the performance of the expert's duty that the Court be able to review all materials related to the formation of the expert's opinion. An expert is obliged to divulge any material that might affect the expert's opinion or the court's evaluation of it.

***Lax Kw'alaams Indian Band v. Canada (Attorney General), 2007 BCSC 909 at para. 7***

42. As the Monitor is asserting privilege over its relationship with Mr. Abrams, it is not possible for the 1974 Plan – and this Court – to access all information related to the formation of Mr. Abrams' opinion on the 1974 Plan Claim. This concern is amplified in this case, as it appears from the July Letter and the Monitor's Fourth Report that Mr. Abrams had discussions with the Petitioners' counsel about the merits of the 1974 Plan Claim well before his retainer as an expert witness by the Petitioners.

43. Lastly, as counsel for the Monitor, Mr. Abrams has a confidential relationship with a party that must remain neutral, impartial and objective in these proceedings. To use the Monitor's counsel's conclusions as opinion evidence on the very question the Court must decide offends the principle that the Monitor must remain entirely neutral.

44. While Mr. Abrams has attested that he will be an independent and impartial witness, his direct involvement in this claim, the significance of his evidence, and his role

as counsel to the Monitor make him unable to perform his duties. The Abrams Report should be struck.

#### Document Discovery

45. The disclosure of relevant documents is essential to the trial process. A claimant must have a tool to access the otherwise internal documents of the opposing party, especially of large corporate entities.

***Bains v. Bhandar*, 1999 BCCA 32 at para. 55; *Hunt v. T&N plc*, [1993] 4 S.C.R. 289 at 329**

46. Litigants often do not have access to all of the relevant evidence bearing on the issues raised. Where relevant documents are in the sole possession or control of the opposing party, documentary discovery requires the opposing party to disclose such documents and enables the litigants to use them to in support of their case.

***Mayer v. Mayer*, 2012 BCCA 77 at para. 79**

47. The CCAA does not compel the court to proceed summarily with the adjudication of a claim. In an appropriate case, the determination can be made after a trial of an issue or an action, in the course of which production and discovery would be available.

***Algoma Steel Corp. v. Royal Bank of Canada* (1992), 93 D.L.R. (4th) 98 at 101 (Ont. C.A.); *Re Pine Valley Mining Corp.*, 2008 BCSC 356**

48. An order for document discovery prior to the hearing of the Petitioners' summary trial application is necessary and appropriate because the Petitioners' summary trial application is broader than described at the October Appearance and involves issues of fact requiring evidence solely within the Petitioners' control – which it is now beyond dispute the Petitioners have (or soon will).

49. With respect to the first issue raised in the Petitioners' Notice of Application (i.e. identifying the proper law to apply to the 1974 Plan Claim), the Court will of necessity be undertaking a contextual and fact-driven analysis. It is not always clear which choice of law rule applies, and even where it is some rules are quite fact-dependent. It will often not be possible for a judge to fully resolve the issue at an early stage of the proceedings.

***Douez v. Facebook, Inc.*, 2015 BCCA 279 at para. 83, leave to appeal granted 2016 CanLII 12162 (S.C.C.)**

50. With respect to the 1974 Plan Claim, choice of law rules dictate that the Court should choose the law with the closest and most real connection to the claim. Factors for the court to weigh will include where the parties carry on business and what the

expectations of the parties were with respect to the governing law at the time the obligation arose. These are questions of fact on which documents in the possession of the Petitioners may well bear.

***Minera Aquiline Argentina SA v. IMA Exploration Inc. and Inversiones Mineras Argentinas S.A., 2006 BCSC 1102, aff'd 2007 BCCA 319, leave to appeal ref'd [2007] S.C.C.A. No. 424***

51. Document discovery is necessary for the Court to find the facts necessary to determine the proper law to apply to the 1974 Plan Claim.

52. Discovery will also be necessary for the Court to address other preliminary issues raised in the Notice of Application. For instance, the Petitioners seek an order that ERISA is unenforceable by Canadian courts because it conflicts with Canadian public policies. The Court should not be asked to make a final decision on this claim on the basis of public policy arguments without a solid factual foundation.

53. Further, the Abrams Report itself shows that the ultimate determination of the extraterritoriality issue is fact dependent (see pages 21 and 22 of the Abrams Report). Mr. Abrams indicates that whether ERISA was intended to apply extraterritorially is not the end of the analysis. The Court must then determine whether conduct relevant to ERISA's focus occurred inside the U.S. Mr. Abrams' report indicates that this is a fact-dependent, conduct-driven analysis.

54. It is not clear that the issue of whether conduct relevant to ERISA's focus occurred inside or outside of the U.S. is before the Court on the Petitioners' summary trial application. Even if it is not (as the Notice of Application frames the second issue it appears directed only to the first part of the Abrams Report), the evidence necessary for the Court to determine this issue conclusively is the same or similar to the evidence that will be required for the Court to determine the proper law of the 1974 Plan Claim.

55. There is nothing to be gained from postponing document production. The Petitioners have received, or will shortly receive, documents from the U.S. Entities that are likely relevant to the issues arising from the Notice of Application. An order for document discovery at this stage will assist in the efficient resolution of the proceeding.

**Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit #3 of Miriam Dominguez, made 23/Nov/2016.
2. Affidavit #1 of Tijana Gavric, made 13/Aug/2016.
3. Expert Report of Marc Abrams.

4. Expert Report of Judith F. Mazo.
5. Notice of Application of the Petitioners filed on November 16, 2016.
6. Fourth Report of the Monitor dated August 11, 2016.
7. Pleadings and other materials filed herein.
8. Such other and additional material as counsel may advise and the Court may admit.

The applicant estimates that the application will take 2 hours.

- This matter is within the jurisdiction of a master.
- This matter is not within the jurisdiction of a master. The Honourable Madam Justice Fitzpatrick is seized of these proceedings and the hearing of this application has been arranged in consultation with Madam Justice Fitzpatrick and Trial Scheduling.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days of service of this Notice of Application,

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed Application Response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: 23/Nov/2016



Signature of lawyer for filing party

for

Craig P. Dennis, Q.C.  
Canadian counsel for United Mine Workers  
of America 1974 Pension Plan and Trust

To be completed by the court only:

Order made

- in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this Notice of Application
- with the following variations and additional terms:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date:

Signature of  Judge  Master

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## APPENDIX

### THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial

- case plan orders: amend
- case plan orders: other
- experts

## **SCHEDULE "A"**

### **Petitioners**

1. Walter Canadian Coal ULC
2. Wolverine Coal ULC
3. Brule Coal ULC
4. Cambrian Energybuild Holdings ULC
5. Willow Creek Coal ULC
6. Pine Valley Coal, Ltd.
7. 0541237 B.C. Ltd.

### **Partnerships**

1. Walter Canadian Coal Partnership
2. Wolverine Coal Partnership
3. Brule Coal Partnership
4. Willow Creek Coal Partnership

## SCHEDULE "B"

### SERVICE LIST

<p><b>Osler, Hoskin &amp; Harcourt LLP</b> Box 50, 1 First Canadian Place Toronto, Ontario, Canada M5X 1B8</p> <p>Marc Wasserman Email: <a href="mailto:mwasserman@osler.com">mwasserman@osler.com</a> Tel: 416-862-4908</p> <p>Mary Paterson Email: <a href="mailto:mpaterson@osler.com">mpaterson@osler.com</a> Tel: (416) 862-4924</p> <p>Emmanuel Pressman Email: <a href="mailto:epressman@osler.com">epressman@osler.com</a></p> <p>Patrick Riesterer Email: <a href="mailto:priesterer@osler.com">priesterer@osler.com</a></p> <p>Tracy Sandler Email: <a href="mailto:tsandler@osler.com">tsandler@osler.com</a> Tel: (416) 862-5890</p>	<p><b>Counsel for the Petitioners</b></p>
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<p><b>Walter Energy, Inc.</b> 3000 Riverchase Galleria Birmingham, AL 35244</p>	<p><b>Parent company of the Petitioners</b></p>
<p><b>Paul, Weiss, Rifkind, Wharton &amp; Garrison</b></p>	<p><b>Counsel to Walter Energy, Inc.</b></p>

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