

VANCOUVER  
MAY 23 2017  
COURT OF APPEAL  
REGISTRY  
COURT OF APPEAL

Court of Appeal File No. CA44448  
Supreme Court File No. S1510120  
Supreme Court Registry Vancouver

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 AND ARRANGEMENT OF NEW  
WALTER ENERGY CANADA HOLDINGS, INC. NEW WALTER CANADIAN COAL  
CORP., NEW BRULE COAL CORP., NEW WILLOW CREEK COAL CORP., NEW  
WOLVERINE COAL CORP. AND CAMBRIAN ENERGYBUILD HOLDINGS ULC

PETITIONERS  
(RESPONDENTS)

AND:

UNITED MINE WORKERS OF AMERICA 1974 PENSION PLAN AND TRUST

(APPELLANT)

**NOTICE OF MOTION FOR LEAVE TO APPEAL**

To the respondents:

New Walter Energy Canada Holdings, Inc.  
New Walter Canadian Coal Corp.  
New Brule Coal Corp.  
New Willow Creek Coal Corp.  
New Wolverine Coal Corp.  
Cambrian Energybuild Holdings ULC

And to their solicitor:

Marc Wasserman, Mary Paterson and Patrick  
Riesterer  
Osler, Hoskin & Harcourt LLP

To the respondent:

The Monitor  
KPMG Inc.  
Anthony Tillman, Jordan Sleeth, and  
Mike Schwartzentruber

And to its solicitor:

Wael Rostom, Peter Reardon, and Caitlin Fell  
McMillan LLP

To the respondent:

United Steelworkers, Local 1-424

And to its solicitor:

Craig Bavis

Victory Square Law Office

To the service list:

See attached Schedule "B"

This Notice of Leave to Appeal is given by

Dentons Canada LLP

whose address for service is:

20<sup>th</sup> Floor, 250 Howe Street  
Vancouver, BC V6C 3R8  
Fax: 604-683-5214

TAKE NOTICE THAT AN APPLICATION will be made by United Mine Workers of America 1974 Pension Plan and Trust to the presiding justice at 800 Smithe Street, Vancouver, British Columbia, at 9:30 a.m. on Friday, June 9, 2017:

- (a) for an order for leave to appeal the Order of the Honourable Madam Justice Fitzpatrick of the Supreme Court of British Columbia pronounced the 1<sup>st</sup> day of May, 2017 (the "**Order**");
- (b) for an order staying the execution of, or proceedings upon, the Order;
- (c) for an order that the appeal be heard on an expedited basis in accordance with the schedule attached as Schedule "A"; and
- (d) for the costs of this application in any event of the appeal.

Dated at Vancouver, British Columbia, this 23<sup>rd</sup> day of May, 2017.



\_\_\_\_\_  
Craig P. Dennis, Q.C.  
Solicitors for the Appellant

This application will take 2 hours to be heard.

## SCHEDULE "A"

### TIMELINE

<b>Appeal</b>	On the earliest of the following days available to counsel for the Respondents: October 2, 6, 19, 20, 24, 27, 30 or 31, 2017.
<b>Appeal Record</b>	On or before June 30, 2017.
<b>Appellant's Factum and Appeal Book</b>	On or before July 28, 2017.
<b>Respondents' Factums and Appeal Books</b>	On or before September 6, 2017.
<b>Appellant's Reply Factum (If Any)</b>	On or before September 15, 2017.

**SCHEDULE "B"**

**SERVICE LIST**

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