



BCSC File 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, 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
(APPLICANTS)

AND

THE UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING,
ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS
INTERNATIONAL UNION (UNITED STEELWORKERS), LOCAL 1-424

APPLICATION RESPONDENT

APPLICATION RESPONSE

APPLICATION RESPONSE OF: United Steelworkers, Local 1-424 (the "Application Respondent")

TO: The Service List

THIS IS A RESPONSE TO: the Notice of Application of Walter Energy Holdings Inc et al,
Applicants (Petitioners), filed June 20, 2016.

Part 1: ORDERS CONSENTED TO

The following paragraphs in the Applicants' Notice of Application Schedule C Draft Order: none

Part 2: ORDERS OPPOSED

The following paragraphs in the Applicants' Notice of Application Schedule C Draft Order: 2

The Application Respondent does not oppose extension of the Stay if it does not apply to the Grievances filed by the Application Respondent as set out in the affidavit of D. Will #1.

In the alternative, the stay should be lifted in respect of the Grievances filed by the Application Respondent to allow for the discussion and calculation of Severance Pay and Group Termination Pay as they apply to individual employees.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The following paragraphs in the Applicants' Notice of Application Schedule C Draft Order: 1, 3, 4, 5

Part 4: FACTUAL BASIS

1. The Application Respondent, the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, (the "Steelworkers") is the certified bargaining agent for production employees at the Wolverine Mine near Tumbler Ridge BC, operated by Walter Energy Inc and Wolverine Coal Ltd as Wolverine Coal Partnership ("Wolverine").
2. Most of the Wolverine employees represented by the Steelworkers were laid off indefinitely on April 16, 2014 or shortly thereafter and have not been recalled to work since. Presently there is one bargaining unit employee who is working at the Mine.
3. On February 17, 2016, the Steelworkers receive a letter from Wolverine that did not intend to recall laid off employees to work, which would have the effect of terminating those employees starting on April 16, 2016 once each employee reached 24 months of layoff.
4. March 10, 2016, the Steelworkers receive a letter from Wolverine confirming there were no plans to reopen the Mine and providing notice of group termination under the *Employment Standards Act* for 275 employees whose employment terminated between April and June 2016.

5. Because laid off employees were not provided any working notice of termination, Wolverine owes approximately 294 employees statutory termination pay ("Group Termination Pay") under the *Employment Standards Act*.
6. The Steelworkers and Wolverine are parties to a collective agreement setting out the terms and conditions of employment for approximately 302 bargaining unit employees workers at the Mine (the "Collective Agreement").
7. Because laid off employees were not recalled within 24 months of layoff, Wolverine owes approximately 294 employees Collective Agreement severance pay ("Severance Pay") in addition to Group Termination Pay.
8. The Steelworkers filed two grievances under the parties' Collective Agreement over the failure to pay severance pay under the Collective Agreement (the "Severance Pay Grievance" and the "Termination Pay Grievance").
9. Wolverine and the Steelworkers have not dealt with the Severance Pay Grievance or the Group Termination Pay Grievance due to the stay order under the *Companies Creditor's Arrangement Act* proceedings in this matter.
10. Wolverine has not provided the Steelworkers with any calculations of amounts owed to laid off employees for either Severance Pay or Group Termination Pay.
11. Many employees of Wolverine have left Tumbler Ridge to seek employment elsewhere on a permanent or temporary basis.
12. Many laid off employees who have remained living in Tumbler Rights are relying on the their Severance Pay and Group Termination Pay in order to meet their financial obligations as there are no employment opportunities there.
13. Further delays in paying out the Severance Pay and Group Termination Pay will cause financial hardship for many laid off employees and families.
14. Delays in calculating and paying money to the laid off employees, including the Severance Pay and Group Termination Pay, will make it more difficult to reach these employees.

Part 5: LEGAL BASIS

1. The Court has discretion under the *Companies Creditors Arrangement Act* to impose a stay of proceedings in order to allow the debtor company to focus on restructuring efforts and to allow certain proceedings to proceed based on the prejudice to the parties.
2. One factor that the Courts will consider in seeking to lift a stay is the hardship to creditors and the necessity of payment.
3. The Wolverine employees have been laid off for over two years without receiving any payment from Wolverine, in a sector where there are presently few jobs and little mobility. Employees have been denied access to damages ordered paid to them that are held in trust. Further delays in the payment of the Severance Pay and Group Termination Pay will cause hardship for employees.
4. Section 33 (1) of the *CCAA* provides that despite the stay application the collective agreement remains in force, including the Severance Pay obligations.

Part 6: MATERIAL TO BE RELIED ON

1. Affidavit of Daniel Will, sworn June 22, 2016.

The Application Respondent estimates that the application will take: 30 minutes.

[X] The Application Respondent has filed in this proceeding a document that contains the application respondent's address for service.

Date: June 22, 2016



Craig D. Bavis
Counsel for the Application Respondent