

AMENDED THIS 1st DAY / JOUR
MODIFIED #5
OF / DE October 2008
PURSUANT TO RULE 26.02(A)
COM OUVREMENT A LA REGLE
OR ORDER
OU A L'ORDONNANCE

Court File No. 08-CV 41878 CP

DATED BETWEEN
DAY / JOUR OF / DE 20

ONTARIO
SUPERIOR COURT OF JUSTICE

REGISTERED SUPERIOR COURT OF JUSTICE
GREFFIER / CLERK SUPERIEUR DE JUSTICE

KENT FELSKÉ

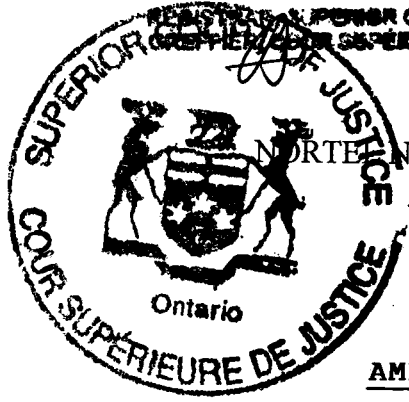
Plaintiff

and

NORTEL NETWORKS CORPORATION and NORTEL NETWORKS LIMITED

Defendants

Proceeding Under the *Class Proceedings Act, 1992*



AMENDED STATEMENT OF CLAIM

TO THE DEFENDANT(S)

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff(s). The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff(s) lawyer(s) or, where the plaintiff(s) do(es) not have a lawyer, serve it on the plaintiff(s), and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

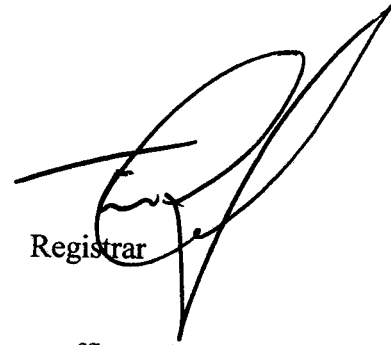
Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten or more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGEMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: June 20, 2008

Issued by:

Registrar



Address of court office: 161 Elgin Street
Ottawa, Ontario
K2P 2K1

TO: **NORTEL NETWORKS CORPORATION
AND NORTEL NETWORKS LIMITED**
3500 Carling Avenue
Ottawa, Ontario
K2H 8E9

CLAIM

1. The Plaintiff claims on his own behalf and on behalf of all members of the Plaintiff class against the Defendants:
 - a. A declaration that the Defendants must take into account future salary increases beyond January 1, 2008 when calculating the value of the Plaintiff and members of the Plaintiff class' pension benefit under Part I and Part II of the Pension Plan;
 - b. A declaration that the changes to the Pension Plan are void for failure to provide notice of the changes to the Pension Plan in the form prescribed by the *Pension Benefits Act*;
 - c. In the alternative, damages for Nortel's failure to comply with its contract of employment with the plaintiff and members of the plaintiff class by making unilateral changes to the pension plan;
 - d. In the alternative, damages arising from the failure to provide notice in the form prescribed by the *Pension Benefits Act*;
 - e. In the alternative, damages arising from the failure to provide reasonable notice of the termination of the Defendants' Pension Plan;
 - f. Damages arising from the failure to provide reasonable notice for the termination of retiree benefits;
 - g. Special damages, full particulars of which will be provided prior to trial;
 - h. Pre-judgment and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. 43, as amended;
 - i. Costs of this action on a substantial indemnity basis, including G.S.T.; and
 - j. Such further and other relief as counsel may advise and this Honourable Court may permit.
2. The Plaintiff, Kent Felske, resides in the City of Ottawa in the Province of Ontario.
3. The Defendant, Nortel Networks Corporation, is a corporation and maintains business

premises in Ottawa and throughout the world. The Defendant is engaged in the design, manufacture and sale of telecommunications and network equipment.

4. The Defendant, Nortel Networks Limited, is a corporation that maintains business premises in Ottawa and throughout the world. The business of the Defendant includes the administration of a pension plan for employees of the Defendant, Nortel Networks Corporation. The Defendants are related companies, and ultimately operate under common direction a number of facilities located in the City of Ottawa in the Province of Ontario and across Canada. The Defendants are hereinafter referred to collectively as "Nortel".
5. The Plaintiff is employed by Nortel.
6. As part of his terms and conditions of employment, the Plaintiff is a member of the Nortel Managerial Non-Negotiated Pension Plan ("the Pension Plan"). The Pension Plan is a defined benefit pension plan for Nortel employees in Canada. It provides for a pension benefit based on a formula, which takes into account an employee's years of service, age, and level of earnings.
7. Employees receive a pension benefit under either Part I or Part II of the Pension Plan. Part II was introduced in 1999 at which time employees were given the option to elect for coverage under either Part I or Part II. Part I and Part II provide differing formulas for calculating an employee's pension benefit based on earnings, service and age. Part I and Part II also provide different arrangements for payment of the pension benefit.
8. In 2000, Nortel introduced three comprehensive "capital accumulation and retirement programs" for its employees in Canada. Employees were required to choose one of the three programs. The "Traditional Program" includes a defined benefit pension under either Part I or II of the Pension Plan, a Transitional Retirement Allowance, retiree healthcare benefits, and an Investment Plan. The "Balanced Program" consists

of a defined contribution pension plan, retiree health benefits, an Investment Plan and a Stock Purchase Plan. The third program, the “Investor Program”, consists of retiree health benefits, an Investment Plan, and a Stock Purchase Plan. Employees who did not elect to join the Balanced Program or the Investor Program by March 31, 2000, were deemed to have chosen the Traditional Program and to be covered under Part I or Part II of the Pension Plan.

9. The Plaintiff elected to be part of the Traditional Program and to remain covered under Part I of the Pension Plan.

10. The Plaintiff brings this action pursuant to the *Class Proceedings Act, 1992* on behalf of the following class:

All persons employed by Nortel in Canada who were members of Part I or Part II of the Nortel Networks Limited Managerial and Non-Negotiated Pension on June 26, 2006, who, at that time had twenty years of service or greater with Nortel, its predecessors, affiliates or subsidiaries and did not meet the grandfathering criteria established by Nortel as of December 31, 2007.

Termination of Part I and Part II Pension Plan

11. On or about June 26, 2006 Nortel announced further changes to its pension plans. Nortel advised the Plaintiff and members of the class that it had unilaterally decided to end the Traditional Program effective January 1, 2008 – 18 months after the date of the announcement. Members of the Traditional Program would continue to accrue benefits under that pension plan until January 1, 2008, at which time both contributions to and benefits accrued from the Traditional Program would terminate. Nortel replaced the Traditional Program with a defined contribution pension plan commencing January 2008 under which Nortel contributes 2% of eligible earnings.

12. Nortel also announced that members of the Traditional Program would be eligible to remain in their current program after January 1, 2008 and grandfathered (“the

Grandfathering Criteria”) if as of December 31, 2007 they:

- Are at least age 55 with at least 70 points (age plus service);
- Are at least age 60, regardless of service; or
- Have at least 30 years of service, regardless of age.

13. The Plaintiff and all other members of the Plaintiff class did not meet the Grandfathering Criteria.

14. At the same time, Nortel made changes to the Retiree Healthcare and Life Insurance benefits (“Retiree Benefits”) provided to employees. The effect of those changes depends on the age and service of members on July 1, 2006. If the member is age 50 with at least five years of service on July 1, 2006, then he or she continues to qualify for company-sponsored retiree healthcare and life insurance benefits associated with the Traditional Program (Part I). Other members are no longer eligible for company-sponsored retiree healthcare benefits.

15. The Defendants have advised members of the Plaintiff Class that it will not take into account future salary increases beyond January 1, 2008 when calculating the value of the members’ pension under Part I or Part II. Pursuant to the *Pension Benefits Act* and accepted actuarial practice, Nortel is required to include future salary increases when determining the value of pension benefits under Part I or Part II of the Pension Plan.

Pension Plan Changes are Void

16. Pursuant to s. 26(1) of the *Pension Benefits Act* (“*PBA*”) and the associated regulations, the Plaintiff and all other members of the Plaintiff class are entitled to receive notice of the changes to the Pension Plan in the form prescribed. Nortel’s failure to provide notice pursuant to the *PBA* renders the changes made by Nortel to Pension Plan void. In the alternative, the Plaintiff and members of the Plaintiff class are entitled to receive damages arising from Nortel’s failure to provide notice as prescribed by the *PBA*.

Pension Plan Changes are a Breach of Contract

17. In the alternative, Nortel has breached its contract of employment with the Plaintiff and members of the Plaintiff class by unilaterally changing the terms and conditions of their employment. The Plaintiff and members of the Plaintiff class are entitled to damages as a result of this breach of contract.

Entitlement to Reasonable Notice of Pension Plan Changes

18. In the alternative, it is an implied term of the Plaintiff and members of the Plaintiff class' employment contracts that they are entitled reasonable notice under common law of changes to the terms and conditions of their employment.

19. The Plaintiff and all other members of the Plaintiff class are entitled to reasonable notice of the termination of the Pension Plan or payment in lieu of reasonable notice.

20. Having regard to his age, service and position, the Plaintiff did not receive reasonable notice of termination of his pension benefit under the Pension Plan nor has he received payment of an amount that satisfies Nortel's obligation to provide payment in lieu of reasonable notice.

21. The Plaintiff is entitled to a lump sum to compensate him for the difference between the pension benefit that he would receive at the end of the reasonable notice period and the pension benefit he will actually receive.

22. The other members of the Plaintiff class are likewise entitled to receive pension benefits based on their service, age and earnings at the end of the reasonable notice period calculated under either Part I or Part II of the Nortel Pension Plan.

23. The other members of the Plaintiff class are likewise entitled to compensation for the difference between the pension benefits they would be entitled to at the end of the reasonable notice period and the pension benefits they will actually receive.

Entitlement to Reasonable Notice of Loss of Retiree Benefits

24. Members of the Plaintiff class who were not age 50 as of July 1, 2006 are entitled to compensation for loss of retiree benefits.

25. In terms of damages for retiree benefits, members of the Plaintiff class who were not age 50 as of July 1, 2006 are entitled to damages calculated on the basis of the replacement cost of those retiree benefits or the value of lost benefits, whichever is greater.

Date of Issue: June 20, 2008

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Solicitors for the Plaintiff

KENT FELSKE

Plaintiff

- and -

NORTEL NETWORKS CORPORATION
and NORTEL NETWORKS LIMITED

Defendants

Court File No. 08-CV- **41878 CP**

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Ottawa, Ontario

AMENDED
STATEMENT OF CLAIM

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