

## FAQ REGARDING NORTEL'S RECENT FILING FOR PROTECTION UNDER CCAA

- General questions
- Concerns of recently terminated former employees
- Concerns of current employees
- Pension concerns
- Ongoing concerns

### GENERAL QUESTIONS

#### 1. What has Nortel done?

Nortel has sought protection under the *Companies' Creditors Arrangement Act*, R.S.C. ("CCAA") on Jan 14, 2009.

Under the CCAA, a company who is more than \$5 million in debt may apply to the court for protection from its creditors. The CCAA provides for a court-driven process to restructure the affairs of a company that allows judges a high degree of flexibility in determining how best to deal with the specific cases before them.

Ernst & Young has been appointed as Monitor to oversee the restructuring and advise the Court. The Monitor's job is to oversee the restructuring and report to the Court when necessary about the restructuring.

#### 2. What are the consequences of CCAA protection?

As a result of the application, the Court has issued an Initial Order staying all actions or potential actions against Nortel unless Nortel and the Monitor consent or the Court grants leave for an action to be commenced or continued. A "stay" is a legal term meaning "stop".

The stay is originally for 30 days until Feb 13, 2009, but will be inevitably extended until such time as the company has completed its re-organization or restructuring.

In most cases where a company has sought CCAA protection, a claims process is eventually put in place whereby a court-appointed Claims Officer or Monitor determines whether a particular claim has any value (and what value that claim has) and then assigns that value as a debt owing by the company. That debt is then "compromised" (i.e. the creditor accept less than full value for the debt) and then the company eventually emerges from the restructuring.

#### 3. What is the expected timeframe for CCAA proceedings?

We do not know the expected timeframe. Typically, restructurings for a company the size of Nortel take many months if not years.

#### **4. Does the CCAA mean that Nortel can do whatever it wants?**

The *CCAA* does not eliminate or reduce any legal entitlements that employees have. Instead, the *CCAA* means that employees cannot go to court or to an employment tribunal in order to enforce their rights.

All employment-related claims are treated in the same way as claims by other creditors, and will be assessed and then eventually paid out through the claims process that will be established in due course. That claims process will likely require creditors to “compromise” (or reduce) the amounts that they eventually collect from Nortel.

### **CONCERNS OF RECENTLY TERMINATED FORMER EMPLOYEES**

#### **5. I signed an offer provided by Nortel when I was terminated, and Nortel is refusing to pay out that offer. What can be done?**

The *CCAA* does not eliminate or reduce your legal entitlements flowing from your employment at Nortel. Once you sign and return Nortel’s offer, that creates a binding agreement between you and Nortel requiring Nortel to pay you the amount stipulated in the agreement.

You have become a creditor of Nortel as a result of Nortel’s refusal to pay you that amount. When the claims process has been put into place, you should file a claim for that amount, and any expenses you have incurred as a result of Nortel’s failure to provide you with the severance to which you are entitled.

#### **6. I did not sign Nortel’s offer. What can be done?**

Employees who are terminated from Nortel are still entitled to reasonable notice of their dismissal. That period of reasonable notice requires an individual assessment, and varies according to your age, length of service with Nortel, and the type of position you held. Since you were terminated without notice, you can claim against Nortel for the value of your total compensation package during your reasonable notice period, less any amounts that you earn from other employment during your reasonable notice period.

When the claims process is put in place, you need to file a claim based upon your entitlement to reasonable notice; the claim will be dealt with in the manner described above.

## CONCERNS OF CURRENT EMPLOYEES

### **7. Is Nortel obliged to maintain my salary and other employment benefits?**

The CCAA does not eliminate or reduce your legal entitlements flowing from your employment at Nortel. However, if Nortel does reduce your salary or other benefits you may not proceed to court or an employment tribunal to enforce your rights.

### **8. What happens if Nortel terminates my employment?**

Employees who are terminated from Nortel are still entitled to reasonable notice of their dismissal. That period of reasonable notice requires an individual assessment, and varies according to your age, length of service with Nortel, and the type of position you held. Since you were terminated without notice, you can claim against Nortel for the value of your total compensation package during your reasonable notice period, less any amounts that you earn from other employment during your reasonable notice period.

When the claims process is put in place, you need to file a claim based upon your entitlement to reasonable notice; the claim will be dealt with in the manner described above.

### **9. I am on Long-Term Disability (“LTD”). What will happen with my LTD payments?**

Our best information currently is that your LTD payments have not been affected. Should your LTD payments be affected in any way, please contact us or another lawyer so that we can provide you with individual advice or advice on a group basis. Your entitlements to LTD will depend upon the LTD policy in place at the time of your disability, and in particular whether Nortel or its insurance provider is responsible for making LTD payments to disabled employees.

### **10. I am currently working at Nortel in an accommodated position. What will happen to my accommodation?**

Our best information is that Nortel is not removing the various forms of accommodation that have been put in place prior to January 14, 2009. Should that change, please contact us or another lawyer for individual advice.

## PENSION CONCERNS

### **11.The pension plan at Nortel is currently underfunded. What is being done about that?**

We understand that the law firm of Koskie Minsky LLP has been consulted by a group of former Nortel salaried employees who are members of the Nortel defined benefit pension plans with respect to this and other issues. We are cooperating with Koskie Minsky to ensure that current and former employees are represented in the CCAA proceedings with respect to pension plan and related issues.

### **12.What about other pension issues?**

Employees who are terminated from Nortel are entitled to their entire compensation package during their notice period. This includes any pension plan growth that occurs as a result of longer service and/or higher age. A claim for this amount should be included in any claims brought through the CCAA claims process.

## ONGOING CONCERNS

### **13.What should I be doing to protect my interests?**

Nelligan O'Brien Payne has been retained by two groups: a group of former Nortel employees, and a group of current Nortel employees. Nelligan O'Brien Payne intends to bring a motion to court for a order appointing the committees organizing those two groups as:

- (1) the representatives of former Nortel employees prior to January 14th with unpaid termination and severance entitlements and
- (2) the representative of employees who were continuing employees as at January 14<sup>th</sup>.

These two groups are for non-unionized employees only.

The motion will seek to confirm NOP as counsel for both groups with respect to all issues pertaining to unpaid severance and termination entitlements for the first group and all issues relating to changed terms and conditions of employment, including termination entitlements, for the second group.

If you have already contacted our firm about your situation, we thank you and will be in touch regularly to keep you updated on what is being done.

If you have not contacted us yet, we recommend that you do so at [nortelclaims@nelligan.ca](mailto:nortelclaims@nelligan.ca). When you reply, please indicate whether you were a former employee as of January 14, 2009 or a continuing employee.

If you have retained another lawyer to represent you in this matter, it would be helpful if you ask that lawyer to contact us so that we can coordinate our efforts.

**14. What if I am in a union?**

If you are in a union, please speak to your union representative about these matters. Nelligan O'Brien Payne is not representing any unionized employees in this process.