

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF **NORDSTROM CANADA RETAIL,  
INC., NORDSTROM CANADA HOLDINGS, LLC** and  
**NORDSTROM CANADA HOLDINGS II, LLC**

APPLICANTS

**FACTUM OF THE APPLICANTS  
(STAY EXTENSION)**

September 22, 2023

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## PART I - NATURE OF THE MOTION

1. On March 2, 2023, Nordstrom Canada Retail, Inc., Nordstrom Canada Holdings, LLC, and Nordstrom Canada Holdings II, LLC (the “**Applicants**”) obtained relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985 c. C-36 (the “**CCAA**”) pursuant to an Initial Order (the “**Initial Order**”). The stay of proceedings in the Initial Order was extended to Nordstrom Canada Leasing LP (together with the Applicants, the “**Nordstrom Canada Entities**”). Alvarez & Marsal Canada Inc. was appointed as monitor (the “**Monitor**”).

2. The Initial Order provided for an initial stay of proceedings until March 12, 2023, which has since been extended several times (as extended, the “**Stay Period**”). The current Stay Period will expire on September 29, 2023. The Initial Order also provided for a co-tenancy stay (the “**Co-Tenancy Stay**”) of potential rights that may be asserted by third-party tenants and occupants in commercial properties where Nordstrom Canada stores are located that arise as a result of the making of the Initial Order.

3. This factum is filed in support of a motion by the Applicants for an order (the “**September Stay Extension Order**”) granting relief including:

- (a) extending the Stay Period (and by extension, the Co-Tenancy Stay) to and including December 22, 2023 (the “**Stay Extension**”);
- (b) approving the wind-up and termination of the Employee Trust (as defined and described below) and granting certain releases related thereto, upon the delivery by the Monitor of the Employee Trust Termination Certificate; and
- (c) discharging the KERP Charge (as defined and described below).

4. Since the granting of the Initial Order, the Nordstrom Canada Entities have acted with due diligence and in good faith, making significant progress in effecting a responsible and orderly wind-down of their business in these CCAA proceedings. As described more fully in the affidavit of Misti Heckel sworn September 20, 2023 (the “**Stay Extension Affidavit**”), the Nordstrom Canada Entities have liquidated their merchandise, closed their stores, implemented the lease transaction process, and taken steps to resolve disputed Claims including several significant Landlord Claims. The Stay Extension is appropriate and the requested Stay Extension period is necessary and reasonable to provide the Nordstrom Canada Entities with further breathing room to continue the Claims Process in consultation with the Monitor, work to resolve outstanding Claims, and continue developing a plan of compromise or arrangement (a “**Plan**”).

5. If the Stay Extension is granted, the Nordstrom Canada Entities currently anticipate seeking a Meeting Order from this Court within the Stay Extension period to present the Plan to creditors.

## **PART II -SUMMARY OF FACTS**

6. The facts underlying this motion are more fully set out in the Stay Extension Affidavit. Capitalized terms used but not defined herein have the meanings ascribed to them in the Stay Extension Affidavit. Facts relevant to the requested relief are highlighted in the sections below.

### **A. Update on the Applicants’ Liquidation and Orderly Wind-Down**

7. The Applicants initiated these CCAA proceedings to effect a responsible and orderly wind-down of their business in Canada. Since the Stay Period was last extended on May 30, 2023, the Nordstrom Canada Entities have made significant progress, including by:

- (a) completing the Liquidation Sale for all six of the Nordstrom full-line stores and all seven of the Nordstrom Rack stores and working to finalize the final reconciliation of all funds realized in the Liquidation Sale;
- (b) closing the transaction under the G2MC Agreement;
- (c) completing the wind-down of their retail operations across Canada, including by terminating their employees, closing all Nordstrom Canada stores, disclaiming or otherwise terminating all Leases not subject to transactions pursuant to the lease transaction process, and continuing to implement an extensive and proactive communication and consultation plan with stakeholders;
- (d) in close consultation with the Monitor, implementing the Claims Process and working to resolve creditor Claims filed in the Claims Process;
- (e) reaching agreements in principle (subject to the execution of mutually acceptable definitive documentation) on (i) the Claims of Cadillac Fairview Corporation and its affiliates (collectively “**Cadillac Fairview**”), the Landlord of five of the former Nordstrom full-line stores in Canada, in the CCAA estate and the claims associated with the indemnities granted by Nordstrom US to Cadillac Fairview, and (ii) the Claims of Oxford Properties Group (“**Oxford**”), the Landlord of the former Nordstrom Yorkdale full-line store in Canada, in the CCAA estate and the claims associated with the indemnity granted by Nordstrom US to Oxford, in each case, to resolve such indemnity claims and to provide a framework for the resolution of the respective Claims in the CCAA estate. These agreements are a significant milestone in the CCAA proceedings, as Cadillac Fairview and Oxford’s Claims were collectively by far the largest third-party Claims filed in the Claims Process, and

will resolve all issues surrounding the Leases for the Nordstrom full-line stores in Canada;

- (f) working, in consultation with the Monitor, to resolve the claims of the remaining Nordstrom Rack Landlords; and
- (g) as a result of the significant progress in the CCAA proceedings set out herein, the Nordstrom Canada Entities have been able to commence the planning and structuring associated with developing a Plan to present to their creditors and the Court in a timely manner.<sup>1</sup>

8. The Nordstrom Canada Entities are seeking an extension of the Stay Period in order to continue to work, in consultation with the Monitor, to resolve Claims filed in the Claims Process and to develop and finalize the Plan to be presented to creditors.<sup>2</sup>

9. The Nordstrom Canada Entities are not seeking a further extension of the Parent Stay granted in the Initial Order.<sup>3</sup>

**(a) Liquidation Sale**

10. The Liquidation Sale commenced on the morning of March 21, 2023, and continued in accordance with the Sale Approval Order until May 14, 2023, for Nordstrom Rack stores, and June 12, 2023, for Nordstrom full-line stores.<sup>4</sup> The Liquidation Sale generated total receipts of approximately \$103.7 million from the sale of the Nordstrom Canada Entities' merchandise, and \$7.8 million from the sale of the Nordstrom Canada Entities' FF&E. The Nordstrom Canada

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<sup>1</sup> Stay Extension Affidavit at para 20.

<sup>2</sup> Stay Extension Affidavit at para 21.

<sup>3</sup> Stay Extension Affidavit at para 21.

<sup>4</sup> Stay Extension Affidavit at para 22.

Entities also earned \$0.6 million from the sale of Additional Consultant Goods.<sup>5</sup> The Nordstrom Canada Entities, with the assistance of the Monitor, are in the process of finalizing the Final Reconciliation and will report further to the Court once it is complete.<sup>6</sup>

**(b) Landlords and Leases**

11. The transaction under the G2MC Agreement for the Heartland Lease has closed.<sup>7</sup> The closing date for the assignment and assumption of the Vaughan Mills Lease and the Deerfoot Meadows Lease is February 1, 2024, pursuant to the Winners Agreement.<sup>8</sup> All Leases not subject to transactions have been either terminated (in the case of the Train Yards Lease) or disclaimed (in the case of all other Nordstrom Rack and full-line Leases).<sup>9</sup> The keys in respect of such Leases have been returned to the Landlords, and the stores were turned over to the Landlord in a “broom swept” and clean condition. The Nordstrom Canada Entities have assisted with a number of issues relating to transitioning the premises back to the Landlords, as requested by Landlord representatives on a store-by-store basis.<sup>10</sup>

**(c) Employees**

12. The Nordstrom Canada Entities, directly and through their counsel, together with the Monitor, have engaged in regular communication with Employee Representative Counsel regarding employee matters to ensure that employee questions and concerns are being considered and addressed, including with respect to Claims filed by Employee Representative Counsel in the Claims Process.<sup>11</sup> All but one of the Nordstrom Canada Entities’ employees have been terminated,

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<sup>5</sup> Stay Extension Affidavit at para 25.

<sup>6</sup> Stay Extension Affidavit at para 25.

<sup>7</sup> Stay Extension Affidavit at para 31.

<sup>8</sup> Stay Extension Affidavit at para 33.

<sup>9</sup> Stay Extension Affidavit at paras 34 and 37.

<sup>10</sup> Stay Extension Affidavit at para 40.

<sup>11</sup> Stay Extension Affidavit at para 43.

and the remaining employee will be terminated shortly. As a result, the Nordstrom Canada Entities will be taking the necessary steps to wrap up their remaining employee benefits plans.<sup>12</sup>

## **B. Claims Process**

13. This Court granted the Claims Procedure Order on May 30, 2023. The Nordstrom Canada Entities, in consultation with the Monitor, are in the process of reviewing all Proofs of Claim received in the Claims Process.<sup>13</sup>

14. The Nordstrom Canada Entities have identified and made available representatives with the appropriate knowledge and expertise to review the Nordstrom Canada Entities' records with respect to the Claims filed in the Claims Process.<sup>14</sup> As the vast majority of Claims filed in the Claims Process by number are vendor Claims, representatives of the Nordstrom Canada Entities, in consultation with the Monitor, are in the process of communicating with such Claimants, and reconciling differences between Proofs of Claim and the Nordstrom Canada Entities' records.<sup>15</sup>

### **(a) Status of Resolution of Landlord Claims**

15. The six former Nordstrom full-line store Leases are subject to indemnities granted by Nordstrom US in favour of the applicable Landlord.<sup>16</sup> As outlined above, the Nordstrom Canada Entities have reached agreements in principle (subject to the execution of mutually agreeable definitive documentation) on (a) the Claims of Cadillac Fairview, the Landlord of five of the former Nordstrom full-line stores in Canada, in the CCAA estate and the claims associated with the indemnities granted by Nordstrom US to Cadillac Fairview, and (b) the Claims of Oxford, the

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<sup>12</sup> Stay Extension Affidavit at para 45.

<sup>13</sup> Stay Extension Affidavit at para 62.

<sup>14</sup> Stay Extension Affidavit at para 63.

<sup>15</sup> Stay Extension Affidavit at para 63.

<sup>16</sup> Stay Extension Affidavit at para 68.

Landlord of the former Nordstrom Yorkdale full-line store in Canada, in the CCAA estate and the claims associated with the indemnity granted by Nordstrom US to Oxford, in each case, to resolve such indemnity claims and to provide a framework for the resolution of the respective Claims in the CCAA estate.<sup>17</sup> These agreements are a significant milestone in the CCAA proceedings, as Cadillac Fairview and Oxford's Claims were collectively by far the largest third-party Claims filed in the Claims Process, and will resolve all issues surrounding the Leases for the Nordstrom full-line stores in Canada.<sup>18</sup>

16. The Nordstrom Canada Entities, with the assistance of the Monitor and its counsel, have also begun discussions with all of the remaining Nordstrom Rack Landlords regarding a resolution of their Claims in the estate and currently anticipate that resolution of such Claims will be completed in a timely manner.<sup>19</sup>

### **C. Development of the Plan of Compromise or Arrangement**

17. The Nordstrom Canada Entities and their counsel, in consultation with the Monitor, and where appropriate Nordstrom US and its counsel, are in the process of developing the terms and framework of a Plan to efficiently distribute the proceeds of realization to creditors. This involves the consideration of corporate, tax, insolvency and other structuring issues to ensure that any Plan presented to the creditors and the Court is fair and reasonable and deserving of approval. As set out above, the current intention of the Nordstrom Canada Entities is to complete their development and drafting of a Plan, and to seek a Meeting Order from the Court during the requested Stay Extension.<sup>20</sup>

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<sup>17</sup> Stay Extension Affidavit at para 69.

<sup>18</sup> Stay Extension Affidavit at para 69.

<sup>19</sup> Stay Extension Affidavit at para 70.

<sup>20</sup> Stay Extension Affidavit at para 67.



### **PART III - ISSUES AND THE LAW**

18. The issues on this motion are whether this Court should:
- (a) grant the proposed Stay Extension (including by extension the Co-Tenancy Stay);
  - (b) approve the wind-up and termination of the Employee Trust and grant releases to the Employee Trust Released Parties (defined below); and
  - (c) discharge the KERP Charge.

#### **A. The Stay Extension Should be Granted**

19. The Applicants are seeking to extend the Stay Period until and including December 22, 2023. This stay extension is necessary for the Nordstrom Canada Entities to (among other things) continue the process of completing the orderly wind-down of their business, resolving Claims in the Claims Process, and developing a Plan.

20. This Court is authorized to extend a CCAA stay pursuant to section 11.02(2) of the CCAA, provided that the two considerations outlined in section 11.02(3) are satisfied:

**11.02(2)** A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

- (a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

**(3)** The court shall not make the order unless

- (a) the applicant satisfies the court that circumstances exist that make the order appropriate; and

(b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

21. Both of the section 11.02(3) factors are satisfied here.
22. The Stay Extension is appropriate in the circumstances. An extension of the Stay Period, including the Co-Tenancy Stay, is necessary to allow the Claims Process to unfold as contemplated by the Claims Procedure Order and to allow the Nordstrom Canada Entities and their counsel to continue developing a Plan, in consultation with the Monitor, for the benefit of all stakeholders.<sup>21</sup> No party has alleged any prejudice as a result the Co-Tenancy Stay, and maintaining the Co-Tenancy Stay when resolving Claims and developing the Plan will continue to provide stability to the CCAA proceedings.<sup>22</sup>
23. Moreover, the Nordstrom Canada Entities have acted, and continue to act, in good faith and with due diligence in these CCAA proceedings.<sup>23</sup> The Nordstrom Canada Entities have made significant progress in these CCAA proceedings, including by completing the orderly wind-down and closure of their stores, implementing the lease transaction process, implementing a Claims Process, and taking steps to resolve the largest Claims filed in the Claims Process, and commencing, in earnest, the development of their Plan.<sup>24</sup>
24. It is the current intention of the Nordstrom Canada Entities to bring a motion seeking a Meeting Order during the requested Stay Extension.<sup>25</sup>

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<sup>21</sup> Stay Extension Affidavit at para 73.

<sup>22</sup> Stay Extension Affidavit at para 73. See also *Nordstrom Canada Retail Inc (Re)*, [2023 ONSC 1422](#) [*Nordstrom Initial Order Endorsement*] at paras 33-35.

<sup>23</sup> Stay Extension Affidavit at para 75.

<sup>24</sup> Stay Extension Affidavit at para 72.

<sup>25</sup> Stay Extension Affidavit at para 21.

25. The Monitor supports the proposed Stay Extension.<sup>26</sup> The Applicants and the Monitor are of the view that the Stay Extension, including the extension of the Co-Tenancy Stay, are in the best interest of the Nordstrom Canada Entities and their stakeholders. The Applicants and the Monitor have confirmed that the Applicants will have sufficient liquidity to fund the CCAA proceedings during the proposed Stay Extension.<sup>27</sup>

**B. The Employee Trust should be Wound Up and Releases Should be Granted**

26. The Initial Order approved of the creation of the Employee Trust for the benefit of employees of Nordstrom Canada, funded outside the estate by Nordstrom US. The Nordstrom Canada Entities and Nordstrom US wished to provide Nordstrom Canada employees with a measure of financial security during the wind-down process.<sup>28</sup> Nordstrom US therefore agreed to fund the Employee Trust to ensure that all Nordstrom Canada employees received, *inter alia*, the full amount of the minimum termination and severance pay owed to them under applicable employment standards legislation as soon as possible, without having to await the results of a claims process and implementation of a plan with distributions on account of proven claims.<sup>29</sup>

27. The agreement establishing the Employee Trust (the “**Trust Agreement**”) provided that the Monitor is the administrator (the “**Administrator**”), Gale Rubenstein, in her personal capacity, is the trustee (the “**Trustee**”), and Nordstrom US is the settlor of the Employee Trust (“**Settlor**”).<sup>30</sup>

28. Nordstrom US, as Settlor, has contributed a total of \$15.2 million to the Employee Trust.<sup>31</sup> To date, the Employee Trust has reimbursed Nordstrom Canada for approximately \$14.6 million

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<sup>26</sup> Stay Extension Affidavit at para 75.

<sup>27</sup> Stay Extension Affidavit at para 74.

<sup>28</sup> Stay Extension Affidavit at para 46; *Nordstrom* Initial Order Endorsement at paras 44-47.

<sup>29</sup> Stay Extension Affidavit at para 46.

<sup>30</sup> Stay Extension Affidavit at para 47.

<sup>31</sup> Stay Extension Affidavit at para 48.

that was paid by Nordstrom Canada to Beneficiaries of the Employee Trust for Eligible Employee Claims.<sup>32</sup> The amounts funded by Nordstrom US have also been used to pay for the costs and expenses associated with the Employee Trust.<sup>33</sup>

29. It is anticipated that the Employee Trust will be wound-up and terminated by mid-November 2023 following the completion of remaining activities, including tax filings and related payments (if any).<sup>34</sup> The Nordstrom Canada Entities have worked closely with Employee Representative Counsel, the Administrator, Nordstrom US, and the Trustee on all matters related to the Employee Trust. Employee Representative Counsel and the Trustee are supportive of the wind-up and termination of the Employee Trust upon the completion of remaining activities.<sup>35</sup>

30. It is proposed that the Employee Trust be wound-up and terminated upon the Monitor delivering a certificate stating that the Monitor has received written confirmations from the Trustee, the Administrator, the Settlor, Nordstrom Canada and Employee Representative Counsel, as applicable, that, (i) no further actions are required to be done pursuant to the terms of the Employee Trust, including that all required payments under the Employee Trust have been made; and (ii) such persons confirm their consent to the termination and wind-up of the Employee Trust.<sup>36</sup> The Monitor supports the requested relief.<sup>37</sup>

31. The Nordstrom Canada Entities are seeking a release of the Monitor as Administrator, Gale Rubenstein as Trustee, and Nordstrom US as Settlor of the Employee Trust (together, the

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<sup>32</sup> Stay Extension Affidavit at para 49.

<sup>33</sup> Stay Extension Affidavit at para 49.

<sup>34</sup> Stay Extension Affidavit at para 52.

<sup>35</sup> Stay Extension Affidavit at para 52.

<sup>36</sup> Stay Extension Affidavit at para 53.

<sup>37</sup> Stay Extension Affidavit at para 54.

**“Employee Trust Released Parties”**) from their respective obligations under the Trust Agreement and from any claims relating to their activities as Administrator, Trustee and Settlor, respectively.

32. This Court has the jurisdiction under section 11 of the CCAA, which allows this Court to make any order that it considers appropriate in the circumstances, to grant the requested releases.<sup>38</sup> Third party releases such as these (i.e. releases in favour of parties other than the CCAA debtor company) have been granted in many different contexts in CCAA proceedings. Third party releases may be granted outside of a plan of compromise or arrangement.<sup>39</sup>

33. Third party releases covering parties responsible for an employee trust were granted as part of the CCAA plan for Target Canada Co.<sup>40</sup> In that case, Morawetz J. (as he then was) concluded that “each of the Released Parties has contributed in tangible and material ways to the orderly wind-down of the Target Canada Entities’ business”.<sup>41</sup> The “Released Parties” included the employee trust released parties. The Employee Trust in these proceedings was generally modelled on the employee trust in the Target Canada proceeding.

34. The test for granting third party releases in a CCAA proceeding is well-established. The Court must ask: (a) whether the parties to be released were necessary to the restructuring of the debtor; (b) whether the claims to be released are rationally connected to the purpose of the restructuring and necessary for it; (c) whether the restructuring could succeed without the releases; (d) whether the parties being released contributed to the restructuring; and (e) whether the releases

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<sup>38</sup> CCAA, s. 11.

<sup>39</sup> *Green Relief (Re)*, 2020 ONSC 6837 [*Green Relief*] at para 28; see also for example *Harte Gold (Re)*, 2022 ONSC 653 at paras 78-86.

<sup>40</sup> *Target Canada Co (Re)*, 2016 ONSC 3651 [*Target*] at para 33.

<sup>41</sup> *Target* at paras 42-43.

benefit the debtors as well as the creditors generally.<sup>42</sup> It is not necessary for each of these factors to apply in order for the proposed release to be granted.<sup>43</sup>

35. The Nordstrom Canada Entities submit that the Employee Trust has played a key role in the Nordstrom Canada Entities' orderly wind-down and, when the Monitor delivers the certificate, its functions will have been fulfilled. The Employee Trust Released Parties have made necessary and tangible contributions to this proceeding: the Administrator and the Trustee through their roles administering the Employee Trust, and the Settlor through its funding of the Employee Trust. The claims to be released are rationally connected to the wind-down and the releases are appropriately limited in scope. Moreover, the Employee Trust Released Parties, through their roles in giving effect to the Employee Trust, have benefited all stakeholders by facilitating the resolution of Employee Claims.

36. The Nordstrom Canada Entities submit that the releases of the Employee Trust Released Parties are appropriate and should be granted.

### **C. Discharge of the KERP Charge**

#### **(a) Discharge of the KERP Charge**

37. It is just and appropriate for this Court to discharge the KERP Charge at this stage.

38. This Court previously approved a key employee retention plan (the "**KERP**") for 228 store-level employees and 37 non-store employees, and an associated charge over the property of the Applicants (the "**KERP Charge**") up to a maximum aggregate amount of approximately \$2.6

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<sup>42</sup> *Arrangement relatif à Black Rock Metals Inc.*, 2022 QCCS 2828 at para. 130, citing the test established in *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp*, 2008 ONCA 587.

<sup>43</sup> *Green Relief* at para 28.

million as security for payments under the KERP.<sup>44</sup> The KERP was developed by Nordstrom Canada, in consultation with the Monitor, and as supported by Employee Representative Counsel, to incentivize certain key active employees to remain in their positions during these CCAA proceedings.<sup>45</sup>

39. Nordstrom Canada, in consultation with the Monitor, has since made all applicable KERP payments to eligible employees in accordance with the terms of the KERP. No further payments are remaining under the terms of the KERP.<sup>46</sup> In light of this, the Applicants seek an order that the KERP Charge be terminated, released, and discharged as of the date of the September Stay Extension Order.<sup>47</sup>

#### **PART IV - NATURE OF THE ORDER SOUGHT**

40. For the foregoing reasons, the Applicants submit that this Court should grant the September Stay Extension Order.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 22<sup>nd</sup> day of September, 2023:



**OSLER, HOSKIN & HARCOURT, LLP**  
**per Hannah Davis**

P.O. Box 50, 1 First Canadian Place  
Toronto, ON M5X 1B8

Lawyers for the Applicants

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<sup>44</sup> Stay Extension Affidavit at para 55.

<sup>45</sup> Stay Extension Affidavit at para 56.

<sup>46</sup> Stay Extension Affidavit at para 58.

<sup>47</sup> Stay Extension Affidavit at para 60.

**TO: SERVICE LIST**



## SCHEDULE “A”: LIST OF AUTHORITIES

### *Cases*

1. *Arrangement relatif à Black Rock Metals Inc.*, [2022 QCCS 2828](#)
2. *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp.*, [2008 ONCA 587](#)
3. *Harte Gold (Re)*, [2022 ONSC 653](#)
4. *Green Relief (Re)*, [2020 ONSC 6837](#)
5. *Nordstrom Canada Retail Inc (Re)*, [2023 ONSC 1422](#)
6. *Target Canada Co (Re)*, [2016 ONSC 3651](#)

**SCHEDULE “B”**  
**TEXT OF STATUTES, REGULATIONS & BY-LAWS**

***COMPANIES’ CREDITORS ARRANGEMENT ACT***

R.S.C., 1985, c. C-36, as amended

**11** Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

**11.02(2)** A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

**(3)** The court shall not make the order unless

(a) the applicant satisfies the court that circumstances exist that make the order appropriate; and

(b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NORDSTROM  
CANADA RETAIL, INC., NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM CANADA  
HOLDINGS II, LLC

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

**PROCEEDING COMMENCED AT TORONTO**

**FACTUM**

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