

Court File No. CV-23-00704038-00CL

**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 YRC FREIGHT CANADA COMPANY, YRC LOGISTICS
INC., USF HOLLAND INTERNATIONAL SALES CORPORATION AND 1105481
ONTARIO INC.**

**APPLICATION OF YELLOW CORPORATION UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

Applicant

**FACTUM OF THE APPLICANT
(Motion Returnable December 9, 2024)**

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PART I – INTRODUCTION

1. Yellow Corporation (the “**Yellow Parent**”) files this factum in support of its motion for an Order (the “**Seventh Supplemental Order**”), among other things, recognizing and enforcing in Canada the Disclosure Statement Order and certain Additional Foreign Orders.¹ The Seventh Supplemental Order also provides for the approval of certain fees and disbursements of the Information Officer and its legal counsel, as well as the Information Officer’s reports filed in these recognition proceedings and the activities of the Information Officer described therein.

2. The Yellow Parent is the Foreign Representative in respect of the proceedings commenced by the Yellow Parent and certain of its affiliates (collectively, the “**Debtors**”), including YRC Freight Canada Company (“**YRC Freight Canada**”), YRC Logistics Inc., USF Holland International Sales Corporation and 1105481 Ontario Inc. (collectively, the “**Canadian Debtors**”), under chapter 11 of the United States Bankruptcy Code (the “**Chapter 11 Cases**”) before the United States Bankruptcy Court for the District of Delaware (the “**U.S. Bankruptcy Court**”).

3. The Debtors commenced the Chapter 11 Cases and these recognition proceedings to facilitate an orderly wind-down of the Debtors’ operations and conduct an orderly and value-maximizing sale of their portfolio of real estate and trucking assets, to be followed by a chapter 11 plan. The Debtors’ efforts in this regard have included, among other things, running a successful sale process for their Real Property Assets that enabled the Debtors to pay off all their prepetition funded debt, including all prepetition funded debt and both tranches of their debtor-in-possession

¹ Capitalized terms not otherwise defined in this Factum have the meanings set out in the Affidavit of Matthew A. Doheny sworn December 2, 2024 (the “**Eighth Doheny Affidavit**”), including terms therein defined by way of cross-reference. Unless otherwise indicated, dollar amounts referenced in this factum are references to U.S. Dollars.

financing, and liquidating their Rolling Stock Assets with the assistance of the Rolling Stock Agent. The Debtors' efforts in the Chapter 11 Cases have also included prosecuting twenty-two omnibus claims objections to try to reconcile their claims pool. There is certain pending litigation relating to certain of such claims, which will impact creditor recoveries.

4. As a result of such efforts, the Debtors have been able to move to the next phase of the Chapter 11 Cases – seeking confirmation of a chapter 11 plan and an eventual emergence from the Chapter 11 Cases in order to distribute value to creditors. On September 2, 2024, the Debtors filed the *Joint Chapter 11 Plan of Yellow Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* (as amended from time to time, the “**Plan**”) and the related disclosure statement (as amended from time to time, the “**Disclosure Statement**”).

5. The Plan, as initially proposed, provided for the flexibility following confirmation to liquidate or otherwise enter into a value-maximizing transaction or series of transactions in respect of the Debtors' remaining assets. Following the Withdrawal Liability Decision of the U.S. Bankruptcy Court – in which the U.S. Bankruptcy Court rejected the Debtors' argument that the relevant withdrawal liability claims filed against them should be fully disallowed on the basis of the relevant pension plans' prior receipt of special financial assistance from the U.S. federal government – the Debtors' filed amended versions of the Plan and Disclosure Statement, along with the Disclosure Statement Motion. The Plan, as amended, provides for the continuation of the Debtors' wind-down through the creation of the Liquidating Trust, which will, among other things, seek to wind down the Debtors' affairs and make distributions in accordance with the priorities established by the U.S. Bankruptcy Code.

6. The Canadian Debtors, as Debtors in the Chapter 11 Cases, are subject to the proposed Plan. Accordingly, if the Plan receives the requisite creditor approval, is confirmed by the U.S.

Bankruptcy Court and recognized by this Court, and implemented, the assets of the Canadian Debtors and other Debtors will vest in the Liquidating Trust as of the effective date of the Plan.

7. The Plan, if approved by creditors pursuant to the Debtors' ongoing solicitation of the Plan, confirmed by the U.S. Bankruptcy Court and implemented, will also facilitate recoveries to creditors. The fact that there are anticipated recoveries for creditors is a testament to the success of the Debtors' sale efforts in the Chapter 11 Cases.

8. For employee liabilities of the Canadian Debtors scheduled in the Debtors' schedules of asset and liabilities, it is expected that, if the Plan is approved by creditors, confirmed by the U.S. Bankruptcy Court and implemented, all such claims will recover in full as Class 3 (Other Priority Claims) and Class 4A (Employee PTO / Commission Full Pay GUC Claims) claims as none of these scheduled claims have non-priority amounts that exceed the Employee PTO / Commission Full Pay GUC Cap.

9. The U.S. Bankruptcy Court held the Disclosure Statement Hearing on November 21, 2024. The Disclosure Statement Order was entered on an unopposed basis after the Debtors had consensually resolved several objections and also implemented certain changes to the Disclosure Statement in light of comments made by the Honorable Craig T. Goldblatt at the Disclosure Statement Hearing. After the Disclosure Statement Hearing, the Debtors filed revised copies of the Disclosure Statement and the Plan, and a certification of counsel regarding a revised version of the form of Disclosure Statement Order.²

² In this factum, references to the Plan and the Disclosure Statement refer to the versions attached as Exhibits A-1 and B-2, respectively, to the *Notice of Filing of Revised Clean and Blackline Versions of (I) Second Amended Disclosure Statement for the Second Amended Joint Chapter 11 Plan of Yellow Corporation and its Debtor Affiliates Pursuant*

10. On November 22, 2024, the U.S. Bankruptcy Court entered the Disclosure Statement Order. The Disclosure Statement Order authorizes the Debtors to solicit votes on the Plan and approves the Disclosure Statement pursuant to section 1125 of the U.S. Bankruptcy Code as providing holders of claims entitled to vote on the Plan with adequate information to make an informed decision as to whether to accept or reject the Plan.

11. The Disclosure Statement Order establishes an extensive process to provide stakeholders with notice of and information related to the Plan (including the Disclosure Statement and other solicitation materials and documents), approves procedures for soliciting, receiving, and tabulating votes on the Plan, and establishes deadlines for objecting to the Plan. The process set forth in the Disclosure Statement Order will enable parties in interest, including Canadian creditors and stakeholders, to receive notice of the Plan and, where applicable, cast their vote with respect to the acceptance or rejection of the Plan. The solicitation and voting process embodied in the Disclosure Statement Order is the next step in the process of the Debtors, including the Canadian Debtors, to maximize value in the Chapter 11 Cases.

12. The Foreign Representative seeks recognition of the Disclosure Statement Order pursuant to the Court's jurisdiction under subsection 49(1) of the *Companies' Creditors Arrangement Act* (the "CCAA"). For the reasons discussed herein, the Foreign Representative submits that recognition of the Disclosure Statement Order is appropriate in the circumstances and in the best interests of the Canadian Debtors and their stakeholders.

13. Pursuant to the proposed Seventh Supplemental Order, the Foreign Representative also seeks recognition of the Additional Foreign Orders. The Additional Foreign Orders consist of: (i) the Fifth Solicitation Exclusivity Order; (ii) the ADR Procedures Order; (iii) the De Minimis Claims Settlement Procedures Order; (iv) the CBRE Retention Order; (v) the TMI Sublease Termination Approval Order; and (vi) the Québec Lease Termination Approval Order. The Foreign Representative submits that recognition of the Additional Foreign Orders will also facilitate the Debtors' efforts, including those of the Canadian Debtors, to advance their wind-down and sale efforts pursuant to the Chapter 11 Cases and these recognition proceedings.

14. Accordingly, the Foreign Representative respectfully requests that this Court grant the Seventh Supplemental Order.

PART II – SUMMARY OF THE FACTS

A. Background

15. The Debtors, including the Canadian Debtors, are part of an approximately 100-year-old trucking and logistics company (“**Yellow**” or the “**Company**”), which boasted one of the largest less-than-truckload networks in North America. While Yellow operated an integrated, global business, by far its largest presence was in the United States. Yellow’s Canadian business represented approximately 2% of the Company’s overall business.³

³ [Affidavit of Matthew A. Doheny dated August 7, 2023](#) at paras 6 and 9.

16. On August 6, 2023, the Debtors (including the Canadian Debtors) commenced the Chapter 11 Cases in the U.S. Bankruptcy Court by filing voluntary petitions for relief under the U.S. Bankruptcy Code.⁴

17. On August 8, 2023, this Court granted an interim stay order which, among other things, granted a stay of proceedings in respect of the Canadian Debtors and the Yellow Parent, and their respective directors and officers, in Canada.⁵

18. Following a hearing on August 9, 2023, in respect of the first day motions filed by the Debtors in the U.S. Bankruptcy Court, the U.S. Bankruptcy Court granted certain First Day Orders, including an order appointing the Yellow Parent as the Foreign Representative.⁶

19. On August 29, 2023, this Court granted: (a) the Initial Recognition Order, among other things, recognizing the Yellow Parent as the “foreign representative” in respect of the Chapter 11 Cases and the Chapter 11 Cases as a “foreign main proceeding” pursuant to section 47 of the CCAA; and (b) the First Supplemental Order, among other things, (i) ordering a stay of proceedings in respect of the Canadian Debtors and the Yellow Parent, and their respective directors and officers, in Canada, (ii) appointing Alvarez & Marsal Canada Inc. as the Information Officer, (iii) recognizing certain of the orders issued by the U.S. Bankruptcy Court, and (iv) granting the Administration Charge, the D&O Charge and the DIP Charge.⁷

⁴ Eighth Doheny Affidavit at para 4 [[A7874:A21](#)].

⁵ Eighth Doheny Affidavit at para 5 [[A7875:A22](#)].

⁶ Eighth Doheny Affidavit at para 6 [[A7875:A22](#)].

⁷ Eighth Doheny Affidavit at para 8 [[A7875:A22 – A7876:A23](#)]; *Yellow Corporation et al* (29 August 2023) Toronto, Ont Sup Ct J [Commercial List] CV-23-00704038-00CL ([Initial Recognition Order \(Foreign Main Proceeding\)](#)) [*Initial Recognition Order*]; *Yellow Corporation et al.* (29 August 2023) Toronto, Ont Sup Ct J [Commercial List] CV-23-00704038-00CL ([Supplemental Order \(Foreign Main Proceeding\)](#)).

20. Additional updates and information related to the Debtors' efforts and activities during the Chapter 11 Cases and these recognition proceedings are discussed in the Eighth Doheny Affidavit and the Information Officer's Seventh Report dated December 3, 2024.

B. Status of Sales Processes

21. Prior to the petition date, the Debtors commenced an extensive process to market their assets, including, among other things, (i) their portfolio of owned and leased Real Property Assets located across numerous U.S. states and Canadian provinces, and (ii) their various Rolling Stock Assets. The Debtors have continued to advance such marketing and sale efforts within the Chapter 11 Cases pursuant to the Bidding Procedures Order, which was recognized by this Court on September 29, 2023.⁸

22. The Debtors' sale efforts are described in the Eighth Doheny Affidavit. In summary, the Debtors' sale efforts have been tremendously successful. The Debtors' November 2023 auction for 128 owned and two leased properties resulted in execution of 21 asset purchase agreements, totaling approximately \$1.88 billion of sale proceeds.⁹ Proceeds from such transactions have enabled the Debtors to pay off all of their prepetition funded debt obligations, as well as both tranches of their debtor-in-possession financing.¹⁰

23. The Debtors' efforts to market their remaining Real Property Assets remain ongoing. The Debtors retained CBRE as broker and real estate advisor to assist in this process, and obtained the

⁸ Eighth Doheny Affidavit at para 25 [[A7883:A30](#)]; *Yellow Corporation et al.* (29 September 2023) Toronto, Ont Sup Ct J [Commercial List] CV-23-00704038-00CL ([Second Supplemental Order](#)) [*Second Supplemental Order*].

⁹ The Debtors sought and obtained the Real Property Assets Sale Order from the U.S. Bankruptcy Court on December 12, 2023 approving such sale transactions, including sale transactions for two Canadian properties. The Real Property Assets Sale Order was recognized by this Court pursuant to the Sale Recognition and Vesting Order on December 19, 2023.

¹⁰ Eighth Doheny Affidavit at para 28 [[A7884:A31 – 7885:A32](#)].

CBRE Retention Order from the U.S. Bankruptcy Court on August 23, 2024. The Foreign Representative is seeking recognition of the CBRE Retention Order pursuant to the proposed Seventh Supplemental Order.¹¹

24. The Debtors' remaining Real Property Assets, which, as at September 25, 2024 consisted of 47 owned properties and 65 leased properties, includes two Canadian owned properties and nine Canadian leased properties. The Debtors are currently advancing sale efforts for such remaining Real Property Assets on the following timeline:

Date and Time	Event or Deadline
January 6, 2025 at 5:00 p.m. (E.T.)	Bid Deadline
As soon as reasonably practicable following the Bid Deadline	Notification to parties of "Qualified Bidder" status
January 13-15, 2025 at 9:00 a.m. (E.T.)	Auction (if any)
January 17, 2025 (or as soon as practicable thereafter)	Filing of Notice of Winning Bidders and Back-Up Bidders (as applicable)
January 27, 2025 at 4:00 p.m. (E.T.)	Objection Deadline
January 30, 2025 at 10:00 a.m. (E.T.)	Sale Hearing
February 2025 or as soon as practicable thereafter	Sale Closings (as applicable)

25. The Debtors, with the assistance of the Rolling Stock Agent, have also undertaken extensive efforts to maximize the value of their Rolling Stock Assets pursuant to the Rolling Stock Sale Order, which was recognized by this Court pursuant to the Third Supplemental Order on November 8, 2023. The Rolling Stock Agent has held 17 auctions in respect of Canadian Rolling Stock Assets, generating approximately CA\$2.9 million of gross proceeds.¹²

¹¹ Eighth Doheny Affidavit at para 34 [[A7887;A34](#)].

¹² Eighth Doheny Affidavit at para 41 [[A7890;A37](#)]; *Yellow Corporation et al.* (8 November 2023) Toronto, Ont Sup Ct J [Commercial List] CV-23-00704038-00CL ([Third Supplemental Order](#)).

C. Status of Claims Process and Litigation Matters

26. On September 13, 2023, the U.S. Bankruptcy Court entered the Bar Date Order, which approved the procedures and deadlines for submitting claims against the Debtors (including the Canadian Debtors) and the procedures for providing notice of the claims procedure. On September 29, 2023, the Bar Date Order was recognized in Canada by this Court pursuant to the Second Supplemental Order.¹³

27. In total, approximately 13,540 proof of claims asserting over \$10 billion in claims against the Debtors were filed.¹⁴

28. Among the claims filed, there have been approximately 1,300 proofs of claim filed relating to claims for failure to provide advance notice under the *Workers' Adjustment Notification Act* or its state level equivalents (collectively, the “**WARN Act Claims**”), as well as various claims filed by multiemployer pension plans alleging withdrawal liability (collectively, the “**MEPP Claims**”). The MEPP Claims include claims by MEPPs that received special financial assistance from the U.S. federal government (the “**SFA MEPP Claims**”) and claims by MEPPS that did not receive such special financial assistance (collectively, the “**Non-SFA MEPP Claims**”).¹⁵

29. The Debtors have filed twenty-two omnibus objections to claims, including as against both the WARN Act Claims and the MEPP Claims. The following are certain key dates with respect to litigation relating to such claims:

¹³ Eighth Doheny Affidavit at para 49 [[A7892;A39](#)]; [Second Supplemental Order](#).

¹⁴ Eighth Doheny Affidavit at para 50 [[A7892;A39](#)]; [Second Supplemental Order](#).

¹⁵ Eighth Doheny Affidavit at paras 51-52 [[A7892;A39 – A7893;A40](#)].

- (a) trial to be conducted regarding the WARN Act Claims between January 21, 2025 and January 23, 2025;
- (b) omnibus hearing and argument regarding certain issues related to the Non-SFA MEPP Claims scheduled for December 16, 2024; and
- (c) argument with respect to various issues related to the SFA MEPP Claims and the Non-SFA MEPP Claims, including whether the Debtors had defaulted on their withdrawal liability obligation, scheduled for January 28, 2025.¹⁶

30. The final determination of such claims will impact recoveries to all holders of General Unsecured Claims. As described in the Eighth Doheny Affidavit, the pension plan withdrawal and termination liabilities have been asserted against all Debtors on a joint and several basis. These claims are subject to ongoing litigation. Among other unresolved matters, the amount of such claims, and whether such claims can be asserted against the Canadian Debtors on a joint and several basis, remains to be determined.¹⁷

D. The Plan

31. The Plan, as amended, provides for the continuation of the Debtors' wind-down through the creation of the Liquidating Trust. In general, the Plan: (i) provides for the vesting of certain assets following the Effective Date in the Liquidation Trust for the purpose of distribution to holders of Claims; (ii) designates a Liquidating Trustee to wind down the Debtors' affairs, pay, and reconcile Claims, and administer the Plan in an efficient manner; and (iii) contemplates

¹⁶ Eighth Doheny Affidavit at para 61 [[A7894;A41 – A7895;A42](#)].

¹⁷ Eighth Doheny Affidavit at para 88-90 [[A7909;A56](#)].

recoveries to holders of Administrative Claims and Other Priority Claims as is necessary under the U.S. Bankruptcy Code.¹⁸

32. The key terms of the Plan are detailed in the Disclosure Statement, which, pursuant to the Disclosure Statement Order has been approved by the U.S. Bankruptcy Court.¹⁹

33. The Plan classifies holders of claims and interests into 10 classes, only one of which is a voting class. The classes and their respective treatment and voting statuses are described in the Eighth Doheny Affidavit.²⁰

34. The Canadian Debtors are subject to the proposed Plan. If the Plan receives the requisite creditor approval, is confirmed by the U.S. Bankruptcy Court and recognized by this Court, and implemented, the assets of the Canadian Debtors, along with those of the other Debtors, will vest in the Liquidating Trust as of the effective date of the Plan.²¹

35. Regarding employee liabilities of the Canadian Debtors, as discussed in the Eighth Doheny Affidavit, it is expected that all scheduled employee claims will recover in full as Class 3 (Other Priority Claims) and Class 4A (Employee PTO / Commission Full Pay GUC Claims) claims.²²

36. The Plan also contains provisions with respect to the granting of the third party releases depending on whether a particular creditor or interest holder votes for, against, or does not vote on the Plan. A creditor or interest holder can opt in or opt out, as applicable, to grant the third party releases in circumstances where the creditor votes against the Plan or is deemed to reject the Plan.

¹⁸ Eighth Doheny Affidavit at para 68 [[A7897:A44](#)].

¹⁹ Eighth Doheny Affidavit at para 69 [[A7897:A44](#)].

²⁰ Eighth Doheny Affidavit at para 70 [[A7898:A45 – A7901:A48](#)].

²¹ Eighth Doheny Affidavit at para 15 [[A7879:A26](#)].

²² Eighth Doheny Affidavit at para 81 [[A7905:A52](#)].

The specific release deeming provisions and opt in and opt out requirements are described in the Disclosure Statement and the proposed Plan.²³

E. The Disclosure Statement Order

37. The U.S. Bankruptcy Court held the Disclosure Statement Hearing on November 21, 2024, and entered the Disclosure Statement Order on November 22, 2024. Certain objections and limited objections to the Disclosure Statement Motion were filed in advance of the hearing by (i) the U.S. Trustee, (ii) CSPF and certain MEPPs that filed a joinder to CSPF's objection, and (iii) MFN and Mobile Street, LLC. The Disclosure Statement Order was entered on an unopposed basis after the Debtors consensually resolved a number of such objections and also implemented certain changes to the Disclosure Statement in light of comments made by the Honorable Craig T. Goldblatt at the Disclosure Statement Hearing.²⁴

38. The UCC did not object to the Disclosure Statement Motion but filed a statement in which the UCC stated that certain unresolved issues remained from the UCC perspective with respect to Plan, in particular, the selection of the Liquidating Trustee and the Liquidating Trust Board of Managers. The parties agreed to include in the Solicitation Package a letter from the UCC to General Unsecured Creditors advising, among other things, that the UCC does not at this time recommend to vote to accept or reject the Plan, and that the UCC will file a further notice on the docket of the Chapter 11 Cases prior to the Voting Deadline to provide its recommendation as to how General Unsecured Creditors should vote.²⁵

²³ Eighth Doheny Affidavit at para 93-95 [[A7910;A57 – A7911;A58](#)].

²⁴ Eighth Doheny Affidavit at para 16, 96 [[A7879;A26 – A7880;A27](#), [A7911;A58 – A7912;A59](#)].

²⁵ Eighth Doheny Affidavit at para 97 [[A7912;A59](#)].

39. The Disclosure Statement Order approves, among other things: (a) the Disclosure Statement as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code; (b) the Solicitation and Voting Procedures; (c) the forms of notices of non-voting status and the opt-in form for holders of Claims or Interest who wish to opt in to the Third-Party Release; (d) the forms of ballots and procedures for the distribution thereof; (e) the form of cover letter from the Debtors describing the contents of the Solicitation Package, which also urges claimants with voting claims to vote to accept the Plan; (f) the Confirmation Hearing Notice and directs such notice to be submitted for publication in the *New York Times* (national edition) and *The Globe and Mail*; (g) the notice relating to the filing of the Plan Supplement; and (h) the form of notice to be sent to counterparties to Executory Contracts and Unexpired Leases that will be assumed by the Debtors.²⁶

40. The Disclosure Statement Order does not approve or confirm the Plan. If the Plan receives requisite creditor approvals, the Debtors intend to seek, at the Confirmation Hearing, an order of the U.S. Bankruptcy Court confirming the Plan pursuant to section 1129 of the U.S. Bankruptcy Code (the proposed “**Confirmation Order**”).²⁷

41. Implementation of the Plan is conditioned on, among other things, the U.S. Bankruptcy Court having entered the Confirmation Order. In addition, the implementation of the Plan in respect of the Canadian Debtors is conditioned on this Court having granted an order recognizing and giving full force and effect in Canada to the Confirmation Order and the Plan.²⁸

²⁶ Eighth Doheny Affidavit at para 99 [[A7912:A59 – A7914:A61](#)].

²⁷ Eighth Doheny Affidavit at para 19 [[A7881:A28](#)].

²⁸ Eighth Doheny Affidavit at para 136 [[A7925:A72](#)]. See the Plan at Article X.A.3 (“Conditions Precedent to Confirmation of the Plan”): “It shall be a condition to the Effective Date of the Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Article X.B hereof: . . . 3. solely as it relates to the occurrence of the Effective Date in respect of the Canadian Debtors, the Canadian Plan Recognition Order shall have been granted by the Canadian Court and remain in full force and effect.”

F. Key Plan Related Dates and Deadlines

42. The Disclosure Statement Order establishes the following dates and deadlines with respect to the confirmation of the Plan:²⁹

Event	Date
Solicitation Mailing Deadline	Ten business days following entry of the Disclosure Statement Order
Publication Deadline	Three business days following entry of the Disclosure Statement Order (or as soon as reasonably practicable thereafter)
Plan Supplement Filing Deadline	January 14, 2025
Voting Deadline, Opt-In Deadline	January 21, 2025, at 4:00 p.m., prevailing Eastern Time
Plan Objection Deadline	January 21, 2025, at 4:00 p.m., prevailing Eastern Time
Deadline to File Voting Report	January 28, 2025
Confirmation Brief and Plan Objection Reply Deadline	January 31, 2025
Confirmation Hearing Date	February 4, 2025, at 2:00 p.m., prevailing Eastern Time

G. The Additional Foreign Orders

43. The Foreign Representative also seeks to have recognized in Canada the following Additional Foreign Orders granted by the U.S. Bankruptcy Court:

- (a) **The Fifth Solicitation Exclusivity Order**, extending the period during which the Debtors have the exclusive right to solicit votes on the Plan. The Foreign Representative seeks recognition of the Fifth Solicitation Exclusivity Order to provide the Debtors with the assurance that its exclusivity will be respected.³⁰

²⁹ Eighth Doheny Affidavit at para 100 [[A7914;A61](#)].

³⁰ Eighth Doheny Affidavit at para 103-106 [[A7915;A62 – A7916;A63](#)].

- (b) **The ADR Procedures Order**, which was granted by the U.S. Bankruptcy Court on February 26, 2024, approving certain alternate dispute resolution procedures (the “**ADR Procedures**”) designed to facilitate the efficient resolution of claims arising before the Petition Date for personal injury or wrongful death, or for property damage, along with any related claims (collectively, “**Litigation Claims**”), against the Debtors which the Debtors believe are covered by its insurance policies, or for claims against non-debtor third parties for which the Debtors retain ultimately liability. The Debtors and ORIC have identified certain Claimants with potential Litigation Claims against the Canadian Debtors, and the Debtors anticipate using the ADR Procedures Order to address and resolve such Litigation Claims.³¹
- (c) **The De Minimis Claims Settlement Procedures Order** granted by the U.S. Bankruptcy Court on August 13, 2024, approving among other things, certain procedures to allow for the compromise and settlement of *de minimis* claims against the Debtors, and, if applicable, any cross-claims the Debtors hold, and approves the proposed form and manner of notice provided to affected creditors. The Foreign Representative is seeking recognition in Canada of the De Minimis Claims Settlement Procedures Order given such procedures may be used by the Canadian Debtors to settle *de minimis* claims or by Debtors, other than the Canadian Debtors, to settle *de minimis* claims held by Canadian claimants.³²

³¹ Eighth Doheny Affidavit at para 107-113 [[A7916;A63 – A7919;A66](#)].

³² Eighth Doheny Affidavit at para 114-118 [[A7919;A66 – A7921;A68](#)].

- (d) **The CBRE Retention Order** approving the Debtors' retention of CBRE to provide real estate brokerage and transaction management and supervisory services with respect to the Debtors' remaining Real Property Assets. Given certain of the Debtors' remaining Real Property Assets are located in Canada, the Foreign Representative seeks recognition in Canada of the CBRE Retention Order.³³
- (e) **The TMI Sublease Termination Approval Order** approving the stipulation by and among the Debtors and TMI with respect to the termination of the Mississauga Sublease Agreement between YRC Freight Canada and Transport Morneau Inc. pursuant to the related lease termination agreement. As the Mississauga Sublease Agreement relates to a property located in Canada, the Foreign Representative is now seeking recognition in Canada of the TMI Sublease Termination Approval Order.³⁴
- (f) **The Québec Lease Termination Approval Order** approving the lease termination agreement between YRC Freight Canada and 9433-8142 Québec Inc. with respect to the Québec Lease. The Foreign Representative seeks recognition of the Québec Lease Termination Order given, among other things, it relates to YRC Freight Canada and certain of its assets and properties in Canada, including the Québec Lease.³⁵

³³ Eighth Doheny Affidavit at para 119-122 [[A7921;A68 – A7922;A69](#)].

³⁴ Eighth Doheny Affidavit at para 123-127 [[A7922;A69 – A7923;A70](#)].

³⁵ Eighth Doheny Affidavit at para 128-134 [[A7924;A71 – A7925;A72](#)].

PART III - ISSUES AND THE LAW

44. The issue on this motion is whether the Court should grant the Seventh Supplemental Order, among other things, recognizing the Disclosure Statement Order and the Additional Foreign Orders under Part IV of the CCAA.

A. The Court has Jurisdiction to Grant the Seventh Supplemental Order

45. This Court recognized the Chapter 11 Cases as a “foreign main proceeding” under section 47 of the CCAA pursuant to the Initial Recognition Order.³⁶ When a foreign main proceeding has been recognized under Part IV of the CCAA, subsection 49(1) provides the Court with broad jurisdiction to grant “any order that it considers appropriate” with respect to such foreign proceedings if the Court is satisfied that it is necessary for the protection of the debtor company’s property or the interests of a creditor or creditors.³⁷ An order under Part IV of the CCAA “may be made on any terms and conditions that the court considers appropriate in the circumstances.” Accordingly, this Court has the jurisdiction to grant the Seventh Supplemental Order.

B. Recognition of the Disclosure Statement Order and the Additional Foreign Orders is Consistent with the Principle of Comity

46. This Court has noted that “[t]he purpose of Part IV of the CCAA is to effect cross-border insolvencies and create a system under which foreign insolvency proceedings can be recognized in Canada.”³⁸ This statement corresponds with the stated purposes of Part IV of the CCAA set out

³⁶ Initial Recognition Order at para 3.

³⁷ [CCAA, s 49\(1\)](#).

³⁸ [Zochem Inc. \(Re\)](#), 2016 ONSC 958 at para [15](#).

in section 44 of the CCAA, which include the promotion of: (a) cooperation between the courts and other competent authorities in Canada with those of foreign jurisdictions; and (b) the fair and efficient administration of cross-border insolvencies that protects the interests of creditors and other interested persons, and those of debtor companies; and (c) the protection and maximization of the value of the debtor company's property.³⁹

47. Comity is central to achieving these objectives. Comity requires that Canadian courts recognize and enforce the judicial acts of other jurisdictions, provided that those other jurisdictions have assumed jurisdiction on a basis consistent with principles of order, predictability and fairness.⁴⁰ Subsection 52(1) of the CCAA provides that if a proceeding is recognized by a Canadian court under the CCAA as a foreign proceeding, "the court shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding."⁴¹

48. Canadian courts have consistently emphasized comity and cooperation between courts across jurisdictions to facilitate successful cross-border restructurings.⁴² For example, this Court held in *Purdue Pharma* and *Mallinckrodt* that recognition of disclosure statement orders helps coordinate the restructuring proceedings in both the U.S. and Canada and is consistent with the principles of comity and cross-border cooperation.⁴³

³⁹ [CCAA, s 44](#).

⁴⁰ [In the Matter of Voyager Digital Ltd](#), 2022 ONSC 4553 at para 9.

⁴¹ [CCAA, s 52\(1\)](#).

⁴² [Caesars Entertainment Operating Company, Inc. \(Re\)](#), 2015 ONSC 712 at para. 38.

⁴³ [Re Purdue Pharma L.P. et al. CV-19-627656-00CL](#), Endorsement of Conway J. dated July 5, 2021, at para. 3; [Re Mallinckrodt Canada ULC et al., CV-20-00649441-00CL](#), Endorsement of Patillo J. dated July 9, 2021.

49. Typically, a Canadian court will only refuse to recognize an order of another court if subsection 61(2) of the CCAA is engaged. Subsection 61(2) of the CCAA provides that “Nothing in this Part [IV] prevents the court from refusing to do something that would be contrary to public policy.”⁴⁴ The Foreign Representative submits that nothing in the Seventh Supplemental Order is contrary to public policy and in fact, as is discussed below, this Court has granted similar Orders.

50. In considering whether to recognize an order made in a foreign insolvency proceeding, a Canadian court will consider, among other things: (a) the principles of comity and the need to encourage cooperation between courts of various jurisdictions; (b) the need to respect foreign bankruptcy and insolvency legislation; (c) the equitable treatment of stakeholders, and, to the extent reasonably possible, the equal treatment of stakeholders regardless of the jurisdiction in which they reside; and (d) that the appropriate level of court involvement depends to a significant degree upon the court’s nexus to the enterprise.⁴⁵ A consideration of these factors supports this Court’s recognition of the Disclosure Statement Order and the Additional Foreign Orders pursuant to the Seventh Supplemental Order.

C. Recognition of the Disclosure Statement Order is Appropriate

51. Recognition of the Disclosure Statement Order by this Court is consistent with Part IV of the CCAA, the principles of comity, and the approval of similar orders commonly granted in Canadian restructuring proceedings.

52. The Disclosure Statement Order does not approve or confirm the Plan. As stated above, if the Plan receives requisite creditor approval, the Debtors intend to seek the Confirmation Order,

⁴⁴ [CCAA, s 61\(2\)](#).

⁴⁵ [Xerium Technologies Inc. Re](#), 2010 ONSC 3974 at paras [26-27](#).

which is a condition precedent to implementation of the Plan. Further, the implementation of the Plan in respect of the Canadian Debtors is conditioned on this Court having granted an order recognizing and giving full force and effect in Canada to the Confirmation Order and the Plan.⁴⁶

53. The Disclosure Statement Order, among other things, approves: (a) the procedures for (i) soliciting, receiving, and tabulating votes to accept or reject the Plan, (ii) voting to accept or reject the Plan, and (iii) filing objections to the Plan; (b) the forms of notices of non-voting status and the opt-in form for holders of Claims or Interest who wish to opt in to the Third-Party Release; (c) approves the forms of ballots and procedures for the distribution thereof; (d) the form of cover letter from the Debtors describing the contents of the Solicitation Package, which also urges claimants with voting claims to vote to accept the Plan; and (e) the form and manner of notice of the Confirmation Hearing, including directing such notice to be submitted for publication in the *New York Times* (national edition) and *The Globe and Mail*.⁴⁷

54. In granting the Disclosure Statement Order, the U.S. Bankruptcy Court determined, among other things, that: (a) the Disclosure Statement provides holders of Claims entitled to vote on the Plan with adequate information to make an informed decision as to whether to vote to accept or reject the Plan; (b) Disclosure Statement and its exhibits provide holders of Claims and Interests, and other parties in interest with sufficient notice of the injunction, exculpation, and release provisions contained in the Plan.⁴⁸

⁴⁶ Eighth Doheny Affidavit at para 19 [[A7881:A28](#)]. See the Plan at Article X.A.3 (“Conditions Precedent to Confirmation of the Plan”): “It shall be a condition to the Effective Date of the Plan that the following conditions shall have been satisfied or waives pursuant to the provisions of Article X.B hereof: . . . 3. solely as it relates to the occurrence of the Effective Date in respect of the Canadian Debtors, the Canadian Plan Recognition Order shall have been granted by the Canadian Court and remain in full force and effect.”

⁴⁷ Eighth Doheny Affidavit at para 99 [[A7912:A59](#) – [A714:A61](#)].

⁴⁸ See Disclosure Statement Order at paras 2 and 3.

55. The Disclosure Statement Order is similar in nature to meeting orders granted in the context of plenary CCAA proceedings. The standard for issuing a meeting order under the CCAA and permitting a plan to proceed to a vote of creditors is low.⁴⁹ The feasibility of a plan is a relevant factor to be considered, but the Court does not impose a heavy burden to establish the likelihood of ultimate success at the outset.⁵⁰ Rather, a meeting order is a procedural step in the CCAA process and the Court need not address the “fairness and reasonableness” of the plan when determining whether to grant a meeting order.⁵¹ Fairness and reasonableness is considered at a plan sanction hearing.⁵²

56. In addition, this Court has recently recognized similar orders to the Disclosure Statement Order in other CCAA Part IV recognition proceedings.⁵³

57. The Disclosure Statement Order establishes, among other things, an extensive process to provide stakeholders with notice of and information related to the Plan, procedures for soliciting, receiving, and tabulating votes on the Plan, and deadlines for objecting to the Plan and the Disclosure Statement. The process set forth in the Disclosure Statement Order will enable parties in interest, including Canadian creditors and stakeholders, to receive notice of the Plan and, where applicable, cast their vote with respect to the acceptance or rejection of the Plan.

⁴⁹ *Quest University Canada (Re)*, [2020 BCSC 1845](#) at para. 46.

⁵⁰ *Laurentian University of Sudbury*, [2022 ONSC 4433](#) at para. 23.

⁵¹ *Jaguar Mining Inc. (Re)*, [2014 ONSC 494](#) at para. 48.

⁵² *Stelco Inc., Re*, [\[2005\] O.J. No. 4814 \(Ont. S.C.J. \(Commercial List\)\)](#) at para. 15.

⁵³ See e.g., *Paladin Labs Canadian Holding Inc et al.* (24 January 2024), Ont Sup Ct J [Commercial List] CV-22-00685631-00CL ([Fifth Supplemental Order](#)) at para 3; *WeWork Inc, et al* (26 June 2024), Ont Sup Ct J [Commercial List] CV-23-00709258-00CL ([Confirmation Recognition and Fifth Supplemental Order](#)) at para 9(e); *Re Mallinckrodt Canada ULC et al.* (9 July 2021), Ont Sup Ct J [Commercial List] Court File No. CV-20-00649441-00CL ([Recognition of Disclosure Statement Order](#)); *Re Purdue Pharma L.P. et al.* (5 July 2021), Ont Sup Ct J [Commercial List] Court File No. CV-19-627656-00CL ([Re: Disclosure Statement Order](#)).

58. The Disclosure Statement Order, and the voting and solicitation procedures it establishes, are essential to ensure the efficient and orderly administration of the Chapter 11 Cases and these recognition proceedings. The process embodied in the Disclosure Statement Order, including creditor voting on the Plan and the scheduling of the Combined Hearing for confirmation of the Plan if it is approved by creditors, is a necessary and appropriate next step in the Debtors' efforts to wind-down its operations.

59. The Foreign Representative submits that recognition of the Disclosure Statement Order by this Court is consistent with Part IV of the CCAA, the principles of comity, and the type of relief commonly granted in Canadian insolvency proceedings.

D. Recognition of the Additional Foreign Orders is Appropriate

60. The Foreign Representative further seeks recognition in Canada of the Additional Foreign Orders. The Additional Foreign Orders help to facilitate the Debtors' wind-down efforts, and the Foreign Representative respectfully submits that recognition of each of the Additional Foreign Orders, which are detailed further below, is therefore necessary to administer and maximize the value of the Canadian Debtors' estates, appropriate in the circumstances and in the best interests of the Canadian Debtors and their stakeholders.

61. Each of the Additional Foreign Orders satisfy the factors necessary for this Court to grant recognition thereof. The dictates of comity are described above and the elements of the Additional Foreign Orders described herein speak to the remaining factors. No elements of the Additional Foreign Orders are contrary to Canadian public policy and, therefore, none of these are contrary to subsection 61(2) of the CCAA.

(i) **Recognition of the Fifth Solicitation Exclusivity Order**

62. The Debtors filed certain motions and obtained orders from the U.S. Bankruptcy Court extending the exclusive periods during which only the Debtors may file a chapter 11 plan and solicit acceptances thereof. Most recently, the Debtors obtained the Fifth Solicitation Exclusivity Order given the timeline proposed for the confirmation of the Plan extends approximately one month beyond the Solicitation Exclusivity Period then in effect, being December 30, 2024. The Fifth Solicitation Exclusivity Order extends the Solicitation Exclusivity Period through and including the earlier of (i) the date of entry of an order confirming the Plan and (ii) February 28, 2025, without prejudice to the Debtors' right to seek further extensions to such Solicitation Exclusivity Period.

63. Recognition of the Solicitation Exclusivity Order is necessary to ensure that the Debtors have the exclusive right to solicit votes on the Plan.⁵⁴ This Court has previously recognized similar orders in other Part IV recognition proceedings.⁵⁵

(ii) **Recognition of the ADR Procedures Order**

64. The ADR Procedures Order and the procedures instituted thereunder are designed to facilitate the efficient resolution of Litigation Claims, thereby minimizing expenses for all interested parties, maximizing potential recoveries and helping to progress the overall administration of claims.

⁵⁴ Eighth Doheny Affidavit at para 104 [[A7915;A62 – A7916;A73](#)].

⁵⁵ See, e.g., *LightSquared LP, Re* (8 March 2013), Ont Sup Ct J [Commercial List] CV-12-9719-00CL ([Recognition Order](#)) at para 2(a).

65. CCAA courts have, in a number of cases, approved alternative dispute resolution processes, such as mediation, in order to resolve certain claims against a CCAA debtor and advance the administration of the proceedings.⁵⁶

(iii) **Recognition of the De Minimis Claims Settlement Procedures Order**

66. The Debtors obtained the De Minimis Claims Settlement Procedures Order in an effort to minimize expenses and maximize value for the stakeholders of the Debtors' estates. This Court has recognized similar orders to the De Minimis Claims Settlement Procedures Order to allow Canadian debtors to efficiently deal with claims having a *de minimis* value.⁵⁷

(iv) **Recognition of the CBRE Retention Order**

67. Recognition of the CBRE Retention Order Recognition will assist the Debtors in advancing matters relating to their remaining Real Property Assets, including those properties located in Canada, and thereby facilitate the Debtors' efforts to wind-down and liquidate their assets.⁵⁸

68. This Court has previously recognized orders similar to the CBRE Retention Order, approving the retention of individuals providing professional services in furtherance of the wind-down or restructuring of a Canadian debtor, including in this case pursuant to the Third Supplemental Order approving the Rolling Stock Agency Agreement.⁵⁹

⁵⁶ See e.g., *Laurentian University of Sudbury* (5 February 2021), Ont Sup Ct J [Commercial List] CV-21-00656040-00CL ([Order \(Re: Appointment of Mediation\)](#)); and *Sears Canada et al.*, (9 May 2019), Ont Sup Ct J [Commercial List] CV-17-11846--00CL ([Stay Extension and Approval of Mediation Process](#)) at para 3.

⁵⁷ *WeWork Inc, et al.* (14 December 2023), Ont Sup Ct J [Commercial List] CV-23-00709258-00CL ([Second Supplemental Order \(Foreign Main Proceedings\)](#)) at para 3(k).

⁵⁸ Eighth Doheny Affidavit at para 119 [[A7921;A68](#)].

⁵⁹ [Third Supplemental Order](#) at para 3.

(v) **Recognition of the Sublease/Lease Termination Approval Orders**

69. The Debtors have sought and obtained authorization from the U.S. Bankruptcy Court as part of their wind-down efforts to terminate the Mississauga Sublease Agreement and the Québec Lease pursuant to the TMI Sublease Termination Approval Order and the Québec Lease Termination Approval Order, respectively.

70. CCAA courts frequently grant orders in Part IV recognition proceedings that recognize foreign orders approving settlements that involve Canadian debtors and/or their property.⁶⁰

PART IV – RELIEF REQUESTED

71. The Yellow Parent, in its capacity as Foreign Representative, respectfully requests that the Court grant the Seventh Supplemental Order recognizing and giving full force and effect in Canada to the Disclosure Statement Order and the Additional Foreign Orders.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 4th day of December, 2024.

Goodmans LLP

Goodmans LLP

⁶⁰ See e.g., *Yellow Corporation et al.* (19 June 2024) Toronto, Ont Sup Ct J [Commercial List] CV-23-00704038-00CL ([Sixth Supplemental Order](#)) at para 3 recognizing the Lienholder Rolling Stock Settlement Order (as defined therein).

SCHEDULE A
LIST OF AUTHORITIES

Tab	Description
1.	<i>Zochem Inc. (Re)</i> , 2016 ONSC 958
2.	<i>In the Matter of Voyager Digital Ltd</i> , 2022 ONSC 4553
3.	<i>Caesars Entertainment Operating Company, Inc. (Re)</i> , 2015 ONSC 712
4.	<i>Re Purdue Pharma L.P. et al.</i> CV-19-627656-00CL, Endorsement of Conway J. dated July 5, 2021
5.	<i>Re Mallinckrodt Canada ULC et al.</i> , CV-20-00649441-00CL, Endorsement of Patillo J. dated July 9, 2021 .
6.	<i>Xerium Technologies Inc, Re</i> , 2010 ONSC 3974
7.	<i>Quest University Canada (Re)</i> , 2020 BCSC 1845
8.	<i>Laurentian University of Sudbury</i> , 2022 ONSC 4433
9.	<i>Jaguar Mining Inc. (Re)</i> , 2014 ONSC 494
10.	<i>Paladin Labs Canadian Holding Inc et al.</i> (24 January 2024), Ont Sup Ct J [Commercial List] CV-22-00685631-00CL (Fifth Supplemental Order)
11.	<i>WeWork Inc, et al</i> (26 June 2024), Ont Sup Ct J [Commercial List] CV-23-00709258-00CL (Confirmation Recognition and Fifth Supplemental Order) at para 9(e)
12.	<i>Re Mallinckrodt Canada ULC et al.</i> (9 July 2021), Ont Sup Ct J [Commercial List] Court File No. CV-20-00649441-00CL (Recognition of Disclosure Statement Order)
13.	<i>Re Purdue Pharma L.P. et al.</i> (5 July 2021), Ont Sup Ct J [Commercial List] Court File No. CV-19-627656-00CL (Re: Disclosure Statement Order).
14.	<i>LightSquared LP, Re</i> (8 March 2013), Ont Sup Ct J [Commercial List] CV-12-9719-00CL (Recognition Order)
15.	<i>Laurentian University of Sudbury</i> (5 February 2021), Ont Sup Ct J [Commercial List] CV-21-00656040-00CL (Order (Re: Appointment of Mediation))
16.	<i>Sears Canada et al.</i> , (9 May 2019), Ont Sup Ct J [Commercial List] CV-17-11846--00CL (Stay Extension and Approval of Mediation Process)
17.	<i>WeWork Inc, et al.</i> (14 December 2023), Ont Sup Ct J [Commercial List] CV-23-00709258-00CL (Second Supplemental Order (Foreign Main Proceedings))
18.	<i>Yellow Corporation et al.</i> (8 November 2023) Toronto, Ont Sup Ct J [Commercial List] CV-23-00704038-00CL (Third Supplemental Order)

Tab	Description
19.	<i>Yellow Corporation et al.</i> (19 June 2024) Toronto, Ont Sup Ct J [Commercial List] CV-23-00704038-00CL (Sixth Supplemental Order)

SCHEDULE B
STATUTORY REFERENCES

COMPANIES' CREDITORS ARRANGEMENT ACT
R.S.C. 1985, c. C-36, as amended

Purpose

44 The purpose of this Part is to provide mechanisms for dealing with cases of cross-border insolvencies and to promote

- (a) cooperation between the courts and other competent authorities in Canada with those of foreign jurisdictions in cases of cross-border insolvencies;
- (b) greater legal certainty for trade and investment;
- (c) the fair and efficient administration of cross-border insolvencies that protects the interests of creditors and other interested persons, and those of debtor companies;
- (d) the protection and the maximization of the value of debtor company's property; and
- (e) the rescue of financially troubled businesses to protect investment and preserve employment.

Application for recognition of a foreign proceeding

46 (1) A foreign representative may apply to the court for recognition of the foreign proceeding in respect of which he or she is a foreign representative.

Other orders

49 (1) If an order recognizing a foreign proceeding is made, the court may, on application by the foreign representative who applied for the order, if the court is satisfied that it is necessary for the protection of the debtor company's property or the interests of a creditor or creditors, make any order that it considers appropriate, including an order

- (a) if the foreign proceeding is a foreign non-main proceeding, referred to in subsection 48(1);
- (b) respecting the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor company's property, business and financial affairs, debts, liabilities and obligations; and
- (c) authorizing the foreign representative to monitor the debtor company's business and financial affairs in Canada for the purpose of reorganization.

Cooperation — court

52 (1) If an order recognizing a foreign proceeding is made, the court shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding.

Public policy exception

(2) Nothing in this Part prevents the court from refusing to do something that would be contrary to public policy.

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

**AND IN THE MATTER OF YRC FREIGHT CANADA COMPANY, YRC LOGISTICS INC., USF HOLLAND INTERNATIONAL
SALES CORPORATION AND 1105481 ONTARIO INC.**

**APPLICATION OF YELLOW CORPORATION UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

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