

SUPERIOR COURT OF JUSTICE - ONTARIO

**RE: 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 LAURENTIAN UNIVERSITY OF
SUDBURY**

BEFORE: Chief Justice G.B. Morawetz

DIRECTIONS

[1] A case conference was requested by counsel to Thorneloe University (“Thorneloe”) to schedule a motion opposing a disclaimer served by Laurentian University (“Laurentian”). The case conference was held yesterday on Zoom.

[2] The University of Sudbury (“U Sudbury”) also seeks to schedule a motion opposing a disclaimer served by Laurentian. U Sudbury has requested a bilingual hearing.

[3] The parties have been unable to agree on a schedule.

[4] The CCAA proceedings commenced on February 1, 2021. Materials filed at that time emphasized that it was important, for the future operation of Laurentian, to complete significant aspects of the restructuring by April 30, 2021.

[5] Thorneloe, U Sudbury, and Laurentian provided litigation timetables for the motions. The timetable proposed by Thorneloe and U Sudbury provides for a hearing on May 31, 2021. The timetable proposed by Laurentian provides for a hearing on April 29, 2021.

[6] The court is left with the unenviable task of picking one timetable.

[7] For the following reasons, I have determined that it necessary to schedule the motions on the timetable proposed by Laurentian.

[8] First, issues relating to the impact of the CCAA proceedings on the Federated Universities were identified in the Affidavit of Dr. Robert Haché, filed at the time the Initial Relief was granted on February 1, 2021.

[9] Second, the parties acknowledged, during the case conference, that issues relating to the impact of the CCAA proceedings on the Federated Universities were discussed, at some point, in the judicial mediation conducted by Dunphy J.

[10] Third, the motions filed by both Thorneloe and U Sudbury describe, in detail, the grounds for challenging the disclaimers. The level of detail contained in the motions is such that I am satisfied that Thorneloe and U Sudbury are well aware of the issues to be addressed on the return of the motions and both Thorneloe and U Sudbury have already formulated the legal basis of their opposition to the disclaimers.

[11] Fourth, the stay of proceedings is in effect until April 30, 2021. The DIP Loan matures on May 1, 2021. The determination of the Thorneloe and U Sudbury motions may impact on the positions being taken by parties on any motion to extend the stay of proceedings and any motion to extend the DIP Facility and to provide additional DIP financing.

[12] Fifth, the timetable proposed by Laurentian provides time for cross-examination of all affiants, as well as the delivery of facts, in advance of the hearing date.

[13] Sixth, the timetable proposed by Thorneloe and U Sudbury extends well beyond the existing stay of proceedings and maturity of the DIP Loan and brings increased risk and uncertainty to the CCAA proceedings, both of which are not desirable.

[14] In my view, the timetable proposed by Laurentian, although not ideal, is preferable to that proposed by Thorneloe and U Sudbury, as it reduces the risks and uncertainty referred to above.

[15] If Thorneloe or U Sudbury have questions in respect of the DIP Loan, they can be directed to the Monitor.

[16] Accordingly, the Thorneloe motion opposing the disclaimer will be heard by me on April 29, 2021.

[17] With respect to the U Sudbury motion, the Commercial List Office will advise the parties as to when a bilingual hearing can be scheduled.



Chief Justice Morawetz

Date: April 21, 2021