

Court File No. CV-25-738613-00CL

**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 A PLAN OF COMPROMISE OR ARRANGEMENT OF  
HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE D'HUDSON SRI, HBC  
CANADA PARENT HOLDINGS INC., HBC CANADA PARENT HOLDINGS 2 INC., HBC BAY  
HOLDINGS I INC., HBC BAY HOLDINGS II ULC, THE BAY HOLDINGS ULC, HBC  
CENTERPOINT GP INC., HBC YSS 1 LP INC., HBC YSS 2 LP INC., HBC HOLDINGS GP  
INC., SNOSPMIS LIMITED, 2472596 ONTARIO INC., and 2472598 ONTARIO INC.**

Applicants

**AFFIDAVIT OF PHILIP YANG  
(Sworn April 23, 2025)**

I, Philip Yang, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am an Associate with Stikeman Elliott LLP ("**Stikeman**"), counsel for Hudson's Bay Company ULC Compagnie De La Baie D'Hudson SRI, HBC Canada Parent Holdings Inc., HBC Canada Parent Holdings 2 Inc., HBC Bay Holdings I Inc., HBC Bay Holdings II ULC, The Bay Holdings ULC, HBC Centerpoint GP Inc., HBC YSS 1 LP Inc., HBC YSS 2 LP Inc., HBC Holdings GP Inc., Snospmis Limited, 2472596 Ontario Inc., and 2472598 Ontario Inc. (collectively, the "**Applicants**").
2. All capitalized terms used in this affidavit and not otherwise defined have the meanings given to them in the affidavit of Jennifer Bewley sworn April 17, 2025. I swear this affidavit in response to the letters dated April 22, 2025, from Andrew Hatnay at Koskie Minsky LLP ("**Koskie Minsky**") and Clifton Prophet at Gowling WLG (Canada) LLP ("**Gowling**"), addressed to the Honourable Justice Osborne of this Court.
3. Immediately prior to the commencement of the CCAA Proceedings, on March 5, 2025, Mr. Hatnay wrote a letter to the Company, a copy of which is attached hereto as **Exhibit "A"**.
4. In Mr. Hatnay's letter of March 5, 2025, and the *Aide Memoire* filed by Koskie Minsky in the CCAA Proceedings on March 16, 2025, Mr. Hatnay references the earlier representation of Koskie Minsky for a subset of retirees with entitlements to benefits under one of the Company's

defined benefit pension plans - the Dumai Pension Plan (Reg. No. 038572) (the “**Dumai Pension Plan**”). A copy of this *Aide Memoire* is attached hereto as **Exhibit “B”**.

5. Koskie Minsky’s clients who are members of the Dumai Pension Plan successfully argued before the Ontario Court of Appeal in 2011, that they were entitled to the surplus assets in the Dumai Pension Plan. The Ontario Court of Appeal’s decision can be found at: [Sutherland v. Hudson’s Bay Company, 2011 ONCA 606](#). Koskie Minsky was class counsel to this class of pension plan members in respect of the Sutherland proceedings.

6. On March 18, 2025, Elizabeth Pillon of Stikeman wrote to Mr. Hatnay in response to his request for a call with the Company and the Monitor. Ms. Pillon enquired as to the identity of the employees and retirees that Mr. Hatnay purported to represent, solely for the purpose of confirming what retainers had in fact been finalized. In this same email, Ms. Pillon advised Mr. Hatnay that the Applicants were considering the need and timing of future actions, communications, and if necessary, the potential appointment of representative counsel for employees and retirees in the CCAA Proceedings. During this time, while the Company’s attention was focused on the various orders that it was seeking from the Court (the forms of which were contested by various stakeholders in the CCAA Proceedings), the Company was intent on addressing the issue of representative counsel for employees and retirees as soon as possible.

7. Mr. Hatnay did not respond to Ms. Pillon’s enquiry from March 18, 2025, Stikeman sent a follow-up email to Mr. Hatnay on March 25, 2025. Copies of these emails are attached hereto as **Exhibit “C”**. The initial communication from Mr. Hatnay dated March 18 was marked Without Prejudice and as such has not been attached.

8. On April 7, 2025, both Koskie Minsky and Gowling were invited to submit written proposals to act as Employee Representative Counsel. Both firms sent proposals to Stikeman and the Monitor. Their proposals suggested that there was a need for two separate representative counsels to be appointed in the CCAA Proceedings and that their proposals should be considered together. Further clarification was sought and provided by Mr. Hatnay in respect of the original proposal.

9. Maria Konyukhova of Stikeman communicated with Mr. Hatnay on April 13 and 15 advising him that the Company had solicited proposals for Employee Representative Counsel, would be reviewing same with the Monitor, and was preparing motion materials requesting the Court to appoint Employee Representative Counsel.

10. I understand from Ms. Pillon and Ms. Konyukhova of Stikeman that they had a conversation with Mr. Hatnay and Mr. Prophet on April 16, 2025, following receipt of their proposals to act as Employee Representative Counsel. I understand from Ms. Pillon and Ms. Konyukhova that while the discussions were without prejudice, Mr. Hatnay failed to note in his letter addressed to the Court dated April 22 that this discussion took place. I am advised by Ms. Konyukhova that she advised Mr. Hatnay and Mr. Prophet during that conversation that the Company would be seeking to appoint another law firm as Employee Representative Counsel and that the Company had reserved Court time on April 24, 2025 (the only time that Stikeman was told was available until the week of May 5, 2025), to hear the Company's motion.

11. In Mr. Hatnay's April 22 letter, Mr. Hatnay references a webpage that Koskie Minsky had set up to provide information to the Company's employees and retirees. The webpage can be accessed at the following link: <https://kmlaw.ca/cases/hudsons-bay-company-ccaa-proceeding/>, and a copy of the contents of the webpage is attached hereto as **Exhibit "D"**.

12. I swear this affidavit for no improper purpose.

SWORN remotely via videoconference, by Philip Yang, stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, this 23<sup>rd</sup> day of April, 2025, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely

Signed by:

*Brittney Ketwaroo*

FA383D6B5B5A42C

Commissioner for Taking Affidavits, etc.  
Brittney Ketwaroo | LSO #89781K

DocuSigned by:

*Philip Yang*

36124C4218DD47C

**PHILIP YANG**

**EXHIBIT "A"**  
referred to in the Affidavit of  
**PHILIP YANG**  
Sworn April 23, 2025

Signed by:

*Brittney Ketwaroo*

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Commissioner for Taking Affidavits



March 5, 2025

**Andrew J. Hatnay**  
Direct Dial: 416-595-2083  
Direct Fax: 416-204-2872  
ahatnay@kmlaw.ca

**Via E-mail and Courier**

Hudson's Bay Company  
401 Bay Street  
Toronto, ON M5H 2Y4

**Attention: Richard Baker, Governor, Executive Chairman and CEO**  
**Jennifer Bewley, Chief Financial Officer**  
**Thomas Obersteiner, General Counsel and Corporate Secretary**

Dear Messrs. and Madam:

**Re: Dumai Pension Plan (Reg. No. 0358572)**

We are counsel to a group of retirees of Hudson's Bay Company ("HBC") who earned entitlements to pension, health and other benefits payable to them during their retirement.

Our clients are concerned that HBC is undergoing, or will soon commence some form of restructuring, whether under court supervision or otherwise, which will impact their pension and other benefit entitlements including the risk of a pension plan wind up and the termination or reduction of their pension and other benefits.

Two of our clients, Ronald Sutherland and John Scott, were plaintiffs who commenced a class proceeding against HBC in 2005<sup>1</sup> alleging the improper use of surplus funds by HBC that originated from the assets of the Simpson's Plan to pay pension contributions owing by HBC in respect of employees of Zellers and Kmart who had been merged into the Dumai Plan by HBC. The Court in that case, which was upheld by the Ontario Court of Appeal, determined that the use of surplus pension assets to pay those contributions while the plan was on-going was permissible, however, the Court also determined that the assets in the Dumai Pension Plan were impressed with a trust which would have to be distributed to the beneficiaries in entirety upon a plan wind-up.<sup>2</sup> The Court held that:

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<sup>1</sup> *Sutherland v Hudson's Bay Co.*, [\[2005\] OJ No 1455 \(ONSC\)](#).

<sup>2</sup> *Sutherland v Hudson's Bay Company*, [2009 CanLII 43611 \(ONSC\)](#); aff'd in part by *Sutherland v Hudson's Bay Company*, [2011 ONCA 606](#).



[6] Surplus funds on plan termination and wind up may be subject to a resulting trust. Before a resulting trust can arise, it must be clear that all objectives of the trust have been fully satisfied. Even when that is done, the employer cannot claim the benefit of a resulting trust if the terms of the pension plan demonstrate an intention to part outright with all money contributed to the pension fund. In contributory plans, it is not only the employer's but also the employees' intentions that must be considered – both are settlors of the trust.

...

[97] The trial judge correctly recognized that in the absence of specific language to the contrary, trust law principles are to prevail in the face of conflicting contractual provisions. He correctly concluded that the Plan assets are impressed with a trust in favour of the Plan members and that it is the Plan members who are entitled to any surplus assets in the trust fund on Plan termination and wind up.

We are writing for an update on the current funded status of the Dumai Pension Plan and the company's intentions with respect to the plan and retiree and other benefits. We ask that you provide answers to the following questions:

1. What is the current funded position of the Dumai Pension Plan?
2. Have any or all of the liabilities of the defined benefit component of the Dumai Pension Plan been discharged through annuity purchases?
3. Do you anticipate funding issues in the next few months, in particular as economic uncertainty and a possible trade war loom?
4. What is HBC's intention with respect to terminating the Dumai Pension Plan and other retiree benefits?

We look forward to hearing from you.

Yours truly,

**KOSKIE MINSKY LLP**

A handwritten signature in black ink, appearing to read "Andrew J. Hatnay", with a stylized flourish at the end.

Andrew J. Hatnay  
AJH/vdl

c. James Harnum, Abir Shamim, *Koskie Minsky LLP*

**EXHIBIT "B"**  
referred to in the Affidavit of  
**PHILIP YANG**  
Sworn April 23, 2025

Signed by:

*Brittney Ketwaroo*

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Commissioner for Taking Affidavits

Court File No.: CV-25-00738613-00CL

**ONTARIO  
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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  
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CENTERPOINT GP INC., HBC YSS 1 LP INC., HBC YSS 2 LP INC., HBC HOLDINGS GP  
INC., SNOSPMIS LIMITED, 2472596 ONTARIO INC., and 2472598 ONTARIO INC.,

Applicants

**AIDE MEMOIRE OF CERTAIN HBC EMPLOYEES AND RETIREES**

1. This Aide Memoire is filed on behalf of certain employees, retirees, and pension plan members of the Hudson's Bay Company ("**HBC**") who are represented by Koskie Minsky LLP ("**KM Clients**") to highlight issues that impact them caused by the HBC proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**"), which commenced on March 7, 2025.

2. In the days after HBC's CCAA filing, it has been reported that HBC will likely be liquidating.

3. The KM Clients are very concerned about the future of their jobs and the payment of their pension benefits and other benefits owing to them. Their concerns would extend to other similarly-



situated employees and retirees of HBC. There are over 9400 active HBC employees and thousands of retirees across Canada.

4. A liquidation and shut down of HBC will lead to mass employee terminations, the termination of the HBC pension plans (both registered and non-registered pension plans), and the termination of health benefits, life insurance and other important benefits that have been earned by the employees during their employment with HBC and which are vital to their livelihoods in retirement.

5. The termination of large numbers of HBC employees will require accurate and complete calculations of the employees' notice and severance pay under employment standards statutes and applicable common law. If HBC is unable to pay severance pay, a consideration of the application of the Wage Earner Protection Plan ("**WEPP**"), which provides up to \$8,844.22 per employee toward unpaid severance pay and other amounts, will also immediately required, since the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1 ("**WEPPA**") does not automatically apply in a CCAA proceeding.

6. HBC is the administrator of the Hudson's Bay Company Pension Plan (the "**HBC Plan**"), a pension plan registered in Ontario under the *Pension Benefits Act* R.S.O. 1990, c. P.8, Registration no. 0291419. The HBC Plan has both defined benefit and defined contribution components for different populations of pension plan members.

7. In the event of a liquidation shut down of HBC, it is highly likely that the HBC Plan will need to be terminated (a "wind up"). A pension plan wind up involves special statutory and jurisprudential rules, priorities in favour of the pension plan beneficiaries, and special processes

that apply and vary depending on whether the plan has surplus funds or a funding deficit on its wind up.

**Pension plan surplus ownership and the decision of the Ontario Court of Appeal in *Sutherland v. Hudson's Bay Co.*, 2011 ONCA 606**

8. The HBC CCAA proceeding and the liquidation of HBC also invokes a situation for a population of HBC retirees with respect to surplus assets in the Dumai Pension Plan, another pension plan that HBC had administered. The surplus in the Dumai Pension Plan originates from the Simpsons Pension Plan, a defined benefit pension plan which HBC took over when it acquired the Robert Simpson Company in 1978. HBC continued to administer the Simpsons Plan with its defined benefit members from Simpsons, who had become HBC employees following the acquisition.

9. At the time when HBC acquired Simpsons, the Simpsons Pension Plan had substantial surplus assets. In 1994 and 1998, HBC amended the Simpsons Pension Plan by adding in employees of Zellers Inc. and Kmart Canada Co. to the plan in a defined contribution component to the plan, and renaming it the Dumai Pension Plan. Between 1994 and 2006, HBC used approximately \$111 million of the surplus assets originating from the Simpsons Pension Plan to pay its defined contribution costs to Zellers and Kmart employees, who were now members of the Dumai Plan.

10. The HBC employees who had been members of the defined benefit Simpsons Pension Plan sued HBC to stop the use of the Simpsons Pension Plan surplus to pay for HBC's defined contribution obligations to the new Zellers and Kmart members of the Dumai Plan. The Court (Wilton-Siegel, J.) held that HBC could use the Simpsons Pension Plan surplus to pay its

obligations to the defined contribution component (which was expanded to also include other HBC employees) while the Dumai Plan was an on-going pension plan.<sup>1</sup> However, Wilton-Siegel, J. also held that on the wind up of the Dumai Plan, the defined benefit plan members (the former Simpsons employees) are entitled to the surplus assets in the plan, if there are surplus assets remaining. HBC appealed the surplus ownership ruling to the Court of Appeal for Ontario and was unsuccessful. The Court of Appeal held:

[50] At paras. 90-93 of *Schmidt*, Cory J., writing for the majority, sets out the steps that courts are to use when deciding the question of surplus ownership of pension plans. Those steps can be summarized as follows.

...

6. Surplus funds on plan termination and wind up may be subject to a resulting trust. Before a resulting trust can arise, it must be clear that all of the objectives of the trust have been fully satisfied. Even when that is done, the employer cannot claim the benefit of a resulting trust if the terms of the pension plan demonstrate an intention to part outright with all money contributed to the pension fund. In contributory plans, it is not only the employer's but also the employee's intentions that must be considered – both are settlors of the trust.

...

[97] *The trial judge correctly recognized that in the absence of specific language to the contrary, trust law principles are to prevail in the face of conflicting contractual provisions. He correctly concluded that the Plan assets are impressed with a trust in favour of the Plan members and that it is the Plan members who are entitled to any surplus assets in the trust fund on Plan termination and wind up.*<sup>2</sup> [emphasis added]

11. In the current liquidation trajectory of HBC, there is a high likelihood that the HBC Plan will be wound up, and if the plan has surplus then the Court of Appeal's surplus ownership decision needs to be addressed. On March 5, 2025, KM wrote to the company and their lawyers with specific questions about the status of the defined benefits in the Dumai Plan and its funded status.

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<sup>1</sup> *Sutherland v Hudson's Bay Company*, [\[2007\] O.J. No. 2979, 2007 CanLII 30292](#).

<sup>2</sup> *Sutherland v Hudson's Bay Company*, [2011 ONCA 606](#).

12. Conversely, if the HBC Plan is wound up with a funding deficit for the defined benefit component and/or the defined contribution component then the PBA statutory deemed trust in favour of the pension plan beneficiaries under subsection 57(4) of the *Pension Benefits Act*, R.S.O. 1990, c. P.8 will become applicable with respect to the amounts owing by the HBC to the fund the plan.<sup>3</sup>

13. With respect to defined contribution component of the HBC Plan, the company is required to provide a 2% matching contribution to each employees' 1% initial contribution to their individual defined contribution retirement account. In the event that employees are terminated without being paid severance pay, HBC will owe defined contribution payments to the employees for the relevant notice period.<sup>4</sup>

14. Finally, there are employees who are currently disabled and receiving vital disability benefits, which also needs to be addressed.

March 16, 2025

**KOSKIE MINSKY LLP**  
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(E) jharnum@kmlaw.ca

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<sup>3</sup> On April 27, 2023, the federal government passed legislation to improve protections for members of defined benefit pension plans. The *Pension Protection Act*, S.C. 2023, c. 6 amends the CCAA and the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-6 ("BIA") to grant super-priority to registered pension plan funding deficits. These amendments come into effect on April 27, 2027.

<sup>4</sup> CCAA, s. 6(6). See also BIA, ss. 81.5-81.6.

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Lawyers for Certain Employees and Retirees

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF **HUDSON'S BAY  
COMPANY et. al.**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
Proceeding commenced at **TORONTO**

**AIDE MEMOIRE OF CERTAIN EMPLOYEES AND  
RETIREES**

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Lawyers for Certain Employees and Retirees

**EXHIBIT "C"**  
referred to in the Affidavit of  
**PHILIP YANG**  
Sworn April 23, 2025

Signed by:

*Brittney Ketwaroo*

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Commissioner for Taking Affidavits

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**From:** Elizabeth Pillon

**Sent:** Tuesday, March 25, 2025 5:00 PM

**To:** Andrew J. Hatnay <ahatnay@kmlaw.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Maria Konyukhova <MKonyukhova@stikeman.com>; Sean Zweig - Bennett Jones (zweigs@bennettjones.com) <zweigs@bennettjones.com>; Natasha vandenHoven <NVandenhoven@stikeman.com>

**Subject:** RE: HBC

Andrew just circling back here in respect of the information requests on the identity of the Employees and Retirees who you currently represent.

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**From:** Elizabeth Pillon

**Sent:** Tuesday, March 18, 2025 4:12 PM

**To:** Andrew J. Hatnay <ahatnay@kmlaw.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Maria Konyukhova <MKonyukhova@stikeman.com>; Sean Zweig - Bennett Jones (zweigs@bennettjones.com) <zweigs@bennettjones.com>; Natasha vandenHoven <NVandenhoven@stikeman.com>

**Subject:** RE: HBC

Andrew

Can you confirm the identity of the Employees and Retirees who you currently represent? In particular, I am referring to the March 5<sup>th</sup> letter attached.

We thank you for the views you outlined in your Aide Memoire yesterday, in Court and in your note below. As we noted yesterday, the Company and Monitor have employee and retiree issues on their radar. We are considering the need and timing of future actions, communications and if necessary motions relating to employee and retiree issues, including the potential of naming rep counsel on this matter. We are not in a position to have individual conversations on these topics at this time.

**Elizabeth (Liz) Pillon**

Direct: +1 (416) 869-5623

Mobile: +1 (416) 276-0273

Email: [lpillon@stikeman.com](mailto:lpillon@stikeman.com)



**EXHIBIT "D"**  
referred to in the Affidavit of  
**PHILIP YANG**  
Sworn April 23, 2025

Signed by:

*Brittney Ketwaroo*

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Commissioner for Taking Affidavits



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CONTACT

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EN / FR

# Hudson's Bay Company CCAA Proceeding

On March 7, 2025, the Hudson's Bay Company group ("HBC") applied for protection from their creditors under the *Companies' Creditors Arrangement Act* ("CCAA"). Justice Peter Osborne of the Ontario Superior Court of Justice granted the initial CCAA order. The insolvency firm of Alvarez & Marsal Canada Inc. was appointed the CCAA Monitor. They have a website for this case, linked [here](#).

HBC was founded in 1670. HBC is not only the oldest company in Canada, but in all of North America.

HBC is owned by the U.S. private equity fund called NRDC Equity Partners.

We are currently assisting employees, former employees, and retirees of HBC in the CCAA proceeding. We have set up a committee of employees and retirees for the CCAA proceeding. If you are interested in participating on a committee, please email us at [hbcemployees@kmlaw.ca](mailto:hbcemployees@kmlaw.ca).

We have assisted HBC retirees in the past involving one of HBC's defined benefit pension plans (the Dumai Pension Plan). We have also assisted many HBC employees in wrongful dismissal cases.

## Status of the HBC CCAA Proceeding

In its CCAA application materials for the March 7, 2025 court CCAA application, HBC represented that it was planning to restructure its business by reducing the number of HBC stores. However, within days after obtaining CCAA protection on March 7, 2025, HBC announced that it was proceeding to a full liquidation of all its stores. A liquidation shut-down of the company will result in over 9400 Canadian HBC employees losing their jobs.

On March 17, 2025, HBC returned to court to request a number of additional court orders, including the court's permission to start a full liquidation. We filed a document called an Aide Memoire on behalf of the employees and retirees with the court for that hearing, and we attended in court to highlight the harm a liquidation would cause to the Canadian employees.

After hearing submissions from many parties, Justice Osborne delayed granting the liquidation order and other orders requested by HBC, and he directed that the Court hearing resume on Wednesday March 19, 2025. We attended in court on March 19, 2025, and the company and Monitor reported that they were in discussions with other parties on various issues and that they expected to return to Court later this week to seek approval for a "lease monetization plan", a sales process, and again, for approval of the liquidation. We again submitted to the Court that a full liquidation would mean the loss of all Canadian jobs, which the Judge noted.

On March 21, 2025, HBC returned to court to request the liquidation of 87 HBC stores starting Monday, March 24, 2025. Six stores, mostly in Toronto and Montreal, are not included in the liquidation order. However, HBC has advised the court that this is just a temporary delay and there is no current plan to restructure the HBC. The court also approved an agreement for HBC to work with an agent to evaluate the sale of all HBC leases, including those of the six stores not yet part of the liquidation. We attended in court on March 21, 2025 to underscore the magnitude of the loss of jobs during difficult economic times, and the demise of an iconic Canadian company.

On March 26 and 27, 2025, HBC returned to court to deal with the approval of a Restructuring Support Agreement that was requested by certain of its lenders. This agreement would have handed effective control of the CCAA proceedings to the lenders, and would have required the liquidation of the remaining six stores, in addition to the 87 stores currently being liquidated, unless there was a sale of HBC by April 4, 2025. It also would have prohibited a number of payments by HBC unless the lenders approved. We, alongside several landlords, opposed the approval of the agreement and made legal submissions about it. In a decision released on March 29, 2025, Justice Osborne rejected the agreement and held that the court supervision of the case provides appropriate protection for the lenders and the stakeholders. [A copy of Justice Osborne's decision is here](#).

We understand from our clients that HBC has informed them that when employees are terminated, HBC will not pay them severance pay. Based on past large retail insolvency cases, we estimate that the total amount of severance pay owing by HBC to its employees will exceed \$100M.

In addition to severance pay, other amounts owing to employees and retirees would include:

- a) Amounts for any unpaid wages and vacation pay;
- b) Amounts in respect of non-pension post employment and other long-term employee benefits, which HBC reports to be approximately \$19.5M underfunded;
- c) Amounts in respect of an unregistered Supplemental Executive Retirement Plan, which HBC reports is underfunded by approximately \$84M; and
- d) Amounts owing for employee and retiree discounts that were terminated by HBC.

HBC's registered defined benefit pension plan is held in a separate trust from the company, and the pension assets in that plan are protected from the claims of other creditors.

We are also concerned about the impact of the CCAA filing on disability benefits for terminated employees. HBC's court filings do not disclose any plans of how these benefits will be funded or honoured, leaving terminated employees at risk of losing their disability coverage.

If you are an active employee, former employee, or retiree of HBC with questions and/or would like to be represented by Koskie Minsky LLP in this proceeding, please email us at [hbcemployees@kmlaw.ca](mailto:hbcemployees@kmlaw.ca) or call us at 1-855-595-2621.

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## LATEST DEVELOPMENTS

- April 22, 2025

### **Motion to Appoint Representative Counsel for Non-Union Employees and Retirees**

To date, our firm has been retained by over 400 non-union employees and retirees of the Hudson's Bay Company (the "KM Clients"). From the onset of this proceedings, our firm has been acting as a *de facto* representative counsel advocating on to protect and assist HBC employees and retirees. Our work has included:

- Filing two Aide Memoire documents with the Court and appearing before the Ontario Superior Court of Justice on five occasions to make submissions on behalf of the employees and retirees;
- Corresponded with hundreds of HBC employees and retirees through our case webpage, telephone line and email set up for this proceeding; and
- Organized *ad-hoc* employee and retiree committees and held zoom and conference calls.

At the last court attendance for this matter (March 27, 2025), we advised Justice Osborne of the Ontario Superior Court of Justice that we would bring a motion to be appointed as representative counsel to the non-union employees and retirees. There was no objection or adverse comment made by any party in response.

On April 7, 2025, HBC wrote to our firm to announce that it would select employee and retiree representative counsel and requested that law firms submit a written proposal for this role. Ten days later, HBC announced that they had selected another law firm, who has not yet appeared before the Court in this matter, to be employee and retiree representative counsel. The actions of HBC are both unconventional and concerning. The company's interests in this proceeding conflict with those of the employees and retirees. This has been demonstrated by HBC's non-payment of severance pay to terminated employees and its termination of many other employee benefits and retiree benefits (e.g., SERPs, commission and more). HBC should not select another law firm of its own choosing to now impose on the employees and retirees, especially when the KM Clients have already retained our firm to advocate for them.

On April 24, 2025, our firm will bring a cross-motion to have retired judge, The Hon. Douglas Cunningham, K.C. appointed as an independent third party to recommend to the Court which law firm should be appointed as representative counsel for the non-union employees and retirees. This approach will ensure the law firm appointed on behalf of the employees and retirees can independently represent their interests without any real or perceived conflicts.

In the alternative, we will request that the Court schedule a motion to appoint our firm as representative counsel.

**A copy of the letter we addressed to Justice Osborne informing His Honour of our cross-motion, dated April 22, 2025, can be viewed here.**

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## DOCUMENTS

- [March 26, 2025 Aide Memoire of Certain HBC Employees and Retirees](#)
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## WANT TO BE REPRESENTED BY KOSKIE MINSKY LLP?

We are currently assisting employees, former employees, and retirees of HBC in the CCAA proceeding. If you are an active employee, former employee, or retiree of HBC and would like to be represented by Koskie Minsky LLP [please complete this form](#).

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## IN THE NEWS

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[Andrew Hatnay](#) and [James Harnum](#) of Koskie Minsky LLP have been regularly cited in a variety of media reports discussing the impact the proceeding has had on the Hudson's Bay employees and retirees, and their claims for unpaid severance pay, termination pay, pension contributions and other amounts owing to them.

- [“Hudson's Bay workers denied commission pay during liquidation sales”](#) (CBC News, April 22, 2025)
- [““A ticking time bomb’: HBC employees could lose disability benefits with company’s court restructuring”](#) (The Globe and Mail, April 14, 2025)
- [“Hudson's Bay liquidation highlights pension vulnerability in Canada”](#) (The Globe and Mail, April 5, 2025)
- [“Hudson's Bay cuts 200 corporate jobs effective April 4”](#) (The Canadian Press, March 28, 2025)
- [“Hudson's Bay Co. terminates nearly 200 corporate employees as liquidation job losses begin”](#) (The Globe and Mail, March 28, 2025)
- [“Major lender offers Hudson's Bay more time to find a solution to save its six stores”](#) (The Toronto Star, March 27, 2025)

- “HBC’s restructuring plan opposed by employees, joint-venture partner Rio-Can” (The Financial Post, March 26, 2025)
  - “Hudson’s Bay seeks court agreement that offers little time to save six stores” (The Canadian Press, March 26, 2025)
  - “Hudson’s Bay managers will get up to \$3 million in bonuses, but workers get no severance” (CBC News, March 26, 2025)
  - “Hudson’s Bay to give \$3 million in bonuses to managers – while confirming no severance pay for workers” (The Toronto Star, March 26, 2025)
  - “Thousands of Hudson’s Bay employees facing layoffs with company set to liquidate stores” (The Globe and Mail, March 23, 2025)
  - “‘Everybody’s scared’: Hudson’s Bay staff stare down possible job losses” (The Canadian Press, March 21, 2025)
  - “The 355-year Hudson’s Bay story nears its end as stores prepare to start liquidating on Monday” (The Toronto Star, March 21, 2025)
  - “Hudson’s Bay Co. receives court approval to start liquidation Monday” (The Globe and Mail, March 21, 2025)
  - “Hudson’s Bay court hearing wraps without a ruling on liquidation plan” (The Canadian Press, March 17, 2025)
  - “Hudson’s Bay Company plans to liquidate entire business by June, putting more than 9,000 jobs at risk” (The Toronto Star, March 15, 2025)
  - “Court documents reveal Hudson’s Bay owes \$950 million to landlords, fashion brands, banks and government” (The Toronto Star, March 13, 2025)
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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS  
AMENDED, AND IN THE MATTER OF HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE  
D'HUSON SRI et al.

Court File No: CV-25-00738613-00CL

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

Proceeding commenced at Toronto

**AFFIDAVIT OF PHILIP YANG  
(Sworn April 23, 2025)**

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