

CITATION: YRC Freight Canada Company (Re), 2023 ONSC 4492

COURT FILE NO.: CV-23-00704038-00CL

DATE: 2023-08-08

**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 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

**BEFORE:** Chief Justice Geoffrey B. Morawetz

**COUNSEL:** *Caroline Descours, Andrew Harmes and Brennan Caldwell*, for the Applicant

*Jane Dietrich and Natalie Levine*, for Alvarez & Marsal Canada (Proposed IO)

*Ben Muller*, for Apollo Capital Management LP (DIP Lender)

**HEARD:** August 8, 2023

**ENDORSEMENT**

[1] This Application was brought under Part IV of the *Companies' Creditors Arrangement Act* (the "CCAA") and section 106 of the *Courts of Justice Act* (the "CJA") by Yellow Corporation (the "Yellow Parent") as the proposed foreign representative of YRC Freight Canada Company ("YRC Freight Canada"), YRC Logistics Inc. ("YRC Logistics"), USF Holland International Sales Corporation ("USF") and 1105481 Ontario Inc. ("1105481, and collectively with YRC Freight Canada, YRC Logistics and USF, the "Canadian Debtors") for an interim stay of proceedings in connection with the chapter 11 proceedings (the "Chapter 11 Cases") commenced by the Yellow Parent and certain of its affiliates (collectively, the "Debtors"), including the Canadian Debtors, in the United States Bankruptcy Court for the District of Delaware (the "U.S. Bankruptcy Court").

[2] Capitalized terms not otherwise defined have the meanings set out in the Affidavit of Matthew A. Doheny, Chief Restructuring Officer of Yellow Parent, sworn August 7, 2023 (the "Doheny Affidavit").

[3] Yellow Parent contends that it has faced a severe liquidity crisis in recent months resulting in large part due to the inability to implement the Company's strategic initiative, referred to as "One Yellow", that was intended to modernize Yellow's business and upgrade the efficiency of

its operations. Yellow Parent states that the inability to implement the One Yellow initiative significantly impaired the Company's liquidity and efforts to refinance its \$1.2 billion in debt maturing in 2024 or 2026.

[4] In an effort to preserve value and effect an orderly wind-down of the business, the Debtors commenced the Chapter 11 Cases on August 6, 2023 by filing voluntary petitions for relief (the "Petitions") under chapter 11 of title 11 of the United States Code (the "U.S. Bankruptcy Code") in the U.S. Bankruptcy Court. The Debtors are scheduled to appear before the U.S. Bankruptcy Court on August 9, 2023 for a hearing (the "First Day Hearing") to seek various first day orders pursuant to the U.S. Bankruptcy Code (the "First Day Orders"), including, among other things, an order appointing the Yellow Parent as the foreign representative of the Chapter 11 Cases (in such capacity, the "Foreign Representative").

[5] At this time, the Yellow Parent, as the proposed Foreign Representative of the Chapter 11 Cases, is requesting an order from this Court granting a stay of proceedings (the "Interim Stay") in respect of the Canadian Debtors and the Yellow Parent in Canada (the "Interim Stay Order"). If the U.S. Bankruptcy Court grants the requested First Day Orders, the Yellow Parent anticipates returning before this Court to seek two additional orders:

- (a) an order (the "Initial Recognition Order"), among other things, (i) declaring the Yellow Parent as the Foreign Representative in respect of the Chapter 11 Cases and (ii) recognizing the Chapter 11 Cases as a "foreign main proceeding" in respect of the Canadian Debtors; and
- (b) an order (the "Supplemental Order"), among other things, (i) recognizing certain First Day Orders, (ii) appointing Alvarez & Marsal Canada Inc. ("A&M") as the information officer in respect of these proceedings (in such capacity, the "Information Officer"), (iii) granting an administration charge over the assets and property of the Canadian Debtors in Canada in favour of Canadian counsel to the Canadian Debtors, the Information Officer and counsel to the Information Officer, (iv) granting a directors' charge over the assets and property of the Canadian Debtors in Canada in favour of the directors and officers of the Canadian Debtors to secure the Canadian Debtors' indemnification obligations, and (v) granting a charge over the assets and property of the Canadian Debtors in Canada to secure the interim financing that has been negotiated by the Debtors (the "DIP Financing").

[6] The Canadian Debtors are YRC Freight Canada, YRC Logistics, USF and 1105481.

- (a) YRC Freight Canada: YRC Freight Canada is the primary operating company in Canada. It was incorporated under the laws of Nova Scotia with its registered office in Halifax, Nova Scotia. It specialized in shipments into, across and out of Canada, offering Canadian shippers a selection of direct connections within Canada and throughout North America. YRC Freight Canada owns three transportation service centres (two in Ontario and one Quebec), and leases 13 additional transportation service centres across British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and



Quebec, six of which are in Ontario. YRC Freight Canada was completely integrated within the larger YRC Freight brand to provide seamless cross-border service. YRC Freight Canada is the only Canadian Debtor that generates revenue. Its revenue was \$89.8 million during the 12 months ended December 31, 2022, which represented approximately 2% of Yellow's consolidated revenue for such period.

- (b) YRC Logistics: YRC Logistics is a corporation incorporated under the laws of Ontario with its registered office in Ottawa, Ontario. YRC Logistics is a wholly-owned direct subsidiary of YRC Logistics Services, Inc., an Illinois company, which is also a Debtor, and is largely inactive.
- (c) USF: USF is a corporation incorporated under the laws of Nova Scotia with its registered office in Halifax, Nova Scotia. USF is a wholly-owned direct subsidiary of USF Holland LLC, a Delaware company, which is also a Debtor. USF is a dormant company with no operations, employees or assets.
- (d) 1105481: 1105481 is a corporation incorporated under the laws of Ontario with its registered office in Ottawa, Ontario. 1105481 is a wholly-owned direct subsidiary of the Yellow Parent. As of the Petition Date, 1105481 has no assets or operations.

[7] As of approximately July 27, 2023, the Canadian Debtors had approximately 584 employees, all of whom were employed by YRC Freight Canada. Of these employees, approximately 563 were full-time employees and approximately 21 were part-time employees. Approximately 428 employees were hourly employees, and approximately 156 were salaried employees. Approximately 421 of YRC Freight Canada's employees are represented by the Union.

[8] The issue to be considered on this application is whether this Court should grant the Interim Stay Order providing for the Interim Stay in Canada.

[9] This Court has previously granted interim orders providing for a temporary stay of proceedings in Canada following the initiation of Chapter 11 (See: *Lightsquared LP, Re*, 2012 ONSC 2994 at para 3; *Paladin Labs Canadian Holding Inc.*, 2022 ONSC 4748 at para 20 [*Paladin Interim Stay Endorsement*]).

[10] In *Paladin Labs Inc.*, I observed that granting the interim stay and other relief as proposed in the interim order was "in accordance with the principles of cooperation and comity" and within the Court's jurisdiction.

[11] In my view, the granting of the requested Interim Stay is within the Court's jurisdiction, consistent with this Court's practice in recent Part IV recognition proceedings, and important for the preservation of the value of the Canadian Business as part of Yellow's wind-down efforts.

[12] In addition to the stay of proceedings in respect of the Canadian Debtors, the proposed Interim Stay Order provides for a stay of proceedings in Canada in favour of the Yellow Parent, the ultimate parent of the Yellow enterprise, and its directors.


[13] The proposed stay in favour of the Yellow Parent is intended to give effect in Canada to the U.S. Bankruptcy Code automatic stay of proceedings and to enable the Company to focus on effecting an orderly wind-down.

[14] This Court has the jurisdiction to grant a stay with respect to non-applicant debtor companies. In the context of a recognition proceeding, the Court's jurisdiction arises from its authority under subsection 49(1) of the CCAA and pursuant to section 106 of the CJA. A stay of proceedings is also consistent with the principles of comity and cooperation embodied in section 52 of the CCAA. (See: *Tamerlane Ventures Inc. Re*, 2013 ONSC 5461 at para 21; *Pacific Exploration & Production Corp. Re*, 2016 ONSC 5429 at para 26; *Paladin Interim Stay Endorsement* at paras 24-25).

[15] Yellow Parent submits that the balance of convenience favours granting the stay of proceedings in favour of the Yellow Parent, as such protection is critical to preserve overall stability and allow the Company to maximize value for stakeholders and implement an orderly wind-down. For the purpose of the relief sought today, I accept this submission.

[16] I am satisfied that it is both appropriate and necessary to grant the Interim Stay Order providing for the Interim Stay in Canada.

[17] In the event that the U.S. Bankruptcy Court grants the requested First Day Orders, arrangements can be made for Yellow Parent to schedule a recognition motion returnable on Monday, August 14, 2023 at 9:00 a.m. before me.

  
Chief Justice Geoffrey B. Morawetz

**Date:** August 8, 2023