

CITATION: YRC Freight Canada Company, 2024 ONSC 3536
COURT FILE NO.: CV-23-00704038-00CL
DATE: 2024-06-19

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: *Joseph Pasquariello, Andrew Harmes and Erik Axell*, for the Applicant

Natalie E. Levine, for Alvarez & Marsal Canada Inc., Information Officer

Katy O'Rourke, for the Teamsters Local Union No. 879

HEARD: June 19, 2024

ENDORSEMENT

[1] Yellow Corporation (the "Yellow Parent"), in its capacity as the Foreign Representative in respect of the proceedings commenced by the Yellow Parent and certain of its affiliates (collectively, the "Debtors"), including YRC Freight Company Canada, YRC Logistics Inc., USF Holland International Sales Corporation and 1105481 Ontario Inc. (collectively, the "Canadian Debtors"), under chapter 11 of the United States Code (the "Chapter 11 Cases") brought this motion for an Order (the "Sixth Supplemental Order"), among other things, recognizing and enforcing the following order (the "U.S. Order") granted by the U.S. Bankruptcy Court in the Chapter 11 Cases:

- (a) *the Order (I) Approving the Settlement Agreements By and Among the Debtors and Certain Possessory Lienholders and (II) Granting Related Relief (the "Lienholder Rolling Stock Settlement Order").*

[2] The motion was not opposed and the Information Officer supported the position of the Yellow Parent.

[3] The basis for the requested relief is described in the Affidavit of Matthew A. Doheny, sworn June 12, 2024 (the “Seventh Doheny Affidavit”) and the Sixth Report of the Information Officer” dated February 24, 2024 (the “Sixth Report”).

ISSUE

[4] The issue is whether the Court should grant the Sixth Supplemental Order recognizing the U.S. Order in Canada pursuant to section 49 of the CCAA.

[5] Previous endorsements issued in these proceedings set out the basis for the jurisdiction of this court to recognize orders of the U.S. Bankruptcy Court and are not repeated in this endorsement. (See: *YRC Freight Canada Company (Re)*, 2023 ONSC 5513.).

Lienholder Rolling Stock Settlement Order

[6] In the ordinary course of business, the Debtors routinely relied on the services of third parties, including providers of mechanic, towing, storage yard, and other similar services, for the operation and maintenance of their Rolling Stock Assets.

[7] The Debtors, with the assistance of their advisors, identified 55 Rolling Stock Assets (collectively, the “Lienholder Rolling Stock Assets”) that have been in the possession of Possessory Lienholders since before the Petition Date. The Debtors’ Financial Advisor conducted a comprehensive analysis of the Lienholder Rolling Stock Assets.

[8] The analysis showed that the estimated aggregate claims related to prepetition repairs and storage costs of approximately \$794,000 materially exceeded the recovery threshold value of Lienholder Rolling Stock Assets, not including the costs to recover each Lienholder Rolling Stock Asset from its Possessory Lienholder location.

[9] The Debtors engaged in good faith, arms’ length negotiations with the Possessory Lienholders, and entered into settlement agreements with seven Possessory Lienholders (the “Settlement Agreements”). The Settlement Agreements result in a waiver or reduction of the known claims held by the Possessory Lienholders against the Debtors’ estates in the aggregate amount of \$679,320 in exchange for surrendering title of the applicable Lienholder Rolling Stock Assets to such Possessory Lienholders.

[10] On May 31, 2024, the U.S. Bankruptcy Court granted the Lienholder Rolling Stock Settlement Order approving the Settlement Agreements and the transactions contemplated thereby, including the transfer of title to the Semi-Tractor Units to Davidson Protruck.

[11] The Yellow Parent submits that the relief sought on this motion is necessary and appropriate in order to facilitate the efforts of the Yellow group, including the Canadian Debtors and the Yellow Parent, to pursue an orderly wind-down of their business and operations in the

Chapter 11 Cases with a view to maximizing value for the benefit of the Company's creditors, including the Company's Canadian creditors.

[12] 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.

[13] A consideration of these factors supports this Court's recognition of the U.S. Order.

[14] The Initial Recognition Order restricts the Canadian Debtors from "selling or otherwise disposing of: (a) outside the ordinary course of its business, any of its property in Canada that relates to the business; and (b) any of its other property in Canada" except with leave of the Court. Accordingly, pursuant to the proposed Sixth Supplemental Order, the Foreign Representative seeks authorization for YRC Freight Canada to transfer title of the Semi-Tractor Units to Davidson Protruck as part of the settlement under the Davidson Protruck Settlement Agreement. As the relevant ownership documents were located within the Semi-Tractor Units (which were in Davidson Protruck's possession), resulting in the transfer of titles in respect of the Semi-Tractor Units to Davidson Protruck having effectively been implemented, the Foreign Representative is seeking the Court's approval of such title transfers on a *nunc pro tunc* basis.

[15] With respect to the Davidson Protruck Settlement Agreement, which provides for the transfer of title to the eight Semi-Tractor Units owned by and registered to YRC Freight Canada held by Davidson Protruck, the settlement results in a reduction of an estimated claim of \$102,814.

[16] The Foreign Representative submits that recognition of the Lienholder Rolling Stock Settlement Order and the authorization for YRC Freight Canada to transfer the title to the Semi-Tractor Units to Davidson Protruck is fair, reasonable and appropriate in the circumstances, reduces the amounts of claims against the Debtors on a consensual basis, and is beneficial to the Debtors and their stakeholders.

[17] The Information Officer believes the Lienholder Rolling Stock Settlement Order is fair and reasonable in the circumstances and recommends that this Court recognize the Lienholder Rolling Stock Settlement Order.

[18] I accept the submissions of the Foreign Representative and the Information Officer.

DISPOSITION

[19] Having reviewed the record and hearing submissions, I am satisfied that it is appropriate to grant this motion with respect to recognition of the Lienholder Rolling Stock Settlement Order. An order giving effect to the foregoing has been signed.

[20] The Notice of Motion also referenced a Mailbox Destruction Motion. The hearing of the Mailbox Destruction Motion in the U.S. Bankruptcy Court was adjourned to June 28, 2024 to allow the Debtors time to work to address a limited objection and certain reservation of rights that have been filed. Given this adjournment, it is premature to consider issues in the Court relating to Mailbox Destruction Motion.



Chief Justice Geoffrey B. Morawetz

Date: June 19, 2024