

**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 TOYS "R" US (CANADA) LTD. /  
TOYS "R" US (CANADA) LTEE (the "Applicant")**

**FACTUM OF THE APPLICANT**

February 11, 2026

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## PART I - INTRODUCTION

1. On February 3, 2026 (the “**Filing Date**”), Toys “R” Us (Canada) Ltd. / Toys “R” Us (Canada) Ltee (the “**Applicant**”) was granted protection under the *Companies’ Creditors Arrangement Act*, RSC 1985 c. C-36 (the “**CCAA**”) pursuant to an Initial Order (the “**Initial Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”).<sup>1</sup>

2. The Applicant commenced these CCAA proceedings to obtain the breathing space necessary to engage with its principal stakeholders and to consider the best manner in which to monetize its assets.

3. Since the granting of the Initial Order, the Applicant, with the assistance of and in consultation with the Monitor, has been working in good faith and with due diligence to, among other things, stabilize the businesses and operations of the Applicant to enable the Applicant to continue operating its retail business.

4. This factum is filed in support of a motion by the Applicant for an Amended and Restated Initial Order (“**ARIO**”), among other things:

- (a) extending the stay of proceedings until May 1, 2026 (the “**Stay Period**”);
- (b) increasing the permitted borrowings under the DIP Facility to the maximum principal amount of \$13,000,000 in accordance with the DIP Agreement;
- (c) increasing the maximum amount of the DIP Lender’s Charge in accordance with the increased permitted borrowings described above;

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<sup>1</sup> Affidavit of Neil Taylor sworn February 10, 2026 at [para 2](#) [“**Second Taylor Affidavit**”].

- (d) increasing the maximum amount secured by the Administration Charge from \$600,000 to \$1,000,000;
- (e) increasing the maximum amount secured by the Directors' Charge from \$3,200,000 to \$4,000,000;
- (f) authorizing the Applicant to pay certain pre-filing obligations of the Applicant, in an aggregate amount not to exceed \$800,000;<sup>2</sup> and
- (g) authorizing the Applicant to conduct a liquidation sale of the Applicant's inventory and furniture, fixtures and equipment ("**FF&E**") at select closing store locations in accordance with the Sale Guidelines.

5. Capitalized terms not otherwise defined have the meaning ascribed to them in the affidavit of Neil Taylor sworn February 10, 2026 (the "**Second Taylor Affidavit**").

## **PART II - FACTS**

6. The Initial Order, among other things, (i) appointed Alvarez & Marsal Canada Inc. as monitor in these CCAA proceedings (in such capacity, the "**Monitor**"); (ii) granted a stay of proceedings against the Applicant and the Monitor for an initial 10-day period, up to and including February 13, 2026 (the "**Initial Stay Period**"); (iii) granted the Applicant uninterrupted access to its bank accounts associated with the Cash Management System; (iv) authorized the Applicant to borrow under a credit facility from 2625229 Ontario Inc. (the "**DIP Lender**") in order to finance the Applicant's working capital requirements and other general corporate purposes, capital

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<sup>2</sup> Second Taylor Affidavit at [para 5](#).

expenditures, and costs of these proceedings during the Initial Stay Period, subject to certain conditions; and (v) granted priority charges over the Property of the Applicant.<sup>3</sup>

7. As further particularized in the Second Taylor Affidavit, since the Filing Date, the Applicant, in close consultation and with the assistance of the Monitor, has been working in good faith and with due diligence to, among other things:

- (a) stabilize the business and operations of the Applicant as part of these CCAA proceedings to enable the Applicant to continue operating its retail store businesses;
- (b) advise the Applicant's stakeholders, including landlords, employees, logistics suppliers, merchandise vendors, and others, of the granting of the Initial Order; and
- (c) respond to numerous creditor and stakeholder inquiries regarding these CCAA proceedings.<sup>4</sup>

### **Dealings with Landlords**

8. The Applicant currently operates 22 leased stores in Alberta, Saskatchewan, Manitoba, Ontario, Quebec, and Newfoundland and Labrador. Nine of the leases for these stores involve third-party, arm's length Landlords (as that term is defined in the Initial Order).<sup>5</sup>

9. With respect to post-filing rent obligations for each of these 22 stores with active operations, and pursuant to the Initial Order, the Applicant has paid rent for the period from February 3 to February 13, 2026, and intends to pay rent:

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<sup>3</sup> Second Taylor Affidavit at [para 4](#).

<sup>4</sup> Second Taylor Affidavit at [para 7](#).

<sup>5</sup> Second Taylor Affidavit at [para 9](#).

- (a) following the Comeback Hearing, for the period of February 13 to February 28, 2026; and
- (b) thereafter, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears), except for any component of rent comprising percentage rent, which shall be calculated and paid in accordance with the terms of the applicable pre-existing arrangement.<sup>6</sup>

10. During the Stay Period, the Applicant intends to issue 30-day disclaimer notices for a subset of underperforming locations and self-liquidate the inventory and FF&E located at those locations. With respect to the remaining group of third-party Landlords, the Applicant intends to initiate discussions to consensually amend the store leases.<sup>7</sup>

11. To the extent that consensual amendments of the leases with the third-party Landlords cannot be achieved, the Applicant, with the oversight of and in consultation with the Monitor, intends to issue 30-day disclaimer notices to such Landlords and pursue all avenues and offers for the sale, transfer or assignment of its Leases (as defined in the ARIO) with the Landlords to third parties, in whole or in part, and return to Court for approval of any such sale, transfer or assignment.<sup>8</sup>

12. The Applicant, in consultation with the Monitor, has developed sale guidelines to establish the process by which the Applicant will liquidate the inventory and FF&E at the stores for which the Applicant has delivered a disclaimer notice.<sup>9</sup>

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<sup>6</sup> Second Taylor Affidavit at [para 10](#).

<sup>7</sup> Second Taylor Affidavit at [paras 11, 13](#).

<sup>8</sup> Second Taylor Affidavit at [para 14](#).

<sup>9</sup> Second Taylor Affidavit at [para 18](#).

13. In addition, the Applicant has also liaised with Crombie Property Holdings Limited (“**Crombie**”), the landlord of the Woodgate Plaza retail store in St. John’s, Newfoundland and Labrador, from which the Applicant operates its St. John’s retail store, to explore options to immediately re-open the location and resume operations.<sup>10</sup> With the assistance of the Monitor, on February 9, 2026, the Applicant entered into a Temporary Occupancy License Agreement with Crombie, pursuant to which the Applicant is entitled to continue operating the St. John’s store for a six-month term, subject to a reciprocal right of termination on thirty days’ notice, provided that Crombie may not terminate the license prior to March 1, 2026.<sup>11</sup>

14. Prior to the Filing Date, the Applicant vacated eight stores across Canada and stopped paying rent as of the exit date (the “**Vacated Stores**”), with two Vacated Stores having been vacated in the last 60 days, and the remaining six Vacated Stores having been vacated on various dates, including as far back as 2024.<sup>12</sup>

15. The Applicant does not have the cash flow to make rent payments in connection with the Vacated Stores and the Applicant is no longer using any of the premises of the Vacated Stores. The Applicant is not aware whether landlords have re-entered the premises of the Vacated Stores thereby terminating the applicable leases.<sup>13</sup>

### **Dealings with Employees**

16. The Applicant informed employees that as part of the CCAA Proceedings, the Applicant would be reducing the size of its staff team, both at the head office and in retail stores. The Applicant further advised employees that certain store locations will be closed during the CCAA

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<sup>10</sup> Second Taylor Affidavit at [para 22](#).

<sup>11</sup> Second Taylor Affidavit at [para 23](#).

<sup>12</sup> Second Taylor Affidavit at [paras 25-26](#).

<sup>13</sup> Second Taylor Affidavit at [para 27](#).

Proceedings. A Frequently Asked Questions document has been made available to employees, along with such further communication and information as set out in the Second Taylor Affidavit.<sup>14</sup>

### **Dealings with Other Stakeholders**

17. The Applicant and the Monitor have engaged in discussions with the business' logistics providers and critical service providers to ensure, to the extent possible, uninterrupted business operations during these CCAA proceedings.<sup>15</sup>

18. The Applicant has also received requests from parties who have commenced claims against the Applicant for the Applicant's consent to the lifting of the stay of proceedings in the CCAA Proceedings to permit such parties to continue advancing their claims against the Applicant. However, in light of its cash flow forecast and limited funding during the CCAA proceedings, the Applicant has advised that it is not in a financial position to participate in such proceedings and will not consent to lifting the stay.<sup>16</sup>

### **PART III - ISSUES**

19. The issues to be determined on this motion are whether this Court should:

- (a) approve the extension of the Stay Period until May 1, 2026;
- (b) increase the permitted borrowings under the DIP Facility to the maximum principal amount of \$13,000,000 and increase the quantum of the DIP Lender's Charge;

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<sup>14</sup> Second Taylor Affidavit at [paras 33-35](#).

<sup>15</sup> Second Taylor Affidavit at [para 40](#).

<sup>16</sup> Second Taylor Affidavit at [para 41](#).

- (c) approve the requested increases to the Administration Charge and the Directors' Charge; and
- (d) approve the payment of certain pre-filing amounts up to the aggregate amount of \$800,000.

## **PART IV - LAW AND ANALYSIS**

### **The Extension of the Stay Period Should be Granted**

20. Pursuant to section 11.02(2) of the CCAA, the Court may grant an extension of a stay of proceedings where: (a) circumstances exist that make the order appropriate; and (b) the debtor company satisfies the Court that it has acted, and is acting, in good faith and with due diligence.<sup>17</sup>

The Court may also extend the stay in favour of the directors and officers of the Applicant under s. 11.03 of the CCAA in the same circumstances.<sup>18</sup> There is no statutory time limit on how long a stay of proceedings can be extended.

21. The authority conferred upon the courts to stay proceedings under section 11.02 “should be broadly construed to accomplish the legislative purpose of the CCAA”.<sup>19</sup> These purposes include, *inter alia*, supporting the continuation of the applicants’ business, mitigating the social and economic consequences of liquidation and facilitating a value-maximizing restructuring.<sup>20</sup>

22. The Initial Stay Period expires on February 13, 2026. The Applicant asks that the Stay Period be extended to and including May 1, 2026. Extending the Stay Period is necessary to

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<sup>17</sup> *Companies’ Creditors Arrangement Act*, R.S.C., 1985, c. C-36, s. 11.02(2); *Harte Gold Corp. (Re)*, [2022 ONSC 653](#) at para 87.

<sup>18</sup> *Companies’ Creditors Arrangement Act*, R.S.C., 1985, c. C-36, s. 11.03(1).

<sup>19</sup> *Canwest Global Communications Corp.*, [2011 ONSC 2215](#) at para 24.

<sup>20</sup> *Canwest Global Communications Corp.*, [2011 ONSC 2215](#) at para 24; *Century Services Inc v Attorney General (Canada)*, [2010 SCC 60](#) at para 15; *Timminco Limited (Re)*, [2012 ONSC 2515](#) at para 15; *Target Canada Co. (Re)*, [2015 ONSC 303](#) at para 8.

provide the Applicant with the stability and breathing room to, among other things, develop and implement a sale and investment solicitation process (“SISP”) in a structured and orderly manner and continue operating the business of the Applicant in the normal course.<sup>21</sup>

23. The Applicant has acted in good faith and with due diligence in these CCAA proceedings. The Updated Cash Flow Forecast demonstrates that, subject to this Court’s approval of the DIP Facility and the DIP Lender’s Charge in the form requested in the proposed ARIO, the Applicant will have access to sufficient liquidity to fund operations during the requested extension of the Stay Period.<sup>22</sup>

24. The Monitor has expressed its support for the extension of the Stay Period to May 1, 2026.<sup>23</sup>

#### **Additional Borrowings under the DIP Facility Should be Authorized and DIP Lender’s Charge Should be Increased**

25. Pursuant to the Initial Order, the Applicant was granted interim funding under a credit facility from the DIP Lender (the “DIP Facility”) during the Initial Stay Period, subject to the conditions set forth in the DIP Facility Loan Agreement between the Applicant and the DIP Lender dated as of February 2, 2026 (the “DIP Agreement”). The DIP Facility is secured by a Court-ordered charge (the “DIP Lender’s Charge”) on all of the present and future assets, property and undertakings of the Applicant (the “Property”).<sup>24</sup>

26. The initial permitted borrowings under the DIP Facility were based on the needs of the Applicant during the Initial Stay Period. The Applicant seeks to increase the permitted borrowings

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<sup>21</sup> Second Taylor Affidavit at [para 53](#).

<sup>22</sup> Second Taylor Affidavit at [para 54](#).

<sup>23</sup> Second Taylor Affidavit at [para 55](#).

<sup>24</sup> Second Taylor Affidavit at [para 44](#).

under the DIP Facility to \$13,000,000 and the quantum of the DIP Lender's Charge to the maximum amount of the permitted borrowings as applicable under the DIP Agreement.<sup>25</sup>

27. The DIP Lender has agreed to provide additional funding to the Applicant during these CCAA Proceedings, pursuant to the terms set out in the DIP Agreement.<sup>26</sup>

28. The increase to the permitted borrowings under the DIP Facility and the DIP Lender's Charge, correspond to the forecasted interim financing needs of the Applicant based on the Updated Cash Flow Forecast. The DIP Facility is expected to provide the Applicant with sufficient liquidity to continue its business operations during these CCAA Proceedings while undertaking a SISF for the benefit of the Applicant and its stakeholders.<sup>27</sup>

29. Section 11.2 of the CCAA provides the court with the authority to grant an interim financing charge "in an amount the court considers appropriate" based on the factors set out in section 11.2(4) of the CCAA, which include:

- (a) the period during which the company is expected to be subject to proceedings under the CCAA;
- (b) how the company's business and financial affairs are to be managed during the proceedings;
- (c) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;

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<sup>25</sup> Second Taylor Affidavit at [para 45](#).

<sup>26</sup> Second Taylor Affidavit at [para 46](#).

<sup>27</sup> Second Taylor Affidavit at [para 47](#).

- (d) the nature and value of the company's property; and
- (e) whether any creditor would be materially prejudiced as a result of the security or charge.<sup>28</sup>

30. These factors support the proposed increase to the DIP Lender's Charge. The increased borrowings are sized appropriately to the Applicant's financial needs during the extended Stay Period, and will enable the Applicant to preserve the going-concern nature of its business while advancing its restructuring efforts through the development and implementation of the SISP.<sup>29</sup>

31. Without additional financing, the Applicant will not be able to sustain its operations or pursue a viable restructuring, which would materially prejudice all stakeholders, including employees, and likely lead to lower returns for creditors.

32. The Applicant is not aware of any material prejudice that would be occasioned by the increased quantum of the DIP Lender's Charge. Even where it can be established that some creditors may be potentially prejudiced, where the benefits of financing to all stakeholders outweigh the potential prejudice to those creditors, it will be appropriate to approve the DIP financing.<sup>30</sup>

33. Accordingly, the relief sought is necessary and appropriate in the circumstances.

34. The Monitor is of the view that the DIP Agreement and the amount of the DIP Lender's Charge are appropriate in the circumstances.

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<sup>28</sup> *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, [s. 11.2\(04\)](#).

<sup>29</sup> Second Taylor Affidavit at [paras 45-47](#).

<sup>30</sup> *Pride Group Holdings Inc. et al.*, [2024 ONSC 2026](#) at [para 27](#).

### **The Administration Charge and the Directors' Charge Should be Increased**

35. The Initial Order approved the Administration Charge in the amount of \$600,000. The Applicant now seeks to increase the Administration Charge to \$1,000,000. This amount has been determined in consultation with the Monitor and corresponds to the estimated amount of professional fees that the Applicant is expected to incur during the extended Stay Period, in accordance with the Updated Cash Flow Forecast.<sup>31</sup>

36. The Initial Order also approved the Directors' Charge in the amount of \$3,200,000, which the Applicant seeks to increase to \$4,000,000.<sup>32</sup>

37. The Court has discretion to grant and increase these charges in an amount that the Court considers appropriate pursuant to sections 11.51 and 11.52 of the CCAA.<sup>33</sup>

38. The Court in *Canwest* provided a list of non exhaustive factors to be considered when approving an administration charge.<sup>34</sup> The requested increase to the Administration Charge satisfies these well-accepted factors.<sup>35</sup> Among other things, the requested increase is fair and reasonable, and appropriate to the size and complexity of the businesses being restructured.

39. Increasing the quantum of the Administration Charge will allow the Applicant to have continuous access to critical legal counsel during the extended Stay Period and for the Monitor and its counsel to continue their involvement in the CCAA Proceedings. The involvement of the professionals will benefit the Applicant's stakeholders as they are necessary for advancement of

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<sup>31</sup> Second Taylor Affidavit at [para 50](#).

<sup>32</sup> Second Taylor Affidavit at [para 51](#).

<sup>33</sup> *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, [s. 11.51\(1\)](#) and [s. 11.52\(1\)](#).

<sup>34</sup> *Canwest Publishing Inc. / Publications Canwest Inc. (Re)*, [2010 ONSC 222](#) at para [54](#).

<sup>35</sup> See for instance, *Target Canada Co. (Re)*, [2015 ONSC 303](#), at para [74](#), citing *Canwest Publishing Inc. / Publications Canwest Inc. (Re)*, [2010 ONSC 222](#) at para [54](#); *Just Energy Corp. (Re)*, [2021 ONSC 1793](#) at paras [112 to 113](#).

its restructuring efforts, including for the purpose of developing and implementing a SISP.<sup>36</sup> The increased quantum of the Administration Charge is consistent with recent precedents.<sup>37</sup>

40. As this Court noted in *Timminco Limited (Re)*, it is “not reasonable to expect that professionals will take the risk of not being paid for their services, and that directors and officers will remain if placed in a compromised position” should the Applicant continue these CCAA Proceedings without the requested protection.<sup>38</sup>

41. The DIP Lender does not object to either requested increase.<sup>39</sup>

#### **Payment of Certain Pre-filing Amounts is Appropriate**

42. The Applicant is seeking authorization to entitle, but not require, it to pay certain pre-filing obligations of the Applicant, up to a total of \$800,000, where the Applicant believes such payments are necessary to keep its business operating without interruption, provided that: (i) no payment may be made without the Monitor’s prior written consent; and (ii) no payments may be made to any related parties of the Applicant for pre-filing obligations.

43. Payment of these pre-filing amounts is subject to the approval of the Monitor and must be in accordance with the Updated Cash Flow Forecast.

44. Authority to grant an order for the payment of critical suppliers flows from section 11.4 of the CCAA, which gives the Court specific authority to declare a person to be a critical supplier

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<sup>36</sup> Second Taylor Affidavit at [para 50](#).

<sup>37</sup> See *In re QM GP Inc. and Highpoint Environmental Services Inc.*, [Amended and Restated Initial Order dated August 7, 2025](#), CV-25-00748510-00CL (Administration Charge of \$1,250,000); *In re STS Renewables Ltd. et al.*, [Amended and Restated Initial Order dated May 23, 2025](#), CV-25-00743275-00CL (Administration Charge of \$1,200,000); *In re Comark Holdings Inc. et al.*, [Amended and Restated Initial Order dated January 17, 2025](#), CV-25-00734339-00CL (Administration Charge of \$1,000,000).

<sup>38</sup> *Timminco Limited (Re)*, [2012 ONSC 506](#) at [para 66](#).

<sup>39</sup> Second Taylor Affidavit at [para 50](#).

and to grant a corresponding charge on the property of the debtor to secure amounts owing for services provided after the filing.<sup>40</sup> Section 11.4 does not oust the inherent jurisdiction of the Court to authorize the payment of pre-filing amounts to suppliers whose services are viewed as critical to the post-filing operations of the debtor.<sup>41</sup>

45. The factors that courts have considered in determining whether to grant such authorization include: (a) whether the goods and services are integral to the business of the applicant; (b) the applicant's dependency on the uninterrupted supply of the goods or services; (c) the fact that no payments will be made without the consent of the Monitor (which is a requirement under the proposed ARIO); and (d) the effect on the debtor's operations and ability to restructure if it could not make such payments.<sup>42</sup>

46. Although the objective of the CCAA is to maintain the *status quo* while an insolvent company attempts to negotiate a plan of arrangement with its creditors, courts have expressly acknowledged that preservation of the *status quo* does not necessarily entail the preservation of the relative pre-stay debt status of each creditor.<sup>43</sup>

47. The ability to pay certain critical suppliers for pre-filing amounts, subject to obtaining the approval of the Monitor, is facilitative and practical in nature, and the Court has exercised its jurisdiction to grant such relief in other cases.<sup>44</sup>

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<sup>40</sup> *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, [s. 11.4](#); *In Re Hudson's Bay Company*, [2025 ONSC 1530](#) at [para 111](#).

<sup>41</sup> *In Re Hudson's Bay Company*, [2025 ONSC 1530](#) at [para 112](#).

<sup>42</sup> *In Re Hudson's Bay Company*, [2025 ONSC 1530](#) at [para 114](#).

<sup>43</sup> *Target Canada Co. (Re)*, [2015 ONSC 303](#) at [para 63](#).

<sup>44</sup> See *In Re Hudson's Bay Company*, [2025 ONSC 1530](#) at [para 115](#); *Target Canada Co. (Re)*, [2015 ONSC 303](#) at [paras 62-65](#); *Nordstrom Canada Retail, Inc.*, [2023 ONSC 1422](#) at [paras 50-53](#); *Re Just Energy Corp.*, [2021 ONSC 1793](#) at [para 99](#); and *Original Traders Energy Ltd. and 2496750 Ontario Inc. (Re)*, [2023 ONSC 753](#) at [paras 72-74](#).

**PART V - RELIEF REQUESTED**

48. The Applicant therefore requests an Amended and Restated Initial Order substantially in the form of the draft Order attached as Tab 3 to the Applicant's Motion Record.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 11<sup>th</sup> day of February, 2026.



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Lawyers for the Applicant

**SCHEDULE “A”  
LIST OF AUTHORITIES**

1. *Canwest Publishing Inc. / Publications Canwest Inc. (Re)*, [2010 ONSC 222](#);
2. *Canwest Global Communications Corp*, [2011 ONSC 2215](#);
3. *Century Services Inc v Attorney General (Canada)*, [2010 SCC 60](#);
4. *Harte Gold Corp. (Re)*, [2022 ONSC 653](#);
5. *In re Comark Holdings Inc. et al.*, [Amended and Restated Initial Order dated January 17, 2025](#), CV-25-00734339-00CL;
6. *In Re Hudson’s Bay Company*, [2025 ONSC 1530](#);
7. *In re QM GP Inc. and Highpoint Environmental Services Inc.*, [Amended and Restated Initial Order dated August 7, 2025](#), CV-25-00748510-00CL;
8. *In re STS Renewables Ltd. et al.*, [Amended and Restated Initial Order dated May 23, 2025](#), CV-25-00743275-00CL;
9. *Nordstrom Canada Retail, Inc.*, [2023 ONSC 1422](#);
10. *Original Traders Energy Ltd. and 2496750 Ontario Inc. (Re)*, [2023 ONSC 753](#);
11. *Pride Group Holdings Inc. et al.*, [2024 ONSC 2026](#);
12. *Re Just Energy Corp.*, [2021 ONSC 1793](#);
13. *Target Canada Co. (Re)*, [2015 ONSC 303](#);
14. *Timminco Limited (Re)*, [2012 ONSC 506](#).

**I certify that I am satisfied as to the authenticity of every authority.**

Date:



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Matilda Lici

**SCHEDULE “B”  
RELEVANT STATUTES AND RULES**

*Companies’ Creditors Arrangement Act, R.S.C., 1985, c. C-36*

**Stays, etc. — initial application**

**11.02 (1)** A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days,

(a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

**Stays, etc. — other than initial application**

(2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

**Burden of proof on application**

(3) The court shall not make the order unless

(a) the applicant satisfies the court that circumstances exist that make the order appropriate; and

(b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

## **Restriction**

(4) Orders doing anything referred to in subsection (1) or (2) may only be made under this section.

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## **Stays — directors**

**11.03 (1)** An order made under section 11.02 may provide that no person may commence or continue any action against a director of the company on any claim against directors that arose before the commencement of proceedings under this Act and that relates to obligations of the company if directors are under any law liable in their capacity as directors for the payment of those obligations, until a compromise or an arrangement in respect of the company, if one is filed, is sanctioned by the court or is refused by the creditors or the court.

## **Exception**

(2) Subsection (1) does not apply in respect of an action against a director on a guarantee given by the director relating to the company's obligations or an action seeking injunctive relief against a director in relation to the company.

## **Persons deemed to be directors**

(3) If all of the directors have resigned or have been removed by the shareholders without replacement, any person who manages or supervises the management of the business and affairs of the company is deemed to be a director for the purposes of this section.

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## **Interim financing**

**11.2 (1)** On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, a court may make an order declaring that all or part of the company's property is subject to a security or charge — in an amount that the court considers appropriate — in favour of a person specified in the order who agrees to lend to the company an amount approved by the court as being required by the company, having regard to its cash-flow statement. The security or charge may not secure an obligation that exists before the order is made.

## **Priority — secured creditors**

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

**Priority — other orders**

(3) The court may order that the security or charge rank in priority over any security or charge arising from a previous order made under subsection (1) only with the consent of the person in whose favour the previous order was made.

**Factors to be considered**

(4) In deciding whether to make an order, the court is to consider, among other things,

(a) the period during which the company is expected to be subject to proceedings under this Act;

(b) how the company's business and financial affairs are to be managed during the proceedings;

(c) whether the company's management has the confidence of its major creditors;

(d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;

(e) the nature and value of the company's property;

(f) whether any creditor would be materially prejudiced as a result of the security or charge; and

(g) the monitor's report referred to in paragraph 23(1)(b), if any.

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**Critical supplier**

**11.4 (1)** On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring a person to be a critical supplier to the company if the court is satisfied that the person is a supplier of goods or services to the company and that the goods or services that are supplied are critical to the company's continued operation.

**Obligation to supply**

(2) If the court declares a person to be a critical supplier, the court may make an order requiring the person to supply any goods or services specified by the court to the company on any terms and conditions that are consistent with the supply relationship or that the court considers appropriate.

**Security or charge in favour of critical supplier**

(3) If the court makes an order under subsection (2), the court shall, in the order, declare that all or part of the property of the company is subject to a security or charge in favour of the person declared to be a critical supplier, in an amount equal to the value of the goods or services supplied under the terms of the order.

**Priority**

(4) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

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**Security or charge relating to director's indemnification**

**11.51 (1)** On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of the company is subject to a security or charge — in an amount that the court considers appropriate — in favour of any director or officer of the company to indemnify the director or officer against obligations and liabilities that they may incur as a director or officer of the company after the commencement of proceedings under this Act.

**Priority**

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

**Restriction — indemnification insurance**

(3) The court may not make the order if in its opinion the company could obtain adequate indemnification insurance for the director or officer at a reasonable cost.

**Negligence, misconduct or fault**

(4) The court shall make an order declaring that the security or charge does not apply in respect of a specific obligation or liability incurred by a director or officer if in its opinion the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct or, in Quebec, the director's or officer's gross or intentional fault.

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### **Court may order security or charge to cover certain costs**

**11.52 (1)** On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a debtor company is subject to a security or charge — in an amount that the court considers appropriate — in respect of the fees and expenses of

**(a)** the monitor, including the fees and expenses of any financial, legal or other experts engaged by the monitor in the performance of the monitor's duties;

**(b)** any financial, legal or other experts engaged by the company for the purpose of proceedings under this Act; and

**(c)** any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for their effective participation in proceedings under this Act.

### **Priority**

**(2)** The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

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AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TOYS "R" US (CANADA) LTD. / TOYS "R" US (CANADA) LTEE (the "Applicant")

Court File No. 26-00000042-0000

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

PROCEEDING COMMENCED AT TORONTO

**FACTUM OF THE APPLICANT  
(Returnable February 13, 2026)**

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