



Court File No. CV-23-00695619-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE

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THURSDAY, THE 2ND

CHIEF JUSTICE MORAWETZ

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DAY OF MARCH, 2023

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 NORDSTROM CANADA RETAIL, INC.,
NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM
CANADA HOLDINGS II, LLC

INITIAL ORDER

THIS APPLICATION, made by Nordstrom Canada Retail, Inc. ("**Nordstrom Canada**"), Nordstrom Canada Holdings, LLC and Nordstrom Canada Holdings II, LLC (collectively, the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 130 Queen Street West, Toronto, Ontario.

ON READING the affidavit of Misti Heckel sworn March 1, 2023, and the Exhibits thereto (the "**Initial Heckel Affidavit**"), and the pre-filing report dated March 1, 2023, of Alvarez & Marsal Canada Inc. ("**A&M**"), in its capacity as proposed monitor of the Nordstrom Canada Entities (as hereinafter defined), and on hearing the submissions of counsel to the Applicants and Nordstrom Canada Leasing LP ("**Canada Leasing LP**", and together with the Applicants, the "**Nordstrom Canada Entities**"), A&M, Employee Representative Counsel (as hereinafter defined) and such other counsel present, and on reading the consent of A&M to act as monitor (in such capacity, the "**Monitor**").

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that unless otherwise indicated or defined herein, capitalized terms have the meanings given to them in the Initial Heckel Affidavit.

APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies. Although not an Applicant, Canada Leasing LP shall have the benefits of the protections and authorizations provided by this Order.

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Nordstrom Canada Entities shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Nordstrom Canada Entities shall each be authorized and empowered to continue to retain and employ the employees, contractors, advisors, consultants, agents, experts, appraisers, valuers, brokers, accountants, counsel and such other persons (collectively, “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall be entitled to continue to use the central cash management system currently in place as described in the Initial Heckel Affidavit or, with the consent of the Monitor, replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank

providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Nordstrom Canada Entities of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Nordstrom Canada Entities, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any plan of compromise or arrangement ("**Plan**") with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of this Order to the extent that such expenses are incurred and payable by the Nordstrom Canada Entities:

- (a) all outstanding and future wages, salaries, employee benefits (including, without limitation, employee medical, dental, registered retirement savings plan contributions and similar benefit plans or arrangements), vacation pay and expenses, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and all other payroll and benefits processing and servicing expenses;
- (b) all outstanding or future amounts owing in respect of customer rebates, refunds, discounts or other amounts on account of similar customer programs or obligations;
- (c) all outstanding or future amounts related to honouring customer obligations, including customer pre-payments, deposits, gift cards, programs (including, The Nordy Club rewards program and the redemptions of Nordstrom Notes) and other customer loyalty programs, offers and benefits, in each case incurred in the ordinary course of business and consistent with existing policies and procedures;
- (d) the fees and disbursements of any Assistants retained or employed by the Nordstrom Canada Entities at their standard rates and charges;

- (e) with the consent of the Monitor, amounts owing for goods or services supplied to the Nordstrom Canada Entities prior to the date of this Order, by:
- (i) logistics or supply chain providers, including transportation providers, customs brokers, freight forwarders and security and armoured truck carriers, and including amounts payable in respect of customs and duties for goods;
 - (ii) providers of information, internet, telecommunications and other technology, including e-commerce providers and related services;
 - (iii) providers of payment, credit, debit and gift card processing related services; and
 - (iv) other third-party suppliers or service providers up to a maximum aggregate amount of \$1 million, if, in the opinion of the Nordstrom Canada Entities following consultation with the Monitor, such supplier or service provider is critical to the Orderly Wind-down (as hereinafter defined).

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Nordstrom Canada Entities shall be entitled but not required to pay all reasonable expenses incurred by them in carrying on the Business in the ordinary course during the Orderly Wind-down after this Order, and in carrying out the provisions of this Order and any other Order of this Court, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Nordstrom Canada Entities following the date of this Order or, with the consent of the Monitor, payments to obtain the release or delivery of goods contracted for prior to the date of this Order.

8. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from the Nordstrom Canada Entities' employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services taxes, harmonized sales taxes or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Nordstrom Canada Entities in connection with the sale of goods and services by the Nordstrom Canada Entities, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not remitted until on or after the date of this Order;
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business, workers' compensation or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Nordstrom Canada Entities; and
- (d) taxes under the *Income Tax Act* (Canada) or other relevant taxing statute giving rise to any statutory deemed trust amounts in favour of the Crown in right of Canada or any Province thereof or any political subdivision thereof or any other taxation authority.

9. **THIS COURT ORDERS** that, until a real property lease, including a sublease and related documentation (each, a "**Lease**") to which any Nordstrom Canada Entity is a party is disclaimed in accordance with the CCAA or otherwise consensually terminated, such Nordstrom Canada Entity shall pay, without duplication, all amounts constituting rent or payable as rent under such Lease (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the applicable landlord (each, a "**Landlord**") under such Lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a

result of the insolvency of the Nordstrom Canada Entities or the making of this Order) or as otherwise may be negotiated between such Nordstrom Canada Entity and the Landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid. Without in any way impairing, limiting or lessening the priority, protections, rights or remedies of Canada Leasing LP, any Rent in respect of Premises Fixturing Costs payable by Nordstrom Canada to Canada Leasing LP under a Lease shall be stayed and suspended until further Order of this Court.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Nordstrom Canada Entities are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any one of the Nordstrom Canada Entities to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business for the purpose of the Orderly Wind-down or pursuant to this Order or any other Order of the Court.

ORDERLY WIND-DOWN

11. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) terminate the employment of such of its employees or temporarily lay off such of its employees as the applicable Nordstrom Canada Entity deems appropriate;
- (b) perform their obligations under the Wind-Down Agreement, including with respect to the provision of and payment for shared services; and
- (c) in consultation with, and with the oversight of the Monitor, (i) engage in discussions with, and solicit proposals and agreements from, third parties in respect of the liquidation of the inventory, furniture, equipment and fixtures located in and/or forming part of the Property (the "**Liquidation Solicitation Process**"), and return to Court for the approval of any such agreement, and (ii) with the assistance of any real estate advisor or other Assistants as may be desirable, pursue all avenues and offers for the

sale, transfer or assignment of the Leases to third parties, in whole or in part, and return to Court for approval of any such sale, transfer or assignment,

all of the foregoing to permit the Nordstrom Canada Entities to proceed with an orderly wind-down of the Business (the “**Orderly Wind-down**”).

STAY OF PROCEEDINGS

12. **THIS COURT ORDERS** that until and including March 12, 2023, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Nordstrom Canada Entities or the Monitor, or their respective employees, directors, advisors, officers and representatives acting in such capacities, or affecting the Business or the Property, except with the prior written consent of the Nordstrom Canada Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Nordstrom Canada Entities, or their employees, directors, officers or representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

13. **THIS COURT ORDERS** that during the Stay Period, no Person having any agreements or arrangements with the owners, operators, managers or landlords of commercial shopping centres or other commercial properties (including retail, office and industrial (warehouse) properties) in which there is located a store, office or warehouse owned or operated by the Nordstrom Canada Entities shall take any Proceedings or exercise any rights or remedies under such agreements or arrangements that may arise upon and/or as a result of the making of this Order, the declarations of insolvency by the Nordstrom Canada Entities or as a result of any steps taken by the Nordstrom Canada Entities pursuant to this Order and, without limiting the generality of the foregoing, no Person shall terminate, accelerate, suspend, modify, determine or cancel any such arrangement or agreement or be entitled to exercise any rights or remedies in connection therewith.

14. **THIS COURT ORDERS** that, until and including March 12, 2023, no Proceeding shall be commenced or continued against or in respect of Nordstrom, Inc. and its direct and indirect subsidiaries (other than the Nordstrom Canada Entities) (collectively, “**Nordstrom US**”) arising

out of or in connection with any right, remedy or claim of any Person against Nordstrom US in connection with any indebtedness, indemnity, liability or obligation of any kind whatsoever of Nordstrom US under contract, statute or otherwise, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by indemnity, guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution, indemnity or otherwise, with respect to any matter, action, cause or chose in action, whether existing at present or commenced in future, which indebtedness, indemnity, liability or obligation is derivative of the primary liability of or related to the Nordstrom Canada Entities, except with the written consent of the Nordstrom Canada Entities, Nordstrom US and the Monitor, or with leave of this Court; provided that, this paragraph shall not apply to any present or future bank providing the Cash Management System in connection with any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

15. **THIS COURT ORDERS** that, without in any way altering, increasing, creating or eliminating any obligation or duty to mitigate losses or damages of any Landlord: (a) any Landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation to any Nordstrom Canada Entity shall be unaffected and shall not be released or affected in any way in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Nordstrom Canada Entities under the *Bankruptcy and Insolvency Act* (Canada) (“BIA”); and (b) any Landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation to any Nordstrom Canada Entity shall be unaffected by any determination of any rights, remedies and claims of such Landlords as against the Nordstrom Canada Entities, whether made in the within proceedings under the CCAA or in any subsequent proposal or bankruptcy proceedings under the BIA, other than that any recoveries under such proceedings received by such Landlords shall constitute a reduction and offset to such claim.

16. **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of any Nordstrom Canada Entity that is stayed pursuant to this Order may expire, the term of such prescription, time or limitation period shall hereby be deemed to be extended by a period equal to the Stay Period.

NO EXERCISE OF RIGHTS OR REMEDIES

17. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Nordstrom Canada Entities or the Monitor, or their respective employees, directors, officers, advisors and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the prior written consent of the Nordstrom Canada Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Nordstrom Canada Entities to carry on any business which they are not lawfully entitled to carry on; (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (c) prevent the filing of any registration to preserve or perfect a security interest; or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

18. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence or permit in favour of or held by the Nordstrom Canada Entities, except with the prior written consent of the Nordstrom Canada Entities and the Monitor, or leave of this Court. Without limiting the foregoing, no right, option, remedy, and/or exemption in favour of the relevant Nordstrom Canada Entities shall be or shall be deemed to be negated, suspended, waived and/or terminated as a result of this Order.

CONTINUATION OF SERVICES

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Nordstrom Canada Entities or statutory or regulatory mandates for the supply or license of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, cash management services, payment processing services, payroll and benefit services, insurance, freight services, transportation services, customs clearing, warehouse and logistics services, utility or other services to the Business or the Nordstrom Canada Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply or license of such

goods or services as may be required by the Nordstrom Canada Entities, and that the Nordstrom Canada Entities shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case, that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Nordstrom Canada Entities in accordance with normal payment practices of the Nordstrom Canada Entities or such other practices as may be agreed upon by the supplier or service provider and the applicable Nordstrom Canada Entities and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

20. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Nordstrom Canada Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

EMPLOYEE TRUST

21. **THIS COURT ORDERS** that the creation of the Employee Trust, as described in the Initial Heckel Affidavit, is hereby approved on substantially the terms and conditions set out in the Trust Agreement attached as Exhibit "T" to the Initial Heckel Affidavit, including, without limitation, the appointment of Gale Rubenstein, as trustee (the "**Trustee**"), and the Monitor, as administrator (the "**Administrator**"), of the Employee Trust, and authorizes and directs the Monitor to act in such capacity, and the parties thereto to execute the Trust Agreement.

22. **THIS COURT ORDERS** that the Nordstrom Canada Entities are authorized to process or cause to be processed all amounts received from the Employee Trust, including making payments to the Beneficiaries (as defined in the Trust Agreement), subject to and in accordance with the terms and conditions of the Trust Agreement.

23. **THIS COURT ORDERS** that the amounts received by the Nordstrom Canada Entities from the Employee Trust, (a) when in the hands of the Nordstrom Canada Entities; and (b) when paid to any payment processor, shall be deemed to be held in trust for and on behalf of the Beneficiaries, subject to and in accordance with the Trust Agreement and shall not constitute

property of the Nordstrom Canada Entities including, without limitation, under the CCAA and BIA, and shall not be subject to the claims of any Person other than as provided under the Trust Agreement.

24. **THIS COURT ORDERS** that the creation, establishment, funding and administration of the Employee Trust shall not, in whole or in part, directly or indirectly, (a) cause Nordstrom US to be or be deemed to be; or (b) in any way be relied upon to claim or assert that Nordstrom US is or is deemed to be, either (i) an employer, or (ii) a joint, common or related employer under contract, statute, common law or otherwise of any employee of the Nordstrom Canada Entities.

25. **THIS COURT ORDERS** that:

- (a) each Beneficiary shall be deemed to release the Releasees (as defined in the Trust Agreement) on the payment of a distribution from the Employee Trust in respect of such Beneficiary's Eligible Employee Claim (as defined in the Trust Agreement), to the extent of such distribution (the "**Payment Release**");
- (b) each Beneficiary shall be deemed to release the Releasees in respect of the full amount of such Beneficiary's Eligible Employee Claim, sixty (60) days after the final payment to such Beneficiary under the Employee Trust or such later date as the Monitor, in its sole discretion, may designate; provided that, such Beneficiary has not delivered a notice of dispute to the Monitor and Employee Representative Counsel, substantially in the manner and form attached as Schedule "A" hereto, within forty-five (45) days of the final payment to such Beneficiary; provided further that, in the event of any insufficiency of funds in the Employee Trust to cover a Beneficiary's total Eligible Employee Claim, only the Payment Release shall be effective and there shall be no deemed full and final release of the full Eligible Employee Claim; and
- (c) the Settlor (as defined in the Trust Agreement) shall be deemed to be fully and completely subrogated to all rights of recovery of the Beneficiaries against Nordstrom Canada, in an amount equal to the aggregate gross amount paid to such Beneficiaries directly or indirectly from the Employee Trust.

26. **THIS COURT ORDERS** that without limiting the authorizations, protections and indemnities in favour of the Trustee set forth in the Trust Agreement, no action or proceeding may be commenced against the Trustee in respect of the Employee Trust without leave of this Court.

EMPLOYEE REPRESENTATIVE COUNSEL

27. **THIS COURT ORDERS** that Ursel Phillips Fellows Hopkinson LLP ("**Employee Representative Counsel**") is hereby appointed as employee representative counsel to represent the interests of (a) all store-level employees; (b) all non-store level employees, other than (i) non-store level employees who will be eligible for a KERP payment, (ii) directors and officers of the Nordstrom Canada Entities, and (iii) the Senior Vice President, Regional Manager for Canada (collectively, the "**Represented Employees**") in these CCAA proceedings, in any proceedings under the BIA or in any other proceedings respecting the insolvency of the Nordstrom Canada Entities which may be brought before this Court (collectively, the "**Insolvency Proceedings**"), for any employment, human rights or other workplace law issues affecting such Represented Employees in the Insolvency Proceedings, including, without limitation, with respect to the Trust Agreement, the Claims Process (as defined in the Trust Agreement) and the settlement or compromise of any rights, entitlements or claims of the Represented Employees (the "**Purpose**").

28. **THIS COURT ORDERS** that the Employee Representative Counsel shall be entitled but not required to commence the process of identifying no more than three (3) Represented Employees to be nominated as Court-appointed representatives (the "**Employee Representatives**") as soon as practicable following the date hereof. The Employee Representatives shall, upon appointment, represent all Represented Employees (excluding the Opt-Out Individuals (as hereinafter defined), if any) in the Insolvency Proceedings, to act in the overall best interests of the Represented Employees and to advise and where appropriate instruct Employee Representative Counsel, in each case, solely for the Purpose. Employee Representative Counsel may rely upon the advice, information and instructions received from the Employee Representatives in carrying out its mandate without further communications with or instructions from the Represented Employees, except as may be recommended by Employee Representative Counsel or ordered by this Court.

29. **THIS COURT ORDERS** that, with the exception of Opt-Out Individuals, (a) the Employee Representatives and Employee Representative Counsel shall represent all Represented

Employees in the Insolvency Proceedings; (b) the Represented Employees shall be bound by the actions of the Employee Representatives and Employee Representative Counsel in the Insolvency Proceedings; and (c) the Employee Representatives shall be entitled, on the advice of Employee Representative Counsel, to reach any settlement agreements, advocate on behalf of the Represented Employees for the Purpose and settle or compromise any rights, entitlements or claims of the Represented Employees, subject to approval of this Court.

30. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall provide Employee Representative Counsel, the Employee Representatives and their respective advisors, subject to confidentiality arrangements acceptable to the Nordstrom Canada Entities and the Monitor, without charge, the following information, documents and data (the “**Information**”) to only be used for the Purpose in the Insolvency Proceedings: (a) the names, last known addresses and last known telephone numbers and e-mail addresses (if any) of the Represented Employees (excluding Opt-Out Individuals, if any, who have opted out prior to delivery of the Information); and (b) upon request of Employee Representative Counsel, such documents and data as may be reasonably relevant to matters relating to the issues affecting the Represented Employees in the Insolvency Proceedings, and that, in so providing all such Information, the Nordstrom Canada Entities are not required to obtain express consent from such Represented Employees authorizing disclosure of Information to Employee Representative Counsel for the Purpose and, further, in accordance with section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, section 18(1)(i) of the *British Columbia Personal Information Protection Act* and section 20 of the *Alberta Personal Information Protection Act*, this Order shall be sufficient to authorize the disclosure of the Information for the Purpose, without the knowledge or consent of the individual Represented Employees.

31. **THIS COURT ORDERS** that notice of the appointment of Employee Representative Counsel shall be provided by (a) the Nordstrom Canada Entities delivering a letter on behalf of Employee Representative Counsel to the Represented Employees explaining the terms of such appointment; (b) the inclusion of the details of such appointment in the CCAA Notice (as hereinafter defined); and (c) the posting of notice of such appointment on the Monitor’s Website (as hereinafter defined) and on Employee Representative Counsel’s website.

32. **THIS COURT ORDERS** that any individual Represented Employee who does not wish to be represented by the Employee Representatives and Employee Representative Counsel in the Insolvency Proceedings shall, within thirty (30) days of the date of the letter pursuant to paragraph 31 above, notify the Monitor, in writing that such Represented Employee is opting out of representation by the Employee Representatives and Employee Representative Counsel by delivering to the Monitor an opt-out notice in the form attached as Schedule "B" hereto (each an "**Opt-Out Notice**"), and shall thereafter not be bound by the actions of the Employee Representatives or Employee Representative Counsel and shall represent themselves or be represented by any counsel that such Represented Employee may retain exclusively at their own expense (any such Represented Employee that delivers an Opt-Out Notice in compliance with the terms hereof, an "**Opt-Out Individual**"). The Monitor shall deliver copies of all Opt-Out Notices received to the Nordstrom Canada Entities and Employee Representative Counsel as soon as reasonably practicable.

33. **THIS COURT ORDERS** that, subject to the terms of the engagement letter between Nordstrom Canada and Employee Representative Counsel, Employee Representative Counsel shall be paid its reasonable and documented fees and disbursements by the Nordstrom Canada Entities on a monthly basis, promptly upon rendering its accounts to the Nordstrom Canada Entities for fulfilling its mandate in accordance with this Order, and subject to such redactions to the invoices as are necessary to maintain solicitor-client privilege between Employee Representative Counsel and the Represented Employees. In the event of any disagreement with respect to such fees and disbursements, such disagreement may be remitted to this Court for determination.

34. **THIS COURT ORDERS** that no action or proceeding may be commenced against Employee Representative Counsel or the Employee Representatives in respect of the performance of their duties under this Order, without leave of this Court on seven (7) days' notice to Employee Representative Counsel or the Employee Representatives, as the case may be, the Nordstrom Canada Entities and the Monitor.

35. **THIS COURT ORDERS** that Employee Representative Counsel is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body or other government ministry, department or agency, and to take

all such steps as are necessary or incidental thereto. Employee Representative Counsel and Employee Representatives shall have no liability as a result of their appointment or the fulfilment of their duties in carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on their part.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

36. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Nordstrom Canada Entities with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Nordstrom Canada Entities whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

37. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Nordstrom Canada Entities after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

38. **THIS COURT ORDERS** that the directors and officers of the Nordstrom Canada Entities shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$10.75 million, as security for the indemnity provided in paragraph 37 of this Order. The Directors' Charge shall have the priority set out in paragraphs 49 and 51 herein.

39. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (b) the Nordstrom Canada Entities' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 37 of this Order.

APPOINTMENT OF MONITOR

40. **THIS COURT ORDERS** that A&M is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Nordstrom Canada Entities with the powers and obligations set out in the CCAA or set forth herein and that the Nordstrom Canada Entities and their shareholders, partners, members, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Nordstrom Canada Entities pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

41. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Nordstrom Canada Entities' receipts and disbursements;
- (b) assist the Nordstrom Canada Entities with the Orderly Wind-down;
- (c) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, certain shared services provided to and by the Nordstrom Canada Entities under the Wind-Down Agreement during the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;
- (d) advise the Nordstrom Canada Entities in their preparation of the Nordstrom Canada Entities' cash flow statements and the dissemination of other financial information;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Nordstrom Canada Entities, to the extent that is necessary to adequately assess the Nordstrom Canada Entities' business and financial affairs or to perform its duties arising under this Order;
- (f) liaise and consult with any Assistants and any liquidator selected through the Liquidation Solicitation Process, to the extent required, with respect to all matters

relating to the Property, the Business, the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;

- (g) administer the Employee Trust, in its role as Administrator, in consultation with the Trustee thereof, the Nordstrom Canada Entities and Employee Representative Counsel;
- (h) be at liberty to engage independent legal counsel, advisors or such other persons, or utilize the services of employees of its affiliates, as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) be at liberty to serve as a "foreign representative" of the Nordstrom Canada Entities in any proceeding outside of Canada;
- (j) assist the Nordstrom Canada Entities, to the extent required by the Nordstrom Canada Entities, with any matters relating to any foreign proceeding commenced in relation to any of the Nordstrom Canada Entities; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

42. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

43. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *British Columbia Environmental Management Act*, the

British Columbia *Riparian Areas Protection Act*, the British Columbia *Workers Compensation Act*, the Alberta *Environmental Protection and Enhancement Act*, the Alberta *Water Act*, and the Alberta *Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

44. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Nordstrom Canada Entities with information provided by the Nordstrom Canada Entities in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Nordstrom Canada Entities is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Nordstrom Canada Entities may agree.

45. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, including, for greater certainty, in the Monitor’s capacity as Administrator of the Employee Trust, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

46. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, and counsel to the directors and officers of the Nordstrom Canada Entities, shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Nordstrom Canada Entities as part of the costs of these proceedings. The Nordstrom Canada Entities are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities and counsel to the directors and officers of the Nordstrom

Canada Entities, on such terms as such parties may agree and is hereby authorized to pay to the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, counsel to the directors and officers of the Nordstrom Canada Entities and Employee Representative Counsel, retainers, *nunc pro tunc*, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

47. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

ADMINISTRATION CHARGE

48. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, Employee Representative Counsel (up to the maximum amount of \$75,000), and counsel to the directors and officers of the Nordstrom Canada Entities shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$750,000, as security for their professional fees and disbursements incurred at their standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 49 and 51 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

49. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Directors’ Charge (collectively, the “**Charges**”), as among them, shall be as follows:

- (a) First – Administration Charge (to the maximum amount of \$750,000); and
- (b) Second – Directors’ Charge (to the maximum amount of \$10.75 million).

50. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as

against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

51. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts (including deemed or constructive trusts), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, except for any Person who is a "secured creditor" as defined in the CCAA that has not been served with the Notice of Application for this Order. The Nordstrom Canada Entities shall be entitled, at the Comeback Hearing (as hereinafter defined), on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrance over which the Charges may not have obtained priority pursuant to this Order.

52. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Nordstrom Canada Entities shall not grant any Encumbrances over any Property that rank in priority to, or pari passu with, any of the Charges unless the Nordstrom Canada Entities also obtain the prior written consent of the Monitor and the beneficiaries of the Charges (collectively, the "**Chargees**"), or further Order of this Court.

53. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy order or receivership order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Nordstrom Canada Entities, and notwithstanding any provision to the contrary in any Agreement:

- (i) the creation of the Charges shall not create or be deemed to constitute a breach by the Nordstrom Canada Entities of any Agreement to which they are a party,

- (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, and
- (iii) the payments made by the Nordstrom Canada Entities pursuant to this Order and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

54. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Nordstrom Canada Entities' interests in such real property leases.

SERVICE AND NOTICE

55. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe & Mail a notice containing the information prescribed under the CCAA (the "**CCAA Notice**"); and (b) within five (5) days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, or cause to be sent, in the prescribed manner (including by electronic message to the e-mail addresses as last shown in the Nordstrom Canada Entities' books and records), a notice to all known creditors having a claim against the Nordstrom Canada Entities of more than \$1,000, and (iii) prepare a list showing the names and addresses of such creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not make the claims, names and addresses of individuals who are creditors publicly available, unless otherwise ordered by the Court.

56. **THIS COURT ORDERS** that any employee of any of the Nordstrom Canada Entities who is sent a notice of termination of employment or any other communication by the Nordstrom Canada Entities after the date hereof shall be deemed to have received such communication by no later than 8:00 a.m. Eastern Standard/Daylight Time on the fourth (4th) day following the date any such notice is sent, if such notice is sent by ordinary mail, expedited parcel or registered mail to the individual's address as reflected in the Nordstrom Canada Entities' books and records; provided, however, that any communication that is sent to an employee of the Nordstrom Canada Entities by electronic message to the individual's corporate email address and/or the individual's personal email address as last shown in the Nordstrom Canada Entities' books and records shall

be deemed to have been received twenty-four (24) hours after the time such electronic message was sent, notwithstanding the mailing of any notices of termination of employment or other employee communication.

57. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a case website shall be established in accordance with the Protocol with the following URL: <http://www.alvarezandmarsal.com/NordstromCanada> (the “**Monitor’s Website**”).

58. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol or the CCAA and the regulations thereunder is not practicable, the Nordstrom Canada Entities and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the Nordstrom Canada Entities’ creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Nordstrom Canada Entities and that any such service or distribution shall be deemed to be received on the earlier of (a) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. Eastern Standard/Daylight Time (or on the next business day following the date of forwarding thereof if sent on a non-business day); (b) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. Eastern Standard/Daylight Time; or (c) on the third (3rd) business day following the date of forwarding thereof, if sent by ordinary mail.

59. **THIS COURT ORDERS** that the Nordstrom Canada Entities and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence,

by forwarding copies thereof by electronic message to the Nordstrom Canada Entities creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

COMEBACK HEARING

60. **THIS COURT ORDERS** that the comeback motion in these CCAA proceedings shall be heard on March 10, 2023 (the “**Comeback Hearing**”).

GENERAL

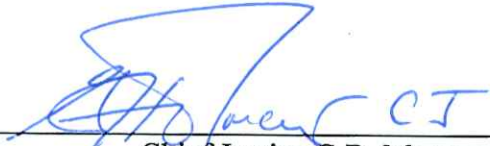
61. **THIS COURT ORDERS** that the Nordstrom Canada Entities or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their respective powers and duties hereunder.

62. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Nordstrom Canada Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Nordstrom Canada Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Nordstrom Canada Entities and the Monitor and their respective agents in carrying out the terms of this Order.

63. **THIS COURT ORDERS** that the Nordstrom Canada Entities and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

64. **THIS COURT ORDERS** that any interested party (including the Nordstrom Canada Entities and the Monitor) may apply to this Court to vary or amend this Order at the Comeback Hearing on not less than five (5) calendar days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

65. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order



Chief Justice G.B. Morawetz

SCHEDULE "A"

NOTICE OF DISPUTE REGARDING ELIGIBLE EMPLOYEE CLAIM

I, _____ (insert name and employee number if known), am disputing that I have been paid in full in respect of my Eligible Employee Claim, as such term is defined in the Trust Agreement. ***Please see the Monitor's website at www.alvarezandmarsal.com/NordstromCanada or Employee Representative Counsel's website at www.upfhlaw.ca for further information.* **

I am a _____ (insert position) in the store located at _____ (insert address/location).

The basis for my objection is:

(insert full particulars regarding dispute, including all facts and calculations on which you are relying)

Based on the foregoing, I claim that I am owed the sum of \$ _____.

Dated at _____ this _____ day of _____, 2023.

Signature: _____

Address: _____

Tel: _____

Email: _____

METHOD OF DELIVERY

This notice of dispute must be sent to Employee Representative Counsel and to the Monitor at the following addresses:

To Employee Representative Counsel:

Ursel Phillips Fellows Hopkinson LLP
555 Richmond Street West
Suite 1200
Toronto, ON M5V 3R1

Attention: Susan Ursel
Email: sursel@upfhlaw.ca

To the Monitor at:

Alvarez & Marsal Canada Inc., in its
capacity as Court-appointed Monitor of the
Nordstrom Canada Entities
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22
Toronto, ON M5J 2J1

Attention: Nordstrom Canada Monitor
Email: NordstromCanada@alvarezandmarsal.com

**NOTE: THIS MUST BE SENT TO EMPLOYEE REPRESENTATIVE COUNSEL
AND THE MONITOR NO LATER THAN FORTY-FIVE (45) DAYS AFTER
YOU RECEIVE YOUR LAST PAYMENT FROM NORDSTROM
CANADA'S PAYROLL**

SCHEDULE "B"

FORM OF REPRESENTED EMPLOYEE OPT-OUT NOTICE

To: Alvarez & Marsal Canada Inc., in its capacity as Court-appointed
Monitor of the Nordstrom Canada Entities
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22
Toronto, ON M5J 2J1

Attention: Nordstrom Canada Monitor
Email: NordstromCanada@alvarezandmarsal.com

I hereby provide written notice that I do not wish to be represented by Ursel Phillips Fellows Hopkinson LLP, employee representative counsel (the "**Employee Representative Counsel**") for the Represented Employees of Nordstrom Canada Retail, Inc., Nordstrom Canada Holdings, LLC, Nordstrom Canada Holdings II, LLC and Nordstrom Canada Leasing LP (collectively, the "**Nordstrom Canada Entities**") in their proceedings under the *Companies' Creditors Arrangement Act* (the "**CCAA Proceedings**"). I understand that by opting out of this representation, if I wish to take part in the CCAA Proceedings, then I would need to do so as an independent party. I am responsible for retaining my own legal counsel should I choose to do so, and that I would be personally liable for the costs of my own legal representation.

I understand that a copy of this Opt-Out Form will be provided to the Employee Representative Counsel and to the Nordstrom Canada Entities.

Witness

Signature

Name [please print]: _____

Address: _____

Telephone: _____

Note: To opt out, this form must be completed and received at the above address on or before _____, 2023.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

Court File No: CV-23-00695619-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NORDSTROM CANADA RETAIL, INC.,
NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM CANADA HOLDINGS II, LLC

Applicants

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

INITIAL ORDER

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