CLERK OF THE COURT
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JUDICIAL CENTRE
OF CALGARY

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COURT FILE NUMBER	1501-00396
COURT	COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE	CALGARY
	IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, R.S.A. 2000, c. B-9
APPLICANT	**ERNST & YOUNG INC., THE COURT-APPOINTED MONITOR IN THE MATTER OF GASFRAC ENERGY SERVICES INC., GASFRAC SERVICES GP INC., GASFRAC ENERGY SERVICES (US) INC., GASFRAC US HOLDINGS INC., and GASFRAC INC.**
DOCUMENT	**APPLICATION TO REVIVE GASFRAC SERVICES GP INC.**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Norton Rose Fulbright Canada LLP 400 3rd Avenue SW, Suite 3700 Calgary, Alberta T2P 4H2 Phone: +1 403.267.8144 Fax: +1 403.264.5973 Email: howard.gorman@nortonrosefulbright.com gunnar.benediktsson@nortonrosefulbright.com Attention: Howard A. Gorman, Q.C. / Gunnar Benediktsson File No.: 1000181685

Notice to the Respondents

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Judge.

To do so, you must be in Court when the application is heard as shown below:

Date:	**December 18, 2019**
Time:	**2:00 p.m.**
Where:	**Calgary Courts Centre**
Before Whom:	**The Honourable Mr. Justice R.A. Neufeld**

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. The applicant, Ernst & Young Inc., in its capacity as court-appointed Monitor (the **Monitor**) of the debtors in this *Companies' Creditors Arrangement Act* (**CCAA**) proceeding, seeks an Order, in substantially the form set out in **Schedule A** hereto:

   (a) reviving Gasfrac Services GP Inc. (**GSGP**) pursuant to section 210(1) and (3)(b) of the *Business Corporations Act* (Alberta) (**ABCA**), for the specific purpose of carrying out any acts necessary or desirable in respect of certain outstanding Petitions before the British Columbia Supreme Court (the **Tax Litigation**);

(b) affirming the Monitor's power to prosecute the Tax Litigation (as defined below) notwithstanding the dissolution of GSGP, acknowledging that any proceeds of the litigation are for distribution by the Monitor in accordance with the court-sanctioned restructuring plan (as detailed below); and

(c) granting such further and other relief as counsel may advise and this Honourable Court may permit.

Grounds for making this application:

2. The debtors, Gasfrac Energy Services Inc., GSGP for itself and in its capacity as general partner of Gasfrac Energy Services Limited Partnership, Gasfrac Energy Services (US) Inc., Gasfrac US Holdings Inc., and Gasfrac Inc. are companies to which the CCAA apply and are collectively referred to herein as **Gasfrac**.

3. Section 5.2(m) of the CCAA Plan of Arrangement sanctioned by this Court on June 24, 2015 (**CCAA Plan**), states that the Monitor "shall become fully and irrevocably authorized and empowered to make distributions from the Cash Pool to each Affected Unsecured Creditor Class [...]". Thus, the Monitor is authorized by this Court to make distributions to Gasfrac's creditors in respect of claims as against the Gasfrac estate. A Claims Process was authorized by the Court to determine and settle claims as against Gasfrac. The Monitor advised upon and played a role in the allowance or contestation of such claims.

4. The Expansion of Monitor's Power order granted by this Court on July 14, 2015 (**Expansion Order**), stated at paragraph 1 that the Monitor was "authorized and empowered [...] to take all steps [...] that are necessary to conclude the transactions, <u>claims processes</u>, the Plan and any other arrangement approved by the Court in these proceedings" (emphasis added). The Expansion Order further authorized the Monitor to "take any other steps on behalf of the Company [Gasfrac] deemed necessary or reasonably incidental to the completion of the items listed above in paragraph 1 of this Order, which the Company would otherwise complete on its own behalf but for the resignation of the Company's board of directors as contemplated by the Plan."

5. The Monitor's Ninth Report dated March 8, 2017, noted that of 93 unresolved Canadian claims, 92 had been settled as at the date of the report. The Monitor reported that: "The remaining Canadian claim relates to an ongoing provincial sales tax audit with the British Columbia Minister of Finance ('the Minister'). The Monitor has remitted payment of $2,244,238.85 to the Minister in order to reduce any further interest and penalties in the event the outcome of the audit is not in Gasfrac's favour. The Monitor is continuing to work with the auditor, but timing of any resolution is unknown."

6. The Monitor also stated in the Ninth Report that "the only remaining activity in the Canadian proceedings is to resolve the final outstanding PST claim with the Minister." This claim is the Tax Litigation, as defined herein and in the Monitor's various reports, and is currently before the Supreme Court of British Columbia in Court File Numbers S-177226 and S-177222.

7. The Tax Litigation concerns the British Columbia Minister of Finance's disputed entitlement to tax proceeds in respect of motor fuel tax and Provincial sales tax arising in connection with Gasfrac's business in British Columbia. The matter is being heard by way of petitions to the Supreme Court of British Columbia.

8. The petitioner in the Tax Litigation is Gasfrac Energy Services Limited Partnership, the general partner of which is GSGP. GSGP was dissolved on December 31, 2016, before the Tax Litigation commenced on August 1, 2017. GSGP is an Alberta entity subject to the ABCA and an applicant in these proceedings.

9. Section 210 of the ABCA empowers the Court to revive corporations that have been dissolved within 5 years after the date of dissolution.

10. In addition to section 210 of the ABCA, the provisions of the CCAA, the pleadings and proceedings filed herein, and the inherent equitable jurisdiction of this Court are together applicable and provide the basis for the relief sought by the Monitor.

11. Such further and other basis as counsel may advise and this Court may permit.

Material or evidence to be relied on:

12. The pleadings and proceedings filed herein including, without limitation, the Initial Order, as amended, dated January 15, 2015; the CCAA Plan; and the Expansion Order.

13. The Tenth Report of the Monitor filed on February 13, 2019, and the Eleventh Report of the Monitor filed concurrently herewith.

14. Such further and other material as counsel may advise and this Court may permit.

Applicable Rules

15. Alberta *Rules of Court*, A.R. 124/2010.

Applicable Acts and regulations:

16. *Companies' Creditors Arrangement Act,* R.S.C. 1985, c. C-36, as amended.

17. *Business Corporations Act*, R.S.A. 2000, c B-9, and in particular section 210 thereof.

18. Such further and other Acts and regulations as counsel may advise and this Court may permit.

Any irregularity complained of or objection relied on:

19. None.

How the application is proposed to be heard or considered:

20. In person, before the Honourable Mr. Justice R.A. Neufeld or so soon thereafter as counsel may be available and this Honourable Court may permit.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

SCHEDULE A

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DOCUMENT	**ORDER (Corporate Revival)**	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Norton Rose Fulbright Canada LLP 400 3rd Avenue SW, Suite 3700 Calgary, Alberta T2P 4H2 Phone: +1 403.267.8222 Fax: +1 403.264.5973 Email: howard.gorman@nortonrosefulbright.com / gunnar.benediktsson@nortonrosefulbright.com Attention: Howard A. Gorman, Q.C. / Gunnar Benediktsson File No.: 1000181685	

DATE ON WHICH ORDER WAS PRONOUNCED:	**December 18, 2019**
NAME OF JUSTICE WHO MADE THIS ORDER:	**Mr. Justice R.A. Neufeld**
LOCATION OF HEARING:	**Calgary, Alberta**

UPON THE APPLICATION of Ernst & Young Inc., in its capacity as court-appointed monitor (the **Monitor**) of Gasfrac Energy Services Inc., Gasfrac Services GP Inc. (**GSGP**), Gasfrac Energy Services (US) Inc., Gasfrac US Holdings Inc., and Gasfrac Inc.; **AND UPON HAVING READ** the brief and authorities filed in respect of the Monitor's Application filed February 13, 2019; **AND UPON HAVING READ** the Tenth Report of the Monitor dated February 13, 2019, filed, and the Eleventh Report of the Monitor dated ●, 2019, filed; **AND UPON NOTING** the outstanding Petitions filed in the British Columbia Supreme Court bearing court file numbers S-177226 and S-177222 (the **Tax Litigation**); **AND UPON NOTING** that GSGP was dissolved by its sole shareholder on December 31, 2016; **AND UPON HEARING FROM** counsel for the Monitor and any other parties present:

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Service of the Application filed on February 13, 2019, is hereby validated and deemed good and sufficient and the Application is properly returnable today.

2. GSGP is revived as a corporate entity pursuant to section 210(1) and (3)(b) of the Business Corporations Act (Alberta), R.S.A. 2000, C B-9 (the **ABCA**), with retroactive effect to the date that the Petitions were filed with the British Columbia Supreme Court, for the sole and exclusive purpose of pursuing the Tax Litigation. For clarity, pursuant to paragraph 210(3)(b) of the ABCA, GSGP is revived solely for the purpose of carrying out any acts necessary or desirable (as determined in the Monitor's discretion, acting reasonably) to pursue the Tax Litigation. GSGP is not revived for any other purposes whatsoever and, notwithstanding any provision of the ABCA, GSGP shall not have the capacity and shall not exercise any right, power or privilege other than in relation to the Tax Litigation.

3. The applicable Corporate Registry or Registrar (Alberta) is directed to take such steps as are necessary to effect the revival of GSGP, with such revival being effective retroactively and for the limited purpose noted in paragraph 2 of this Order, and until the full and final resolution of the Tax Litigation or the discharge of the Monitor, whichever is earlier, or such other time as may be directed by this Court on further application to this Court by any affected party.

4. The Monitor is authorized and empowered to prosecute the Tax Litigation and distribute any proceeds therefrom in accordance with its court-sanctioned mandate.

5. Pursuant to section 210(4) of the ABCA, it is hereby directed that:

    a. new directors or officers of GSGP need not be appointed;

    b. any persons who were directors or officers of GSGP prior to December 31, 2016 shall be deemed to have ceased to hold office as of December 31, 2016 and no such person shall incur any liability in relation to any action or inaction of GSGP after such date; and

    c. any person who was a holder of shares of GSGP immediately prior to December 31, 2016 shall have no liability for any action or inaction of GSGP after such date.

6. Service of this Order by e-mail, facsimile, courier, regular mail or personal delivery shall constitute good and sufficient service of this Order.

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J.C.Q.B.A.