

CITATION: Imperial Tobacco Company Limited, 2025 ONSC 4497
COURT FILE NO.: CV-19-615862-00CL; CV-19-616077-00CL; CV-19-616779-00CL
DATE: 2025-08-27

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: **IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT**

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JTI-MACDONALD CORP.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF IMPERIAL TOBACCO CANADA LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.

BEFORE: Chief Justice Geoffrey B. Morawetz

COUNSEL: *Deborah Glendinning, Marleigh Dick and Craig Lockwood*, for Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited

Linda Plumpton, Jeremy Opolsky, Scott Bomhof, Adam Slavens, and Alec Angle, for JT Canada LLC Inc. and PricewaterhouseCoopers Inc., in its capacity as Receiver of JTI-Macdonald TM Corp.

David Ullmann, for La Nordique Compagnie D'Assurance du Canada

Mark E. Meland, Avram Fishman, Tina Silverstein, André Lespérance, Philippe Trudel, Bruce Johnston, and Harvey Chaiton, for Conseil québécois sur le tabac et la santé, Jean-Yves Blais and Cécilia Létourneau (Québec Class Action Plaintiffs)

Brett Harrison and Guneev Bhinder, for the Province of Québec

Patrick Flaherty and Claire Wortsman, for R.J. Reynolds Tobacco Company and R.J. Reynolds Tobacco International Inc.

Nicholas Kluge and Clifton Prophet, for Philip Morris International Inc.

Natasha MacParland, Chanakya Sethi and Anisha Visvanatha, for FTI Consulting Canada Inc., in its capacity as court-appointed Monitor of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited

Jacqueline Wall, for His Majesty the King, in Right of Ontario

R. Shayne Kukulowicz, for Ernst & Young Inc., in its capacity as court-appointed Monitor of Rothmans, Benson & Hedges Inc.

Matthew Gottlieb, for the Court-appointed Mediator

Linc Rogers, Pamela Huff and Jake Harris, for Deloitte Restructuring Inc., in its capacity as Monitor of JTI-Macdonald Corp.

David Byers and Maria Konyukhova, for British American Tobacco p.l.c., B.A.T. Industries, p.l.c. and British American Tobacco (Investments) Limited

James Bunting and Sam Cotton, for Heart and Stroke Foundation

Michael Feder, K.C., James Gage, Paul Steep, Heather Meredith, Deborah Templer, Trevor Courtis, and Meena Alnajar, for Rothmans, Benson & Hedges Inc.

André I.G. Michael, Preet Gill, Jesse Mighton, Mike Eizenga, Shawn Kirkman, Jeffrey Leon, Michael Peerless, for the Consortium of Provinces and Territories

Douglas Lennox and David Klein, for Representative Plaintiff, Kenneth Knight, in the Certified British Columbia Class Action

Raymond Wagner, K.C., Kate Boyle and Madeline Carter, Representative Counsel for the Pan-Canadian Claimants

Robert Thornton, Leanne Williams, Scott McGrath, Mitch Grossell and Rushi Chakrabarti, for JTI-Macdonald Corp.

Robert Cunningham and Vern DaRe, for the Canadian Cancer Society

William Sasso, for The Ontario Flue-Cured Tobacco Growers' Marketing Board

Ari Kaplan, Representative Counsel for Former Genstar U.S. Retiree Group Committee

Edward Park, for Canada Revenue Agency

Stacy Petriuk, K.C. and Laura Comfort, for the Province of Alberta

Dilina Lallani, for Grand River Enterprises Six Nations Ltd.

HEARD: February 11, and March 7, 2025

CORRIGENDUM

[1] Subsequent to the release of my endorsement on August 25, 2025, QCAP Counsel brought to my attention that paragraphs [76] - [79] of the endorsement create an ambiguity that needs to be addressed.

[2] I agree.

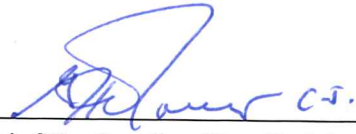
[3] Paragraphs [77] – [79] of the endorsement are to be deleted and replaced by the following:

[77] For greater certainty, I am cognizant of the provisions of the Quebec Class Action Administration Plan, which has been sanctioned by this Court. Paragraphs 26.7, 35.3, 41.1 and 53.1 of this Plan contemplate that the “actual quantum” of compensation payable to a Tobacco-Victim Claimant or Succession Claimant “will be determined on a *pro rata* basis between all *Blais* Class Members” based on the number of claims received and the amount available for distribution after all claims have been received (*Paras.* 26.7 and 35.3). The Plan states that the “quantum of the payments” specified in the compensation table “may be reduced on a *pro rata* basis based upon the actual take-up rate and other factors” (*Para.*41.1).

[78] Section 53.1 of the Quebec Class Action Administration Plan addresses the prospect of the funds remaining in the QCAP Trust Account “*after the payment of the Quebec Class Counsel Fee*” being insufficient to pay the aggregate of the Compensation Payments. In that event, payments owing to the class members eligible for compensation shall be reduced on a *pro rata* basis so that the amount payable does not exceed the funds remaining in the QCAP Trust Account (*Para.* 53.1).

[79] These provisions of the Quebec Class Action Administration Plan are binding on affected parties. The amount available to fund the claims is fixed by the terms of the Sanction Order. The face value of the claims is not guaranteed. Rather, to the contrary, the amount payable to each eligible claimant is determined once all claims are processed, the actual take-up rate is known, and the amount available to pay the approved claims to individual claimants is capable of determination. Nonetheless, I direct that a reserve be held back from the QCAP Counsel fee and retained in the respective QCAP Trust Accounts in the total amount of \$50,000,000, the purpose of which is to alleviate, to the extent possible, any reduction in compensation to claimants because of the actual take-up rate or other factors, on a *pro-rata* basis. If this amount is not required, whether in whole or in part, the amount remaining shall, with the approval of the CCAA Plan Administrators, be remitted to the QCAP Counsel. Otherwise, the full amount of the fee sought by the QCAP Counsel shall be paid to them in the amount herein approved, in conformity with the provisions of the Quebec Class Action Administration Plan, upon implementation of the CCAA Plans.

[4] A corrected version of the August 25, 2025 endorsement will be issued.



Chief Justice Geoffrey B. Morawetz

Date: August 27, 2025