

**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 TERRACE BAY PULP INC.

Applicant

**SUPPLEMENTARY AFFIDAVIT OF WOLFGANG GERICKE
(Sworn May 10, 2013)**

I, Wolfgang Gericke, of the City of Thunder Bay, in the Province of Ontario,

MAKE OATH AND SAY AS FOLLOWS:

Introduction

1. I am the President and sole director of Terrace Bay Pulp Inc. ("**Terrace Bay**" or the "**Company**") and, as such, have knowledge of the matters deposed to in this affidavit. Where this affidavit is not based on my direct personal knowledge, it is based on information and belief and I verily believe such information to be true.

Overview of Relief Sought

2. This affidavit is sworn in addition to and supplementary to my affidavit sworn April 18, 2013 (the "**Gericke Affidavit**") in support of the Company's motion for an order, among other things, declaring that the proceeding known as *R. v. Terrace Bay Pulp Inc. & Gino Leblanc*, brought by the Ministry of Labour, Legal

Services Branch against the Company, commenced by Information sworn on January 10, 2012 in the Ontario Provincial Offences Court (Thunder Bay) (the “**First OHSA Proceeding**”), and the proceeding known as *R. v. Terrace Bay Pulp Inc., Venshore Mechanical Ltd., Joseph Mykiety, Arthur Szczepaniak & Alain Zborowski*, brought by the Ministry of Labour, Legal Services Branch against the Company, commenced by Information sworn October 15, 2012 in the Ontario Provincial Offences Court (Thunder Bay) and subsequently transferred to Ontario Provincial Court (Thunder Bay) (the “**Second OHSA Proceeding**”, together with the First OHSA Proceeding, the “**OHSA Proceedings**”)), in connection with alleged violations under the *Occupational Health and Safety Act* (Ontario) (the “**OHSA**”), are stayed, and, if required, granting an interim stay of the OHSA Proceedings pending the disposition of such motion.

3. The purpose of this affidavit is to provide further support for the Company’s request for an order staying the OHSA Proceedings and granting an interim stay of the OHSA Proceedings pending the final determination of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”).
4. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Gericke Affidavit.

Counsel in the OHSA Proceedings

5. At paragraph 25 of the affidavit of Line Forestier, Crown Counsel employed by the Ontario Ministry of the Attorney General, Ministry of Labour (the “**Crown**”) sworn May 8, 2013 (the “**Forestier Affidavit**”), Ms. Forestier refers to Mr. Yves Fricot as “counsel for Terrace Bay.” This statement is incorrect. Although Mr.

Fricot has appeared on behalf of Terrace Bay at various court appearances in connection with the OHSA Proceedings, Mr. Fricot has not been formally retained as counsel to the Company in the OHSA Proceedings.

6. I am advised by Mr. Fricot that at all times during the OHSA Proceedings, Mr. Fricot has advised the other parties and the court that he has not been retained by Terrace Bay in connection with the OHSA Proceedings except to appear on the issue of the adjournment.
7. Terrace Bay and the Monitor have not approved the expenditures necessary to participate in the OHSA Proceedings including but not limited to retaining counsel.

Nature of Terrace Bay's Participation in the OHSA Proceedings

8. At paragraph 25 of the Forestier Affidavit, Ms. Forestier states that she had a discussion with Mr. Fricot on February 11, 2013 in connection with a court appearance, and "Mr Fricot indicated that Terrace Bay might wish to be present at the May 29, 2013 pre-trial and, if in attendance, would observe, but not participate in or contribute to the pre-trial."
9. This is incorrect. As set out in the Gericke Affidavit, a procedural pre-trial is scheduled on May 29, 2013 in connection with the Second OHSA Proceeding. The pre-trial would require Terrace Bay to retain counsel and for counsel to conduct considerable preparation, including the review of all Crown disclosure documents and the preparation of a brief to be submitted to the Ontario Provincial Court (Thunder Bay).

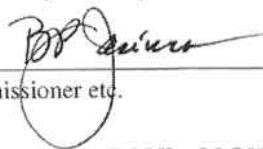
10. I am advised by Mr. Fricot that he did not suggest that Terrace Bay participate in the OHSA Proceedings as an observer only (as opposed to preparing and filing a pre-trial brief and attending and participating in the pre-trial). It is Mr. Fricot's understanding that the suggestion that Terrace Bay participate as an observer only was made by another counsel and was an ancillary matter to the discussion.
11. In any event, I am advised by Mr. Fricot that he did not agree to the suggestion that Terrace Bay participate as an observer in the OHSA Proceedings, and in fact this was not an option that Her Honour Madam Justice Pelletier made available to Terrace Bay. In fact, I am advised by Mr. Fricot that Justice Pelletier, before whom the pre-trial will be held on May 29, 2013, has made it clear to all parties in the Second OHSA Proceeding that in the absence of a stay of proceedings, she expects all parties, including Terrace Bay, to be prepared for and participate in the pre-trial including but not limited to by reviewing Crown disclosure, fully participating in the proceeding, and preparing the necessary briefs.

Possibility of Non-Monetary Penalties

12. At paragraph 7 (iii) of the Forestier Affidavit, Ms. Forestier states that it is open to the court to impose a non-monetary penalty in the OHSA Proceedings, such as, for example, requiring a defendant to comply with the terms of a probation order.
13. The Crown has not indicated what relief it will seek against Terrace Bay in the event of successful prosecution of the OHSA Proceedings. At no time has the Crown communicated to Terrace Bay that it would not seek a monetary penalty.

14. This affidavit is sworn in support of the Company's motion for an order, among other things, staying the OHSA Proceedings, and for no other or improper purpose.

SWORN BEFORE ME at the City of
Thunder Bay, in the Province of Ontario
this 10th day of May, 2013


A Commissioner etc.

B. PAUL JASIURA


WOLFGANG GERICKE

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TERRACE BAY PULP INC.

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AFFIDAVIT OF WOLFGANG GERICKE
(Sworn May 10, 2013)**

BLAKE, CASSELS & GRAYDON LLP
Suite 4000, Commerce Court West
199 Bay Street
Toronto, Ontario M5L 1A9

Michael McGraw LSUC# 46679C
Tel: 416-863-4247
E-mail: mike.mcgraw@blakes.com

Marc Flynn LSUC#: 52831B
Tel: 416-863-2685
E-mail: marc.flynn@blakes.com

Kristina Desimini LSUC #58872Q
Tel: 416-863-2255
E-mail: kristina.desimini@blakes.com
Fax: 416-863-2653

Lawyers for the Applicant