

**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 SYNAPTIVE MEDICAL INC.**

**FACTUM OF THE MONITOR  
(Motion for Fee Approval,  
returnable June 10, 2026)**

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appointed Monitor of Synaptive Medical Inc.

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## **PART I - OVERVIEW**

1. The Monitor is seeking this Court's approval of (i) the fees and disbursements of its counsel, McMillan LLP ("**McMillan**"), for the period from July 19, 2025 through to April 30, 2026 (the "**Fee Period**"), and (ii) the subsequent fees and disbursements to be incurred by McMillan after the Fee Period (the "**Estimated Remaining Fees**").

2. As set out in the fee affidavit of Tushara Weerasooriya sworn June 1, 2026 (the "**Fee Affidavit**"), the total fees and disbursements claimed by McMillan for the Fee Period are \$67,916.87 (inclusive of taxes), which includes fees of \$59,984.00.

3. It is McMillan's current expectation that the Estimated Remaining Fees will not exceed \$22,000.00 in the aggregate, excluding applicable taxes.

## **PART II - ISSUE**

4. The issue for this Court to determine on this motion is:

(a) Should the fees and disbursements incurred by McMillan be approved?

## **PART III - LAW AND ARGUMENT**

### **A. McMillan's fees and disbursements should be approved**

5. The amended and restated initial order granted by Justice Osborne on March 26, 2025 entitles the Monitor and its counsel to be paid their reasonable fees and disbursements, each at their standard rates and charges, and requires the Monitor and its counsel to pass their accounts from time to time.<sup>1</sup>

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<sup>1</sup> Amended and Restated Initial Order, paras 31-32.

6. The Monitor previously sought and obtained approval of its fees and those of McMillan on a prospective basis for the period from July 19, 2025 to the completion of its mandate (the “**Remaining Period**”). On August 6, 2025 this Court made an order approving, among other things, McMillan’s expected fees for the Remaining Period, estimated at \$30,000.00. That estimate contemplated, among other things, the prompt adjudication of the outstanding WEPPA motion. Subsequently, the WEPPA motion has been adjourned multiple times, leading to more legal work, court attendances and consultations with parties than were contemplated in the court-approved estimate. As a result, McMillan’s fees for the Remaining Period have exceeded the amounts previously approved by the Court.

7. In *Laurentian University*, Chief Justice Morawetz held that this Court’s role on a motion to pass accounts is to evaluate those accounts on the “overriding principle of reasonableness.” The predominant consideration is the overall value contributed by the Monitor and its counsel.<sup>2</sup>

8. Chief Justice Morawetz further reiterated the following non-exhaustive list of factors to be considered when evaluating the fairness and reasonableness of a court-appointed officer’s fees: (i) the nature, extent and value of the assets being handled; (ii) the complications and difficulties encountered; (iii) the degree of assistance provided by the company, its officers or its employees; (iv) the time spent; (v) the Monitor’s knowledge, experience and skill; (vi) the diligence and thoroughness displayed; (vii) the responsibilities assumed; (viii) the results achieved; and (ix) the cost of comparable services when performed in a prudent and economical manner.<sup>3</sup>

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<sup>2</sup> *Laurentian University of Sudbury*, [2022 ONSC 2927](#), para 9.

<sup>3</sup> *Laurentian University of Sudbury*, [2022 ONSC 2927](#), para 10.

9. The Monitor submits that, when viewed through the lens of these factors, McMillan's fees meet the criteria for this Court's approval.

10. The Estimated Remaining Fees that will be incurred until this CCAA proceeding terminates should also be approved. Approval of such estimate on this motion would avoid the cost and inefficient use of judicial resources associated with a separate hearing.

#### **PART IV - REQUESTED RELIEF**

11. For all of the reasons above, the Monitor requests that this Court approve McMillan's fees and disbursements.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 2<sup>nd</sup> day of June, 2026.

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## SCHEDULE "A" LIST OF AUTHORITIES

1. *Laurentian University of Sudbury*, [2022 ONSC 2927](#)

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

Court File No. CV-25-00739279-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF SYNAPTIVE MEDICAL INC.**

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at TORONTO.

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