

**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
1001270243 ONTARIO INC.**

**SUPPLEMENTARY FACTUM OF RICHARD GOLDGLASS
AND OTHER TERMINATED EMPLOYEES
(Motion for WEPP Relief, returnable June 10, 2026)**

May 15, 2026

KOSKIE MINSKY LLP
20 Queen Street West, Suite 900, Box 52
Toronto, ON M5H 3R3

Andrew J. Hatnay (LSO#: 31885W)
(T) 416-595-2083 / (E) ahatnay@kmlaw.ca

Robert Drake (LSO# 57083G)
(T) 416-595-2095 / (E) rdrake@kmlaw.ca

Abir Shamim (LSO# 88251V)
(T) 416-354-7758 / (E) ashamim@kmlaw.ca

Lawyers for Richard Goldglass and other
terminated employees of Synaptive Medical Inc.

TO: THE SERVICE LIST

1. The purpose of this Supplementary Factum is to address recent development in the proceedings of Synaptive Medical Inc. ("**Synaptive**") and to advise the court of additional relevant cases. As of this writing, the decision of the Court of Appeal of Québec in *Attorney General of Canada c. Valeo Pharma inc.* (Montreal; 500-09-031382-252) ("**Valeo**") remains under reserve.

2. To recap, after obtaining protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**"), Synaptive terminated approximately 48 employees of its 137employee workforce (the "**Terminated Employees**"). On June 18, 2025, Synaptive moved before the Court for approval of a reverse vesting order ("**RVO**") transaction and the issuance of an order (a "**WEPP Order**") under section 3.2 of the *Wage Earner Protection Program Regulations*, SOR/2008-222 (the "**WEPP Regulations**"). The Court approved the RVO transaction but adjourned the motion for the WEPP Order to November 12, 2025 (now to June 10, 2026) at the behest of Employment and Social Development Canada ("**ESDC**") who advised the Court it wished to make submissions on the WEPP motion.

3. On September 3, 2025, 1001253954 Ontario Inc. ("**ResidualCo**"), the residual company that was incorporated by Synaptive for its RVO transaction, made an assignment into bankruptcy under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "**BIA**"). The *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1 ("**WEPPA**") automatically applies in a bankruptcy.¹

4. The Terminated Employees have claims for unpaid wages and severance pay of approximately \$750,000. Payments under the Wage Earner Protection Program ("**WEPP**") would provide each employee with a payment of up to \$8,844.22 toward their claims. There are no funds to pay creditors in respect of their unsecured claims.

¹ Pursuant to [s. 5\(1\)\(b\)\(i\)](#) of WEPPA, the former employer being bankrupt obviates the need for a WEPP Order under [s. 5\(1\)\(b\)\(iv\)](#) of WEPPA and [s. 3.2](#) of the WEPP Regulations.

5. Although the circumstances of Synaptive's CCAA proceedings have evolved, notably with the recent appointment of a receiver over Synaptive,² the core problem that is the focus of this motion remains: ESDC denies employee WEPP applications in cases where their employer has restructured using an RVO.³ This is despite the orders in cases such as *Former Gestion, Valeo Pharma, Taiga Motors*, and *Syndic d'Intelgenx Corp*⁴ where the courts *already ordered* that WEPPA applies to the proceedings. When the terminated employees subsequently send their individual applications for a WEPP payment, ESDC denies eligibility on the basis that they are only owed eligible wages by a residual company, who ESDC says is not their former employer pursuant to the WEPP Order.⁵

6. The table in Schedule "C" attached hereto summarizes cases with WEPP Orders and subsequent WEPP application denials of the ESDC in cases such as *Former Gestion* and *Taiga Motors*.

A wider problem currently exists in insolvency practice

7. RVOs are regarded as a useful restructuring tool in current insolvency practice that help debtors preserve value, promote the continuation of going concern businesses and avoid bankruptcy.⁶

² Affidavit of Abir Shamim sworn May 15, 2026, Second Supplementary Responding Motion Record of Richard Goldglass and Other Terminated Employees, Tab 1, Exhibit A.

³ See *Arrangement relatif à Former Gestion Inc.*, [2024 QCCS 3645](#) [*Former Gestion*]; *Taiga Motors Corporation et Deloitte Restructuring Inc.* (18 December 2024), Montreal 500-11-064357-243 (QCCS) [*Taiga Motors*]. Please note, following the approval of the RVO in *Arrangement relatif à Valeo Pharma inc.*, [2024 QCCS 580](#) [*Valeo Pharma*], ESDC placed the employee WEPP applications on "hold." In *Cleo Energy Corp (Re)*, [2025 ABKB 621](#) [*Cleo Energy*], the ESDC advised the court that the WEPP payments made to employees following the appointment of a receiver could be "clawed back if the RVO is approved."

⁴ 2024 QCCS 3678 [*Syndic d'Intelgenx*].

⁵ See *Chiang (Re)*, [2022 CIRB 1027](#) where the Canadian Industrial Relations Board upheld the Minister of Labour's decision to deny WEPP to a terminated employee in the *Comark Holdings Inc* CCAA proceeding because their employer underwent a restructuring through a RVO sale and their claim for termination pay was transferred to a residual company.

⁶ *Atlas Global Brands Inc*, 2024 ONSC 5570 at [para 41](#).

8. The current denial of WEPP to employees terminated as part of an RVO has created two persisting problems in insolvency practice: since employees are being denied much-needed WEPP payments courts will be required to consider the denial of WEPP on motions to approve RVOs, as employees will be "worse off" by the RVO, a factor in the test in *Harte Gold Corp. (Re)*.⁷ The existence of employees being worse off, it is submitted, will lead the courts to deny approval of RVOs, which will lead to more bankruptcies, thus placing RVOs as a restructuring tool into jeopardy.

9. In this case, in an effort to prevent ESDC from denying WEPP applications when employees apply, the Terminated Employees request a declaration that ResidualCo is their "former employer" pursuant to sections 5(1)(b)(i) and (c) of WEPPA (the "**Declaration**").

10. The Court has broad authority to issue declarations under section 97 of the *Courts of Justice Act*, R.S.O. c. C. 43, as well as section 11 of the CCAA which authorizes the Court to make "any order that it considers appropriate in the circumstances." The requested Declaration does not contravene WEPPA, and in fact, WEPPA supports that the courts can determine who the former employer is. This was affirmed by the Court of Appeal of Québec in *Attorney General of Canada c Former Gestion Inc.*⁸ as well as recently in *Cleo Energy*.⁹

11. In a CCAA proceeding, section 3.2 of the WEPP Regulations specifically authorizes the court – and the court alone – to determine who the former employer of the employees is in CCAA proceedings when considering a motion for a WEPP Order. Under the very words of Parliament, the government has no role in this determination.

⁷ 2022 ONSC 653 at [para 38](#).

⁸ 2024 QCCA 1441 at [para 18](#) [*Former Gestion QCCA*].

⁹ *Supra* note 3.

12. The Declaration is supportable and consistent under the law, and reflects the reality of the legal situation: that the Terminated Employees original former employer (Synaptive) fired them without paying him severance pay and other amounts, then incorporated a new entity (ResidualCo) into which it transferred its severance pay liabilities, thus making ResidualCo also the Terminated Employees' former employer. It is settled law from the Ontario Court of Appeal that an employee can have more than one employer and designate the holder of an employee's liability as their former employer.¹⁰ The premise of ESDC's argument is that terminated employees can only have one former employer. That premise is contrary to established law and inconsistent with the facts of employees who are terminated by their employer as part of an RVO transaction.

PART II – SUPPLEMENTARY LAW AND ARGUMENT

The remedial purpose of WEPPA is uncontroverted

13. In 2005, Parliament introduced WEPPA to provide a "guaranteed payment" to employees who were terminated after their employer was subject to a bankruptcy or a receivership:

For example, we are proposing new measures, including the wage earner protection program, for the first time in our history which will provide workers *with a guaranteed payment* for unpaid wages up to \$3,000. An estimated 10,000 to 15,000 workers in every workplace across the country in both federal and provincial jurisdictions are left with unpaid wages or reduced pensions due to employer bankruptcies in Canada. These workers did not agree to become lenders to their employers when they were hired. They cannot afford to bear the risk of coming up empty-handed after they have done their hard work each and every day. They need to have their paycheques to buy groceries, to pay their mortgages and to pay their car payments.¹¹ [emphasis added]

¹⁰ *Downtown Eatery (1993) Ltd v Ontario*, [2001] OJ No 1879, 54 OR (3d) 161 (ONCA) at [paras 1-2](#) [*Downtown Eatery*].

¹¹ Canada, Parliament, *House of Commons Debates*, 38th Parl, 1st Sess, Vol 140, No 127 ([28 September 2005](#)).

14. Recently, in *Cleo Energy*, the court gave extensive reasons emphasizing the importance of WEPP and criticizing ESDC's threat to claw back WEPP payments that had already been paid to employees.¹² In *Cleo Energy*, the company was subject to a receivership and the terminated employees applied for and received WEPP payments. The company then moved for approval of an RVO transaction. The court dismissed the RVO approval motion on the basis that there was insufficient evidence before the court to support the RVO. The Attorney General of Canada (the "AGC"), on behalf of ESDC, appeared with a "warning" to the court that if the RVO was approved, the employees who had received WEPP could have their payments clawed back. The court was highly critical of ESDC's threat, stating it would be an "immense discredit of the Minister" since the "[t]erminated employees have no control over how insolvency and restructuring transactions are structured after their termination".¹³ The court also rejected ESDC's repeat submission that the court "has no say in the matter", invoking Justice Collier's rejection of the same argument ESDC made to the Court in *Former Gestion*:

[41] Employment Canada advised the Court that pursuant to the Wage Earner Protection Payment Act, S.C. 2005, c. 47 ("WEPPA") former employees of Cleo who had received payments pursuant to WEPP could have their payments clawed back if the RVO is approved.

[42] WEPPA s 5 outlines the eligibility criteria for employees whose former employer is in receivership. The key requirements are that "the former employer is subject to a receivership" and that "the individual is owed eligible wages by the former employer."

[43] Employment Canada submits:

Should the RVO be granted, the liabilities related to unpaid wages of the former employees of Cleo would be transferred to ResidualCo. Equally, Cleo would emerge from the receivership proceedings and continue to carry on its business operations as a viable corporation.

Following the issuance of the RVO, the eligibility criteria under s. 5(1)(b)(ii) and 5(1)(c) of the WEPPA would no longer be met and, the objective of the WEPP would equally be undermined. As a

¹² *Cleo Energy*, *supra* note 3 at [para 46](#).

¹³ *Ibid.*

result, this would likely affect the former employees' entitlement to WEPP benefits and lead to an overpayment of program benefits, which would be subject to recovery.

...

[45] *Employment Canada's submission is, in essence, a warning that following the approval of the Cleo RVO, payments to former employees of Cleo may be clawed back followed by a warning that this Court has no say in the matter. I beg to differ. Justice Collier in Arrangement relatif à Former Gestion Inc, 2024 QCCS 3645 at para 34 dispensed with a similar argument by Employment Canada as follows:*

[T]he relevant time for determining when WEPPA applies is the moment at which all an insolvent entity's employees are terminated due to a bankruptcy or restructuring. That is when the employee's entitlement to compensation arises and neither the Act nor the regulations indicate that circumstances arising after the termination are relevant.

[46] I agree. *WEPP exists to protect employees from the adverse consequences of the insolvency of their employer. Terminated employees have no control over how insolvency and restructuring transactions are structured after their termination.* Terminated employees who have received WEPPs payment and have no inkling of the possibility of a clawback may have used the money to pay for groceries or rent. A choice to clawback payments made to terminated employees of an insolvent corporation because of subsequent events beyond their control would be to the immense discredit of the Minister and, I would hope, be swiftly reversed by the Canada Industrial Relations Board or the Federal Court of Appeal.¹⁴ [emphasis added]

The WEPP eligibility criteria do not authorize ESDC to disregard the court's determination of who the former employer is

15. To be eligible for a WEPP payment, the following criteria under section 5(1) of WEPPA must be met:

Conditions of eligibility

5(1) *An individual is eligible to receive a payment if*

(a) *the individual's employment ended for a prescribed by regulation;*

(b) one of the following applies:

(i) *the former employer is bankrupt,*

(ii) *the former employer is subject to a receivership,*

¹⁴ *Ibid* at [paras 41-43](#) & [45-46](#).

(iii) the former employer is subject of a foreign proceeding that is recognized by a court under subsection 270(1) of the *Bankruptcy and Insolvency Act* and

(A) the court determines under subsection (2) that the foreign proceeding meets the criteria prescribed by regulation, and

(B) a trustee is appointed, or

(iv) the former employer is the subject of proceedings under Division I of Part III of the *Bankruptcy and Insolvency Act* or under the *Companies' Creditors Arrangement Act* and a court determines under subsection (5) that the criteria prescribed by regulation are met; and

(c) the individual is owed eligible wages by the former employer.
[emphasis added]

16. The criteria are threefold: a) the employee has been terminated; b) the former employer is bankrupt, in receivership, or if it is a CCAA or BIA proposal proceeding, the court orders that WEPPA is to apply and, c) the employee is owed eligible wages¹⁵ by the former employer.

17. There should be no dispute in this case with a) or c): the Terminated Employees have been terminated and are owed wages and severance pay which qualify as "eligible wages", a defined phrase in section 2(1) of WEPPA.

18. The problem in this case, and others, is ESDC's continuing position that a residual company in an RVO is not the former employer in sections 5(1)(b) or (c) of WEPPA. There is no definition of "former employer" in WEPPA, nor in the BIA or CCAA. As noted earlier, for CCAA and BIA

¹⁵ The approach to calculating eligible wages where an employer in CCAA proceeding subsequently enters a bankruptcy or receivership was affirmed by the ESDC in their January 2022 Final Report on the Evaluation of the Wage Earner Protection Program:

In the case of an unsuccessful restructuring ending in bankruptcy or receivership, the former employees become eligible for payment from the Program. In these cases, to calculate eligible wages, **the date of the restructuring event can be used** instead of the date of the bankruptcy or receivership. [emphasis added]

See Employment and Social Development Canada, *Evaluation of the Wage Earner Protection Program*, Catalogue No SP-1071-03-22E (Ottawa: Employment and Social Development Canada, January 2022) at 17, online: *Gov Canada* <<https://www.canada.ca/en/employment-social-development/corporate/reports/evaluations/wage-earner-protection-program.html>>.

proposal proceedings, it is expressly *the role of the court* under section 5(1)(b)(iv) to determine who the former employer – not ESDC's. The CCAA courts in *Former Gestion*,¹⁶ *Taiga Motors*,¹⁷ *Valeo Pharma*,¹⁸ and *Syndic d'Intelgenx*¹⁹ did exactly that, and the Court of Appeal of Québec in *Former Gestion* held that determination is for the court.²⁰

19. Once the court makes a determination that a residual company is a former employer, ESDC has no authority to disregard the court's determination when employees later apply for a WEPP payment. ESDC's only option is to try to appeal the court's order, which was tried in *Former Gestion QCCA*,²¹ without success, and is again being tried in *Valeo Pharma QCCA*.²²

20. Indeed, in *Former Gestion QCCA*, the Court of Appeal of Québec in denying leave to ESDC held that by making such a former employer declaration, the judge "stayed within the boundaries of the broad discretion conferred on him by law."²³

All of the above orders are consistent with the common employer doctrine

21. As outlined in Schedule C, WEPP Orders in cases such as *Re Just Energy Corp*,²⁴ *Validus Power Corp et al*,²⁵ and *Contract Pharmaceuticals Limited et al*²⁶ recognize that employees can have more than one employer, a legal principle that has been affirmed by the Ontario Court of Appeal in *Downtown Eatery*.²⁷ The decision involved an employee being denied satisfaction of a

¹⁶ *Supra* note 3.

¹⁷ *Supra* note 3.

¹⁸ *Supra* note 3.

¹⁹ *Syndic d'Intelgenx*, *supra* note 4.

²⁰ *Former Gestion QCCA*, *supra* note 8 at [para 18](#).

²¹ *Ibid*.

²² *Attorney General of Canada c Valeo Pharma inc.*, [2025 QCCA 483](#) [*Valeo Pharma QCCA*].

²³ *Former Gestion QCCA*, *supra* note 8 at [para 18](#).

²⁴ (3 November 2022), Toronto CV-21-00658423-00CL (ONSC) [*Just Energy*].

²⁵ (4 January 2024), Toronto CV-23-00705215-00CL (ONSC) [*Validus Power*].

²⁶ (17 April 2024), Toronto CV-23-007114101 (ONSC) [*Contract Pharma*].

²⁷ *Downtown Eatery*, *supra* note 10.

judgment because his direct employer had no assets. The Court of Appeal held that other, related (and solvent) corporate entities are also liable for the employee's debt as the employee can have more than one employer. The Court of Appeal decision opens with the following:

[1] In his valuable text, *Canadian Employment Law* (Aurora: Canada Law Book, 1999), Stacey Ball states, at p. 4-1:

The courts now recognize that, for purposes of determining the contractual and fiduciary obligations which are owed by employers and employees, an individual can have more than one employer. The courts now regard the employment relationship as more than a matter of form and technical corporate structure. Consequently, the present law states that an individual may be employed by a number of different companies at the same time.

[2] The mechanism whereby the law concludes that an employee may be employed by more than one company at the same time is the common employer doctrine. The doctrine has a well-recognized statutory pedigree in most jurisdictions. For example, in Ontario s. 12(1) of the *Employment Standards Act*, R.S.O. 1990, c. E.14, deems associated or related businesses to be "one employer" for the purpose of protecting the benefits to which employees are entitled under the Act.²⁸

Splitting the terminated Synaptive employee population into some employees receiving WEPP while other do not, is an absurd interpretation of WEPPA

22. Paradoxically, in the circumstances of Synaptive, any employees who will be terminated in its current receivership proceedings will be automatically eligible for WEPP payments because unlike Richard Goldglass and previously terminated employees, they will not have their severance pay claims transferred to a residual company under an RVO. According to ESDC's approach to deny WEPP to employees terminated in an RVO, that would mean the terminated employee population in Synaptive will be split into two have/have not groups – the past terminated employees will not receive WEPP because of the RVO, and the future terminated employees will.

²⁸ *Ibid* at [paras 1-2](#).

That outcome is an unsupported interpretation of WEPPA and contrary to WEPPA's remedial purpose.

23. Such "unequal treatment" of terminated employees came before Justice Collier in *Former Gestion*:

[9] On May 26, 2024, the JPR Group applied to the Court for an order approving the sale to ComediHa and for a declaration that their former employees were covered by WEPPA and would be paid outstanding wages. Their WEPPA application was postponed, however, and in July the Applicants presented an amended application. In the amended proceeding the Applicants express a concern that Employment and Social Development Canada (ESDC), the body that administers WEPPA, may refuse to pay outstanding wages to the former employees of the RVO Entities.

[10] There appears to be no concern that ESDC will consider applications for the payment of wages by the former employees *of the AVO Entity*, Former Gestion Inc.

[11] ***Seeking to avoid an unequal treatment of the JPR Group's former employees***, the Applicants ask the Court to exercise its discretionary power under s. 11 of the CCAA and to declare, for the purpose of WEPPA, ***that all JPR Group's former employees were employed by Former Gestion Inc. when they were terminated.***

...

[35] ***It would be contrary to the object of the Act to deny compensation to a terminated employee simply because the former employer transfers its liability to a third party under a reverse vesting order. If the assignee is insolvent, as is most often the case, such an assignment does not improve the employee's prospect of being paid.*** If the assignee has assets, however, the government is subrogated in the rights of the former employee up to the amount of the WEPPA payment. The government's right of subrogation indicates that the assignment of the employer's liability post termination is irrelevant to the operation of the Act.²⁹

24. Despite Justice Collier's decision and his WEPP Order that found entities subject to an RVO were a former employer, ESDC months later denied the WEPP applications for the employees who were terminated in the RVO, while granting WEPP for the employees terminated

²⁹ *Former Gestion*, *supra* note 3 at [paras 9-11](#) & [35](#).

in the AVO. ESDC thereby created the exact "unequal treatment" that Justice Collier had found is "contrary to the object of the Act".³⁰

25. Creating "unequal treatment" among terminated employees is contrary to WEPPA and amounts to an absurd interpretation of the statute. It is an established principle of statutory interpretation that an interpretation that generates an absurd outcome could not have been intended by Parliament and should be avoided by the courts:

[27] *It is a well established principle of statutory interpretation that the legislature does not intend to produce absurd consequences. According to Côté, supra, an interpretation can be considered absurd if it leads to ridiculous or frivolous consequences, if it is extremely unreasonable or inequitable, if it is illogical or incoherent, or if it is incompatible with other provisions or with the object of the legislative enactment* (at pp. 378-80). Sullivan echoes these comments noting that a label of absurdity can be attached to interpretations which defeat the purpose of a statute or render some aspect of it pointless or futile (Sullivan, *Construction of Statutes, supra*, at p. 88).³¹ [emphasis added]

26. Accordingly, the Declaration is required to ensure that the Richard Goldglass and previously terminated employees are not later denied WEPP simply because their eligible wage claims were transferred by Synaptive to ResidualCo, whereas Synaptive employees who are terminated after the receivership will receive WEPP.

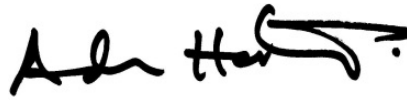
PART III - ORDER REQUESTED

27. Richard Goldglass and other terminated employees of Synaptive request an order declaring that ResidualCo meets the conditions prescribed by section 5(1)(b)(i) and (c) of WEPPA.

³⁰ *Ibid.*

³¹ *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 SCR 27, 36 OR (3d) 418 at [para 27](#).

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 15th day of May, 2026.



ANDREW J. HATNAY



ROBERT DRAKE



ABIR SHAMIM

Lawyers for Richard Goldglass and other
terminated employees of Synaptive Medical Inc.

SCHEDULE “A”

LIST OF AUTHORITIES

1. *Arrangement relatif à Former Gestion Inc.*, [2024 QCCS 3645](#)
2. *Taiga Motors Corporation et Deloitte Restructuring Inc.* (18 December 2024), Montreal 500-11-064357-243 (QCCS)
3. *Arrangement relatif à Valeo Pharma inc.*, [2024 QCCS 580](#)
4. *Cleo Energy Corp (Re)*, [2025 ABKB 621](#)
5. *Attorney General of Canada c Former Gestion*, [2024 QCCA 1441](#)
6. *Downtown Eatery (1993) Ltd v Ontario*, [\[2001\] OJ No 1879, 54 OR \(3d\) 161 \(ONCA\)](#)
7. *Harte Gold Corp (Re)*, [2022 ONSC 653](#)
8. *Atlas Global Brands Inc*, [2024 ONSC 5570](#)
9. *Century Services Inc. v. Canada (Attorney General)*, [2010 SCC 60](#)
10. *Chiang (Re)*, [2022 CIRB 1027](#)
11. *Syndic d'Intelgenx Corp*, [2024 QCCS 3678](#)
12. *Attorney General of Canada c Valeo Pharma inc.*, [2025 QCCA 483](#)
13. *Re Just Energy Corp* (3 November 2022), Toronto CV-21-00658423-00CL (ONSC)
14. *Validus Power Corp et al* (4 January 2024), Toronto CV-23-00705215-00CL (ONSC)
15. *Contract Pharmaceutical Limited et al* (17 April 2024), Toronto CV-23-007114101-00CL (ONSC)
16. *Rizzo & Rizzo Shoes Ltd. (Re)*, [\[1998\] 1 SCR 27, 36 OR \(3d\) 418](#)

Secondary Sources

17. Canada, Parliament, *House of Commons Debates*, 38th Parl, 1st Sess, Vol 140, No 127 ([28 September 2005](#))
18. Employment and Social Development Canada, *Evaluation of the Wage Earner Protection Program*, Catalogue No SP-1071-03-22E (Ottawa: Employment and Social Development Canada, January 2022) at 17, online: *Gov Canada* <<https://www.canada.ca/en/employment-social-development/corporate/reports/evaluations/wage-earner-protection-program.html>>.

**SCHEDULE “B”
RELEVANT STATUTES**

Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36.

General power of court

11 Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

Courts of Justice Act, R.S.O. 1990, c. C.43, as amended.

Declaratory orders

97 The Court of Appeal and the Superior Court of Justice, exclusive of the Small Claims Court, may make binding declarations of right, whether or not any consequential relief is or could be claimed.

Employment Standards Act, 2000, S.O. 2000, c. 41.

Separate persons treated as one employer

4(1) Subsection (2) applies if associated or related activities or businesses are or were carried on by or through an employer and one or more other persons.

Same

(2) The employer and the other person or persons described in subsection (1) shall all be treated as one employer for the purposes of this Act.

Wage Earner Protection Program Act, S.C. 2005, c. 47, s. 1.

Interpretation

Definitions

2 (1) The following definitions apply in this Act.

...

eligible wages means

(a) wages other than termination pay and severance pay that were earned during the longer of the following periods:

(i) the six-month period ending on the date of the bankruptcy or the first day on which there was a receiver in relation to the former employer,

(ii) the period beginning on the day that is six months before one of the following days and ending on the date of the bankruptcy or the first day on which there was a receiver in relation to the former employer:

(A) the day on which a proposal is filed by or in respect of the employer under Division I of Part III of the *Bankruptcy and Insolvency Act* or, if a notice of intention to make a proposal is filed by or in respect of the employer under that Division, the day on which the notice of intention is filed,

(B) the day on which the most recent proceedings under the *Companies' Creditors Arrangement Act* are commenced, and

(iii) the period beginning on the day that is six months before one of the following days and ending on the day on which a court makes a determination under subsection 5(5):

(A) the day on which a proposal is filed by or in respect of the employer under Division I of Part III of the *Bankruptcy and Insolvency Act* or, if a notice of intention to make a proposal is filed by or in respect of the employer under that Division, the day on which the notice of intention is filed,

(B) the day on which the most recent proceedings under the *Companies' Creditors Arrangement Act* are commenced; and

(b) termination pay and severance pay that relate to employment that ended

(i) during the period referred to in paragraph (a), or

(ii) during the period beginning on the day after the day on which the period referred to in paragraph (a) ends and ending on the day on which the trustee is discharged or the receiver completes their duties, as the case may be. (salaire admissible)

wages includes salaries, commissions, compensation for services rendered, vacation pay, termination pay, severance pay and any other amounts prescribed by regulation. (salaire)

...

Eligibility for Payments

Conditions of eligibility

5 (1) An individual is eligible to receive a payment if

(a) the individual's employment ended for a reason prescribed by regulation;

(b) one of the following applies:

the former employer is bankrupt,

the former employer is subject to a receivership,

the former employer is the subject of a foreign proceeding that is recognized by a court under subsection 270(1) of the *Bankruptcy and Insolvency Act* and

the court determines under subsection (2) that the foreign proceeding meets the criteria prescribed by regulation, and

a trustee is appointed, or

the former employer is the subject of proceedings under Division I of Part III of the *Bankruptcy and Insolvency Act* or under the *Companies' Creditors Arrangement Act* and a court determines under subsection (5) that the criteria prescribed by the regulations are met; and

(c) the individual is owed eligible wages by the former employer,

(d) [Repealed, 2009, c. 2, s. 343]

...

Prescribed criteria – other proceedings

5(5) On application by any person, a court may, in proceedings under Division I of Part III of the *Bankruptcy and Insolvency Act* or under the *Companies' Creditors Arrangement Act*, determine that the former employer meets the criteria prescribed by regulation.

Application for Payment

Minister's determination of eligibility

9 If the Minister determines that the applicant is eligible to receive a payment, the Minister shall make the payment.

Wage Earner Protection Program Regulations, SOR/2008-222.

Proceedings under Bankruptcy and Insolvency Act or Companies' Creditors Arrangement Act

3.2 For the purposes of subsection 5(5) of the Act, a court may determine whether the former employer is the former employer all of whose employees in Canada have been terminated other than any retained to wind down its business operations.

SCHEDULE "C"

	Court Order	ESDC Denial Letter sent to Terminated Employees
<p>Arrangement relatif à Former Gestion Inc.</p> <p>(Montreal 500-11-063779-249 & 500-09-031195-241)</p> <p>Superior Court of Québec & Court of Appeal of Québec (leave to appeal denied³²)</p>	<p>[37] [THE COURT] DECLARES that pursuant to section 5(5) of WEPPA, Former Gestion Inc. and the RVO Entities as defined herein are former employers that meet the criteria prescribed by section 3.2 of the WEPP Regulations, and all their former employees in Canada who have been terminated are individuals to whom WEPPA applies;³³</p>	<p>Subsection 5(1) of the Wage Earner Protection Program Act (WEPPA) sets out the eligibility criteria to receive WEPP payments. <i>Festival Juste Pour Rire was subject to a reverse vesting order</i> on June 7, 2024. As a result, your former employer is no longer the subject of proceedings under the Companies' Creditors Arrangement Act and <i>eligible wages are no longer owed to you by Festival Juste Pour Rire as they were transferred to another company.</i> It has therefore been determined that the eligibility criteria pursuant to subsection 5(1) of the WEPPA are not met.³⁴ [emphasis added]</p>
<p>Taiga Motors Corporation et Deloitte Restructuring Inc.</p> <p>(Montreal 500-11-064357-243)</p> <p>Superior Court of Québec</p>	<p>[7] DÉCLARE que conformément aux articles 5(5) de la Loi PPS, Taiga Motors Inc. est un ancien employeur qui satisfait au critère de l'article 3.2 du Règlement PPS et que tous les employés au Canada qui ont été licenciés sont des individus à qui la Loi PPS s'applique;</p> <p>...</p> <p>[7] [Translation] DECLARES that pursuant to section 5(5) of the WEPP Act, Taiga Motors Inc. is a former employer that meets the criteria of section 3.2 of the WEPP Regulations and that all employees in Canada who were terminated are individuals to whom the WEPP Act applies;³⁵</p>	<p>Subsection 5(1) of the Wage Earner Protection Program Act (WEPPA) sets out the eligibility criteria to receive WEPP payments. Taiga Motors Inc. was subject to a reverse vesting order completed on October 30, 2024. As a result, your former employer is no longer the subject of proceedings under the Companies' Creditors Arrangement Act and eligible wages are no longer owed to you by them as they were transferred to another company. It has therefore been determined that the eligible criteria pursuant to subsection 5(1) of the WEPPA are not met.³⁶</p>

³² *Former Gestion QCCA*, supra note 8.

³³ *Former Gestion*, supra note 3 at [para 37](#).

³⁴ Supplementary Affidavit of Richard Goldglass sworn October 29, 2025, Supplementary Responding Motion Record of Richard Goldglass and Other Terminated Employees, Tab 1, Exhibit B.

³⁵ *Taiga Motors*, supra note 3 at para 7.

³⁶ Supplementary Affidavit of Richard Goldglass sworn October 29, 2025, Supplementary Responding Motion Record of Richard Goldglass and Other Terminated Employees, Tab 1, Exhibit C.

	Court Order	ESDC Denial Letter sent to Terminated Employees
<p><i>Arrangement relatif à Valeo Pharma inc</i></p> <p>(Montreal 500-11-064718-246 & 500-09-031382-252)</p> <p>Superior Court of Québec & Court of Appeal of Québec (leave to appeal granted³⁷)</p>	<p>[19] Section 5(5) of WEPPA requires the Court to determine whether a former employer meets the criteria prescribed by s. 3.2 of the <i>Regulations</i>. In this case, the criteria are met, because ResidualCo "is the former employer all of whose employees in Canada have been terminated other than any retained to wind down its business operations."³⁸</p> <p>Appeal heard on September 30, 2025 and is under reserve.</p>	<p>Terminated employee WEPP applications have been placed on hold by ESDC.</p>
<p><i>Contract Pharmaceuticals Limited et al.</i></p> <p>(Toronto CV-23-007114101)</p> <p>Ontario Superior Court</p>	<p>[4] THIS COURT ORDERS AND DECLARES that ResidualCo shall be deemed to be the former employer of any former employees of the Applicants who were (or are) terminated between June 15, 2023, and the Effective Time, provided that such deeming: (i) shall be effective immediately after the Effective Time; and (ii) shall be solely for the purposes of termination pay and severance pay pursuant to the Wage Earner Protection Program Act, S.C. 2005, c. 47, s. 1, and not for any other purpose.³⁹</p>	<p>The ESDC received 23 WEPP applications between March and September 2025. ESDC has not made any WEPP payments nor denied any applications to date.⁴⁰</p>
<p><i>Validus Power Corp et al</i></p> <p>(Toronto CV-23-00705215-00CL)</p> <p>Ontario Superior Court</p>	<p>[34] THIS COURT ORDERS that Residualco shall be deemed to be the former employer of any former employees of the corresponding Purchased Entities who were terminated between the date of the Appointment Order and the Effective Time, if any, whose claims against the Purchased Entities are transferred to Residualco pursuant to this Order, provided that such deeming: (i) shall be effective immediately after</p>	<p>ESDC made WEPP payments to employees who applied for WEPP following a receivership. No WEPP payments were made to employees following the RVO.⁴²</p>

³⁷ *Valeo Pharma QCCA, supra* note 22.

³⁸ *Valeo Pharma, supra* note 3 at [para 19](#).

³⁹ *Contract Pharma, supra* note 26.

⁴⁰ Affidavit of Abir Shamim sworn May 15, 2026, Second Supplementary Responding Motion Record of Richard Goldglass and Other Terminated Employees, Tab 1, Exhibit C.

⁴² Affidavit of Abir Shamim sworn May 15, 2026, Second Supplementary Responding Motion Record of Richard Goldglass and Other Terminated Employees, Tab 1, Exhibit B.

	Court Order	ESDC Denial Letter sent to Terminated Employees
	the Effective Time; and (ii) will solely be for the purposes of the termination pay and severance pay pursuant to the Wage Earner Protection Program. ⁴¹	
<p><i>Re Just Energy Corp</i> (Toronto CV-21-00658423-00CL) Ontario Superior Court</p>	<p>[34] THE COURT ORDERS that Residual Co. 1 shall be deemed to be the former employer of any former employees of the Just Energy Entities who were terminated between September 9, 2020 and the Effective Time whose claims against the Just Energy Entities are transferred to Residual Co. 1 pursuant to this Order, provided that such deeming: (i) shall be effective immediately after the Effective Time; and (ii) will be solely for the purposes of termination pay and severance pay pursuant to the Wage Earner Protection Program.⁴³</p>	<p>ESDC did not make any WEPP payments to the terminated employees because no WEPP applications were made.⁴⁴</p>

⁴¹ *Validus Power*, supra note 25.

⁴³ *Just Energy*, supra note 24.

⁴⁴ Affidavit of Abir Shamim sworn May 15, 2026, Second Supplementary Responding Motion Record of Richard Goldglass and Other Terminated Employees, Tab 1, Exhibit B.

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
1001270243 ONTARIO INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at **TORONTO**

SUPPLEMENTARY FACTUM
OF RICHARD GOLDGLASS AND OTHER
TERMINATED EMPLOYEES

KOSKIE MINSKY LLP

20 Queen Street West, Suite 900, Box 52
Toronto, ON M5H 3R3

Andrew J. Hatnay (LSO# 31885W)

(T) 416-595-2083 / (E) ahatnay@kmlaw.ca

Robert Drake (LSO# 57083G)

(T) 416-595-2095 / (E) rdrake@kmlaw.ca

Abir Shamim (LSO# 88251V)

(T) 416-354-7758 / (E) ashamim@kmlaw.ca

Lawyers for Richard Goldglass and other terminated
employees of Synaptive Medical Inc.