

December 1, 2011

Le 1<sup>er</sup> décembre 2011

Coram: LeBel, Fish and Cromwell JJ.

Coram : Les juges LeBel, Fish et Cromwell

**BETWEEN:**

**ENTRE :**

Sun Indalex Finance, LLC

Sun Indalex Finance, LLC

Applicant

Demanderesse

- and -

- et -

United Steelworkers, Keith Carruthers,  
Leon Kozierek, Richard Benson, John  
Faveri, Ken Wladron, John (Jack) W.  
Rooney, Bertram McBride, Max Degen,  
Eugene D'Iorio, Neil Fraser, Richard Smith,  
Robert Leckie, Fred Granville, George L.  
Miller, The Chapter 7 Trustee of the  
Bankruptcy Estates of the US Indalex  
Debtors and The Monitor FTI Consulting  
Canada ULC

Métallurgistes unis, Keith Carruthers, Leon  
Kozierek, Richard Benson, John Faveri, Ken  
Wladron, John (Jack) W. Rooney, Bertram  
McBride, Max Degen, Eugene D'Iorio, Neil  
Fraser, Richard Smith, Robert Leckie, Fred  
Granville, George L. Miller, The Chapter 7  
Trustee of the Bankruptcy Estates of the US  
Indalex Debtors et Le contrôleur, FTI  
Consulting Canada ULC

Respondents

Intimés

**AND BETWEEN:**

**ET ENTRE :**

George L. Miller and The Chapter 7 Trustee of  
the Bankruptcy Estates of the US Indalex  
Debtors

George L. Miller et The Chapter 7 Trustee of  
the Bankruptcy Estates of the US Indalex  
Debtors

Applicants

Demandeurs

- and -

- et -

Sun Indalex Finance, LLC, United  
Steelworkers, Keith Carruthers, Leon

Sun Indalex Finance, LLC, United  
Steelworkers, Keith Carruthers, Leon

No. 34308

Kozierok, Richard Benson, John Faveri,  
Ken Wladron, John (Jack) W. Rooney,  
Bertram McBride, Max Degen, Eugene  
D'Iorio, Neil Fraser, Richard Smith, Robert  
Leckie, Fred Granville and The Monitor FTI  
Consulting Canada ULC

Respondents

**AND BETWEEN:**

FTI Consulting Canada ULC, in its capacity  
as court-appointed monitor of Indalex  
Limited, on behalf of Indalex Limited

Applicant

- and -

Keith Carruthers, Leon Kozierok, Richard  
Benson, John Faveri, Ken Wladron, John  
(Jack) W. Rooney, Bertram McBride, Max  
Degen, Eugene D'Iorio, Neil Fraser,  
Richard Smith, Robert Leckie, Fred  
Granville and United Steelworkers

Respondents

**JUDGMENT**

The motion to strike out the affidavit of Jay Swartz from the Application Record of FTI Consulting Canada ULC is granted without costs. The applications for leave to appeal from the judgment of the Court of Appeal for Ontario, Numbers C52187 and C52346, 2011 ONCA 265, dated April 7, 2011, are granted with costs in the cause.

Kozierok, Richard Benson, John Faveri, Ken  
Wladron, John (Jack) W. Rooney, Bertram  
McBride, Max Degen, Eugene D'Iorio, Neil  
Fraser, Richard Smith, Robert Leckie, Fred  
Granville et Le contrôleur, FTI Consulting  
Canada ULC

Intimés

**ET ENTRE :**

FTI Consulting Canada ULC, en sa qualité de  
contrôleur d'Indalex Limited, au nom  
d'Indalex Limited

Demanderesse

- et -

Keith Carruthers, Leon Kozierok, Richard  
Benson, John Faveri, Ken Wladron, John  
(Jack) W. Rooney, Bertram McBride, Max  
Degen, Eugene D'Iorio, Neil Fraser, Richard  
Smith, Robert Leckie, Fred Granville et  
Métallurgistes unis

Intimés

**JUGEMENT**

La requête pour radier l'affidavit de Jay Swartz du dossier de la demande de FTI Consulting Canada ULC est accordée sans dépens. Les demandes d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéros C52187 et C52346, 2011 ONCA 265, daté du 7 avril 2011, sont accordées avec dépens suivant l'issue de la cause.

J.S.C.C.  
J.C.S.C.