

December 1, 2011

Le 1^{er} 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.