

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF *THE INSURANCE COMPANIES ACT*, R.S.C. 1991 c. 47, AS
AMENDED, AND *THE MUTUAL PROPERTY AND CASUALTY INSURANCE
COMPANY WITH NON-MUTUAL POLICYHOLDERS CONVERSION
REGULATIONS*, SOR/2015-168**

**AND IN THE MATTER OF A PLAN OF CONVERSION
OF ECONOMICAL MUTUAL INSURANCE COMPANY**

**MOTION RECORD
(Returnable September 19, 2016)**

Date: August 12, 2016

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Counsel to Ms. Filomena Frisina and Mr. Peter Koch

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Counsel to Economical Mutual Insurance Company

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF *THE INSURANCE COMPANIES ACT*, R.S.C. 1991 c. 47, AS
AMENDED, AND *THE MUTUAL PROPERTY AND CASUALTY INSURANCE
COMPANY WITH NON-MUTUAL POLICYHOLDERS CONVERSION
REGULATIONS*, SOR/2015-168**

**AND IN THE MATTER OF A PLAN OF CONVERSION OF
ECONOMICAL MUTUAL INSURANCE COMPANY**

**Notice of Motion
(Motion for Appointment as the Non-Mutual Committee Counsel Returnable
September 19, 2016)**

Ms. Filomena Frisina and Mr. Peter Koch (the “**Counsel Applicants**”) will make a motion to be heard before the Honourable Justice Hailey of the Ontario Superior Court of Justice [Commercial List] on September 19, 2016 or as soon after that time as the motion can be heard, at 330 University Avenue, 8th Floor, Toronto, Ontario.

THE PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. An order appointing Ms. Filomena Frisina and Mr. Peter Koch each as counsel (“**Non-Mutual Committee Counsel**”) for the committee for the Non-Mutual Policyholders (the “**Non-Mutual Policyholders**”) of Economical Mutual Insurance Company (“**Economical**”) in respect of Economical’s proposed conversion from its current mutual structure into a company with common shares as contemplated under the Initial Order (as defined below); and
2. such further and other relief as counsel may advise and this Court may permit.

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THE GROUNDS FOR THE MOTION ARE:

1. The appointment of Ms. Frisina and Mr. Koch as Non-Mutual Committee Counsel, is appropriate in the circumstances as:
 - (a) Together with a proposed support team of Ms. Kathleen Ritchie, Mr. Scott Kugler, Mr. Clifton Prophet and Mr. Frank Lamie, they have substantial legal expertise, experience, and bench strength in financial services/insurance law, corporate law, securities law, plans of arrangement, restructuring proceedings and mediation and arbitration proceedings;
 - (b) Neither the Counsel Applicants or Gowling WLG (Canada) LLP (“**Gowling WLG**”) are precluded by their current relationship with Economical and/or any other property and casualty insurer from representing the Non-Mutual Policyholders;
 - (c) Neither the Counsel Applicants or Gowling WLG are in an actual or potential conflict of interest with the Non-Mutual Policyholders or the eligible mutual policyholders (the “**Mutual Policyholders**” together, with the Non-Mutual Policyholders, the “**Policyholder Groups**”);
 - (d) Neither the Counsel Applicants or Gowling WLG have any engagements with parties acting adverse in interest to Economical or either of the Policyholder Groups;
 - (e) The Counsel Applicants have furnished a proposed fee arrangement that is reasonable in the circumstances;
2. The order of Justice Hainey dated July 15, 2016 in these proceedings (the “**Initial Order**”);
3. Section 8 of the *Mutual Property and Casualty Insurance Company With Non-Mutual Policyholders Conversion Regulations* SOR/2015-168; and
4. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The affidavit of Peter Lukasiewicz Sworn August 12, 2016, and

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2. Such further and other documentary evidence as counsel may advise and this Court may accept.

August 12, 2016

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Frank Lamie:

Frank.Lamie@gowlingwlg.com

Court File No.: CV-16-11425-00CL

IN THE MATTER OF *THE INSURANCE COMPANIES ACT*, R.S.C. 1991 c. 47, AS AMENDED, AND *THE MUTUAL PROPERTY AND CASUALTY INSURANCE COMPANY WITH NON-MUTUAL POLICYHOLDERS CONVERSION REGULATIONS*, SOR/2015-168

AND IN THE MATTER OF A PLAN OF CONVERSION OF ECONOMICAL MUTUAL INSURANCE COMPANY

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

(PROCEEDING COMMENCED AT TORONTO)

Notice of Motion
(Motion for Appointment as Counsel
Applicants returnable September 19, 2016)

GOWLING WLG (CANADA) LLP
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TAB 2

Court File No.: CV-16-11425-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF *THE INSURANCE COMPANIES ACT*, R.S.C. 1991 c. 47, AS
AMENDED, AND *THE MUTUAL PROPERTY AND CASUALTY INSURANCE*
COMPANY WITH NON-MUTUAL POLICYHOLDERS CONVERSION
REGULATIONS, SOR/2015-168

AND IN THE MATTER OF A PLAN OF CONVERSION OF
ECONOMICAL MUTUAL INSURANCE COMPANY

AFFIDAVIT OF PETER LUKASIEWICZ
(Sworn August 12, 2016)

I, **PETER LUKASIEWICZ**, of the City of Toronto in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the Chief Executive Officer (CEO) of Gowling WLG (Canada) LLP ("**Gowling WLG**") and as such I have personal knowledge of the matters herein deposed.
2. I swear this Affidavit in support of a motion, made pursuant to the process set out in Justice Hainey's order in this proceeding dated July 15, 2016, for an order appointing Ms. Filomena Frisina and Mr. Peter Koch each as counsel for the committee for the Non-Mutual Policyholders (the "**Non-Mutual Policyholders**") of Economical Mutual Insurance Company ("**Economical**") pursuant to section 8 of the *Mutual Property and Casualty Insurance Company With Non-Mutual Policyholders Conversion Regulations*, in respect of Economical's proposed conversion from its current mutual structure into a company with common shares ("**Demutualization**") and for no improper or other purpose.

I. OVERVIEW

3. The appointment of Ms. Frisina and Mr. Koch as counsel for the committee for the Non-Mutual Policyholders (the “**Non-Mutual Committee Counsel**”), as further detailed below, is appropriate in the circumstances because:

- I. Together with the other partners from Gowling WLG named below they have substantial legal expertise, experience, and bench strength in financial services/insurance law, corporate law, securities law, plans of arrangement, restructuring proceedings and mediation and arbitration proceedings;
- II. Neither they nor Gowling WLG are precluded by their current relationship with Economical and/or any other property and casualty insurer from representing the Non-Mutual Policyholders;
- III. Neither they nor Gowling WLG are in an actual or potential conflict of interest with the Non-Mutual Policyholders or the eligible mutual policyholders (the “**Mutual Policyholders**,” and together with the Non-Mutual Policyholders, the “**Policyholder Groups**”);
- IV. Neither they nor Gowling WLG have any engagements with parties acting adverse in interest to Economical or either of the Policyholder Groups; and
- V. They and Gowling WLG have furnished a proposed fee arrangement that is reasonable in the circumstances.

I. BACKGROUND TO GOWLING WLG

4. Gowling WLG is a global law firm with 1,400 legal professionals practicing across cities in Canada, the UK, Europe, Asia and the Middle East.

5. Attached hereto as **Exhibit “A”** are *curricula vitae* for Ms. Frisina, Mr. Koch and the members of Gowling WLG who will provide support to them in their capacity as the Non-Mutual Committee Counsel.

Experience in Financial Services/Insurance

6. Gowling WLG acts for domestic and global property and casualty insurers in a variety of mandates, including, corporate transactions, financial services, insurance claims and other litigation, employment, tax, advertising, real estate, insurance regulatory, privacy and real estate.

7. Gowling WLG has extensive experience working with all relevant branches of the provincial and federal government including applicable regulatory authorities and has participated extensively in the development and drafting of foundational federal legislation and accompanying regulations surrounding financial services reform.

8. As detailed in her *curriculum vitae*, Ms. Frisina is recognized internationally for her expertise in financial services/insurance transactions and regulatory matters, including in relation to the acquisition and disposition of insurance companies and books of business, assumption/reinsurance transactions, the formation and licensing of insurers and other compliance and regulatory matters. She is ranked by *Chambers Canada* for her expertise in M&A transactions and insurance regulatory matters.

9. Mr. Koch's expertise is in matters relating to the regulation of financial services/insurance institutions, mergers and acquisitions and servicing financial services/insurance clients more generally. He is ranked by the *Canadian Legal Lexpert Directory* for his expertise in M&A.

10. Together, Ms. Frisina and Mr. Koch are senior members of Gowling WLG's Financial Institutions & Services, Corporate, M&A & Capital Markets groups. Ms. Frisina and Mr. Koch have led multi-disciplinary and, where applicable, multi-jurisdictional Gowling WLG teams, advising on complex issues affecting insurers and their policyholders.

11. Between them they have decades of experience negotiating and structuring corporate reorganizations, purchase and sale transactions and dealing with corporate governance issues between shareholders and other stakeholders and working to resolve disputes between them. They have worked on some of the most significant recent Canadian insurance transactions, including as counsel to:

- (a) State Farm Mutual Automobile Insurance Company, State Farm Fire and Casualty Company and State Farm International Life Insurance Company Ltd. in the \$1.6 billion sale of their Canadian insurance and financial services businesses to Desjardins Group

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and post-closing \$450 million investment in preferred shares of Desjardins Group's property and casualty insurance business;

- (b) State Farm Mutual Automobile Insurance Company in connection with the termination of its and related affiliates, former Canadian branches;
- (c) The Travelers Companies, Inc. in respect of its acquisition of The Dominion of Canada General Insurance Company from E-L Financial Corporation Limited for approximately \$1.07 billion;
- (d) The Equitable Life Insurance Company of Canada in respect of the acquisition of a book of business containing individual and group policies of insurance on an assumption/reinsurance basis;
- (e) A foreign reinsurer in connection with a potential longevity risk insurance proposal;
- (f) The Equitable Life Insurance Company of Canada in connection with its participating mutual policyholder rights to share in the dividends declared;
- (g) The Equitable Life Insurance Company of Canada in connection with the issue of \$27 million of subordinated notes which notes qualified as Tier 2 capital for regulatory purposes;
- (h) The Department of Justice, Government of Canada, in providing advisory assistance in connection with issues relating to the *Nuclear Liability and Compensation Act* (Canada (S.C. 2015, c. 4, s. 120)); and
- (i) Economical in connection with its proposed acquisition of Western Financial Insurance Company, a property and casualty company operating in each province of Canada, from Desjardins Financial Corporation Inc.

12. Certain of these transactions required an assessment of the rights of mutual policyholders in connection with the assumption of their policies by a federally regulated financial institution. Additional insurance industry transactional work of Ms. Frisina and Mr. Koch not listed in paragraph 11 is outlined in **Exhibit "B"**.

13. Through their practice, Ms. Frisina and Mr. Koch have obtained invaluable hands-on experience and an in-depth understanding of the rights of Canadian property and casualty mutual policyholders. As a result of this experience and understanding, Ms. Frisina and Mr. Koch will provide expert advice to the committee to the Non-Mutual Policyholders in negotiations with the Mutual Policyholders to settle the method by which the value of the Demutualization benefits are shared in a fair and equitable manner having regard to the factors set forth in the Demutualization regulations and as may otherwise be appropriate.

Experience in Corporate Law / Corporate Transactions / Securities

14. Gowling WLG's corporate law group has extensive experience providing advice on a full range of corporate and commercial law matters spanning various industry sectors. With respect to securities law specifically, Gowling WLG is often called upon to act for capital markets participants in Canada and globally, and in doing so has served as counsel to publicly traded companies, private companies, boards of directors, special committees, investors, financial advisers, agents, underwriters and other market participants.

15. If Ms. Frisina and Mr. Koch are appointed as the Non-Mutual Committee Counsel, Ms. Kathleen Ritchie will provide support in respect of securities and corporate law matters. Ms. Ritchie has close to 20 years of experience advising on public and private M&A and corporate finance transactions, as well as securities regulatory and corporate governance matters.

16. Ms. Ritchie is currently a member of the Ontario Securities Commission's 12-member Securities Advisory Committee and since November 2010 has acted as lead counsel to the Canadian Securities Transition Office on the transactional aspects of the transition from the current system of provincial and territorial securities regulators to a cooperative capital markets regulator within Canada.

17. Ms. Ritchie's expertise is in providing advice on mergers, acquisitions and divestitures for both public and private companies. She has advised on several related-party transactions, including as counsel to special committees. Ms. Ritchie is recognized in *The Best Lawyers in Canada* in the area of M&A.

18. Ms. Ritchie also advises companies and other types of organizations on specific securities regulatory requirements, including disclosure requirements, listing requirements, regulatory reviews, disclosure/trading issues and assisting with matters relating to shareholder/member meetings, including proxy contests and other stakeholder activism.

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19. Ms. Ritchie has experience with both contentious and non-contentious negotiations, which she will be able to draw on in assisting the Non-Mutual Policyholders with respect to determining the method of allocating value between the Policyholder Groups. Ms. Ritchie served as Canadian securities/M&A counsel to:

- (a) The Canadian Securities Transition Office on the transactional aspects of the transition from the current system of provincial and territorial securities regulators to a cooperative capital markets regulator within Canada;
- (b) CIBC and Scotiabank, in their capacity as lenders to iCON Infrastructure in respect of its \$480 million acquisition of Capstone Infrastructure Corporation;
- (c) A leading global investment banking, securities and investment management firm in respect of a number of investments in the fin-tech sector in Canada;
- (d) Fundtech, a leading global provider of global payments and transaction banking software and a portfolio company of private equity firm GTCR, in respect of its acquisition by DH Corporation for cash consideration of approximately \$1.25 billion;
- (e) The Travelers Companies, Inc. in respect of its acquisition of The Dominion of Canada General Insurance Company from E-L Financial Corporation Limited for approximately \$1.07 billion;
- (f) The Special Committee of the Board of Directors of Gerdau Ameristeel Corp. in connection with its \$1.6-billion acquisition by Gerdau S.A.; and
- (g) Various organizations in connection with responding to and resolving matters raised through stakeholder activism.

Experience in Mediation / Arbitration / Restructuring:

20. Gowling WLG has a robust mediation/arbitration practice, and has represented clients in a wide range of institutional arbitrations and mediations. In doing so, members of the firm have resolved complex international and domestic disputes in a broad range of industries including the financial services/insurance industry, aviation, banking and finance, construction, energy, information technology, intellectual property, investor state disputes, oil and gas and mining.

21. If Ms. Frisina and Mr. Koch are appointed as the Non-Mutual Committee Counsel, Mr. Scott Kugler, Mr. Clifton Prophet and Mr. Frank Lamie will provide support in respect of mediation and arbitration matters.

22. Mr. Kugler's expertise is in complex commercial matters, including class actions, shareholder disputes, claims against directors/officers, broker/dealer disputes, dealer/distributor disputes and multi-faceted corporate litigation often involving the oppression remedy. He has been recognized for his work by the *Canadian Legal Lexpert Directory*, *Benchmark Litigation* and *The Best Lawyers in Canada*.

23. In the course of his litigation practice, Mr. Kugler is regularly called upon to both negotiate and participate in formal mediations and arbitrations on behalf of his clients. In addition to having conducted multiple confidential arbitrations, he has resolved numerous matters through negotiation and mediation including:

- (a) Securities class actions against Penn West Petroleum Ltd. and others in Ontario, Québec and Alberta, in which shareholders sued the company and its officers and directors for approximately \$500 million;
- (b) Securities class actions against Armtec Infrastructure Inc. and others in Ontario and Québec, in which shareholders sued the company and its officers and directors for approximately \$100 million; and
- (c) Competition/anti-trust class actions against Cypress Semiconductor Inc. in which the plaintiffs alleged price fixing and anti-competitive conduct against producers of static random access memory.

24. Most of Mr. Kugler's mandates involve experts, including accountants, business valuers and economists. He is comfortable at working with models, formulae and economic theory, and comfortable using information from experts in negotiations, mediations and arbitrations. Mr. Kugler has found that when counsel understand (rather than simply repeat) expert analysis, the time and cost of negotiations, mediations and arbitrations can be reduced considerably.

25. Mr. Prophet's expertise is in the areas of insolvency, pensions and employment benefits. He is consistently recognized in these areas for his expertise by the *Canadian Legal Lexpert Directory*,

Chambers Global and *The Best Lawyers in Canada*, and is a member of the Insolvency Institute of Canada.

26. Mr. Prophet has extensive experience in financial services matters, which included representation of a member of the Crawford Committee in the *Metcalf v. Mansfield* matter involving the restructuring of Canada's asset-backed commercial paper market and the ongoing representation of many of Canada's top financial institutions in a wide variety of matters. Mr. Prophet's recent experiences in litigation, mediation and arbitration include acting for the Monitor in the restructuring of Essar Steel Algoma Inc., and appearing in a complex multi-party mediation in those proceedings.

27. Mr. Lamie works closely with Mr. Prophet and is a partner in Gowling WLG's nationally and internationally recognized restructuring and insolvency group. In addition to a general commercial and litigation practice, he regularly advises and represents creditors, debtors, insolvency practitioners and other stakeholders in various types of reorganizations, liquidations and realization proceedings.

28. Not unlike in a demutualization, in court-supervised insolvency and restructuring proceedings, there are generally multiple creditors seeking their share of a debtor's assets. Although there is a priority system that loosely defines how a debtor's estate should be distributed, issues often arise that are not clearly addressed by the governing legislation. Those issues must be resolved by negotiation and mediation, and, failing an agreement, by litigation. As a result, Mr. Prophet and Mr. Lamie are regularly called upon to conduct time sensitive negotiations, mediations and arbitrations, in order to address complex real-time disputes that arise between creditors, stakeholders and debtors in insolvency and restructuring proceedings.

29. Together and individually, Mr. Prophet and Mr. Lamie have served as counsel to:

- (a) The Court-appointed Monitor in respect of the *Companies' Creditors Arrangement Act* ("CCAA") proceedings of Essar Steel Algoma Inc.;
- (b) The Court-appointed Monitor in respect of the CCAA proceedings of Sino-Forest Corporation;
- (c) Colt Holding Company, LLC. et al. in obtaining recognition of their U.S. Chapter 11 Proceedings under Part IV of the CCAA and thereafter the recognition of related orders;

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- (d) The Senior secured creditor of Urbancorp (Leslieville) Developments Inc., Urbancorp (Riverdale) Developments Inc., & Urbancorp (The Beach) Developments Inc., in respect of these entities receivership proceedings;
- (e) The Syndicate of lenders in the CCAA proceedings of Northern Transportation Company Limited et al.;
- (f) Numerous suppliers with respect to their rights and the claims process in the CCAA proceedings of Target Canada Corporation;
- (g) The directors and officers of the Confederation Life Insurance Company in respect of its winding-up proceedings under the *Winding-Up and Restructuring Act* (the “WURA”);
- (h) Insurers regarding the scheme of arrangement proceedings of Cavell Life Insurance Company;
- (i) The court-appointed liquidator of Central Guaranty Trust in respect of the winding-up of Central Guaranty Trust under the *WURA*; and
- (j) The senior secured creditor and DIP Lender in the CCAA proceedings of the Bowring/Bombay/Benix retail group.

II. CURRENT RELATIONSHIP BETWEEN GOWLING WLG AND ECONOMICAL OR ANY OTHER PROPERTY AND CASUALTY INSURER SELLING INSURANCE IN CANADA OR ELSEWHERE

30. As discussed above, Gowling WLG, including Ms. Frisina and Mr. Koch, currently acts for a number of domestic and global property and casualty insurers. For solicitor/client privilege reasons, I have not listed the names of such property and casualty insurers in this affidavit save and except where that information is already public, but Gowling WLG will disclose such names to the Court if so ordered.

31. Gowling WLG can confirm that such work does not impede Ms. Frisina and Mr. Koch’s ability to act as the Non-Mutual Committee Counsel or for Gowling WLG to support them in that work.

32. Gowling WLG, including Ms. Frisina and Mr. Koch, are acting for Economical in respect of: claims litigation, the transaction referred to under paragraph 11(i), and as agent of record for various trademark matters, including domain name registrations.

III. ACTUAL OR POTENTIAL CONFLICTS WITH ECONOMICAL AND/OR THE POLICYHOLDERS

33. Neither Ms. Frisina, Mr. Koch nor Gowling WLG have any actual or potential interests in conflict with Economical or either of the Policyholder Groups.

IV. ENGAGEMENTS BETWEEN GOWLING WLG AND PARTIES ACTING ADVERSE IN INTEREST TO ECONOMICAL

34. Gowling WLG has conducted an internal review and can confirm that as of the date of this affidavit, there are no engagements of any kind between Ms. Frisina, Mr. Koch and Gowling WLG more broadly (and for greater certainty any person or entity affiliated with Gowling WLG) and any person or entity adverse in interest to Economical or either of the Policyholder Groups, including with respect to representing potential purchasers of the shares or a majority of the assets of Economical or its successors or assigns.

V. PROPOSED ALTERNATIVE FEE ARRANGEMENT

35. Ms. Frisina and Mr. Koch have prepared an alternative fee arrangement and set out a fee estimate below for acting as Non-Mutual Committee Counsel utilizing Practical LPM by Gowling WLG™, a proprietary legal project management tool. Ms. Frisina and Mr. Koch have calculated Gowling WLG's budgeted fee (excluding mediation/arbitration) to be \$375,000 (the "**Budgeted Fee**") based on a blended rate of \$650 per hour (the "**Blended Rate**") broken down as follows:

PHASE/TASK	HOURS	ESTIMATE (C\$)
Select and provide orientation for committee members and other professional advisors such as an actuary and filing of court motions in connection with such appointments	50	\$32,500
Assemble information and data re: policyholder policies and rights including possible factors to be taken into account in the negotiations for review by committee	153	\$99,450
Assist committee in determination of persons other than eligible policyholders to share in demutualization benefits	20	\$13,000
Assist committee in developing negotiation principles to assess alternative methods of allocating value to be negotiated	154	\$100,100
Assist and provide strategic insights to committee in the negotiation with the mutual policyholder's committee re: fair and equitable method of allocating benefits	150	\$97,500
Contingencies in event court motion for directions required	50	\$32,500

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PHASE/TASK	HOURS	ESTIMATE (C\$)
TOTAL	577	\$375,050
BUDGETED FEE		\$375,000¹

36. If the actual work performed is less than the Budgeted Fee by more than 10%, Gowling WLG's fee will be equal to the hours worked at the Blended Rate, however, Gowling WLG reserves the right to request additional compensation not exceeding the Budgeted Fee, in consultation with the Company and subject to approval of the Court.

37. If the actual work performed is within 10% of the Budgeted Fee (either less than or greater than), Gowling WLG shall receive the Budgeted Fee.

38. If the actual work performed is greater than the estimated Budgeted Fee by more than 10% of the Budgeted Fee but less than 100% of the Budgeted Fee, Gowling WLG shall only receive an amount equal to 50% of the value of such excess hours worked, calculated at the Blended Rate.

39. If the actual work performed at the Blended Rate exceeds 100% of the Budgeted Fee, Gowling WLG and Economical will enter into good faith discussions to establish fee arrangements for any such excess work, subject to the Court's approval. By way of example:

Cost scenarios if our fees are:	Budgeted Fee (C\$)	Actual Fees (C\$)	Gowling WLG's Compensation (C\$)
Significantly less than the Budgeted Fee	\$375,000	\$150,000	See paragraph 36.
Within 10% of the Budgeted Fee	\$375,000	\$400,000	\$375,000
Significantly greater than the Budgeted Fee	\$375,000	\$750,000	\$562,500

40. In the event that a mediation is required, an estimated additional fee of \$100,000 will be applicable assuming no more than a three day mediation.²

¹ This Budgeted Fee is exclusive of disbursements and applicable taxes.


² In the event of a binding arbitration, the costs will be greater.

41. Ms. Frisina and Mr. Koch are of the view that this represents a reasonable and competitive fee quote given the volume and complexity of the work that will be required to effectively act as Non-Mutual Committee Counsel for the Non-Mutual Policyholders.

VI. CONCLUSION

42. I believe that Ms. Frisina and Mr. Koch, together with the support team identified in this affidavit, have the experience, expertise and resources to act as counsel for and properly represent the interests of the Non-Mutual Policyholders of Economical in a cost effective manner. The appointment of Ms. Frisina and Mr. Koch as the Non-Mutual Committee Counsel is in the best interest of this group of stakeholders, and it will provide them with counsel who are well versed in not only financial services/insurance law, but also the various subsets of law that will be relevant to the representation of the Non-Mutual Policyholders in the course of Demutualization.

SWORN before me at the City of Toronto, in the Province of Ontario, on August 12, 2016.



Commissioner for Taking Oaths, etc.
Thomas Gertner

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PETER LUKASIEWICZ

TAB A

**THIS IS EXHIBIT "A" TO THE AFFIDAVIT OF
PETER LUKASIEWICZ
SWORN BEFORE ME
THIS 12TH DAY OF AUGUST 2016**



A commissioner for taking affidavits

Thomas Gerber

FILOMENA FRISINA

Partner

T +1 416 862 5754

filomena.frisina@gowlingwlg.com



YEAR OF CALL

1984 Ontario

EDUCATION

University of Ottawa, LLB, 1982

University of Toronto, BA (Hons.), 1978

PROFILE

Filomena is a partner in Gowling WLG's Toronto office and leader of the Financial Services Regulatory Group. Filomena has over 30 years of experience advising domestic and multinational businesses in corporate and commercial legal matters. She has particular expertise in insurance, related financial services transactions, and insurance regulatory matters. These include acquisitions and dispositions of insurance companies and books of business, assumption reinsurance transactions, formation and licensing of insurers and intermediaries, and other compliance and regulatory matters. She regularly advises on the regulatory insurance approvals required in connection with these transactions.

Filomena also advises on other private mergers and acquisitions transactions, reorganizations, and commercial matters for other sector clients

Filomena has been ranked by *Chambers Canada* for her expertise in insurance regulatory and M&A transactional work.

PETER M. KOCH

Partner

T +1 519 575 7540

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YEAR OF CALL

1981 Ontario

EDUCATION

University of Western Ontario, LLB

Wilfred Laurier University

PROFILE

Peter is lead partner in Gowling WLG's Waterloo Regional office practising in financial institutions regulatory law, mergers and acquisitions and financial services.

Peter has acted for financial institutions on the purchase and sale of insurance companies, brokerages and agencies, including assumption and indemnity reinsurance arrangements for both property and casualty and life insurance companies. In connection with his financial services practice Peter has advised in connection with regulatory approvals required under the Insurance Companies Act (Canada) and the provincial legislation regulating the sale of insurance.

Peter has also acted as chief agent of the Canadian branches of a mutual US based property and casualty insurance company and of its affiliated life insurance branch during the period of their applications to the Office of Superintendent of Financial Institutions to surrender their insurance authorizations and withdraw their remaining vested assets from Canada.

Peter is recognized by the *Canadian Legal Lexpert Directory* as a leading practitioner in corporate law.

Peter is the co-author of "Demutualization for P&C companies: Here's what you need to know," published in 2015.

KATHLEEN RITCHIE

Partner

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YEAR OF CALL

1998 Ontario

EDUCATION

University of Toronto, LLB, 1996

McGill University, B.Comm. (with great distinction), 1993

PROFILE

Kathleen is the past leader of the firm's Corporate Finance, M&A and Private Equity Group (2010-2013) and is currently Co-Head of the Business Law department in Toronto. She practises securities and corporate law, and has almost 20 years of experience advising on public and private M&A and corporate finance transactions, as well as securities regulatory and corporate governance matters.

Kathleen's M&A practice involves providing advice on mergers, acquisitions and divestitures for both public and private companies. Ms. Ritchie has advised on several related-party transactions, including as counsel to special committees. Ms. Ritchie is named in *The Best Lawyers in Canada* in the area of M&A.

Kathleen's securities practice involves advising companies and other types of organizations on specific securities regulatory requirements, including disclosure requirements, listing requirements, regulatory reviews, disclosure/trading issues and assisting with matters relating to shareholder/member meetings, including proxy contests and other stakeholder activism. Kathleen is currently a member of the Ontario Securities Commission's 12-member Securities Advisory Committee

Kathleen writes and speaks frequently on M&A and securities matters. Kathleen is the Editor of the firm's Corporate Finance, M&A, Securities & Capital Markets newsletter (*MarketCaps*).

SCOTT KUGLER

Partner, Commercial Litigation

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YEAR OF CALL

2001 Ontario

EDUCATION

Osgoode Hall Law School, LLB

University of Toronto, BA, Economics

PROFILE

Scott is leader of the firm's Canadian National Class Actions Group. His practice emphasizes complex commercial matters, including class actions (securities and competition law/antitrust), shareholder disputes, claims against directors/officers, broker/dealer disputes (civil and regulatory), product liability cases, franchise disputes, dealer/distributor disputes, and multi-faceted corporate litigation often involving the oppression remedy.

Scott has appeared as counsel in the courts of Ontario (including the Ontario Court of Appeal) and British Columbia as well as the Federal Court. He has also appeared as counsel in proceedings before the Ontario Securities Commission, the Mutual Fund Dealers' Association, IIROC and the Financial Services Commission of Ontario, and has also appeared as counsel in numerous arbitration tribunals in Canada and the United States. Scott has been recognized by the *Canadian Legal Lexpert Directory* for his expertise in defending claims against directors and officers, as well as by *Benchmark Canada* and *The Best Lawyers in Canada* for his expertise in defending class actions.

CLIFTON PROPHET

Partner

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YEAR OF CALL

1993 Ontario

EDUCATION

University of Toronto, LLB

PROFILE

Clifton is head of the Financial Services Practice Group at Gowling WLG's Toronto office, practising in the areas of insolvency, pensions and employment benefits. He advises and represents creditors, debtors, insolvency practitioners and other stakeholders in all types of reorganization, liquidation and realization proceedings. Clifton has specialized "nuts and bolts" experience in insolvency disputes.

Clifton's practice experiences and qualifications include two years of practice in London, England with the Freshfields firm. While in London, he qualified as a solicitor for England and Wales. Somewhat uniquely, and building on experiences he had in the UK, his practice includes a significant focus on the intersection between insolvency law and pensions, employment and labour law.

Clifton appears on behalf of his clients before the Ontario Superior Court of Justice, the Divisional Court, the Court of Appeal, the Supreme Court of Canada and various administrative tribunals, including the Financial Services Tribunal.

Clifton is consistently recognized for his expertise by the *Canadian Legal Lexpert Directory*, *Chambers Global*, and *The Best Lawyers in Canada*.

FRANK LAMIE

Partner

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frank.lamie@gowlingwlg.com



YEAR OF CALL

2016 Alberta

2007 Ontario

EDUCATION

University of Western Ontario, LLB

PROFILE

Frank practises in the area of corporate and commercial law, with a focus on restructuring, insolvency and related transactional and commercial litigation matters in the firm's Financial Institutions & Services and Restructuring & Insolvency groups. Frank's involvement in restructurings on behalf of a diverse range of entities has allowed him to develop a strong understanding of the critical issues that confront businesses during periods of both strong and challenging financial performance. He brings a practical, solutions-oriented business approach to his practice. He has acted for corporations and individuals across a broad range of industries.

Frank regularly appears on behalf of clients before the Ontario Superior Court of Justice, and the Court of Queen's Bench of Alberta, including the Commercial List and Bankruptcy Court, in proceedings pursuant to the Companies' Creditors Arrangement Act (CCAA) and the Bankruptcy and Insolvency Act. He has also appeared before the Ontario Court of Appeal, the Ontario Court of Justice, and various administrative tribunals, including the Ontario Securities Commission (OSC) and the Financial Services Tribunal of Ontario (FSCO).

TAB B

**THIS IS EXHIBIT "B" TO THE AFFIDAVIT OF
PETER LUKASIEWICZ
SWORN BEFORE ME
THIS 12TH DAY OF AUGUST 2016**



A commissioner for taking affidavits

Thomas G. ...

ADDITIONAL REPRESENTATIVE WORK: INSURANCE REGULATORY

Counsel to an **insurer** on a number of insurance regulatory matters including applications made to Canadian Federal insurance regulator in respect of an assumption reinsurance transaction for the sale of a business, and change of name.

Ongoing opinion work for **life insurers** regarding ability to terminate re-insurance treaties, increase policy premiums on long term care policies under insurer's risk classification, change information folders in connection with the sale of variable insurance policies (segregated funds), compliance with dividend obligations on participating policies, and similar matters

Acquisition of Canadian branch of an American fraternal benefit society by a **Canadian fraternal benefit society** including licensing of insurer in relevant provinces

Advising a **foreign reinsurer** in connection with longevity risk insurance proposal involving bank swap agreement and insurer-provided longevity risk insurance

Acted for a **global insurance brokerage** in connection with establishment of two Managing General Agency operations, advising in respect of all aspects of its establishment in Canada, including corporate and regulatory issues to operate in every Canadian jurisdiction

Drafting of numerous insurance related agreements including, broker agreements; chief agency agreements; indemnity agreements; reinsurance agreements, risk transfer agreements; master service agreements; third party administrative agreements

Advised on and drafted all documentation in respect of major reinsurance transaction for a **multinational auto company** reinsuring its extended warranty business to offshore captive insurance company

Advised on Reinsurance Security Transactions for cedents with an **unlicensed foreign insurer**

Advising on Provincial Extended Warranty programmes and compliance thereof with provincial/ territorial insurance regulation

Advising **global auto companies** on extended service warranty programmes and their compliance with provincial insurance laws

Advising a **domestic insurer** on its Point of Sale documents in respect of extended warranty service contracts for new and used autos for third-party administrators and auto companies, and in respect of equipment for retailers and compliance with provincial insurance laws

Obtained OSFI and provincial/territorial approvals for incorporation of a **Canadian insurance company**; advised in connection with all aspects of its organization, corporate and regulatory issues and licensing to operate in every Canadian jurisdiction

Obtained OSFI and provincial/territorial approvals in respect of application for a **foreign P&C insurer** to seek order to insure in Canada,

Advising on tax and transfer pricing, employment, benefits, litigation, privacy, corporate governance, general corporate drafting of brokerage agreements, indemnity agreements, joint ventures and outsourcing, etc.

Acted for and representing a **foreign insurer** in connection with acquisitions of Canadian P&C domestic insurer, including seeking approvals from OSFI; overseeing all aspects of acquisition including Investment Canada; *Competition Act* approvals, tax and other supporting disciplines

advised in connection with all aspects of regulatory issues including provincial and territorial licensing

Advising unlicensed a **foreign life and property and casualty insurer** in connection with compliance with OSFI Advisory on insuring in Canada risks and applicable provincial legislation Part XIII under the *Insurance Companies Act*

Court File No.: CV-16-11425-00CL

IN THE MATTER OF *THE INSURANCE COMPANIES ACT*, R.S.C. 1991 c. 47, AS AMENDED, AND *THE MUTUAL PROPERTY AND CASUALTY INSURANCE COMPANY WITH NON-MUTUAL POLICYHOLDERS CONVERSION REGULATIONS*, SOR/2015-168

AND IN THE MATTER OF A PLAN OF CONVERSION OF ECONOMICAL MUTUAL INSURANCE COMPANY

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

(PROCEEDING COMMENCED AT TORONTO)

AFFIDAVIT OF PETER LUKASIEWICZ
(Sworn August 12, 2016)

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IN THE MATTER OF *THE INSURANCE COMPANIES ACT*, R.S.C. 1991 c. 47, AS AMENDED, AND *THE MUTUAL PROPERTY AND CASUALTY INSURANCE COMPANY WITH NON-MUTUAL POLICYHOLDERS CONVERSION REGULATIONS*, SOR/2015-168

AND IN THE MATTER OF A PLAN OF CONVERSION OF ECONOMICAL MUTUAL INSURANCE COMPANY

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

**MOTION RECORD
(Returnable September 19, 2016)**

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Counsel to Ms. Filomena Frisina and Mr. Peter Koch