

2023 01G 0841

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF an application of
Rambler Metals and Mining Canada
Limited and 1948565 Ontario Inc.

AND IN THE MATTER OF the *Companies'*
Creditors Arrangement Act, R.S.C. 1985,
c. C-36, as amended ("CCAA")

INTERLOCUTORY APPLICATION
(Inter Partes)

SUMMARY OF CURRENT DOCUMENT	
Court File Number:	2023 01G 0841
Date of Filing Document:	April 5, 2023
Name of Party Filing or Person:	Rambler Metals and Mining Canada Limited and 1948565 Ontario Inc.
Application to which Document being filed relates:	Application for a declaration pursuant to section 5(5) of the <i>Wage Earner Protection Program Act</i> , SC 2005, c 47, s 1 and for other relief
Statement of Purpose in Filing:	To commence the application

NATURE OF APPLICATION

1. Rambler Metals and Mining Canada Limited ("**Rambler Canada**") and 1948565 Ontario Inc. ("**1948**") (collectively, the "**Rambler Group**" or the "**Applicants**") seek an order:
 - (a) abridging the notice periods pursuant to Section 11 of the CCAA and the *Rules of the Supreme Court, 1986*, Rule 3.03(1), Rule 6.04(2) and Rule 6.06;
 - (b) pursuant to Section 11 of the CCAA, directing that the service on the service list set out in **Schedule A** hereto is sufficient for the purposes of this application;

- (c) pursuant to section 5(5) of the *Wage Earner Protection Program Act*, SC 2005, c 47, s 1 (“WEPPA”) that:
- (i) as of February 27, 2023, the Rambler Group was the subject of proceedings under the CCAA;
 - (ii) as of March 30, 2023, Rambler Group terminated most of its employees in Canada, other than a small number that were retained to assist with the wind down of Rambler Group’s business operations and to place the mine in care and maintenance mode;
 - (iii) the Rambler Group therefore meets the criteria under section 5(5) such that WEPPA applies to the former employees of the Rambler Group;
- (d) such further and other relief as counsel may advise and this Court deems just.

2. Rambler Group and the Monitor also intend to provide a status update to the Court with respect to:

- (a) a Material Adverse Change notice issued by the Monitor, dated April 3, 2023;
- (b) the failure of Rambler Group’s exclusive copper purchaser to make anticipated payments for the purchase of copper concentrate; and
- (c) the cessation of active mining operations of Rambler Group.

FACTS

3. For the purpose of this application, Rambler Group rely on:

- (a) the Bradbury Affidavit, sworn February 22, 2023, and previously filed with the Court;

- (b) the Proposed Monitor's Pre-Filing Report, dated February 23, 2023;
 - (c) the Monitor's First Report, dated March 3, 2023;
 - (d) the Monitor's Second Report, dated March 13, 2023;
 - (e) the Monitor's Third Report, dated April 5, 2023.
4. In its Second Report, the Monitor advised that a dispute had arisen with Transamine, the purchase for Rambler Group's produced ore, with respect to Transamine's set-off of amounts owing to Rambler Group against Rambler Group's pre-filing debt.
 5. Following the last hearing in this proceeding on March 15, 2023, Transamine advised Rambler Group and the Monitor that it would not return the USD\$500,000 already set off. Further, Transamine claimed a right to set off the USD\$1.78 million owing to Rambler Group pursuant to an invoice dated March 7, 2023 and payable on March 30, 2023.
 6. Further still, on March 21, 2023, Rambler delivered a provisional invoice for weekly copper production to Transamine in the amount of approximately USD\$882,000, due and payable on March 23, 2023. On March 23, 2023, Transamine advised that funds had been wired – but subsequently advised the next day that the wire had been cancelled.
 7. Revenue from ongoing operations were critical to the operational model for the Rambler Group in the CCAA. Without that revenue, Rambler Group was forced to cease active operations on March 28, 2023.
 8. The revenue shortfalls due to Transamine's claims to set-off and refusal to pay, in the Monitor's opinion, constitute a "material adverse change" under section 23(1)(d)(i) of the CCAA.

9. On March 30, 2023, most employees of Rambler Group were terminated. Only a select few have been retained to assist in winding down operations and transitioning the mine to care and maintenance.

RELIEF SOUGHT

10. The Rambler Group requests an order:
- (a) abridging the notice periods pursuant to Section 11 of the CCAA and the *Rules of the Supreme Court, 1986*, Rule 3.03(1), Rule 6.04(2) and Rule 6.06;
 - (b) pursuant to Section 11 of the CCAA, directing that the service on the service list set out in **Schedule A** hereto is sufficient for the purposes of this application;
 - (c) for a declaration that WEPPA applies to Rambler's former employees; and
 - (d) for such further and other relief as counsel may advise and this Court deems just.

DATED at St. John's, in the Province of Newfoundland and Labrador, this 4th day of April, 2023.



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**Solicitors for the Applicants, Rambler
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Limited**

TO: Counsel and others listed in the Service List attached as Schedule A

ISSUED at St. John's, in the Province of Newfoundland and Labrador, this day of April,
2023.

Court Clerk

2023 01G 0841

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
IN BANKRUPTCY AND INSOLVENCY**

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AND IN THE MATTER OF the *Companies'*
Creditors Arrangement Act, R.S.C. 1985,
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NOTICE OF APPLICATION

You are hereby notified that the foregoing application will be heard by the judge presiding in the chambers at the Court House, at Duckworth Street, St. John's, in the Province of Newfoundland and Labrador, on **Thursday, the 6th day of April, 2023**, at the hour of 10:00 o'clock in the forenoon or so soon thereafter as the application can be heard.

TO: Counsel and others listed in the Service List attached as Schedule A

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2023 01G 0841

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF an application of
Rambler Metals and Mining Canada
Limited and 1948565 Ontario Inc.

AND IN THE MATTER OF the *Companies'*
Creditors Arrangement Act, R.S.C. 1985,
c. C-36, as amended ("**CCAA**")

ORDER

BEFORE THE HONOURABLE JUSTICE :

UPON IT APPEARING that Rambler Metals and Mining Canada Limited and 1948565 Ontario Inc. (the "Rambler Group") have applied for an order pursuant to section 5(5) of the *Wage Earner Protection Program Act*, SC 2005, c 47, s 1 ("**WEPPA**") and the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36;

AND UPON READING the materials filed by the Rambler Group, and the Monitor's Third Report, dated April 5, 2023;

AND UPON HEARING Joe Thorne, of counsel for the Rambler Group; Alex MacFarlane, counsel for the Monitor; and such other counsel as may appear;

IT IS ORDERED THAT:

1. that the time for service of the Notice of Application and the materials filed, as set out in the affidavit of service is hereby deemed adequate notice so that this application is properly returnable today and hereby dispenses with further service thereof; and
2. pursuant to section 5(5) of WEPPA, the Rambler Group and their collective former employees meet the criteria prescribed by section 3.2 of the *Wage Earner Protection*

Program Regulations, SOR/2008-222 and are a former employer, employees, and individuals to whom the WEPPA applies as of March 30, 2023.

DATED at St. John's, in the Province of Newfoundland and Labrador, this day of April, 2023.
