

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE CHIEF JUSTICE ) *Anderson*, THE 8 DAY  
JUSTICE WARREN K. WINKLER ) OF SEPTEMBER, 2009  
*October*



**BETWEEN:**

LESLIE FROHLINGER

Plaintiff

- and -

NORTEL NETWORKS CORPORATION, JOHN ANDREW ROTH,  
FRANK DUNN, F. WILLIAM CONNER, CHAHRAM BOLOURI,  
WILLIAM R. HAWE and DELOITTE & TOUCHE LLP

Defendants

**Proceedings under the *Class Proceeding Act, 1992***

**ORDER**

**THIS MOTION** made by the Plaintiff for an Order, *inter alia*, approving the additional payment of fees and expenses to the Claims Administrator and Ontario National Class Counsel, and for approval of payments to the ten late and deficient Proofs of Claim from Guardian Capital, Inc. LP, and the additional claims received by members of the Ontario National Class after July 24, 2008, was read this day at Toronto, Ontario.

**WHEREAS**, by Order dated January 18, 2007, this Court, following a duly-noticed fairness hearing in the above-captioned action (the "Action"), approved the terms of the Stipulation and Agreement of Settlement (Nortel I) dated June 20, 2006 (the

“Stipulation”) and the proposed plan of allocation in connection with the global settlement of the Action and certain related actions in the United States and Canada (the “Approval Order”);

**WHEREAS**, the United States District Court for the Southern District of New York, the Superior Court of Québec, and the Supreme Court of British Columbia have each entered Orders approving the Stipulation, which Orders have become Final and are no longer subject to appeal;

**WHEREAS**, the Approval Order awarded fees to Ontario National Class Counsel for all work related to this Action up to approval of the Settlement;

**WHEREAS**, Ontario National Class Counsel have incurred additional fees and expenses for work related to supervising the administration of the Settlement following the approval hearing in this Action, including communicating with Ontario National Class members in respect of the claims administration process, preparing for the motion for initial distribution of the settlement proceeds, preparing for the motion for distribution of the settlement proceeds to previously disputed or late claimants, and preparing for the within motion;

**WHEREAS**, by Order dated March 26, 2008, this Court, *inter alia*, approved the initial distribution of class settlement proceeds and directed distribution of all the Net Settlement Shares and 90% of the Net Cash Settlement Fund to the Accepted Claimants<sup>1</sup>

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<sup>1</sup> As defined in the Initial Distribution Order.

who were members of the Ontario National Class in accordance with the administrative determinations of the Claims Administrator (the “Initial Distribution Order”);

**WHEREAS**, the United States District Court for the Southern District of New York, the Superior Court of Québec, and the Supreme Court of British Columbia each entered concurring orders approving the distribution contemplated by the Initial Distribution Order (collectively, the “Initial Class Distribution Orders”)<sup>2</sup>;

**WHEREAS**, on May 8, 2008, the Claims Administrator mailed a total of 226,088 checks for a total of \$394,103,000 (USD) to the Accepted Claimants, including 100,422 checks representing a total of \$98,404,383.34 payable in Canadian Dollars to Accepted Claimants resident in Canada, and 125,576 checks representing a total of \$297,402,385.21 payable in US Dollars to Accepted Claimants resident in the United States and other countries;

**WHEREAS**, the Claims Administrator has provided directions to Nortel’s transfer agent for the issuance of all the Settlement Shares pursuant to the Initial Distribution Orders;

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<sup>2</sup> Consideration of the requested payment to the Claims Administrator of \$854,487.19 was deferred by the United States District Court for the Southern District of New York in its Initial Distribution Order, but approved by each of the other Courts in their Initial Distribution Orders.

**WHEREAS**, pursuant to the Initial Distribution Order, Plaintiff's Counsel and the Claims Administrator made efforts to finally resolve the Disputed Rejected Claims<sup>3</sup>;

**WHEREAS**, by Order dated October 28, 2008, this Court approved the distribution of class settlement proceeds to previously disputed or late claimants;

**WHEREAS**, the United States District Court for the Southern District of New York, the Superior Court of Québec, and the Supreme Court of British Columbia each entered concurring orders approving the distribution of class settlement proceeds to previously disputed or late claimants (the "Second Class Distribution Orders");

**WHEREAS**, on December 18, 2008, the Claims Administrator mailed a total of 578 checks for a total of \$5,078,077.16 (USD) to Claimants whose disputed rejected or late claims were accepted, including 370 checks representing a total of \$1,630,210.13 (CDN) payable in Canadian Dollars to Accepted Claimants resident in Canada, and 208 checks representing a total of \$3,715,025.21 payable in US Dollars to such Claimants resident in the United States and other countries;

**WHEREAS**, the remaining Disputed Rejected Claims were been provided with a fulsome letter describing and explaining the reasons why their particular claims had been rejected, and if appropriate providing them with another opportunity to cure any defects in their claim or to request a further review by the United States District Court for the

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<sup>3</sup> As defined in the Initial Distribution Order.

Southern District of New York, or if they were Canadian residents, by the appropriate Canadian Court;

**WHEREAS**, no requests for further review were submitted by the remaining Disputed Rejected Claimants;

**WHEREAS**, the Claims Administrator has reported that, shortly before July 24, 2008, it received ten (10) late and deficient Proofs of Claim from the Toronto-based Guardian Capital, Inc. LP, on behalf of its clients. These claims, as submitted, were deficient but have been otherwise perfected after July 24, 2008, and the Claims Administrator has calculated that, if accepted, they would be entitled to a distribution from the Settlement Fund of \$827,095.56 (USD);

**WHEREAS**, the Claims Administrator has also reported that it has received another 74 claims after July 24, 2008, which the Claims Administrator has calculated that, if accepted, they would be entitled to a distribution from the Settlement Fund of \$165,306.54 (USD);

**WHEREAS** the Second Distribution Orders provide that no further claims would be accepted, there are ample funds held in the reserve to pay these claims;

**WHEREAS**, on February 27, 2009 a motion was made in the United States District Court for the Southern District of New York to approve payment to the Claims Administrator of fees and expenses through December 31, 2008 in the total amount of \$1,759,143.40 (USD) (including the \$854,487.19 that was previously deferred by the United States District Court);

**WHEREAS**, on July 15, 2009, the United States District Court approved payment of \$1,759,143.40 (USD) to the Claims Administrator. Also on July 15, 2009, the United States District Court approved, subject to concurring Orders of the other Courts, payment from the Cash Settlement Fund to the (10) late and deficient Proofs of Claim from Guardian Capital, Inc. LP, and the 74 additional claims received after July 24, 2008;

**ON READING** the submissions of Ontario National Class Counsel,

1. **THIS COURT DECLARES** that for the purposes of this Order, defined terms not defined herein shall have the meaning assigned to them in the Stipulation unless otherwise indicated;
2. **THIS COURT ORDERS** that, subject to the issuance of concurring orders by all of the applicable Courts, the Claims Administrator's fees and expenses in connection with the administration of the Settlement through December 31, 2008 are hereby approved, and the outstanding balance in the amount of \$1,759,143.40 (USD) (including \$854,487.19 (USD) previously approved but unpaid, and an additional \$904,656.21 (USD) presently approved) shall be paid to the Claims Administrator out of the Gross Cash Settlement Fund;
3. **THIS COURT ORDERS** that, subject to the issuance of concurring orders by all of the applicable Courts, the ten (10) late and deficient Proofs of Claim from Guardian Capital, Inc. LP, and the additional claims of members of the Ontario National Class received after July 24, 2008 may be accepted, and the Claims Administrator is directed to

pay such claims from the Cash Settlement Fund at the same rate as was paid to previously Accepted Claimants;


4. **THIS COURT ORDERS** that cash distributions that are addressed to Canadian addresses shall be issued forthwith in Canadian dollars, and the Claims Administrator is authorized to convert sufficient U.S. dollars in the Net Cash Settlement Fund to Canadian dollars to make the Canadian dollar payments, and the cash distributions made to Canadian addresses shall be based upon the exchange rate received by the Claims Administrator upon such conversion;

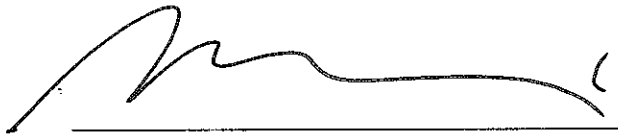
5. **THIS COURT ORDERS** that jurisdiction is retained by the Court to consider any further appropriate applications concerning the administration of the Settlement, including, without limitation, for consideration of the fees and expenses of the Claims Administrator for the period subsequent to December 31, 2008;

6. **THIS COURT ORDERS** that Ontario National Class Counsel's fees and expenses in connection with the administration of the Settlement for the period November 7, 2006 to July 16, 2009 in the amounts of \$66,304.20 plus GST and \$2,572.16 (inclusive of GST), respectively, are hereby approved and shall be paid to Ontario National Class counsel out of the Gross Cash Settlement Fund.

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

OCT 15 2009

PER / PAR: 



GALLARDI v. NORTEL NETWORKS CORPORATION et al.  
(Plaintiff) (Defendants)

Court File No. 05-CV-285606 CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
PROCEEDINGS COMMENCED AT  
TORONTO

**ORDER**

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