

Court File No. 05-CL-6007

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 18.6 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36

AND IN THE MATTER OF ALLIED HOLDINGS, INC. AND
THOSE SUBSIDIARIES LISTED ON SCHEDULE "A" HERETO

AND IN THE MATTER OF an action pending in the
QUEBEC SUPERIOR COURT OF JUSTICE

Court file No. 500-17-015722-039

B E T W E E N:

COMPAGNIE D'ASSURANCE DAIMLERCHRYSLER/
DAIMLER CHRYSLER INSURANCE COMPANY

Plaintiff

- and -

ALLIED SYSTEMS (CANADA) COMPANY

Defendant

AFFIDAVIT OF WILLIAM J. MCCORISTON

I, WILLIAM J. MCCORISTON, of the City of Toronto, in the Province of
Ontario, MAKE OATH AND SAY:

1. I am a member of the law firm of Hughes Amys LLP, agents for Cain Lamarre Casgrain Wells G.P., solicitors for the plaintiff, Compagnie D'Assurance DaimlerChrysler/DaimlerChrysler Insurance Company (hereinafter collectively referred to as "DaimlerChrysler"), in an action pending in the Quebec Superior Court bearing Court File No. 500-17-015722-039 (hereinafter "the Quebec action") and as such have knowledge of the matters hereinafter deposed, except where I have been informed of such facts, in which case I have stated the source of such facts and I hereby state that I do verily believe such facts to be true.
2. The matters deposed hereinafter are based on information obtained by my review of the affidavit of Jean-Francois Lepine of Cain Lamarre Casgrain Wells G.P. (hereinafter "the Lepine affidavit") sworn May 4, 2006, filed, and I do verily believe that information to be true.
3. The Quebec action arises out of the theft of two motor vehicles, a 2003 Jeep Grand Cherokee and a 2003 Jeep Liberty; the thefts occurred after the driver or employee of the defendant, Allied Systems (Canada) Company, delivered the vehicles to the plaintiff's dealership and negligently failed to place the car keys into a safety box.
4. The defendant in the Quebec action, Allied Systems (Canada) Company, is a subsidiary of Allied Holdings Inc.

The Quebec Action

5. On July 9th, 2003, the Quebec action was commenced by way of Statement of Claim in the Quebec Superior Court at Montreal.

6. On August 2, 2003, the defendants' Statement of Plea was issued in the Quebec Action.
7. The trial of the Quebec action was scheduled to commence on December 13, 2005.
8. On August 2, 2005, Allied Holdings Inc. and its subsidiaries, which includes the defendant company, brought an application before the Ontario Superior Court of Justice (Commercial List) for an Order recognizing bankruptcy proceedings commenced under Chapter 11 of the United States Bankruptcy Code in the United States of America and, amongst other things, for an Order staying all proceedings against Allied Holdings Inc. and its subsidiaries in Canada, pursuant to section 18.6 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. Allied Holdings Inc. was successful on this application and, accordingly, all actions against Allied Holdings Inc. were stayed until October 3, 2005 ("the Stay Period"). Attached hereto and marked as Exhibit "A" is a copy of the Initial CCAA Recognition Order.
9. On September 30, 2005, the Stay Period was extended until October 14, 2005 by Order of Mr. Justice Campbell. Attached hereto and marked as Exhibit "B" is a true copy of the said Order.
10. On October 14th, 2005, the Stay Period was extended until February 28, 2006 by Order of Madam Justice Hoy. Attached hereto and marked as Exhibit "C" is a true copy of the said Order.

11. On November 17, 2005, the plaintiff was formally notified by the defendant of its change of legal status and the stay of proceedings in the Quebec Action. Attached as Exhibit 4 of the Lepine Affidavit is a true copy of the said notice.
12. On February 14th, 2006, the Stay Period was extended until June 30, 2006 by Order of Justice Morawetz. Attached hereto and marked as Exhibit "D" is a true copy of the said Order.
13. The plaintiff in the Quebec action has not, at the time of filing this motion, received any notice that the stay of proceedings has been lifted.

Motion in Quebec Action - December 19, 2005

14. On December 19, 2005 in the Quebec Superior Court, DaimlerChrysler brought a motion to compel Allied Systems to disclose the names of any liability insurers and the full particulars of any liability insurance policies as of October 27, 2002 in Canada, so that it may bring an action directly against those liability insurer(s).
15. The motion was brought pursuant to article 2501 of the *Quebec Civil Code* R.S.Q., c. C-1991 which provides that "*an injured person may bring an action directly against the insured or against the insurer or against both*". Attached as Exhibit 5 of the Lepine affidavit is a copy of the amended motion record of the plaintiff in the Quebec Action. Attached as Exhibit 10 of the Lepine affidavit is a copy of the transcript of counsel arguments at the motion.
16. On December 19, 2005, the Honourable Madam Justice Lebel granted the plaintiff the alternative ("subsidiary") relief it sought; namely, upon completion

of oral argument, the adjudication of the motion was suspended so as to allow the plaintiff in the Quebec Action to address itself to the Superior Court of Ontario to obtain permission, due to the stay of proceedings, to present the motion to the Quebec Superior Court.

17. I do verily believe that the disclosure, by the defendant in the Quebec Action, of the names of any liability insurers and particulars of any available liability insurance policies at October 27, 2002, would not disrupt the defendant's plan of arrangement or reorganization. I believe that funds from a liability insurance policy do not and would not constitute a portion of Allied Holdings Inc. estate.
18. I do verily believe that the granting of the relief requested herein will not cause any prejudice to the creditors of the defendant, nor will it affect the viability of any distribution plan.
19. This affidavit is sworn in support of a motion for an order lifting the stay of proceedings in the Quebec Action for the sole purpose of obtaining disclosure of the names and particulars of any available liability insurance policies of the defendant in the Quebec Action at October 27, 2002.

Sworn before me at the City of)
 Toronto, in the Province of Ontario)
 this 6th day of July, 2006.)

P. Jamell

A Commissioner for Taking Affidavits

William J. McCorrison
 William J. McCorrison