

## **As Nortel pensioners struggle, the lawyers are doing just fine**

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The four-year court battle spawned by Nortel Networks Corp.'s insolvency has left thousands of its pensioners and former disabled employees with drastically slashed benefits. But the lawyers involved have done just fine.

Nortel has paid out \$630-million in fees to its professional advisers, including lawyers, accountants and investment bankers in the U.S. and Canada since it first filed for protection from its creditors in 2009, according to court filings compiled by Diane Urquhart, a financial consultant working with a group of disabled former employees.

### **Court**

The meter is still running. Just down Toronto's University Avenue from the courthouse where a judge found three former Nortel executives not guilty of fraud this week, more than 100 lawyers and other representatives of Nortel's bondholders, creditors and former employees are haggling over the company's remaining \$9-billion in a mammoth five-day mediation session overseen by Ontario Chief Justice Warren Winkler.

For Greg McAvoy, 59, the "burn rate" is particularly galling. He worked for Nortel in Calgary until his multiple sclerosis forced him to stop.

Mr. McAvoy has seen his long-term disability benefits slashed to just 35 per cent of what he was promised, despite the expensive drugs he needs.

"You've got the \$1,000-an-hour lawyers playing around with this," Mr. McAvoy, 59, said in an interview. "And it's disheartening to say the least."

Mr. McAvoy belongs to a group that has launched a potential class action alleging that the two trust companies that administered Nortel's health fund acted "fraudulently" by leaving it underfunded. The plaintiffs are demanding \$60-million.

Concerns over the amount of money going to lawyers, instead of former Nortel employees, has been raised before, as the bills mounted. Scores of lawyers from an array of major law firms in Canada have worked on the case, in one capacity or another.

And Mr. Justice Geoffrey Morawetz, the Ontario Superior Court judge overseeing the Canadian side of Nortel's liquidation, has warned the lawyers in his courtroom to stop attending, and charging, when the court is considering motions they do not oppose.

A representative for Ernst & Young LLP, the Canadian court-appointed monitor for Nortel's proceedings under the Companies' Creditors Arrangement Act, declined to be interviewed for this story. A spokesman for Nortel could not be reached.

The Nortel bill for advisers in Canada, according to Ms. Urquhart, is \$244-million, compared to \$386-million in the United States.

The Canadian costs alone exceed the approximately \$200-million in fees paid out to legal and other advisers in the complex restructuring of the non-bank asset-backed commercial paper (ABCP) market, which collapsed in 2007. And the Nortel bill dwarfs the restructuring of Hamilton's Stelco in 2006, where lawyers and other professionals cost \$100-million.

Insolvency lawyers say the Nortel case has been not only lengthy but uniquely complicated, involving courts and creditors all over the world. Lawyers acting for creditors – and the aggrieved pensioners – have also claimed millions in fees fighting for their clients in a dispute that has proven almost impossible to resolve, with about \$25-billion in outstanding claims fighting for just \$9-billion. Canadian pensioners and employees alone have claims totalling \$2.5-billion.

Indeed, Chief Justice Winkler warned when he launched his mediation effort last April that a failure to come to a negotiated settlement would mean many more years of Byzantine legal battles, and big legal fees. "This would be a catastrophic outcome for some, and unsatisfactory for most, of those affected by this case."