

Schedule "A"

Background and Parties

1. The responding parties deny all of the allegations contained in the application and particularly deny that there has been any violation of the *Labour Relations Act, 1995* ("Act"), as alleged and request that the application be dismissed.
2. The responding parties put the applicant to the strict proof of its allegations.
3. In November of 2018, General Motors of Canada ("GM") announced a restructuring plan which targeted several of its assembly plants in North America for closure, including the GM Assembly plant in Oshawa, Ontario. Unifor and its Local 222 represent a bargaining unit of employees at the Oshawa Assembly plant.
4. As a direct result of the closure of the Oshawa facility, GM will be eliminating tens of thousands of jobs in Canada. A recent economic impact study shows that the closure of GM Oshawa would result in 24,000 lost jobs across the economy by 2025 and a loss of \$1 billion per year in government revenue. Since the announcement of the closure of the Oshawa Assembly plant in November of 2018, Unifor has organized solidarity events, benefit concerts, labour rallies, news conferences and placed advertisements in newspapers and on television in an attempt to communicate the importance of the auto industry to the Canadian economy, both to government and the public at large.
5. On or about December 7, 2018 Unifor Local 222 filed a Policy Grievance against GM on the ground that by closing the plant, GM was violating express language in Document #90 of the Master Collective Agreement between GM and the Union, covering Oshawa and other plants in Ontario. In Document #90, GM explicitly promised that it would not close or sell any plant during the term of the collective agreement expiring September 21, 2020.
6. Jerry Dias is the National President of Unifor, Josh Coles is the Unifor Director of Political Action and Membership Mobilization, Shane Wark is the Assistant to the President of Unifor, Steve Batchelor is a National Representative of Unifor.
7. Colin James is the President of Unifor Local 222 and Greg Moffatt is the Plant Chair of the Oshawa Assembly plant.
8. The responding party, Unifor Local 1090, does not represent any bargaining unit members employed by GM.

9. Corey Dalton is the President of Local 1090, Greg Auchterlonie is the Financial Secretary of Local 1090, Rick Welsh is the 1st Vice-President of Local 1090, Brian Smith is the 2nd Vice-President of Local 1090 and the Plant Chair of a bargaining unit of employees employed at Inteva Products Canada ULC.

Failure to Particularize Allegations Against Individual Responding Parties

10. The applicant has entirely failed to particularize its allegations with respect any of the individual responding parties, or even the organizational responding parties. For the most part, the applicant does not distinguish between any of the responding parties in relation to any of the facts alleged.
11. The applicant has not pled any specific facts whatsoever in relation to the following individual responding parties: Josh Coles, Steve Batchelor, Corey Dalton, Rick Welsh, Brian Smith and Greg Auchterlonie. As a result, we ask that the application be dismissed as against these responding parties.
12. Moreover, Shane Wark is mentioned only in a general, vague statement at paragraph 70 of the application, which is wholly lacking in any particulars: "The illegal action of the Lear Corporation bargaining unit, as counselled and procured by Unifor, Jerry Dias, Shane Wark, Unifor Local 222, Colin James and Greg Moffatt, is an action clearly designed to shut down the Oshawa Plant and prevent its operation." Similarly, the Board ought to dismiss the application as against Mr. Wark, for lack of any particulars of wrongdoing.

Allegations Related to Alleged Incidents at GM OAP on November 26, 2018 and January 8 and 9, 2019

13. The applicant alleges that on November 26, 2018 the responding parties encouraged bargaining unit members at the GM Oshawa Assembly plant to engage in a one-day illegal strike, following an announcement by GM that it was not allocating product to the GM Oshawa Assembly plant beyond December of 2019.
14. In addition, the applicant alleges that on January 8, 2019 the responding parties encouraged bargaining unit members at the GM Oshawa Assembly plant to engage in a "sit-down" strike for part of the second shift and part of the first shift on January 9, 2019, after advising Unifor representatives at a meeting that it would not reconsider its decision to close the Oshawa plant.

15. Without prejudice to our position, set out above, that the responding parties have not violated the Act, we note that the applicant has failed to file its allegations with the Board in a timely way, as required by Rule 5 of the Board's *Rules of Procedure*. Timely application to the Board is particularly required in the context of an illegal strike application in which the applicant alleges that the Board must intervene on an urgent basis.
16. These incidents were discrete and quickly resolved and the applicant did not consider it necessary to apply to the Board at the time the incidents allegedly occurred, or to file any grievance pursuant to the collective agreement.
17. In accordance with the Board's longstanding jurisprudence relating to illegal strike applications in which the work stoppage has already ended by the time the application is filed or a hearing is held, in the present circumstances the Board ought to refuse to exercise its discretion to order any of the remedies requested, as it would serve no labour relations purpose.

Allegations Relating to January 17, 2019 Incident

18. On January 17, 2019, for approximately one hour and a half, several cars and trucks drove around the Oshawa plant, on public roads, some with Unifor flags attached to car windows. This was a demonstration to communicate solidarity for GM Oshawa plant workers and to protest GM's decision not to reconsider the closure of the plant.
19. The applicant labels this a "rolling blockade" of the plant, which characterization is disputed by the responding parties. While the traffic resulting from the demonstration may have delayed access to one or more of the gates at the plant at different intervals, other gates remained unimpeded and production at the plant was not in any way "prevented" by the demonstration, nor was it intended to do so, as alleged by the applicant. As such, this demonstration cannot be construed to amount to an illegal "strike" within the meaning of the Act.

Allegations Relating to January 23, 2019 Demonstration at GM Head Office

20. On January 23, 2019, there was a demonstration at GM's head office in Oshawa. The head office is at an entirely separate geographic location from the GM Oshawa plant.
21. Production at the plant was in no way affected by the demonstration at the head office.

22. Leadership of Unifor Local 222 were not involved in check point activities during the demonstration.
23. This demonstration was intended to draw attention to Unifor's concerns surrounding the closure of the GM Oshawa plant. It did not and was not intended to effect a work slow-down or stoppage at the GM Oshawa plant and therefore cannot be construed to be an illegal strike within the meaning of the Act.
24. GM has filed an injunction application in relation to this demonstration at the GM head office, which is currently pending before the Ontario Superior Court.

Allegations relating to alleged incident at Inteva Products Canada ULC ("Inteva") on January 14, 2019

25. GM cannot rely on an alleged work stoppage at Inteva to bolster its own illegal strike application. It is quite clear from the Act that a "strike" pursuant to subsection 1(1) is defined in relation to employees in a bargaining unit, employed by an employer and bound by a collective agreement with that employer.
26. The prohibition against a strike when a collective agreement is in operation, embodied in subsection 79(1) of the Act, pertains to "employees bound by the agreement" with an employer, who is also bound to the same agreement. It does not pertain to employees of an entirely different employer.¹ GM cannot "piggy-back" on the allegations of Inteva to ground its own illegal strike application and *vice versa*.
27. We also note that the Union alleged to have "counselled or procured" the illegal strike at Inteva is Unifor Local 1090, which does not represent employees at GM, nor is it in a collective bargaining relationship with GM.
28. The Inteva plant in Whitby, Ontario, supplies components to two GM assembly plants, located in Oshawa and Detroit-Hamtramck, pursuant to a commercial contract. Both GM plants are targeted for closure.
29. Unifor Local 1090 represents a bargaining unit of employees at Inteva.
30. At 8:30 am on Tuesday, January 14, 2019, approximately 100 parts workers at Inteva walked off the job in protest of the decision by GM to close the plant in Oshawa, and the devastating effect the closure would have on jobs at Inteva.

¹ *Niagara Catholic District School Board*, 1998 CarswellOnt 6066 at para 12.

31. All employees at Inteva work a shift from 6:30 am to 2:30 pm, Monday to Friday. The protest ended at approximately 3:00 pm.
32. Employees at Inteva returned to work as usual at 6:30 am on Wednesday, January 15, 2019. All employees are currently working. No facts are alleged that suggest that the protest will continue or recur.
33. The alleged incident at Inteva is the subject matter of an illegal strike application filed by Inteva against Unifor Local 1090, which forms the subject matter of Board File No. 3155-18-U. In that application, Inteva seeks relief from the Board on its own behalf.

Allegations relating to alleged incidents at Lear Corporation (“Lear”) on February 8, 2019

34. For the reasons set out above in relation to the Inteva job action, GM cannot rely on an alleged work stoppage at Lear to bolster its own illegal strike application.
35. Lear, located in Whitby, Ontario supplies seats to the GM Oshawa Assembly plant, pursuant to a commercial contract.
36. Unifor Local 222 represents a bargaining unit of employees at Lear.
37. At 7:25 am on Friday, February 9, 2019 workers at Lear walked off the job in protest against the decision of GM to close its assembly plant in Oshawa and the associated threat to jobs at Lear. The walk-out by Shift 1 employees ended at approximately 1:30 pm and Shift 2 employees reported for work as usual at 3:05 pm
38. Lear has not applied to the Board on its own behalf or filed a grievance with respect to the walk-out on February 8, 2019, pursuant to its collective agreement with Unifor Local 1090.

Remedies

39. The Board should not exercise its discretion to make any orders pursuant to section 100 of the Act, in the circumstances of this case. The allegations which are properly before the Board in the context of this application, which relate to alleged illegal strike activity by bargaining unit members at GM, pertain to isolated incidents which occurred several weeks ago and were quickly resolved. There is no basis disclosed in the application for the Board to find that such activity is likely to recur.

40. Any claim for compensation resulting from the allegations set out in the application would fall within the exclusive jurisdiction of a labour arbitrator appointed pursuant to the collective agreement, and not the Board. The applicant's claims (unlawful strike) clearly arise out of matters covered by the collective agreement.

41. Furthermore, it is improper for the Board to order any remedy requested by the applicant on behalf of or in respect to *other* employers and their bargaining unit members, not employed by GM.

All of which is respectfully submitted.