

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

PETER ROONEY and ARCHIE LEACH

Plaintiffs

- and -

ARCELORMITTAL S.A., LAKSHMI N. MITTAL, ADITYA MITTAL, 1843208 ONTARIO INC., PHILIPPUS F. DU TOIT, NUNAVUT IRON ORE ACQUISITION INC., IRON ORE HOLDINGS, LP, NGP MIDSTREAM & RESOURCES, L.P., NGP M&R OFFSHORE HOLDINGS, L.P., JOWDAT WAHEED, BRUCE WALTER, JOHN T. RAYMOND, JOHN CALVERT, BAFFINLAND IRON MINES CORPORATION, RICHARD D. MCCLOSKEY, JOHN LYDALL and DANIELLA DIMITROV

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF ARCHIE LEACH
(SWORN AUGUST 6, 2019)**

I, Archie Leach, of the City of London, in the Province of Ontario, MAKE OATH AND SAY:

1. I am one of the representative plaintiffs in this proceeding (“**Action**”). As such, I have personal knowledge of the matters to which I am deposing. Where my knowledge is based on information that I have obtained from others, I have indicated the source of such information and believe it to be true.
2. I have discussed the terms of the Settlement Agreement dated June 7, 2019 (“**Settlement Agreement**”) with Siskinds LLP (“**Siskinds**”). Where I use capitalized terms not separately defined in the body of the affidavit, those terms have the meanings ascribed to them in the Settlement Agreement.

3. I am swearing this affidavit in support of motions being heard on September 6, 2019 for:
 - (a) approval of the settlement of the Action (which I understand includes a request for approval of ancillary documents necessary to give effect to the settlement, including a Distribution Protocol);
 - (b) approval of the retainer agreement between myself and Siskinds, and approval of Class Counsel Fees to be paid from the Settlement Amount;
 - (c) approval of an honorarium request; and
 - (d) approval of an interim payment to the litigation funder in respect of the Funding Commission that was previously approved by the Court.

4. Nothing in this affidavit is intended to waive, nor should it be understood or interpreted to be a waiver of, solicitor-client privilege, litigation privilege, settlement privilege or any other privilege related to, or potentially attaching to, any of the information conveyed herein.

A. MY SALES OF BAFFINLAND COMMON SHARES

5. On January 25, 2011, I sold 3,768,100 Common Shares on the TSX at \$1.50 per Common Share for gross proceeds of \$5,652,150. I understand that the Common Shares I sold on January 25, 2011 are “Eligible Securities” under the Settlement Agreement.

B. MY ONGOING INVOLVEMENT IN THIS ACTION

6. This Action arose out of the Joint Bid. The Class Members in this certified class proceeding are the former holders of BIM Securities who either tendered their BIM Securities to the Joint Bid or sold their BIM Securities in the secondary market on or after January 14, 2011 (the date the Joint Bid was made). Baffinland’s sole asset was the 100%-

owned Mary River iron ore project on Baffin Island in Nunavut (“**Mary River Project**”). This Action advances misrepresentation claims based on the allegation that Class Members were denied the material facts necessary to assess the value of Baffinland and the Mary River Project, and also seeks relief from oppression on the basis of alleged acts and omissions of Baffinland and its directors and officers.

7. In April 2011, I retained Siskinds with respect to the ongoing class proceeding against the Defendants and authorized Siskinds to add me as a Plaintiff to the proceeding and seek my appointment as a representative plaintiff.
8. In January 2012, I entered into a revised retainer agreement with Siskinds (“**Retainer Agreement**”). The Retainer Agreement is attached hereto as **Exhibit “A”**. An unsigned word version of the Retainer Agreement is attached hereto as **Exhibit “B”**.
9. I understand that Peter Rooney entered into a substantially similar retainer agreement with Siskinds at around the same time that I entered into the Retainer Agreement.
10. Since I retained Siskinds, I have been in regular contact with Siskinds by phone and email and I have met with lawyers from Siskinds at various stages of the litigation. Siskinds has provided details regarding the status of the action, steps taken and to be taken and the reasons for those steps, provided key documents, and made recommendations and sought my instructions in relation to all material matters.
11. I have been actively involved in the litigation. Among other things:
 - (a) on September 15, 2011 and October 6, 2017, I swore affidavits in support of the motion for certification, and was cross-examined on those affidavits on January 4, 2018;

- (b) on November 18, 2011, I swore an affidavit in opposition to the Defendants' motion to change venues from London to Toronto and was cross-examined on that affidavit on March 8, 2012;
 - (c) on October 1, 2013, I swore an affidavit in support of the motion to approve a Litigation Funding Agreement that I, along with Mr. Rooney, had entered into with a litigation funder;
 - (d) I reviewed materials related to the Defendants' motions to strike the Statement of Claim and provided instructions to Class Counsel regarding the motion to strike;
 - (e) I provided instructions with respect to January 31, 2019 mediation; and
 - (f) I was involved in the process that followed the January 31, 2019 mediation that ultimately led to the settlement of the Action.
12. I believe that I have dedicated at least 100 hours to the prosecution of this Action on behalf of the Class since I became involved in the matter.
13. Since the commencement of the Action in April 2011, it has been vigorously litigated for over 8 years. This case has been extremely hard fought at virtually every stage by all of the parties. There have been numerous motions, including motions that sought to have the Action dismissed. To summarize:
- (a) two motions were heard in April 2012, namely (i) the Plaintiffs' motion to stay the related dissent and appraisal proceeding commenced by the Defendant 1843208 Ontario Inc. to determine the fair value of the Baffinland shares of the dissenting shareholders as at March 21, 2011; and (ii) the Defendants' motion to transfer the venue of the Action from London to Toronto. Those motions were re-argued in

October 2012, and decided in our favour in March 2013. In July 2013, a motion for leave to appeal the decision on the stay motion was dismissed;

(b) we brought a successful motion for approval of the Litigation Funding Agreement in 2013;

(c) three concurrent motions to strike the Statement of Claim were brought by the three Defendant groups. The motions to strike were heard over five days in December 2014 and January 2015. This Honourable Court issued an order on July 30, 2015 striking parts of the then-current Statement of Claim, with leave to amend. We appealed that decision. The appeal was heard by the Ontario Court of Appeal on May 4, 2016. On August 17, 2016, the Court of Appeal partly granted and partly denied the appeal;

(d) our motion for certification of the Action as a class proceeding was heard over two days in January 2018. On May 18, 2018, the Action was certified as a class proceeding and I, along with Mr. Rooney, were appointed as representative plaintiffs for the Class. Some of the Defendants sought leave to appeal the certification of oppression claims to the Divisional Court. On September 11, 2018, leave to appeal was denied; and

(e) concurrent with the certification motion, the Defendants brought a motion concerning the security posted by the litigation funder. On May 18, 2018, the Court gave directions in relation to that motion.

14. On January 31, 2019, the parties conducted a mediation with the assistance of the former Chief Justice of Ontario, the Honourable Warren K. Winkler as mediator. The mediation was unsuccessful. However, negotiations continued in the months that followed with the

assistance of Mr. Winker. Ultimately, a settlement in principle was reached and formally entered into by the parties on June 7, 2019.

15. My knowledge of this Action has been informed by my interactions with Siskinds, and the documents that I have received, reviewed and considered. As such, I believe that I have a very good understanding of the issues in the Action and the issues relevant to the Settlement.

SETTLEMENT APPROVAL

Two step process

16. Siskinds has informed me that the process to have the Settlement approved is taking place in two separate but related stages.
17. I have received and reviewed the Order of this Honourable Court dated June 13, 2019, which, among other things, prescribed an opt-out procedure and a claims process, and approved a Plan of Notice to bring the Settlement, the claims process and opt-out process to the attention of Class Members and advise them of their rights. As such, I am aware that the first stage has occurred.
18. As for the second stage, I understand that a hearing is scheduled for September 6, 2019, where, among other things, approval of the Settlement and the Distribution Protocol will be sought from this Honourable Court.

Instructions and understanding of the key terms of the Settlement Agreement

19. On January 31, 2019, after lengthy discussions with Class Counsel and having considered the positions of the parties set out in their mediation materials, I provided instructions to Class Counsel. Despite Class Counsel's efforts, the mediation session ended without a

successful resolution of the Action. The parties, however, agreed to continue negotiations towards the resolution of the Action with the continued assistance of Mr. Winkler.

20. I am aware that, on March 4, 2019, lawyers from Siskinds attended a further mediation session with Mr. Winkler and representatives of the Defendants, which again ended without a successful resolution of the Action.
21. Following further negotiations, in May 2019 the parties reached an agreement in principle to settle the action for \$6,500,000.00, subject to Court approval. I authorized Siskinds to agree to settlement on those terms.
22. I understand that the Settlement Amount ultimately agreed to was higher than what had been offered by the Defendants at the mediation on January 31, 2019 and March 4, 2019.
23. After discussions and email exchanges with Siskinds, I understand that Siskinds believed that the Action could have been successful, but that there were significant risks to the Action which had to be considered. I understood and considered the following risks to have weighed heavily in the negotiation of the Settlement:
 - (a) the risk that the Court would find that there had been no misrepresentations made by the Defendants because the alleged misstatements were not untrue, the alleged omitted facts had already been disclosed, disclosure of the alleged omitted facts was prohibited by securities laws and/or the alleged omitted facts were not material;
 - (b) the risk that the unlawful tipping allegations would not be established, particularly in light of the holding by the Ontario Securities Commission panel in the regulatory proceeding against Mr. Walter and Mr. Waheed that neither of them had engaged in insider trading or tipping, which was decided on similar facts to the facts underpinning the tipping allegations in this Action;

- (c) in relation to the oppression claims of the Class, the risk that the Court would find that there was no-class wide “reasonable expectation”, or that the only “reasonable expectation” was for a fair bid process and that there was no unfairness in the bid process that was held or in Baffinland failing to block the Nunavut hostile bid; and
 - (d) the risk that the Court would find that the Class did not suffer any loss or damage as a result of the alleged misconduct of the Defendants because there was no scenario that was prevented by any of the alleged misconduct that would have resulted in the Class Members receiving significantly more than what they actually received for their BIM Securities.
24. I also relied on the recommendation of Siskinds, whom I understand and observed to be experienced in the litigation and resolution of securities class actions.
25. I understand that, under the Settlement Agreement and subject to the specific wording contained in it, unless a Class Member excludes themselves from the Action by August 12, 2019, the claims brought and other claims that could have been brought in the Action will be released forever on the Effective Date.
26. I understand this to mean that, if the Settlement is approved, no Released Claims can be brought or continued against Releasees at any time after the Settlement Agreement becomes effective.
27. Siskinds reviewed the key monetary and non-monetary terms of the Settlement Agreement with me, and I am satisfied that it is appropriate. I understand that:
- (a) the total amount of C\$6,500,000.00 will be the sole monetary contribution by the Defendants, either directly or by their insurers;
 - (b) the effect and binding nature of the Settlement Agreement;

- (c) the effectiveness of the Settlement Agreement is contingent on the approval of this Honourable Court;
 - (d) if the Settlement Agreement is approved and becomes effective, the case against the Defendants will be dismissed with prejudice (meaning it cannot be brought again);
 - (e) if we later discover new facts related to the claims, that discovery will not change the binding effect of the Settlement Agreement and the releases given; and
 - (f) the Settlement is a compromise between the parties having regard to the various risk factors described above.
28. I understand that we have received from the Defendants costs awards of C\$208,000.00 on successful motions, which will be added to the Settlement Amount for distribution to the Class Members (after deductions).
29. Given the risks I outlined above, I believe the Settlement Amount is fair and adequate consideration to be paid in exchange for the Released Claims in light of those matters that weighed heavily in the negotiation of the Settlement. Accordingly, I have instructed Class Counsel to seek this Honourable Court's approval of the Settlement.

Proposed Distribution Protocol

30. I have discussed with Siskinds the terms of the Distribution Protocol and the basis for those terms. I support the approval of the Distribution Protocol in the form it is currently proposed. Accordingly, I have instructed Siskinds to seek this Honourable Court's approval of the Distribution Protocol.

FEE APPROVAL

31. Siskinds undertook to prosecute this Action on a contingency fee basis such that it would not receive payment of its fees or disbursements unless and until a recovery was obtained for the benefit of the Class Members.
32. Siskinds incurred significant risk in the prosecution of this litigation over 8 years, including significant docketed time (the value of which exceeds the fee requested) and disbursements incurred.
33. Siskinds has informed me that the value of its docketed time on this file, as at July 31, 2019, is approximately C\$3,160,000 (excluding applicable taxes), which does not include the disbursements that have been funded by Siskinds and applicable taxes on those disbursements.
34. I have been further informed that Siskinds estimates that it will spend time valued at approximately an additional C\$75,000.00 to complete the administration of the Settlement, if the Settlement Agreement is approved by this Honourable Court. I understand that this additional time will be spent to:
 - (a) prepare for and attend the Settlement approval hearing on September 6, 2019;
 - (b) assist in implementation of Part 2 of the Plan of Notice, related to the notice of the approval of the Settlement;
 - (c) liaise with the Administrator to ensure the fair and efficient administration of the Settlement Agreement and Distribution Protocol; and
 - (d) respond to inquiries from Class Members and their lawyers, if applicable, regarding the Settlement Agreement and the Distribution Protocol.

35. Siskinds has informed me that it has incurred disbursements approaching C\$300,000.00 to date, excluding applicable taxes. I understand that this amount includes expert fees, mediation fees, fees to obtain transcripts of the OSC proceedings, travel, accommodation, communication costs and court filing fees.
36. Siskinds has advised that it will request Class Counsel Fees in the amount of \$1,787,500.00 plus taxes and reimbursement for disbursements and taxes on those disbursements. It has been explained to me that this amount is consistent with my Retainer Agreement and Mr. Rooney's retainer agreement with Siskinds. Specifically, those retainers provide that Siskinds will be entitled to 27.5% of the "Net Amount Recovered" if such recovery occurs after a decision is rendered on a contested certification motion but before commencement of the common issues trial.
37. I am advised that HST on Ontario legal fees is 13%. Therefore, HST on the requested fee will be C\$232,375.00. This makes the total requested fees and applicable taxes (without inclusion of disbursements) C\$2,019,875.00. Thus, I understand that, if Class Counsel's requested fee plus applicable taxes is approved, the Settlement funds will be reduced by C\$2,019,875.00 (C\$1,787,500.00 plus C\$232,375.00).
38. I also understand that Class Counsel's disbursements (up to C\$300,000.00 plus applicable taxes), Administration Expenses, the Funding Commission payable to the funder and any honorarium payable to myself and Mr. Rooney will be paid out of the settlement funds before the balance is distributed to the Class Members.
39. I support the requested Class Counsel Fee of C\$1,787,500.00 plus applicable taxes on the fees and reimbursement for disbursements plus applicable taxes on the disbursements.

This is Exhibit "A" mentioned and referred to in the Affidavit of Archie Leach, sworn before me at the City of London, in the Province of Ontario, this 6th day of August, 2019.


A Commissioner, etc.

CONTINGENCY FEE RETAINER AGREEMENT

2-246 SYDENHAM STREET

1. I, Archie Leach, residing at ~~1770 Kilgus Road~~, London, Ontario, N5V 5A3, hereby retain and employ the law firm of Siskinds LLP ("Siskinds") as my lawyers in relation to a class proceeding pursuant to the Ontario *Class Proceedings Act, 1992* naming me as proposed representative plaintiff on behalf of all persons and entities who sold or otherwise disposed of the securities of Baffinland Iron Mines Corporation after January 14, 2011, inclusive, or such other class as may be proposed by Siskinds or certified by the Court (the "Class").
2. This retainer agreement replaces and supercedes any previous agreement entered into in respect of the matters set out herein.
3. I have authorized Siskinds to commence proceedings, on my behalf, against ArcelorMittal S.A., Lakshmi N. Mittal, Aditya Mittal, 1843208 Ontario Inc., Philippos F. Ou Tsil, Nunavut Iron Ore Acquisition Inc., Iron Ore Holdings, LP, NGP Midstream & Resources, L.P., NGP M&R Offshore Holdings, L.P., Jowdat Waheed, Bruce Walter, John T. Raymond, John Calvert, Baffinland Iron Mines Corporation, Richard D. McCloskey, John Lydall, Daniela Dimitrov, and such other defendants as Siskinds may consider appropriate.
4. I understand that this litigation is to be pursued on a contingency basis such that fees and disbursements with respect to the common issues will be payable only in the event of success in the class proceeding.
5. I understand that, according to the Ontario *Class Proceedings Act, 1992*, "success" in a class proceeding includes:
 - (a) judgment on the common issues in favour of some or all members of the Class, and
 - (b) a settlement that benefits one or more members of the Class
6. I understand that legal fees will be charged on a percentage basis. I understand that, pursuant to this agreement, Siskinds may request approval from the Court of a legal fee at the applicable percentage rate(s) determined in accordance with the paragraphs below, plus disbursements, plus applicable taxes on the fees and disbursements, to be paid in a lump sum from any settlement, judgment or award obtained for the benefit of some or all members of the Class.
7. I understand that the percentage legal fee will be calculated based on all benefits obtained for the Class by settlement, judgment or award, including, without limitation, partial indemnity or substantial indemnity costs, and the costs of notice and administration (the "Net Amount Recovered").
8. Subject to paragraph 8 hereof, the applicable percentage rate shall be:
 - (a) twenty-five percent (25%) of the Net Amount Recovered if such recovery occurs before a decision is rendered by the Court on a contested certification motion;

- (b) twenty-seven and one-half percent (27.5%) of the Net Amount Recovered if such recovery occurs after a decision is rendered by the Court on a contested certification motion, but before the commencement of the common issues trial, and
 - (c) thirty percent (30%) of the Net Amount Recovered if such recovery occurs after the commencement of the common issues trial
9. Notwithstanding paragraph 7 hereof,
- (a) if the Net Amount Recovered is \$20 million or less, the percentage rate that applies to the Net Amount Recovered shall be the applicable percentage rate under paragraph 7 hereof;
 - (b) if the Net Amount Recovered is between \$20 million and \$40 million, the percentage rate that applies to the first \$20 million of the Net Amount Recovered shall be the applicable percentage rate under paragraph 7 hereof, and the percentage rate that applies to the Net Amount Recovered in excess of \$20 million shall be the applicable percentage rate under paragraph 7 hereof less five percent (5.0%);
 - (c) if the Net Amount Recovered is between \$40 million and \$60 million, the percentage rate that applies to the first \$20 million of the Net Amount Recovered shall be the applicable percentage rate under paragraph 7 hereof, and the percentage rate that applies to the Net Amount Recovered between \$20 million and \$40 million shall be the applicable percentage rate under paragraph 7 hereof less five percent (5.0%), and the percentage rate that applies to the Net Amount Recovered in excess of \$40 million shall be the applicable percentage rate under paragraph 7 hereof less ten percent (10.0%); and
 - (d) if the Net Amount Recovered exceeds \$60 million, the percentage rate that applies to the first \$20 million of the Net Amount Recovered shall be the applicable percentage rate under paragraph 7 hereof, and the percentage rate that applies to the Net Amount Recovered between \$20 million and \$40 million shall be the applicable percentage rate under paragraph 7 hereof less five percent (5.0%), and the percentage rate that applies to the Net Amount Recovered between \$40 million and \$60 million shall be the applicable percentage rate under paragraph 7 hereof less ten percent (10.0%), and the percentage rate that applies to the Net Amount Recovered in excess of \$60 million shall be the applicable percentage rate under paragraph 7 hereof less fifteen percent (15.0%).
10. By way of example, if the defendants pay by way of settlement \$24,000,000, plus \$750,000 in costs and \$250,000 towards the cost of notice and administration for a total Net Amount Recovered of \$25,000,000, and settlement is achieved before a decision is rendered by the Court on a contested certification motion, the contingency fee requested will be no more than \$6,000,000 (25% of \$20,000,000 plus 20% of \$5,000,000), plus disbursements, plus applicable taxes, plus any additional fees that may be applicable pursuant to paragraph 11 hereof.

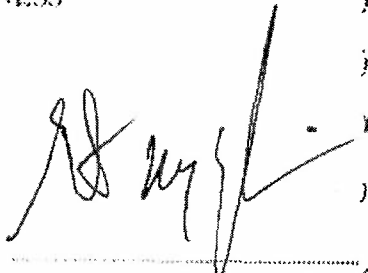
11. I understand that Siskinds will pay all disbursements with respect to this action and that I will not pay for any disbursements relating to this litigation, other than the contingency fee and expense reimbursement referenced above to be paid from a settlement, judgment or award and approved by the Court.
12. Siskinds and I understand that if the Court orders that I pay some portion of the costs incurred by the defendants in this litigation while Siskinds is counsel of record, Siskinds will indemnify me against any such award and I will not personally have to satisfy such an award. In consideration for such indemnification, each of the percentage rates under paragraphs 7(a), (b) and (c) hereof shall be increased by five percent (5.0%). By way of example, if the defendants pay by way of settlement \$24,000,000, plus \$750,000 in costs and \$250,000 towards the cost of notice and administration, for a total Net Amount Recovered of \$25,000,000, and settlement is achieved before a decision is rendered by the Court on a contested certification motion, the contingency fee requested will be no more than \$7,250,000 (30% of \$20,000,000 and 25% of \$5,000,000), plus disbursements, plus applicable taxes.
13. I acknowledge and agree that Siskinds may, on my behalf, obtain an indemnification against adverse costs from the Class Proceedings Fund or a third party litigation funder, and that the Class Proceedings Fund or the third party litigation funder may be entitled to a percentage of any recovery obtained on behalf of the Class. I authorize Siskinds, in its discretion, to seek such indemnification. In the event such indemnification is obtained, the percentage rates under paragraphs 7(a), (b) and (c) hereof shall not be increased by five percent (5.0%) under paragraph 11 hereof.
14. I understand that Siskinds' legal fees shall be subject to approval by the Court.
15. I understand that, based on Siskinds' preliminary analysis, a reasonable settlement or judgment in this case could be in the range of \$10 million to \$50 million, depending on several factors, including, but not limited to, the strength of the evidence that is obtained in the course of prosecuting this action, the extent of the available insurance coverage, and the defendants' capacity to pay. I understand that a more precise estimate of a reasonable settlement amount is not possible at this time.
16. I understand that, in the event that a settlement or judgment is obtained that is consistent with the above estimate, Siskinds may request a fee of up to \$2.5 to \$12.5 million, plus disbursements, plus applicable taxes (on the assumption that a settlement or judgment is achieved before a decision is rendered by the Court on a contested certification motion), which amounts will be subject to approval by the Court. I understand that, in considering Siskinds' fee request, the court may consider, among other things, this retainer agreement, the amount of any settlement or judgment obtained, the risk undertaken by Siskinds in prosecuting the action, and the time and expense incurred by Siskinds in prosecuting the action. I also understand that the above estimate of fees is based on the estimated recovery in the preceding paragraph, and that in the event that the settlement or judgment obtained varies from those amounts, the fee sought may vary accordingly. This estimate of fees is therefore in part subject to the same contingencies as are expressed with respect to the estimate of a reasonable settlement or judgment expressed in paragraph 14 hereof.

- 17 I have been advised by Siskinds lawyers that my solicitors in this action will not receive more in fees than the Class recovers as damages or receives by way of settlement.
- 18 I agree and direct that all funds claimed by Siskinds for legal fees, costs, taxes and disbursements shall be paid to Siskinds in trust from any judgment or settlement money.
- 19 I understand that Siskinds may associate with other law firms in the prosecution of this action, including, without limitation, Siskinds' Quebec affiliate law firm, Siskinds Desrosieres.
- 20 Because Siskinds is a large multi-disciplinary law firm, it frequently represents clients that are competitors, customers or suppliers, or have other commercial, and at times legal, interests that are adverse to one another. It is possible that during or following the time Siskinds represents me, another existing or new client may have disputes with me that are unrelated to the matters that Siskinds are handling or have handled for me. I understand that Siskinds will represent me in this and future matters on the understanding that Siskinds represents other clients and may accept engagements from them on other matters that may be adverse to me. However, Siskinds will not act for another client against my interests if the matter is substantially related to any matter in which Siskinds is representing me. If the foregoing conditions are satisfied, I agree that Siskinds may undertake the adverse representation and that all conflict of interest issues will be deemed to have been waived by me.
- 21 I acknowledge:
- (a) having been advised by Siskinds lawyers that I retain the right to make all critical decisions regarding the conduct of this action, but always with a view to the best interests of the Class;
 - (b) having discussed with one or more Siskinds lawyers options for retaining Siskinds other than by way of a contingency fee agreement, including retaining them by way of an hourly-rate retainer;
 - (c) that the standard hourly rates of the lawyers who are expected to be the principal lawyers in this matter are (1) Dimari Lascaris \$585, (2) Michael Robb \$475, (3) Anthony O'Brien, \$350, and (4) Douglas Wurdzi \$590;
 - (d) that the aforementioned standard rates may be increased in the ordinary course of business;
 - (e) that I have been advised that hourly rates may vary among solicitors and that I can speak with other solicitors to compare rates;
 - (f) that I have chosen to retain Siskinds by way of a contingency fee agreement; and
 - (g) that I understand that all usual protections and controls on retainers between a solicitor and client, as defined by the Law Society of Upper Canada and the common law, apply to this agreement.

- 22. I understand that, if either I or Siskinds wish to terminate this relationship, I or Siskinds will forthwith move before the Court for directions. I acknowledge that Siskinds has incurred and will continue to incur significant time and financial risk in the prosecution of this action. Accordingly, if I engage another solicitor to act in the action or if I otherwise terminate this agreement and the action is successful, Siskinds will be paid fees and disbursements in accordance with the terms of this agreement.
- 23. I understand and agree that, in retaining Siskinds to provide the legal services described in this retainer, the collection, use, retention and disclosure of personal and other sensitive information may be required in order to fulfill those services and related obligations. I have read the Siskinds Privacy Policy respecting the management of personal and sensitive information and understand that such information will be used by Siskinds for only the purposes set out in this Retainer and for no other purpose without my express written consent pursuant to the Privacy Policy.
- 24. This agreement shall not confer any rights or remedies upon any person other than the parties hereto and their respective heirs, executors, successors and permitted assigns.
- 25. This agreement may be executed in counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

Signed, sealed and delivered this _____ day of _____ January, 2012.

WITNESS



Name
Address



Name Archie Leach
Address 1880 Killy Road
London, ON N5V 5A3

WITNESS

SISKINDS LLP

[Handwritten signature]
 Name: *[Handwritten name]*
 Address: 600 Waterloo Street
 London, ON N6A 3V8

[Handwritten signature]
 Per: *[Handwritten initials]*
 Michael G. Robb
 680 Waterloo Street
 London, ON N6A 3V8

1706511

This is Exhibit "B" mentioned and referred to in the Affidavit of Archie Leach, sworn before me at the City of London, in the Province of Ontario, this 6th day of August, 2019.


A Commissioner, etc.

CONTINGENCY FEE RETAINER AGREEMENT

1. I, Archie Leach, residing at ~~1880 Kilally Road~~, London, Ontario, N5V 5A3, hereby retain and employ the law firm of Siskinds LLP (“Siskinds”) as my lawyers in relation to a class proceeding pursuant to the Ontario *Class Proceedings Act, 1992* naming me as proposed representative plaintiff on behalf of all persons and entities who sold or otherwise disposed of the securities of Baffinland Iron Mines Corporation after January 14, 2011, inclusive, or such other class as may be proposed by Siskinds or certified by the Court (the “Class”).
2. This retainer agreement replaces and supercedes any previous agreement entered into in respect of the matters set out herein.
3. I have authorized Siskinds to commence proceedings, on my behalf, against Arcelormittal S.A., Lakshmi N. Mittal, Aditya Mittal, 1843208 Ontario Inc., Philippus F. Du Toit, Nunavut Iron Ore Acquisition Inc., Iron Ore Holdings, LP, NGP Midstream & Resources, L.P., NGP M&R Offshore Holdings, L.P., Jowdat Waheed, Bruce Walter, John T. Raymond, John Calvert, Baffinland Iron Mines Corporation, Richard D. McCloskey, John Lydall, Daniella Dimitrov, and such other defendants as Siskinds may consider appropriate.
4. I understand that this litigation is to be pursued on a contingency basis such that fees and disbursements with respect to the common issues will be payable only in the event of success in the class proceeding.
5. I understand that, according to the Ontario *Class Proceedings Act, 1992*, “success” in a class proceeding includes:
 - (a) judgment on the common issues in favour of some or all members of the Class; and
 - (b) a settlement that benefits one or more members of the Class.
6. I understand that legal fees will be charged on a percentage basis. I understand that, pursuant to this agreement, Siskinds may request approval from the Court of a legal fee at the applicable percentage rate(s) determined in accordance with the paragraphs below, plus disbursements, plus applicable taxes on the fees and disbursements, to be paid in a lump sum from any settlement, judgment or award obtained for the benefit of some or all members of the Class.
7. I understand that the percentage legal fee will be calculated based on all benefits obtained for the Class by settlement, judgment or award, including, without limitation, partial indemnity or substantial indemnity costs, and the costs of notice and administration (the “Net Amount Recovered”).
8. Subject to paragraph 8 hereof, the applicable percentage rate shall be:
 - (a) twenty-five percent (25%) of the Net Amount Recovered if such recovery occurs before a decision is rendered by the Court on a contested certification motion;

- (b) twenty-seven and one-half percent (27.5%) of the Net Amount Recovered if such recovery occurs after a decision is rendered by the Court on a contested certification motion, but before the commencement of the common issues trial; and
 - (c) thirty percent (30%) of the Net Amount Recovered if such recovery occurs after the commencement of the common issues trial.
9. Notwithstanding paragraph 7 hereof:
- (a) if the Net Amount Recovered is \$20 million or less, the percentage rate that applies to the Net Amount Recovered shall be the applicable percentage rate under paragraph 7 hereof;
 - (b) if the Net Amount Recovered is between \$20 million and \$40 million, the percentage rate that applies to the first \$20 million of the Net Amount Recovered shall be the applicable percentage rate under paragraph 7 hereof, and the percentage rate that applies to the Net Amount Recovered in excess of \$20 million shall be the applicable percentage rate under paragraph 7 hereof less five percent (5.0%);
 - (c) if the Net Amount Recovered is between \$40 million and \$60 million, the percentage rate that applies to the first \$20 million of the Net Amount Recovered shall be the applicable percentage rate under paragraph 7 hereof, and the percentage rate that applies to the Net Amount Recovered between \$20 million and \$40 million shall be the applicable percentage rate under paragraph 7 hereof less five percent (5.0%), and the percentage rate that applies to the Net Amount Recovered in excess of \$40 million shall be the applicable percentage rate under paragraph 7 hereof less ten percent (10.0%); and
 - (d) if the Net Amount Recovered exceeds \$60 million, the percentage rate that applies to the first \$20 million of the Net Amount Recovered shall be the applicable percentage rate under paragraph 7 hereof, and the percentage rate that applies to the Net Amount Recovered between \$20 million and \$40 million shall be the applicable percentage rate under paragraph 7 hereof less five percent (5.0%), and the percentage rate that applies to the Net Amount Recovered between \$40 million and \$60 million shall be the applicable percentage rate under paragraph 7 hereof less ten percent (10.0%), and the percentage rate that applies to the Net Amount Recovered in excess of \$60 million shall be the applicable percentage rate under paragraph 7 hereof less fifteen percent (15.0%).
10. By way of example, if the defendants pay by way of settlement \$24,000,000, plus \$750,000 in costs and \$250,000 towards the cost of notice and administration, for a total Net Amount Recovered of \$25,000,000, and settlement is achieved before a decision is rendered by the Court on a contested certification motion, the contingency fee requested will be no more than \$6,000,000 (25% of \$20,000,000 plus 20% of \$5,000,000), plus disbursements, plus applicable taxes, plus any additional fees that may be applicable pursuant to paragraph 11 hereof.

11. I understand that Siskinds will pay all disbursements with respect to this action and that I will not pay for any disbursements relating to this litigation, other than the contingency fee and expense reimbursement referenced above to be paid from a settlement, judgment or award and approved by the Court.
12. Siskinds and I understand that if the Court orders that I pay some portion of the costs incurred by the defendants in this litigation while Siskinds is counsel of record, Siskinds will indemnify me against any such award and I will not personally have to satisfy such an award. In consideration for such indemnification, each of the percentage rates under paragraphs 7(a), (b) and (c) hereof shall be increased by five percent (5.0%). By way of example, if the defendants pay by way of settlement \$24,000,000, plus \$750,000 in costs and \$250,000 towards the cost of notice and administration, for a total Net Amount Recovered of \$25,000,000, and settlement is achieved before a decision is rendered by the Court on a contested certification motion, the contingency fee requested will be no more than \$7,250,000 (30% of \$20,000,000 and 25% of \$5,000,000), plus disbursements, plus applicable taxes.
13. I acknowledge and agree that Siskinds may, on my behalf, obtain an indemnification against adverse costs from the Class Proceedings Fund or a third party litigation funder, and that the Class Proceedings Fund or the third party litigation funder may be entitled to a percentage of any recovery obtained on behalf of the Class. I authorize Siskinds, in its discretion, to seek such indemnification. In the event such indemnification is obtained, the percentage rates under paragraphs 7(a), (b) and (c) hereof shall not be increased by five percent (5.0%) under paragraph 11 hereof.
14. I understand that Siskinds' legal fees shall be subject to approval by the Court.
15. I understand that, based on Siskinds' preliminary analysis, a reasonable settlement or judgment in this case could be in the range of \$10 million to \$50 million, depending on several factors, including, but not limited to, the strength of the evidence that is obtained in the course of prosecuting this action, the extent of the available insurance coverage, and the defendants' capacity to pay. I understand that a more precise estimate of a reasonable settlement amount is not possible at this time.
16. I understand that, in the event that a settlement or judgment is obtained that is consistent with the above estimate, Siskinds may request a fee of up to \$2.5 to \$12.5 million, plus disbursements, plus applicable taxes (on the assumption that a settlement or judgment is achieved before a decision is rendered by the Court on a contested certification motion), which amounts will be subject to approval by the Court. I understand that, in considering Siskinds' fee request, the court may consider, among other things, this retainer agreement, the amount of any settlement or judgment obtained, the risk undertaken by Siskinds in prosecuting the action, and the time and expense incurred by Siskinds in prosecuting the action. I also understand that the above estimate of fees is based on the estimated recovery in the preceding paragraph, and that in the event that the settlement or judgment obtained varies from those amounts, the fee sought may vary accordingly. This estimate of fees is therefore in part subject to the same contingencies as are expressed with respect to the estimate of a reasonable settlement or judgment expressed in paragraph 14 hereof.

17. I have been advised by Siskinds lawyers that my solicitors in this action will not recover more in fees than the Class recovers as damages or receives by way of settlement.
18. I agree and direct that all funds claimed by Siskinds for legal fees, costs, taxes and disbursements shall be paid to Siskinds in trust from any judgment or settlement money.
19. I understand that Siskinds may associate with other law firms in the prosecution of this action, including, without limitation, Siskinds' Quebec affiliate law firm, Siskinds Desmeules.
20. Because Siskinds is a large multi-disciplinary law firm, it frequently represents clients that are competitors, customers or suppliers, or have other commercial, and at times legal, interests that are adverse to one another. It is possible that during or following the time Siskinds represents me, another existing or new client may have disputes with me that are unrelated to the matters that Siskinds are handling or have handled for me. I understand that Siskinds will represent me in this and future matters on the understanding that Siskinds represents other clients and may accept engagements from them on other matters that may be adverse to me. However, Siskinds will not act for another client against my interests if the matter is substantially related to any matter in which Siskinds is representing me. If the foregoing conditions are satisfied, I agree that Siskinds may undertake the adverse representation and that all conflict of interest issues will be deemed to have been waived by me.
21. I acknowledge:
 - (a) having been advised by Siskinds lawyers that I retain the right to make all critical decisions regarding the conduct of this action, but always with a view to the best interests of the Class;
 - (b) having discussed with one or more Siskinds lawyers options for retaining Siskinds other than by way of a contingency fee agreement, including retaining them by way of an hourly-rate retainer;
 - (c) that the standard hourly rates of the lawyers who are expected to be the principal lawyers in this matter are (1) Dimitri Lascaris: \$585; (2) Michael Robb: \$475; (3) Anthony O'Brien: \$350; and (4) Douglas Worndl: \$590;
 - (d) that the aforementioned standard rates may be increased in the ordinary course of business;
 - (e) that I have been advised that hourly rates may vary among solicitors and that I can speak with other solicitors to compare rates;
 - (f) that I have chosen to retain Siskinds by way of a contingency fee agreement; and
 - (g) that I understand that all usual protections and controls on retainers between a solicitor and client, as defined by the Law Society of Upper Canada and the common law, apply to this agreement.

- 22. I understand that, if either I or Siskinds wish to terminate this relationship, I or Siskinds will forthwith move before the Court for directions. I acknowledge that Siskinds has incurred and will continue to incur significant time and financial risk in the prosecution of this action. Accordingly, if I engage another solicitor to act in the action or if I otherwise terminate this agreement and the action is successful, Siskinds will be paid fees and disbursements in accordance with the terms of this agreement.
- 23. I understand and agree that, in retaining Siskinds to provide the legal services described in this retainer, the collection, use, retention and disclosure of personal and other sensitive information may be required in order to fulfil those services and related obligations. I have read the Siskinds Privacy Policy respecting the management of personal and sensitive information and understand that such information will be used by Siskinds for only the purposes set out in this Retainer and for no other purpose, without my express written consent pursuant to the Privacy Policy.
- 24. This agreement shall not confer any rights or remedies upon any person other than the parties hereto and their respective heirs, executors, successors and permitted assigns.
- 25. This agreement may be executed in counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

Signed, sealed and delivered this _____ day of January, 2012.

WITNESS)
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 Name:
 Address:

 Name: Archie Leach
 Address: 1880 Kilally Road
 London, ON N5V 5A3

WITNESS

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SISKINDS LLP

Name:
Address:

Per: Michael G. Robb
680 Waterloo Street
London, ON N6A 3V8

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF ARCHIE LEACH
(SWORN AUGUST 6, 2019)**

Siskinds LLP

Barristers & Solicitors
680 Waterloo Street, P.O. Box 2520
London, ON N6A 3V8

Michael G. Robb (LSO#: 45787G)
Nicholas Baker (LSO#: 59642T)
Garett Hunter (LSO#: 71800D)

Tel: 519-660-7872
Fax: 519-660-7873

302-100 Lombard Street
Toronto, ON M5C 1M3

Anthony O'Brien (LSO#: 56129U)
Tel: 416-594-4394
Fax: 416-594-4395

Lawyers for the Plaintiffs