

March 25, 2020

Wong v Pretium Resources Inc and Robert Quartermain

CV-13-491800-CP

- *Mr. Morganti* for the Plaintiff (P)
- *Messrs. Leon and Blinick* for Non-Party Strathcona Mineral Services (SMS)

Motion in writing. P moves for production of information from SMS under Rule 30.10 – the requested list includes the retainer agreement between SMS and defendant Pretium and three categories of “communications” involving SMS and other described entities or persons - as listed in P’s factum at para. 1 (“the Listed Information”) - SMS takes no position on the motion but reserves the right to seek appropriate costs.

This securities action was granted leave to proceed in 2017 (see 2017 ONSC 3361). The defendant Pretium Resources has now moved for summary judgment. P says it needs the Listed Information from SMS to defend itself on the summary judgment motion.

Decision: P’s motion is granted as described below.

Reasons: I agree with P that the Listed Information, generally speaking, is relevant to material issues in the action and that it would be unfair to require P to respond to the SJ motion without having discovery of same. But SMS is right to suggest that the description of the Listed Information may be too broad. I note that P explains at para. 10 of its Reply Factum that it needs this non-party discovery from SMS:

- (i) to determine what SMS conveyed internally, as well as externally, about the credibility of Pretium’s executives and business model; and
- (ii) to determine how familiar Pretium’s executives were with SMS’s prior work product and the true nature of the interest from companies like Agnico-Eagle in acquiring or making a material investment in Pretium during the class period.

If SMS determines in good faith that (other than the requested retainer agreement which must be produced) the production of the balance of the Listed Information as described in P’s factum at para. 1 (the three “communications” categories) is too voluminous or too unmanageable to be reasonably achieved, SMS is directed to produce at minimum the “communications” that fall within the more specific descriptions set out above.

If the parties are unable to agree on the appropriate draft Order, I will be available to assist.

Any costs submissions must be forwarded to me by April 30, 2020.

Signed: *Justice Edward Belobaba*