

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) MONDAY, THE 11TH
)
JUSTICE PAUL M. PERELL) DAY OF JANUARY, 2021

B E T W E E N:

CRAIG JOHNSON AND WOLFGANG VAETH

Plaintiffs

– and –

**NORTH AMERICAN PALLADIUM LTD., PHIL DU TOIT,
DAVID LANGILLE AND KPMG LLP**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, brought by the Plaintiffs seeking an order granting them leave to dismiss this action against certain of the Defendants (the “Dismissed Defendants”), approving the dismissal and the proposed method of providing notice of the dismissal pursuant to section 29 of the *Class Proceedings Act, 1992*, S.O. 1992, c.6 (the “CPA”), and deleting the Dismissed Defendants as Defendants to this action, amending the title of proceedings, and amending their Second Fresh as Amended Statement of Claim into the form of the Amended Second Fresh as Amended Statement of Claim, pursuant to Rules 5.04(2) and 26.02(b) of the *Rules of Civil Procedure*, was read this day at the courthouse located at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the Motion Record of the Plaintiff, including the affidavit of Ian Literovich sworn January 5, 2020 and the exhibits appended thereto;

AND ON BEING ADVISED of the consent of all parties to this order;

1. **THIS COURT ORDERS** that leave be granted for a dismissal of this action against Defendants Phil Du Toit, David Langille and KPMG LLP.
2. **THIS COURT ORDERS** that this action be and is hereby dismissed against Defendants Phil Du Toit, David Langille and KPMG LLP without costs payable by any party to one another, pursuant to section 29 of the *CPA*.
3. **THIS COURT ORDERS** that notice to the proposed Class of this change in the litigation shall be provided by the Plaintiffs, by posting this Order, as issued, and the Amended Second Fresh as Amended Statement of Claim, as filed, on the section of their counsel's website dedicated to this lawsuit, for the duration of the lawsuit.
4. **THIS COURT ORDERS** that the title of proceedings be and is hereby amended to read as follows:

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B E T W E E N:

CRAIG JOHNSON AND WOLFGANG VAETH

Plaintiffs

- and -

NORTH AMERICAN PALLADIUM LTD.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

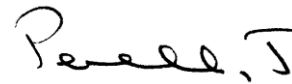
5. **THIS COURT ORDERS** that the Plaintiffs are granted leave to amend the Second Fresh as Amended Statement of Claim into the form of the Amended Second Fresh as Amended Statement of Claim, appended hereto as **Schedule “A”**, subject to:

- (i) the entitlement of the remaining defendant North American Palladium Ltd. (“NAP”) to claim costs fixed at \$60,000 of defending the abandoned going concern warning claim if NAP is successful in having the plaintiffs’ section 138.8 leave motion dismissed; and
- (ii) without prejudice to NAP’s right to take any position and advance any argument at the hearing of the section 138.8 leave motion with respect to those amendments in the Amended Second Fresh as Amended Statement of Claim which are in addition to the amendments abandoning and dismissing claims against the individual defendants and KPMG and abandoning and striking the

going concern warning claim, including arguing that such amendments constitute new claims which are limitation barred.

6. **THIS COURT ORDERS** that there shall be no costs of this motion.

Date: January 11, 2021

A handwritten signature in black ink that reads "Perell, J". The signature is written in a cursive style with a large initial 'P' and a distinct 'J' at the end.

The Honourable Justice Paul M. Perell