

that was known by GM Corp, the deceit-like behaviour would be compounded. However, I do not find that any of the GM Canada negotiators had such knowledge. Without the advance notice and discussion provisions, it is impossible to know whether the parties would have come to an agreement or the eventual terms of the agreement.

[17] In the future, it may be difficult to expect the CAW to negotiate confidently and trustingly with GM Canada representatives.

[18] On June 6, 2008, GM Corp executives, GM Canada executives, and CAW representatives met in Detroit. The meeting changed little, if anything. GM did not alter its decision to close the Oshawa truck assembly plant. It was clear at that meeting and, on the evidence, remains clear at this time that General Motors has no intention to have any discussions that might alter the Oshawa truck plant closure decision. Contrary to the submission of GM Canada's counsel, I do not find that the June 6 meeting or anything else yet proposed by GM Canada purges, remedies, or excuses in any way the almost deceitful behaviour referred to above.

[19] Considering all of the evidence, including but not restricted to the deceit-like behaviour that induced CAW concessions and the almost immediate breach, without apology, of a newly-signed collective agreement, I find without hesitation that GM Canada does not come to court with clean hands.

[20] The CAW relied on two British Columbia Supreme Court cases as authority for the CAW position that because GM Canada does not come to court with clean hands, it should not be granted the equitable relief that it seeks.<sup>5</sup> Those decisions are very persuasive, but not binding, on me. However, as will become hopefully clearer when I am discussing the issue of irreparable harm, there are very significant ramifications to allowing the blockade to continue and to allow actions such as the motorcade. For these reasons, I will not outright dismiss the request for equitable relief simply because GM Canada does not come to court with clean hands. Instead, GM Canada's lack of clean hands will be a factor that I will consider when determining the balance of convenience and the appropriateness of exercising my discretion to grant the requested equitable relief.

### *Irreparable Harm*

[21] Since the blockade began on June 4, 2008, almost none of GM Canada's 900 employees have been allowed to enter the company's Oshawa head office. The CAW has allowed only payroll, urgent maintenance, and a few other office workers past the blockade to enter the building. The majority of the office workers have worked as much as they can from their homes, on their laptop computers, and at other locations.

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<sup>5</sup> *Canadian Pacific Railway v. United Transportation Union, Local 144* (1970), 14 D.L.R. (3d) 497 (B.C.S.C) and *Hiram Walker & Sons Ltd. v. Distillery, Rectifying, Wine and Allied Workers' International Union of America, Local Union No. 202*, [1974] B.C.J. No. 663 (B.C.S.C.).