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# Hughes Hubbard & Reed

## Firm Obtains Favorable Result for Sears Litigation Trustee

### News & Events

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**May 21, 2020** — The firm secured another favorable result for the litigation trustee of Sears Canada in his pursuit of clawback claims against the Canadian retail chain's parent company and shareholders in Chapter 11 proceedings.

On April 23, U.S. Bankruptcy Judge Robert Drain approved a \$154 million settlement between Sears Canada and parent company Sears Holdings Corp. that also requires the U.S. company to comply with discovery requests by the trustee, former Ontario Superior Court Associate Chief Justice J. Douglas Cunningham, in his ongoing lawsuits against the directors of Sears Canada and Eddie Lampert, as chairman and CEO of Sears Canada (and now Sears Holdings).

HHR has been helping the trustee with his lawsuits since Sears Holdings Corp. filed for bankruptcy in the U.S. in October 2018. The trustee was seeking to recover approximately \$393 million from a dividend paid to shareholders of Sears Canada, including Lampert and his hedge fund ESL Investments, at a time when the company was in dire financial straits.

In May 2019, HHR won a key ruling when Judge Drain lifted the automatic stay -- an extraordinary form of relief, as U.S. bankruptcy courts are mandated to administer the debtor's estate for the benefit of all creditors in a centralized forum -- and permitted Cunningham to join Sears Holdings as a defendant in the Ontario proceedings.

In November 2019, following months of negotiations, the firm helped Sears Canada reach a settlement agreement with Sears Holdings, which granted Sears Canada a single unsecured claim against Sears Holdings to the tune of \$154 million.

The Ontario court approved the settlement on March 17, which cleared the way for Sears.

Holding to file a motion nine days later, hoping for a similar outcome in the U.S. Judge Drain followed suit on April 22.

Neil Oxford leads the HHR team, which includes Dustin P. Smith and Elizabeth A. Beitler, with guidance from Chris Kiplok.

## **Related People**



**Neil J. Oxford**



**Dustin P. Smith**



**Elizabeth A. Beitler**



**Christopher K. Kiplok**

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