

# 9th conference

NATIONAL CENTRE FOR BUSINESS LAW

## ANNUAL REVIEW OF INSOLVENCY LAW

**FRIDAY, FEBRUARY 10, 2012  
VANCOUVER,  
BRITISH COLUMBIA**

Conference Co-Chairs:  
**The Honourable David Tysoe**, British Columbia Court of Appeal  
**Mary Buttery**, Davis LLP, Vancouver, IIC  
**Michael Vermette**, PricewaterhouseCoopers, Vancouver, IIC  
**Janis Sarra**, UBC Faculty of Law, Vancouver, IIC

### AGENDA / THURSDAY FEBRUARY 9, 2012

- 4:00 pm OPTIONAL** A bus departing from Fairmont Waterfront Hotel to give a tour of the new UBC Faculty of Law at Allard Hall (will drop participants back to opening reception venue)
- 5:30 pm to 7 pm** OPENING RECEPTION  
**The Vancouver Club, 915 West Hastings Street, Vancouver**  
Co-hosted by Borden Ladner Gervais LLP and PricewaterhouseCoopers

### AGENDA / FRIDAY FEBRUARY 10, 2012 FAIRMONT WATERFRONT HOTEL, 900 Canada Place Way, Vancouver

- 7:15 am** BREAKFAST
- 8:15 am** Welcome **Dr. Janis Sarra**, UBC Faculty of Law
- 8:20 am** Welcome and Introduction of Keynote Speaker **Mary Buttery**, Davis LLP, Vancouver, IIC
- 8:30 am - 9:15 am** Keynote speaker The Honourable Donald Brenner Annual Lecture
- 9:15 am to 10:15 am** **Plenary Panel: The Implications of Indalex**  
Chair: **Mr. Justice David Tysoe**, British Columbia Court of Appeal  
**Robert Thornton**, Thornton Grout Finnigan LLP, Toronto, IIC, *The Implications of Indalex on Restructuring in Canada*  
**Sean Dunphy**, Stikeman Elliot LLP, Toronto, IIC  
**Andrew Hatnay**, Koskie Minsky LLP, Toronto  
**Dr. Ronald Davis**, UBC Faculty of Law, Vancouver

SUSTAINING SUPPORTER



PLATINUM SPONSOR



GOLD SPONSORS



**GENDA / FRIDAY FEBRUARY 10, 2012, FAIRMONT WATERFRONT HOTEL, 900 Canada Place Way**

10:25 am - 11:25 am CONCURRENT PANELS

**PANEL A**

**Rethinking Treatment of Eligible Financial Contracts**

Chair: **Madam Justice Marina Paperny**, Alberta Court of Appeal  
**Edward Sellers**, Osler, Hoskin & Harcourt LLP, Toronto, IIC, *Do EFC Safe Harbour Provisions Go Too Far?* (co-authored with Rupert Chartrand, Osler, Hoskin & Harcourt LLP, Toronto, IIC)  
**Sharmini Mahendran**, Morgan Stanley and ISDA Financial Law Reform Committee, New York  
**Professor Jay Westbrook**, University of Texas School of Law, Austin  
**Susan Grundy**, Blake, Cassels & Graydon LLP, Toronto, IIC

**PANEL B**

**Leveraging Latitudes, Insolvency Issues – Comparing Down Under and North of the 49th Parallel**

Chair: **Madam Justice Georgina Jackson**, Saskatchewan Court of Appeal  
**Jane Dietrich**, Fraser Milner Casgrain LLP, Toronto, IIC and **Justin Cadman**, McLaren Knight, Brisbane, *Distant Relations: A Comparison of Personal Liability for Insolvency Practitioners in Canada and Australia* (co-authored with Alison Beer)  
**John Morgan**, Allens Arthur Robinson, Senior Visiting Fellow, Faculty of Law, USW, *Insurer Assets and Liabilities Prudential and Insolvency Issues, A Comparison of Canada and Australia*  
**Professor Jason Harris**, UTS Faculty of Law, Australia, *Enhancing the Role of Creditors' Committees in Corporate Rescue Laws*  
**Professor Anthony Duggan**, University of Toronto Faculty of Law

**PANEL C**

**Competing Social Policy, The Intersection of Insolvency Law and Family Law**

Chair: **Madam Justice Kathryn Feldman**, Ontario Court of Appeal  
**Professor Susan Boyd**, UBC Faculty of Law and **Professor Janis Sarra**, UBC Faculty of Law, *Competing Notions of Fairness, a Principled Approach to the Intersection between Insolvency Law and Family Law in Canada*  
**Bob Klotz**, Klotz Associates, Toronto, *Schreyer v. Schreyer, A Case Comment*  
**Mark Slay**, North Shore Law LLP, Vancouver

11:25 am - 11:45 am HEALTH BREAK

11:45 am - 12:45 pm CONCURRENT PANELS

**PANEL D**

**Make-Whole Provisions - Prepayment Clauses**

Chair: **Mr. Justice Frank Newbould**, Ontario Superior Court of Justice  
**Jay Carfagnini**, Goodmans LLP, Toronto, IIC  
**Ken Coleman**, Allen & Overy, New York  
**Alan Kornberg**, Paul, Weiss, Rifkind, Wharton & Garrison LLP, New York

**PANEL E**

**Racoon and Squirrel Sized CCAA's - Not the Big Elephants!**

Chair: **Mr. Justice Mark Schragar**, Québec Superior Court  
**Jane Milton**, Bull Housser & Tupper LLP, Vancouver, IIC  
**Neil Narfason**, Ernst & Young, Calgary, IIC  
**Alex MacFarlane**, Fraser Milner Casgrain LLP, Toronto, IIC  
**Nicholas Scheib**, McMillan LLP, Montréal

**PANEL F**

**Financial Literacy, Credit Counselling and Consumer Insolvency**

Chair: **Madam Justice Christiane Alary**, Québec Superior Court  
**Professor Stephanie Ben-Ishai**, Osgoode Law School, Toronto, IIC and **Professor Saul Schwartz**, School of Public Policy and Administration, Carleton University, *Debtor Assistance and Debt Advice: The Role of the Canadian Credit Counselling Industry*  
**Dr. Jerry Buckland**, Menno Simons College, Canadian Mennonite University and Institute of Urban Studies, University of Manitoba, *A Critical Comment of the Task Force on Financial Literacy's Recommendations*  
**Lana Gilberton**, MNP Ltd., Vancouver  
**Dr. Thomas Telfer**, University of Western Ontario, Faculty of Law, London

12:45 pm - 1:50 pm LUNCH

Introduction of keynote speaker.

**Michael Vermette**, PricewaterhouseCoopers, Vancouver, IIC, conference co-chair.  
Keynote speaker: **Nick Segal**, Freshfields, London, UK, *The EU Banking Crisis and the Reform of Bank Resolution Schemes*

2:00 pm - 2:50 pm CONCURRENT PANELS

**PANEL G**

**Creditors' Committees - Do They Add Value?**

Chair: **Madam Justice Barbara Romaine**, Alberta Court of Queen's Bench  
**Rob Chadwick**, Goodmans LLP, Toronto, IIC  
**Marc Duchesne**, Borden Ladner Gervais LLP, Montréal  
**Alex Morrison**, Ernst & Young, Toronto, IIC  
**John Sandrelli**, Fraser Milner Casgrain LLP, Vancouver, IIC  
**Elizabeth Pillon**, Stikeman Elliott LLP, Toronto, IIC

- PANEL H**      **Judicial Insights from Cross-Border Cooperation**  
 Chair and participant: **Mr. Justice Clément Gascon**, Québec Superior Court  
**Mr. Justice Geoffrey Morawetz**, Ontario Superior Court of Justice  
**Judge James Peck**, U.S. Bankruptcy Court, Southern District of New York  
**Judge Burton Lifland**, U.S. Bankruptcy Court, Southern District of New York
- PANEL I**      **Pursuing Preferences under the BIA**  
 Chair: **Madam Justice Shelley Fitzpatrick**, British Columbia Supreme Court  
**Robyn Gurofsky**, Borden Ladner Gervais LLP, Calgary, *Developments in Preferences under the New Provisions*  
**Jean-Daniel Breton**, Ernst & Young, Montréal, *A Comment on Tucker v. Aero Inventory (UK) Ltd.*  
**Orestes Pasparakis**, Norton Rose, Toronto  
**Nick Brearton**, KPMG LLP, Toronto
- 3:00 pm - 3:50 pm      CONCURRENT PANELS
- PANEL J**      **The Evolving Role of the Monitor**  
 Chair: **Mr. Justice Robert Mongeon**, Québec Superior Court  
**David Bowra**, The Bowra Group, Vancouver, IIC, and **John McLean**, Gowling Lafleur Henderson LLP,  
 Vancouver, IIC, *The Monitor: neutered cat, friend or foe or just hopelessly conflicted?*  
**Denis Ferland**, Davies Ward Phillips & Vineberg LLP, Montréal, IIC  
**Peter Farkas**, RSM Richter Inc., Toronto, IIC  
**Greg Watson**, FTI Consulting, Toronto
- PANEL K**      **Workouts in the Wake of the Financial Crisis**  
 Chair: **Mr. Justice Robert Blair**, Ontario Court of Appeal  
**William Kennedy**, National Bank, Montréal, IIC, *Mid-Market Financing in a Workout Situation*  
**Newton Glassman**, The Catalyst Capital Group Inc., *Financing after the Financial Crisis*  
**Brendan O'Neill**, Goodmans LLP, Toronto, *Credit Bidding and Loan to Own Strategies, Cross-Border Trends*  
**David Ullman**, Minden Gross LLP, Toronto, *Insolvency Issues and Solutions in Shariah-Compliant Financing*  
 (co-authored with Melissa McCready, Minden Gross LLP, Toronto)
- PANEL L**      **Maintaining the Integrity of the Bankruptcy System**  
 Chair: **Madam Justice Juliana Topolniski**, Alberta Court of Queen's Bench  
**Registrar Scott Nettie**, Registrar in Bankruptcy, Ontario Superior Court of Justice  
**Registrar Michael Bray**, Registrar in Bankruptcy, Court of Queen's Bench of New Brunswick and  
**Professor Micheline Gleixner**, Faculté de droit, Université de Moncton, Deputy Registrar in Bankruptcy,  
 Court of Queen's Bench of New Brunswick, *Differing Climates of Bankruptcy, A Question of Latitude?*  
**Registrar Carol Sharp**, Registrar in Bankruptcy, Manitoba Court of Queen's Bench  
**Katherine Wellburn**, Murray Jamieson, Vancouver  
**Angela Pollard**, Pollard & Associates Inc., Toronto
- 4:00 pm - 4:55 pm      CONCURRENT PANELS
- PANEL M**      **A Cautionary Tale, Canadian Companies Operating in the Peoples Republic of China  
 and Challenges for Restructuring**  
 Chair: **Mr. Justice Colin Campbell**, Ontario Superior Court of Justice  
**Jervis Rodrigues**, Deloitte, Vancouver, *Ascalade, The Trials and Tribulations of Realizing a Chinese Investment  
 and Other Cross-Border Insolvency Issues*  
**Professor Charles Booth**, Director, Institute of Asian-Pacific Business Law, William S. Richardson  
 School of Law, University of Hawaii at Mānoa  
**John Grieve**, Fasken Martineau DuMoulin LLP, Vancouver, IIC  
**Geoffrey Thompson**, Borden Ladner Gervais LLP, Vancouver, IIC  
**Jerry Ji**, UBC PhD student, former Managing Partner, Summit Law Office, China
- PANEL N**      **Cross-country Checkup - Recent Issues and Cases of Note**  
 Chair: **Mr. Justice Pierre Dalphond**, Québec Court of Appeal  
**Paul Goodman**, BDO Canada Limited, Halifax, IIC, *Concerns of Insolvency Professionals—Small and  
 Mid-Market Cases* (co-authored with Anna Lund)  
**William Kaplan**, Blake, Cassels & Graydon LLP, Vancouver, IIC, *Stays of Proceedings in Insolvency  
 Proceedings under the CBCA*  
**Alan Brown**, Boughton Law Corporation, Vancouver, *Bankruptcy Claims after Re Galaxy Sports and Re Lin:  
 No Longer a Businessman's Statute?*  
**Joe Healey**, Ernst & Young, Winnipeg, *Retrieval, Preservation and Cost Allocation*  
**Todd Martin**, Alvarez & Marsal, Vancouver, *Current Issues Facing Insolvency Professionals – CCAA and Large Cases*
- PANEL O**      **Innovative Thinking**  
 Chair: **Madam Justice Lynne Leitch**, Ontario Superior Court of Justice  
**Neil Bunker**, PricewaterhouseCoopers, Vancouver, *Recovering Tax Losses*  
**James Pomeroy**, PricewaterhouseCoopers, Halifax, *Recovering Hidden Assets*  
**Professor Michèle Breton**, Department of Management Sciences, HEC Montreal, *The Applicability  
 of Game Theory to Insolvency*  
**Professor Benoit-Mario Papillon**, L'Université du Québec à Trois-Rivières, *Cost and Consequences  
 of Commercial Insolvency*
- 5:00pm - 5:30 pm      CLOSING RECEPTION

# vancouver

## ACCOMMODATION

**Vancouver Fairmont Waterfront Hotel**  
900 Canada Place Way, Vancouver

Room Rates (must reserve before January 9, 2012): Fairmont Guestroom or Portside Deluxe Guestroom Single and Double Occupancy plus taxes \$169.00. Children 18 years old and under sharing their parents accommodation are complimentary. Check-in time is 3:00 p.m. Check-out time is 12:00 noon.

Each delegate is responsible for making their own individual reservations. Please contact the Reservations Department: by phone: (604) 691-1820 or Global Reservations Centre: 1-800-441-1414, by fax: (604) 691-1828, by e-mail: [wfcreservations@fairmont.com](mailto:wfcreservations@fairmont.com). Callers must identify themselves as being with the ARIL Annual Review of Insolvency Law (ANNU0212) in order to qualify for the group rate and must call prior to January 9th 2012. On-line bookings can be made at <https://resweb.passkey.com/go/arilannualreview>



## REGISTRATION

Conference fee is \$900 (plus HST), \$200 for Judges, articling students, full time academics /Juges, étudiants stagiaires et professeurs à temps plein. To register for the Annual Review of Insolvency Law Conference visit [www.ncblevents.com](http://www.ncblevents.com).

The complete program will qualify for 7 MPD hours for CAIRP members. / Le programme complet donne droit à 7 heures de PPO pour les membres de l'ACPIR. This event also qualifies for CLE credits in British Columbia, Alberta and Ontario. For information on CLE credits in any other province or territory, please contact Michelle Burchill at [businesslaw@law.ubc.ca](mailto:businesslaw@law.ubc.ca).

There are a limited number of subsidized places for practitioners for whom cost is a barrier, please contact Janis Sarra ([sarra@law.ubc.ca](mailto:sarra@law.ubc.ca)). / Quelques places sont disponibles pour les personnes pour qui le coût pourrait être un obstacle. Si c'est le cas, SVP communiquez avec Janis Sarra ([sarra@law.ubc.ca](mailto:sarra@law.ubc.ca)). For more information please contact / Pour tout information n'hésitez pas à communiquer avec Michelle Burchill, 604-822-5018 or/ou [businesslaw@law.ubc.ca](mailto:businesslaw@law.ubc.ca). Mailing address: 1822 East Mall, Vancouver, BC, V6T 1Z1.

SUSTAINING SUPPORTER  
**The Insolvency Institute  
of Canada**

PLATINUM SPONSOR  
**Borden Ladner Gervais LLP**

GOLD SPONSORS  
**Alvarez & Marsal  
BDO Canada Limited  
The Bowra Group  
CAIRP / CIF-FCI  
Davis LLP  
Ernst & Young Inc.**

**Fraser Milner Casgrain LLP  
Gowling Lafleur Henderson LLP  
KPMG  
MNP Ltd.  
PricewaterhouseCoopers  
RSM Richter Inc.  
Thornton Grout Finnigan LLP**

SILVER SPONSOR  
**Deloitte**

BRONZE SPONSORS  
**Aird & Berlis LLP  
Century Services Inc.  
Farris LLP**

**FTI Consulting  
Goodmans LLP  
Grant Thornton LLP  
Lawson Lundell LLP  
Osler, Hoskin & Harcourt LLP  
Stikeman Elliott LLP**

SILVER SPONSOR

BRONZE SPONSORS

**Deloitte**

**AIRD & BERLIS LLP**  
Barristers and Solicitors

**FARRIS**  
FRASER MILNER CASGRAIN, GOWLING LAFLUR HENDERSON LLP  
Barristers and Solicitors

**CENTURY  
SERVICES INC.**

**FTI  
CONSULTING**

**Goodmans**

**Grant Thornton**

**LAWSON  
LUNDELL**

**OSLER**  
Osler, Hoskin  
& Harcourt LLP

**STIKEMAN ELLIOTT**  
www.stikeman.com