



ANNUAL REVIEW OF
INSOLVENCY LAW

11th

NATIONAL CENTRE FOR BUSINESS LAW

conference

FEBRUARY 20-21, 2014, VANCOUVER

Conference Co-Chairs:

The Honourable Shelley Fitzpatrick, British Columbia Supreme Court

John Sandrelli, Dentons LLP, Vancouver, IIC

Michael Vermette, PwC, Vancouver, IIC

Janis Sarra, UBC Faculty of Law and Peter Wall Institute for Advanced Studies, IIC

Committee members:

Kevin Brennan, Ernst & Young Inc, Vancouver, IIC

Todd Martin, Alvarez and Marsal Canada, Vancouver, IIC

John Grieve, Fasken Martineau DuMoulin, LLC, Vancouver, IIC

THURSDAY FEBRUARY 20, 2014

THE FAIRMONT WATERFRONT BALLROOM, 900 CANADA PLACE WAY, VANCOUVER, BRITISH COLUMBIA

6:00 pm - 7:00 pm

OPENING RECEPTION

Reception co-hosted by Borden Ladner Gervais LLP and PwC

FRIDAY FEBRUARY 21, 2014

VANCOUVER CONVENTION CENTRE, 1055 CANADA PL, VANCOUVER, BRITISH COLUMBIA

7:00 am BREAKFAST

8:00 am Welcome and administrative matters

Dr. Janis Sarra, UBC Faculty of Law and Peter Wall Institute for Advanced Studies, IIC

Welcome and introduction of Keynote speaker

Madam Justice Shelley Fitzpatrick, British Columbia Supreme Court, Vancouver and Conference Co-Chair

8:05 am The Honourable Donald Brenner Memorial Lecture: **James Sprayregen**, Kirkland & Ellis, LLP, Chicago and President

INSOL International, *Observations on the Development of Chapter 15 Law in the U.S.*

8:35 am - 9:20 am

Plenary Panel - Divine Power? Challenges in Respect of the Court's Authority in Workout Proceedings

Chair and commentator: **The Honourable Geoffrey B. Morawetz**, Regional Senior Justice, Superior Court of Justice, Toronto

Madam Justice Barbara Romaine, Alberta Court of Queen's Bench

Conflicting Policy Objectives and the CCAA Court: Lessons Learned and Future Challenges

Commentators: **Mr. Justice Robert Mongeon**, Québec Superior Court

The Honourable James Farley, McCarthy Tétrault, Toronto, IIC

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9:30 am - 10:15 am CONCURRENT PANELS

PANEL A Indalex Redux – What’s Next?

Chair: **Madam Justice Mary Newbury**, British Columbia Court of Appeal
Brian Empey, Goodmans LLP, Toronto, IIC, co-authored with **Jesse Mighton**, Goodmans LLP, Toronto, *After Indalex: A Guide to Changes in Canada’s Commercial Landscape*
Dr. Ronald Davis, UBC Faculty of Law, Vancouver, *Re Indalex: Fiduciary Duty = Conflict Management or Conflict Avoidance?*
Commentators: **Mark Zigler**, Koskie Minsky, Toronto
Peter Dey, Chair, Paradigm Capital

PANEL B Treatment of Corporate Groups

Chair: **Mr. Justice David Tysoe**, British Columbia Court of Appeal
Dr. Janis Sarra, Peter Wall Institute for Advanced Studies and UBC Faculty of Law, IIC, *Canada’s Legislative Reform - Treatment of Corporate Groups in Insolvency*
Dr. Irit Mevorach, Senior Counsel, World Bank, *Enterprise Groups in Insolvency: Recent International Developments*
Commentators: **Todd Martin**, Alvarez & Marsal Canada, Vancouver, IIC
Judge Christopher Sontchi, US Bankruptcy Court, District of Delaware

PANEL C Credit Counselling and Financial Literacy – Aid to Debtors or Big Business

Chair: **Mr. Justice J. Alan Macleod**, Alberta Court of Queen’s Bench, Calgary
Professor Stephanie Ben-Ishai, Osgoode Law School, IIC, *Report on a Consultation on the Regulation of the Credit Counselling Industry in Ontario*
Professor Micheline Gleixner, Université de Moncton, Faculté de droit, *Financial Literacy, Responsible Lending and the Prevention of Personal Insolvency*
Commentators: **Dr. Thomas Telfer**, University of Western Ontario Faculty of Law
Jennifer McCracken, Campbell, Saunders Ltd., Vancouver

10:25 am - 11:10 am CONCURRENT PANELS

PANEL D The Debtor’s Deal

Chair: **Madam Justice Juliana Topolniski**, Alberta Court of Queen’s Bench
Andrew Kent, McMillan LLP, Toronto, IIC, co-authored with Marc-André Morin, McMillan LLP, *How a Debtor should use its Reorganization Powers*
Commentators: **Al Hutchens**, Alvarez & Marsal Canada, Toronto, commenting on Jennifer Lee Wriley, Vancouver, *The Evolution of Credit Bidding: Its Recent Journey and Logical Next Step*
Edward Sellers, Osler, Hoskin & Harcourt LLP, Toronto, IIC
Melinda McKie, Deloitte, Vancouver

PANEL E Municipal Bankruptcy

Chair: **Madam Justice Shelley Fitzpatrick**, British Columbia Supreme Court
John Sandrelli, Dentons LLP, Vancouver, IIC and **Valerie Cross**, Dentons LLP, Vancouver, *American Municipal Bankruptcies: the view from Canada*
Commentators: **John Pottow**, University of Michigan Law School, on Detroit’s bankruptcy

PANEL F True Appeal or De Novo Hearing? Seeking Clarity in Challenges to Insolvency Decisions

Chair: **Mr. Justice Herman Wilton-Siegel**, Ontario Superior Court of Justice
Louise Lalonde, Gowlings, Montréal, *It all began with Galaxy: Appeals and Trials de novo in Insolvency Revisited*
Commentators: **Jean-Daniel Breton**, Ernst & Young Inc, Montréal, IIC
Robb English, Aird & Berlis, Toronto
David Gruber, Farris, Vancouver

11:10 am HEALTH BREAK

11:25 am - 12:10 pm CONCURRENT PANELS

PANEL G Professional Fees and Costs

Chair: **Madam Justice Karen Horner**, Alberta Court of Queen’s Bench
John Grieve, Fasken Martineau DuMoulin LLP, Vancouver, IIC, and **Vicki Tickle**, Fasken Martineau DuMoulin LLP, Vancouver, *To Serve and Protect: the Court’s Role in Contested Taxations of Court Officers*
Kevin Brennan, Ernst & Young Inc, Vancouver, IIC, *Case Comment on HSBC Bank Canada v Bay City Auto Inc.*
Commentators: **Chris Simard**, Bennett Jones LLP, Calgary
Bob Sanderson, Ithaca House, Vancouver, IIC

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PANEL H Revisiting Receiverships as a Policy and Practice Choice
Chair: **Madam Justice Allisen Rothery**, Saskatchewan Court of Queen's Bench
Michelle Grant, Ernst & Young Inc, Vancouver and **Tevia Jeffries**, Dentons LLP, Vancouver, *Having Jumped over the Cliffs, When Liquidating Why Choose CCAA over Receivership, or vice versa?*
Commentators: **Bruce Calvin**, Century Services, Vancouver
Philip Reynolds, KPMG, Toronto

PANEL I Legislative Reform – Contested Ideas
Chair: **Mr. Justice Louis Gouin**, Québec Superior Court
Kelly Bourassa, Blake, Cassels & Graydon LLP, Calgary, IIC, *Is it time to restructure Canada's restructuring statutes – or not?*
Paul Casey, Deloitte, Toronto and **Martin McGregor**, Osler, Hoskin & Harcourt, LLP, Calgary, *CBCA Section 192 Restructurings: A Streamlined Restructuring Tool or a Statutory Loophole?*
Peter Rubin, Blake Cassels & Graydon LLP, Vancouver, IIC and **Helen Sevenoaks**, Blake Cassels & Graydon LLP, Vancouver, *Exclusionary provisions of the CCAA and BIA are now just historical in nature, Montréal, Maine & Atlantic Canada Co.*
Commentator: **Jonathan Krieger**, Grant Thornton, Toronto

12:20 pm - 1:00 pm CONCURRENT PANELS

PANEL J Crossing the 49th Parallel – Cross-border Cooperation
Chair: **Mr. Justice Frank Newbould**, Ontario Superior Court of Justice
Jeremy Opolsky, Cleary Gottlieb Steen & Hamilton LLP, New York, *COMI's Fifth Year in Canada*
Jay Westbrook, University of Texas at Austin, *Assessing Chapter 15 to Date, Comparative Lessons for Canada and the United States*
Commentators: **Karen Fellowes**, Davis LLP, Calgary
Elizabeth Pillon, Stikeman Elliot LLP, Toronto, IIC

PANEL K Regulating the Regulators – Creating a System for Treatment of Claims? Nortel and North Star
Chair: **Mr. Justice Paul Walker**, British Columbia Supreme Court
Donna Nye Nygard, Justice Canada
Craig Hill, Borden Ladner Gervais LLP, Toronto, IIC, discussing *The Scope of the Regulation Carve-out under the CCAA*, co-authored by the late Michael MacNaughton
Robert Thornton, Thornton Grout Finnigan LLP, Toronto, IIC
Richard Butler, Attorney General, British Columbia, *Wreckage Still Litters the Intersection*

PANEL L Consumer Legislative Reform
Chair: **Registrar Rick Lee**, Manitoba Court of Queen's Bench
Leah Drewcock, BDO, Prince George
David Wood, Boale Wood, Vancouver
Chantal Gingras, Ginberg Gingras & Associés, Gatineau, Québec
André Bolduc, BDO, Ottawa

1:00 pm **LUNCH**
Introduction of Keynote speaker: **John Sandrelli**, Dentons LLP, Vancouver, IIC and Conference Co-Chair
Keynote speaker: **Jock Finlayson**, economist and Executive Vice President and Chief Policy Officer, Business Council of British Columbia, *The Global and North American Economic Outlook: Implications for Canada and British Columbia*

2:45 pm - 3:30 pm CONCURRENT PANELS

PANEL M A Comparative Lens
Chair: **Chief Justice Robert Bauman**, Chief Justice of British Columbia
Samantha Bewick, KPMG LLP, UK, *Changes to the EU Insolvency Regulation*
Wendy Akpareva, Phd Candidate, Nottingham, UK, *Securitization and Funding of Corporate Rescue; a Tale of Two Countries, Canada and the UK*
Commentators: **Jay Carfagnini**, Goodmans LLP, Toronto, IIC
Mr. Justice Eberhard Nietzer, Heilbronn Insolvency Court, Germany

PANEL N Recent Cases
Chair: **Madam Justice Sarah Ppall**, Ontario Court of Appeal
Kevin McElcheran, McCarthy Tétrault, Toronto, IIC and **Heather Meredith**, McCarthy Tétrault, Toronto, *Why Restructurings Should Never Put Process "on Ice", a Case Comment on the Restructuring of Arctic Glacier*
Hubert Sibre, Davis LLP, Montréal, *Re Bock- Contracts under the CCAA*

PANEL O Notable Recent Consumer Bankruptcy Decisions
Chair: **Madam Justice Lynne Leitch**, Ontario Superior Court of Justice
Rick Schwartz, Tapper Cuddy LLP, *Chartier v Chartier Estate*
Robert Klotz, Klotz Associates, Toronto, *Bankrupt Tort Victims*
Guylaine Houle, Pierre Roy & Associés, Montréal

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FRIDAY FEBRUARY 21, 2014 VANCOUVER CONVENTION CENTRE, 1055 CANADA PL, VANCOUVER, BC

3:40 pm FILM AND PLENARY DISCUSSION

with thanks to INSOL International, *Case Study on How to Restructure a Global Business*

Chair: **The Honourable Geoffrey B. Morawetz**, Regional Senior Justice, Superior Court of Justice, Toronto

Bob Rajan, AlixPartners, Munich, Germany

Catherine Balmont, Freshfields Bruckhaus Deringer LLP, London, England

Justin Cadman, McLaren Knight, Cairns, Australia

Lucas Kortmann, RESOR NV, Amsterdam, Netherlands

4:55 pm Closing Remarks: Michael Vermette, PwC, Vancouver, IIC, Conference Co-Chair

5:00 pm Closing Reception, hosted by Dentons LLP, Vancouver Convention Centre

7:30 pm Conference ends

Registration information

Conference fee is \$950 (plus applicable taxes), \$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 <http://aril2014.pwias.ubc.ca>

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 Kate Shepherd at (AnnualReview.Insolvency@ubc.ca). There are a limited number of subsidized places for practitioners for whom cost is a barrier, please contact Janis Sarra (Janis.Sarra@pwias.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 (Janis.Sarra@pwias.ubc.ca).

For more information please contact /pour tout information n'hésitez pas à communiquer avec Kate Shepherd (AnnualReview.Insolvency@ubc.ca) 604-762-5601 or/ou Samantha Green (Samantha.Green@pwias.ubc.ca).



Accommodation Information

As of January 10th, the Fairmont Waterfront Hotel is sold out. We are happy to announce that we can offer the same price at the Pan Pacific Hotel. This hotel is located across the street from the Fairmont Waterfront Hotel and therefore convenient for delegates to attend the Opening Reception. Likewise, the hotel is located close to the Vancouver Convention Centre.

Hotel: Pan Pacific Hotel

300-999 Canada Place, Vancouver. Deluxe Rooms: \$179/night (plus tax), single or double occupancy; Deluxe Harbour Rooms: \$199/night (plus tax), single or double occupancy.

Reservations

<https://resweb.passkey.com/go/UBC2014>

Tel: 1-800-663-1515

Callers must identify themselves as being with the ARIL Annual Review of Insolvency Law 2014 in order to qualify for the group rate. Hotel room booking deadline: **Reserve rooms prior to Friday, February 07, 2014.**

Fairmont Chateau Whistler's Ultimate Ski Package

Includes: nightly accommodation and one Whistler Blackcomb dual-mountain ski resort lift pass, per adult, per night (excluding arrival night). Package rates February 22, 23, 2014 start at \$560 CAD per night, based on adult double occupancy. Minimum two night stay. Taxes extra. Must be reserved 3 days prior to arrival. Subject to availability. Reserve online at www.fairmont.com/whistler with the promo code of "PUSK". Pacific Coach Lines operates daily from Fairmont Waterfront Vancouver to the Fairmont Chateau Whistler, online booking: www.pacificcoach.com/Bus-Coach-Travel/Whistler-Express/Downtown-Vancouver-to-Whistler



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