



UNIVERSITY OF BRITISH COLUMBIA
**NATIONAL CENTRE
FOR BUSINESS LAW**

8th Annual Review of Insolvency Law Conference

FRIDAY FEBRUARY 4, 2011

WESTIN HARBOUR CASTLE HOTEL, 1 QUEEN'S QUAY,
TORONTO, ONTARIO

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Thursday, February 3, Reception

Westin Harbour Castle Hotel, Pier 4 & 5, 6:00 pm to 7:00 pm

The opening reception is generously sponsored by **Borden Ladner Gervais LLP** and **Alvarez & Marsal Canada ULC**

Friday, February 4, Annual Review of Insolvency Law Conference

Westin Harbour Castle Hotel, 8:15 am–5:00 pm

CONFERENCE CO-CHAIRS:

The Honourable Geoffrey Morawetz, Ontario Superior Court of Justice

Richard Morawetz, Alvarez & Marsal Canada ULC, Toronto

Alex MacFarlane, Fraser Milner Casgrain LLP, Toronto

Dr. Janis Sarra, UBC Faculty of Law, Vancouver

7:15 am

BREAKFAST

8:15 am

WELCOME, CONFERENCE CO-CHAIRS

8:30 am

KEYNOTE ADDRESS

9:00 am

Plenary Panel—Capital Markets: Past and Current Trends, Predictions for the Future

Chair: **Madam Justice Marina Paperny**, Alberta Court of Appeal

Gary Franko, Brookfield Asset Management Inc., Toronto

Jonathan Levin, Fasken Martineau DuMoulin LLP, Toronto

Dean Mullett, Alvarez & Marsal Canada ULC, Toronto

10:00 am

CONCURRENT PANELS

PANEL A

The Impact of Long-arm Legislation on Canadian Restructurings

Chair: **Mr. Justice Robert Blair**, Ontario Court of Appeal

Jay Carfagnini, Goodmans LLP, Toronto

James Sprayregen, Kirkland and Ellis LLP, New York

Craig Hill, Borden Ladner Gervais LLP, Toronto

Ken Baird, Freshfields, London, UK

Dr. Janis Sarra, UBC Faculty of Law, Vancouver

PANEL B

Restructuring of Financial Institutions

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

Gordon Dunning, Assuris, Toronto, *Assuring the Future: The Need for Reform of the Insolvency Framework for Insurance Companies and Other Financial Institutions under the Winding-up and Restructuring Act*, co-authored with Janis Sarra

Commentators: **Paul Kovacs**, Property and Casualty Insurance Compensation Corporation, Toronto

Gale Rubenstein, Goodmans LLP, Toronto

PANEL C

Up in Smoke or Too Hot to Burn? Tobacco and Class Proceedings

Chair: **Mr. Justice Pierre Dalphond**, Québec Court of Appeal

Michael MacNaughton, Borden Ladner Gervais LLP, Toronto, *Multi-party and class proceedings in the context of the CCAA*

Commentators: **William Kaplan**, Blake, Cassels & Graydon LLP, Vancouver

James Grout, Thornton Grout Finnigan LLP, Toronto

11:00 am

HEALTH BREAK

11:15 am

CONCURRENT PANELS

PANEL D

Credit Bidding in Insolvency Proceedings

Chair: **Madam Justice Georgina Jackson**, Saskatchewan Court of Appeal

Pamela Huff, Blake, Cassels & Graydon LLP, Toronto and **Douglas Bartner**, Shearman & Sterling LLP, New York, *Credit Bidding—Recent Canadian and U.S. Themes*, co-authored with Linc Rogers, Blake, Cassels & Graydon LLP and Craig Culbert, Shearman & Sterling LLP

Jay Swartz and **Natasha MacParland**, Davies Ward Philips and Vineberg LLP, Toronto, *Canwest Publishing—A Tale of Two Plans*

Commentator: **Louis Guoin**, Ogilvy Renault LLP, Montréal, *Credit Bidding in White Birch*

PANEL E

Vulnerable Stakeholders, Challenging Issues: Long-term Disability, Pension and Benefit Claims in Insolvency Proceedings

Chair: **Madam Justice Lynne Leitch**, Ontario Superior Court of Justice

Mark Zigler, Koskie Minsky LLP, Toronto, *LTD Claims and Other Benefits Claims in Restructuring Proceedings*

Dr. Ronald B. Davis, UBC Faculty of Law, *Time to Pay the Piper: Pension Risk Sharing, Intergenerational Equity and Dissonance with the Conceptual Paradigm of Insolvency Law in Canada*

Commentators: **The Honourable James Farley**, McCarthy Tétrault LLP, Toronto

Mary Picard, Fraser Milner Casgrain LLP, Toronto

PANEL F

Bankruptcy Related to Medical and Health Care

Chair: **Madam Justice Brenda Brown**, British Columbia Supreme Court

Dr. Gordon Guyatt, McMaster University Faculty of Medicine and **Dr. Stephanie Woodhandler**, Harvard Medical School and Public Health School, New York University, *Bankruptcy Related to Medical Reasons, Empirical Evidence from Canada and the US*

Professor Melissa Jacoby, University of North Carolina School of Law

12:15 pm

LUNCH

KEYNOTE SPEAKER

1:30 pm

CONCURRENT PANELS

PANEL G

Cross-Border Cooperation at Work

Chair: **Mr. Justice Clément Gascon**, Québec Superior Court

The Honourable James Peck, U.S. Bankruptcy Court, Southern District of New York

The Honourable Kevin Gross, U.S. Bankruptcy Court, District of Delaware

Deborah Grieve, Cassels Brock & Blackwell LLP, Toronto, *The New Canadian Cross-Border Insolvency Provisions—Reflections after the First Year*

Commentators: **Robert Thornton**, Thornton Grout Finnigan LLP, Toronto

Steven Golick, Osler, Hoskin & Harcourt LLP, Toronto

PANEL H

The Treatment of Intellectual Property and Executory Contracts

Chair: **Madam Justice Christiane Alary**, Québec Superior Court, Montréal

David Ullman, Minden Gross LLP, Toronto, *Licensed to Steal: The Rights of IP licensors and licensees in an Insolvency*, co-authored with Melissa McCready, Minden Gross LLP

Professor Tony Duggan, University of Toronto Faculty of Law, *Disclaimer of Contracts in CCAA proceedings: Some Aspects of the 2005-2007 Amendments*

Commentator: **Robb English**, Aird and Berlis LLP, Toronto

PANEL I

Avoidance Actions in the United States

Chair: **Mr. Justice Frank Newbould**, Ontario Superior Court of Justice

Jane Milton and **Kieran Siddall**, Bull, Housser & Tupper LLP, Vancouver, *The Cross-border Pursuit of Preference Claims in Pope & Talbot*

Timothy Barnes, Curtis, Mallet-Prevost, Colt & Mosie LLP, New York, *Avoidance Actions in the U.S., Cross Border Insights*

Commentator: **Marc Duchesne**, Borden Ladner Gervais LLP, Montréal

2:30 pm

CONCURRENT PANELS

PANEL J

UNCITRAL Update on Working Group V: COMI and Other Challenging Issues

Chair: **Mr. Justice Geoffrey Morawetz**, Ontario Superior Court of Justice

Jenny Clift, Secretariat, UNCITRAL, Working Group V, Vienna

Chris Redmond, Husch Blackwell, Kansas City, Head, US delegation to UNCITRAL Working Group V

Juge Jean Luc Vallens, Cour commerciale, Strasbourg, France, Head, France delegation to UNCITRAL Working Group V

PANEL K

CCAA Developments

Chair: **Madam Justice Shelley Fitzpatrick**, British Columbia Supreme Court

Kevin McElcheran, McCarthy Tétrault LLP, Toronto, *An Open or Shut Case? Comparing the Bidding Process and Outcomes in Canwest Media and Canwest Publishing*

David Bowra, The Bowra Group, Vancouver and **John McLean**, Gowlings LaFleur Henderson LLP, Vancouver, *Forest and Marine, A Case Study*

Commentators: **Edward Sellers**, Osler, Hoskin & Harcourt LLP, Toronto

Peter Gibson, KPMG, Vancouver

PANEL L

Challenges to Trustees and Receivers in Implementing the Reforms: Wage Earner Protection and Surplus Income Provisions

Chair: **Madam Justice Juliana Topolniski**, Alberta Court of Queen's Bench

Guyline Houle, Pierre Roy & Associés, Montréal, *Consumer Bankruptcy, Changes to the Surplus Income Provisions*

Jean-Daniel Breton, Ernst & Young Inc., Montréal, *Employee Protection in Insolvency Proceedings—Reviewing the Performance and Setting the Objectives*

Commentator: **Bill Courage**, BDO Canada Limited, Owen Sound

3:15 pm

CONCURRENT PANELS

PANEL M

What Happened to the Money When a Borrower Says it Cannot Pay? Is it Really Because of the Economy?

Chair: **Mr. Justice Colin Campbell**, Ontario Superior Court of Justice

Peter Dent, Forensic & Dispute Services, Financial Advisory, Deloitte & Touche LLP, Toronto

Chris Mathers, ChrisMathers Inc., Toronto

Marc Sherman, Dispute Analysis & Forensic Services, Alvarez & Marsal, Washington DC

PANEL N

Of Paramount Importance, Insolvency and the Environment

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

Mary Buttery, Davis LLP, Vancouver and **Emma Irving**, UBC Law student and FMC intern, *Of Paramount Importance: The Treatment of Environmental Claims under Federal Insolvency Law*

Richard Butler, Constitution Law, Office of the Attorney General for British Columbia, *Restructuring Objectives Aren't Always Paramount*

Commentator: **Sean Dunphy**, Stikeman Elliott LLP, Toronto

PANEL O

Policy Issues in Commercial Insolvency

Chair: **Madam Justice Sarah Pepall**, Ontario Superior Court of Justice

Alexis Teasdale, Bennett Jones LLP, Calgary, *Both the Money and the Mud? The Denial and Reinstatement of Deficiency Judgments in Alberta*

John Grieve, Fasken Martineau DuMoulin LLP, Vancouver and **Michael Vermette**, PricewaterhouseCoopers, Vancouver, *Strange Bedfellows: The Dysfunctional Interplay Between the CCAA, BIA and the Excise Tax Act*

Professor Jassmine Girgis, University of Calgary Faculty of Law, *Corporate Reorganization and Economic Theory of the Firm*

4:00 pm

CLOSING PLENARY AND CHAMPAGNE TOAST

A Tribute to the Scholarship of Jacob Ziegel

Chair: **Madam Justice Kathryn Feldman**, Ontario Court of Appeal

Madam Justice Karen Weiler, Ontario Court of Appeal and **Madam Justice Kathryn Feldman**, Ontario Court of Appeal, *Getting the Law Right*, co-authored with Matthew Law, Law Clerk to the Ontario Court of Appeal

Professor Jay Westbrook, University of Texas School of Law, Austin, *Jacob Ziegel and Going Broke Internationale*

Professor Ronald Cuming, University of Saskatchewan Faculty of Law, *Interface of Secured Transactions Law and Bankruptcy Law, Professor Ziegel's Role*

Professor Thomas Telfer, University of Western Ontario Faculty of Law, *Canadian Insolvency Law Reform and 'Our Bankrupt Legislative Process'*

Professor Stephanie Ben-Ishai, Osgoode Hall Law School, *Revisiting the Philosophy and Design of Contemporary North American Consumer Bankruptcy Systems: A Tribute to Professor Jacob Ziegel*

Norman Kondo, CAIRP, *Jacob Ziegel, LLB (Hons.) (London), LL.M., Ph.D., LL.D. (London)*

Professor Anthony Duggan, University of Toronto Faculty of Law, *Secured Transactions, Constructive Trusts and Insolvency*

Professor Harry Rajak, Sussex Faculty of Law, England, *A Profound Contribution to our Study of Fundamental Conceptions of Company Law*

5:00 pm

CONFERENCE ENDS, CLOSING RECEPTION

Accommodation

All guests are responsible for making their own hotel reservations. Please contact the Westin Harbour Castle Hotel Reservations Department at 416.869.1600 or toll free at 1.800.WESTIN.1 by January 7, 2011. Guests can also book, modify, or cancel a reservation and learn more about the event on-line at 8th Annual Review of Insolvency Law (OR copy and paste the following link into a web browser) <http://www.starwoodmeeting.com/StarGroupsWeb/res?id=1007280073&key=5D2F6>. Traditional room rates are \$159 for single/double accommodation. Prices do not include taxes. Rates will be honoured 3 days prior and 3 days after the event dates of February 2-February 5, 2011. Please mention that you are a guest of the University of British Columbia Annual Review of Insolvency Law (ARIL).

Registration

Conference fee is \$900 (no GST), \$200 for Judges, registrars, 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.

The complete program will qualify for 7.5 MPD hours for CAIRP members./ Le programme complet donne droit à 7.5 heures de PPO pour les membres de l'ACPIR. This program can be applied towards 9 of the 12 hours of annual Continuing Professional Development (CPD) required by the Law Society of Upper Canada. Please note that these CPD hours are not accredited for the New Member Requirement. This event also qualifies for CLE credits in British Columbia and Québec. For Alberta lawyers, consider including this course in your mandatory annual Continuing Professional

Development Plan as required by the Law Society of Alberta. For information on CLE credits in any other province or territory, please contact Michelle Burchill at 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)./ 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).

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. Mailing address: 1822 East Mall, Vancouver, BC, V6T 1Z1.

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