



ANNUAL REVIEW OF
INSOLVENCY LAW

12th

conference

U B C F A C U L T Y O F L A W

FEBRUARY 6, 2015, TORONTO

2015 Conference Co-Chairs:

Regional Senior Justice Geoffrey Morawetz, Ontario Superior Court of Justice

Sharon Hamilton, Ernst & Young Inc., Toronto, IIC

Linc Rogers, Blake Cassels & Graydon, LLP, Toronto, IIC

Dr. Janis Sarra, UBC Faculty of Law, IIC

2015 Conference Toronto Organizing Committee:

Nigel Meakin, FTI Consulting, Toronto, IIC

Al Hutchens, Alvarez & Marsal, Toronto

Natasha MacParland, Davies Ward Phillips & Vineberg LLP, Toronto, IIC

Alex MacFarlane, Gowlings, Toronto, IIC

ARIL Co-Editors: **Dr. Janis Sarra** and **Madam Justice Barbara Romaine**, Alberta Court of Queen's Bench

THURSDAY FEBRUARY 5, 2015

RIPLEY'S AQUARIUM OF CANADA, 288 BREMNER BOULEVARD,
NEXT TO THE CN TOWER

6:30 pm - 7:30 pm

OPENING RECEPTION

Reception co-hosted by Borden Ladner Gervais LLP and UBC Faculty of Law



FRIDAY FEBRUARY 6, 2015

WESTIN HARBOUR CASTLE CONFERENCE CENTRE, 1 HARBOUR SQUARE, TORONTO

7:00 am BREAKFAST

8:00 am Welcome and logistics

Dr. Janis Sarra, UBC Faculty of Law

Welcome and Introduction of keynote speaker

Linc Rogers, Blake Cassels & Graydon, LLP, Toronto, IIC

8:05 am - 8:40 am Keynote Speaker

8:40 am - 9:25 am **Plenary: How to Frame Issues for the Supreme Court of Canada**

Chair: **Regional Senior Justice Geoffrey Morawetz**, Ontario Superior Court of Justice

Mr. Justice Clément Gascon, Supreme Court of Canada

Mr. Justice Marshall Rothstein, Supreme Court of Canada

Mr. Justice Michael J. Moldaver, Supreme Court of Canada

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9:35 am - 10:30 am CONCURRENT PANELS

PANEL A Intellectually Challenging: Dealing with IP in Insolvency Cases

Chair: **Madam Justice Shelley Fitzpatrick**, British Columbia Supreme Court, Vancouver
Chris Hunter, Norton Rose Fulbright Canada LLP, Toronto, Overview of IP Issues from the Perspective of an IP Lawyer
Mary Buttery, Davis LLP, Vancouver, IIC, co-authored with Jeffrey Richard, Davis LLP, *Hard Questions Regarding Intellectual Property Rights in Canada*
Sheldon Title, MNP Toronto and **David Ullman**, Minden Gross, Toronto, *How to Seize Something You Can't Touch: A Review of Issues and Process with the Foreclosure of Intellectual Property Assets*
Professor Anthony Duggan, University of Toronto Faculty of Law, IIC, and **Professor Norman Siebrasse**, University of New Brunswick Faculty of Law, *The Protection of Intellectual Property Licences in Insolvency: Lessons from the Nortel Case*

PANEL B Enforcement of Judgments in Foreign Proceedings

Chair: **Mr. Justice Herman Wilton-Siegel**, Ontario Superior Court of Justice
Christopher Redmond, Husch Blackwell LLP and US Delegate, UNCITRAL Working Group V, *Recognition and Enforcement of Insolvency-Related Judgments in Foreign Proceedings*
Gordon Levine, Kugler Kandestin, Montréal, IIC, *The Interplay between Comity, Public Policy and Paramourcy in Recognition of Foreign Judgments in Insolvency Matters*
David Ward, Cassels Brock, Toronto

PANEL C Best Practices in Insolvency Law

Chair: **Mr. Justice Mark Schrager**, Québec Court of Appeal, Montréal
Dr. Janis Sarra, UBC Law, *La bonne foi est une considération de base - Requiring Nothing Less than Good Faith in Insolvency Law Proceedings*
Marc Wasserman, Osler, Toronto, co-authored with Caitlin Fell, Osler, Toronto, *Financing Considerations While under Near-Term Financial Stress, The TSX Financial Hardship Exemption, the MI 61-101 Exemptions, and the OSC's Prospectus Requirements*
Barbara Walancik, Koskie Minsky LLP, Toronto, *Principles and Best Practices in Administering Hardship Funding during Insolvency*
Marc Duchesne, Borden Ladner Gervais LLP, Montréal, IIC

10:30 am HEALTH BREAK

10:45 am - 11:40 am CONCURRENT PANELS

PANEL D The Long-Arm of International Pension and Environmental Legislation

Chair: **Madam Justice Barbara Conway**, Ontario Superior Court of Justice
Israel Goldowitz, Pension Benefit Guaranty Corporation, Washington, DC
Joel Gross, Arnold & Porter LLP, Washington DC, US Environmental Legislation and Bankruptcy
Mark Zigler, Koskie Minsky LLP, Toronto, co-authored with Barbara Walancik, Koskie Minsky LLP, *Some Reflections on the Benefits and Limitations of Long-Arm Pension Legislation*

PANEL E Class Actions and Insolvency

Chair: **Mr. Justice Louis Gouin**, Québec Superior Court of Justice, Montréal
Dan Murdoch, Stikemans, Toronto, *Overview Primer of Class Action Law*
Milly Chow, Blake Cassels & Graydon, LLP, Toronto, co-authored with Kelly Bourassa, Blake Cassels & Graydon, LLP, Calgary, IIC, *At the Crossroads: What Happens When Class and Insolvency Proceedings Collide?*
Julie-Martine Loranger, McCarthy Tétrault LLP, Montréal

PANEL F Conflicting Objectives: Provincial Licensing Authority and Fresh Start for Consumer Bankrupts

Chair: **Mr. Justice David Brown**, Ontario Superior Court of Justice
Professor Craig Jones, Thompson Rivers Faculty of Law, Kamloops, *Taking the "Fresh Start" Seriously: A Case Comment on Canada (Superintendent of Bankruptcy) v 407 ETR Concession Company Limited and Moloney v Alberta (Administrator, Motor Vehicle Accident Claims Act)*
André Bolduc, BDO Canada Limited, Ottawa
Matt McCulloch, BDO Canada Limited, Edmonton
Robb English, Aird & Berlis, Toronto

11:45 am - 12:35 pm CONCURRENT PANELS

PANEL G Ponzi Schemes and Fraud

Chair: **Mr. Justice Frank Newbould**, Ontario Superior Court of Justice, Toronto
Philip Stern, FTI Consulting, New York, *The Madoff Prosecution*
Orestes Pasparakis, Norton Rose Fulbright Canada LLP, co-authored with Andrea Campbell, *Distributing Recoveries of Fraud Among Innocent Investors: The Lessons from Greyhawk*
Isabelle Desharnais, Borden Ladner Gervais LLP, Montréal, *Financial Fraud in Québec - The Norbourg Case*
Jonathan Krieger, Grant Thornton Limited, Toronto, IIC, *Commentary Regarding Distribution Issues in the Context of Investment Firm Insolvency Proceedings*

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11:45 am - 12:35 pm CONCURRENT PANELS continued

PANEL H Insights from Recent Cases

Chair: **Madam Justice Juliana Topolniski**, Alberta Court of Queen's Bench, Edmonton
Philippe Bélanger, McCarthy Tétrault, Montréal, IIC, co-authored with Jocelyn Perreault, McCarthy Tétrault, Montréal, *Post-Filing Fees of Creditors in CCAA: A Lesson from the Homburg Matter*
Alex MacFarlane, Gowling Lafleur Henderson LLP, Toronto, IIC, co-authored with Chris Stanek and Thomas Gertner, Gowlings Toronto, *Lien on Me: The Comstock Story, Creative Approaches To Restructurings in the Construction Sector*
Sanja Sopic, Goldman Sloan Nash & Haber LLP, Toronto, co-authored with Michael Rotsztain, Goldman Sloan Nash & Haber LLP, IIC, *Restructurings of Single Asset Real Estate Businesses – Should There be Legislative Restrictions?*
Stuart Brotman, Fasken Martineau DuMoulin LLP, Toronto, co-authored with Dylan Chochla, Fasken Martineau DuMoulin LLP, Toronto, *What's the "Deference"? Sale of Assets by Receivers 2014 in Review*

PANEL I Student Bankrupts

Chair: **Madam Justice Christiane Alary**, Québec Superior Court
Professor Stephanie Ben-Ishai, Osgoode Hall Law School, IIC, *Student Loans and Bankruptcy, Five Years Later*
Commentators: **Karen Adler**, Rumanek & Company, Toronto
David Wood, Boale, Wood, Vancouver
Robert Hunt, Grant Thornton Limited, Halifax

12:35 pm LUNCH

2:00 pm - 2:50 pm CONCURRENT PANELS

PANEL J Controlling Costs of Proceedings

Chair: **Madam Justice Barbara Romaine**, Alberta Court of Queen's Bench, Calgary
Robert Sanderson, Ithaca House, Vancouver, IIC, *Are Professional Fees in Insolvencies Out of Balance?*
Barry Wadsworth, Unifor Legal Department
Darren Bieganeck, Duncan Craig LLP, Edmonton, IIC
Sharon Hamilton, Ernst & Young Inc., Toronto, IIC
Josh McElman, Cox & Palmer, St. John, *Case Comment: Re Tepper Holdings Inc, a Possible Framework for the Assessment of Fees under the CCAA*

PANEL K A Different Lens

Chair: **Mr. Justice Robert Mongeon**, Québec Superior Court of Justice
Kevin McElcheran, Commercial Dispute Resolution, Toronto, IIC, *Focused Restructuring - The Case for Plan Mediation in Canada*
Cindy Cheuk, Dentons LLP Vancouver, co-authored with William Stransky, Douglas Knowles intern, Dentons LLP, *Highly Interesting - Criminal Interest Rate Issues Applicable to Interim Financing Facilities under the CCAA*
Commentator: **Al Hutchens**, Alvarez & Marsal, Toronto

PANEL L International Comparisons

Chair: **Mr. Justice Paul Walker**, British Columbia Supreme Court, Vancouver
Professor Jennifer Taub, Vermont Law School, *Reconcilable Differences: Promoting Homeownership While Preventing Systemic Risk*
Dr. Emily Lee, U of Hong Kong Faculty of Law, *Securities & Futures Commission v China Metal Recycling (Holdings) Limited: Regional Conflict of Laws, Judicial Recognition and Hong Kong-China Cross-Border Insolvencies*
Commentator: **Todd Martin**, Alvarez & Marsal, Vancouver, IIC

2:55 pm to 3:45 pm CONCURRENT PANELS

PANEL M Beyond the Law: The Business & Market Realities of CBA Proceedings

Chair: **Madam Justice Karen Horner**, Alberta Court of Queen's Bench, Calgary
Mark Caiger, BMO Capital Markets, Toronto, IIC
Randall Benson, KPMG Inc., Toronto, IIC
Robert Chadwick, Goodmans LLP, Toronto, IIC
Alex Morrison, Ernst & Young Corporate Finance Inc, Toronto, IIC

PANEL N What to Expect in Consumer Applications - Insights from Registrars

Chair: **Madam Justice Lynne Leitch**, Ontario Superior Court of Justice, London
Registrar Elaine Thompson, Saskatchewan Court of Queen's Bench
Registrar Richard Cregan, Nova Scotia
Master W.S. Schlosser, Alberta Court of Queen's Bench
Master Carolyn Bouck, British Columbia Supreme Court, Victoria

PANEL O Cross-border Challenges

Chair: **Madam Justice Allisen Rothery**, Saskatchewan Court of Queens Bench
Patrice Benoit, Gowling Lafleur Henderson LLP, Montréal, *The Lac-Mégantic Tragedy*
Bob Keach, Bernstein Shur, Portland, United States, Chapter 11 trustee, Montreal, Maine & Atlantic Canada Co.
Judge Eugene R Wedoff, United States Bankruptcy Judge, Northern District of Illinois, Chicago

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3:55 pm - 4:50 pm **Plenary Panel – last session of the day: Dealing with the Regulators**
Chair: **Madam Justice Marina Paperny**, Alberta Court of Appeal
Chris Simard, Bennett Jones, Calgary, IIC, *Surveying the Messy Intersection between Insolvency Law and Regulatory Law*
Neil Narfason, Ernst & Young Inc., Calgary, IIC, *The Mesh between Canada's Federal Insolvency Regime and Provincial Environmental Protection Laws*
Terry Czechowskyj, Miles Davison LLP, Calgary and Alberta Energy Regulator

4:50 pm Closing Thanks

5:00 pm - 5:30 pm Closing Reception, Toulas Ristorante (top of the Westin Harbour Castle Hotel)

Registration information

Conference fee is \$950 (plus applicable tax), \$200 for Judges, articling students, full time academics/Juges, étudiants stagiaires et professeurs à temps plein.

Register at www.aril-register.ca. Sorry, no registration refunds permitted, but substitutions are allowed.

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).

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 event also qualifies for CPD/CLE credits in Ontario, British Columbia and Québec.

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

Visit the [conference website](#) for the most recent schedule.

Accommodation Information

Hotel: **Westin Harbour Castle Hotel**

1 Harbour Square • Toronto, ON M5J 1A6

Room rates: \$175.99 Traditional Guestroom single or double, or \$205.99 Lakeview Room

Reservations

Call 1-888-627-8559 and use booking code "ARB03A", or click this link to book online: [Annual Review of Insolvency Law Conference 2015](#). Callers must identify themselves as being with the ARIL - Annual Review of Insolvency Law Conference 2015 in order to qualify for the group rate. A deposit equal to one night's stay is required to hold your reservation. Full refund of this deposit will be given to cancellations received until 72 hours prior to arrival. For cancellations received within 72 hours of arrival, the deposit is non-refundable.

Hotel room booking deadline:

Please reserve rooms at this rate prior to January 6, 2015

toronto



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