

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

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AGENDA / 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 Schrager**, 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, 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
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 am - 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 (co-authored with Melissa McCready, Minden Gross LLP, Toronto), *Insolvency Issues and Solutions in Shariah-Compliant Financing*
- 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**, *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 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.

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.

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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