



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

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### 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

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### 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

8:35 am - 9:20 am

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

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

**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 (tbc)

**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**, World Bank and Associate Professor, University of Nottingham UK, *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: **Madam Justice Ruth Mesbur**, Ontario Superior Court of Justice  
**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 (US practitioner tbc)

**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**, KPMG, 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 Guoin**, 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, *BCA 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 Nee Nygard**, Justice Canada  
**Craig Hill**, Borden Ladner Gervais LLP, Toronto, IIC  
**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 Pepall**, 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 (tbc)*, Borden Ladner Gervais, Montréal, *The Scope of the Regulatory Carve-out under the CCAA*, co-authored by the late Michael MacNaughton  
**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*  
**Guyline Houle**, Pierre Roy & Associés, Montréal

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RESTRUCTURING • LITIGATION

**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: **Mr. Justice Geoffrey Morawetz**, Ontario Superior Court of Justice
- 4:45 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](mailto: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](mailto: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](mailto: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](mailto:AnnualReview.Insolvency@ubc.ca)) 604-762-5601 or/ou Samantha Green ([Samantha.Green@pwias.ubc.ca](mailto:Samantha.Green@pwias.ubc.ca)).



#### Accommodation Information

Hotel: **The Fairmont Waterfront**  
900 Canada Place Way, Vancouver,  
Room Rates: Fairmont Guestroom: \$179/night; Fairmont View & Terrace Guestroom: \$209/ night; Deluxe Guestroom: \$219/ night; Signature Harbour View Guestroom: \$229/ night, single or double occupancy.

#### Reservations

<https://resweb.passkey.com/go/insolvencylaw>  
Tel: Reservations Department: 604-691-1820 or Global Reservations Centre at 1-800-441-1414  
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 Monday, January 20, 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](http://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](http://www.pacificcoach.com/Bus-Coach-Travel/Whistler-Express/Downtown-Vancouver-to-Whistler)



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