

17TH ANNUAL REVIEW OF INSOLVENCY LAW CONFERENCE

FEBRUARY 7, 2020
VANCOUVER, BRITISH COLUMBIA

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British Columbia Supreme Court

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ARIL AT-A-GLANCE

(see inside for more details)

OPENING RECEPTION SPONSORED BY CAIRP:

Thursday, February 6, 2020, 6:00pm – 7:00pm
JW Marriott Parq, 39 Smithe Street, Vancouver

ARIL CONFERENCE:

Friday, February 7, 2020, 7:00am – 5:15pm
JW Marriott Parq, 39 Smithe Street, Vancouver
www.aril.ca

ACCOMMODATIONS:

JW Marriott Parq, 39 Smithe Street, Vancouver
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AGENDA

THURSDAY, FEBRUARY 6, 2020

5:30 - 7:00pm	Registration
6:00 - 7:00pm	Opening Reception sponsored by CAIRP: JW Marriott Parq, Convention Floor Foyer

FRIDAY, FEBRUARY 7, 2020

7:00 - 8:00am	Breakfast and Registration Convention Floor Foyer and Parq Salon ABCD
8:00am Parq Salon EF	Welcome Conference Co-Chair Michelle Grant , PricewaterhouseCoopers LLP, Vancouver (IIC)
8:05 - 8:50am Parq Salon EF	Dr. Janis Sarra Opening Plenary: Bad Moon Rising - New Dawn Ahead? Climate Change and Solvency Risk Chair: Madam Justice Shelley Fitzpatrick , British Columbia Supreme Court Dr. Janis Sarra , University of British Columbia, Peter Allard School of Law, Vancouver (IIC), <i>Bad Moon Rising - New Dawn Ahead? Climate Change and Solvency Risk</i> Andrew Chisholm , Member of Canada's Expert Panel on Sustainable Finance, Toronto Jeremy Rudin , Office of the Superintendent of Financial Institutions, Ottawa
9:00 - 9:40am	Concurrent Panels
Panel A Kitsilano D	Insolvency and Family Law - Can They Coexist Fairly? Chair: Mr. Justice Fred Myers , Ontario Superior Court of Justice Robert Klotz , Klotz Associates, Toronto, <i>Matrimonial Property Claims: Does the Cause of Action Vest in the Trustee?</i> Michael Myers , Papazian Heisey Myers, Toronto, <i>A Tale of Two Statutes: Balancing the Interests of Spouses and Other Creditors at the Crossroads of the Family Law Act and the Bankruptcy and Insolvency Act - A Zero Sum Game?</i> , co-authored with Michael Krygier-Baum, Papazian Heisey Myers, Toronto Commentator: Jennifer McCracken , BDO Canada Limited, Vancouver
Panel B Burrard	JIN and Coca-COMI: Cross-Border Protocols and Working Together Chair: Mr. Justice Herman Wilton-Siegel , Ontario Superior Court of Justice James Reid , Blake, Cassels & Graydon LLP, Calgary, <i>Let's Work Together: Application of the Joint Insolvency Network Guidelines Around the World and in Canada</i> co-authored with Ryan Adlington, Deloitte LLP, Calgary Mark Russell , KSG Attorneys, George Town, <i>A Model of Disharmony: What is the Relevant Date to Determine COMI Under the Model Law on Cross-Border Insolvency?</i> Commentator: Monique Sassi , Cassels Brock & Blackwell LLP, Toronto
Panel C Kitsilano ABC	All Eyes on the Resource Industry: The Implications of Third Eye v. Dianor Chair: Mr. Justice Martin Castonguay , Cour supérieure du Québec Carole Hunter , DLA Piper (Canada) LLP, Calgary Tushara Weerasooriya McMillan LLP, Toronto Steve Weisz , Brauti Thorning LLP, Toronto (IIC)

AGENDA

<p>Panel D Parq Salon EF</p>	<p>Trust me - The Addition of the Duty of Good Faith to Insolvency Legislation Chair: Madam Justice Karen Horner, Alberta Court of Queen's Bench Tracey Henry, Wright Henry LLP, Toronto, <i>CCAA Duty of Good Faith: Notice Obligations to Union Stakeholders</i> co-authored with Danielle Stampley, Wright Henry LLP, Toronto, and Alex St. John, Wright Henry LLP, Toronto Jules Monteyne, Blake, Cassels & Graydon LLP, Toronto, <i>The New Duty of Good Faith and How It Applies in Insolvency Proceedings</i> Commentators: Natasha MacParland, Davies Ward Phillips & Vineberg LLP, Toronto (IIC), Honourable Frank Newbould, Thornton, Grout Finnigan LLP, Toronto (IIC)</p>
<p>9:50 -10:30am</p>	<p>Concurrent Panels</p>
<p>Panel E Parq Salon EF</p>	<p>The Imperishable Asset? Understanding Real Estate Insolvencies Chair: Neil Narfason, Walton Global Investments Ltd., Calgary (IIC) Robyn Gurofsky, Borden Ladner Gervais LLP, Calgary (IIC), <i>The Walton CCAA Proceedings: How the Increased Flexibility in the CCAA Can Facilitate Real Estate Restructurings</i> co-authored with Josef Kruger, Borden Ladner Gervais LLP, Calgary (IIC), Chris Simard, Bennett Jones LLP, Calgary, and Alexis Teasdale, Bennett Jones LLP, Calgary David Ullmann, Blaney McMurtry LLP, Toronto, <i>Giving 110%: Examining the Fairness of Paying Interest Penalties to Real Property Lenders in an Insolvency</i> co-authored with Jessica Wuthmann, Blaney McMurtry LLP, Toronto Commentator: Jonathan Krieger, Grant Thornton Limited, Toronto (IIC)</p>
<p>Panel F Fairview 4&5</p>	<p>A Partial Fix: 2019 Amendments and Registered DSPs Chair: Madam Justice Allisen Rothery, Saskatchewan Court of Queen's Bench Dr. Anna Lund, University of Alberta, Faculty of Law, Edmonton, <i>A Partial Fix: The 2019 Amendments to the Bankruptcy and Insolvency Act and Registered Disability Savings Plans</i> Commentators: Paul Morrison, Innovation, Science and Economic Development Canada, Ottawa, Ian Penney, Janes & Noseworthy Limited, St. John's</p>
<p>Panel G Kitsilano D</p>	<p>Oh Won't You (Extend the) Stay, Just a Little Bit Longer: Long CCAA Stay Extensions Chair: Mr. Justice David Orsborn, Supreme Court of Newfoundland and Labrador Tevia Jeffries, Dentons Canada LLP, Vancouver (IIC), <i>Oh Won't You (Extend the) Stay Just a Little Bit Longer?</i> co-authored with Cindy Chen, Summer Student, Dentons Canada LLP, Vancouver Commentators: Kathryn Esaw, Aird & Berlis LLP, Toronto, Mitchell Vininsky, KSV Advisory Inc., Toronto</p>
<p>Panel H Kitsilano ABC</p>	<p>2020 - A (Cyber) Space Odyssey - Technology Asset Realizations in the New World Chair: Mr. Justice David Kroft, Manitoba Court of Queen's Bench Vanessa Allen, MNP Ltd., Calgary, <i>Asset Realizations in the New World: Maximizing the Value of Technology and Cannabis Assets in Insolvency Proceedings</i> co-authored with Dean Hutchison, Caron & Partners LLP, Calgary Commentators: Anthony Tillman, Alvarez & Marsal, Vancouver (IIC), Vincent Yip, McCarthy Tétrault LLP, Vancouver</p>

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Panel I Burrard	<p>Up in Smoke: The Participation of Social Stakeholders in CCAA Proceedings</p> <p>Chair: Madam Justice Jo'Anne Strekaf, Alberta Court of Appeal</p> <p>Dr. Virginia Torrie, University of Manitoba, Faculty of Law, Winnipeg, <i>The Participation of Social Stakeholders in CCAA Proceedings</i> co-authored with Vern DaRe, Fogler, Rubinoff LLP, Toronto</p> <p>Commentators: Alexander Bayus, Gowling WLG, Toronto, Brian Empey, Goodmans LLP, Toronto (IIC)</p>
10:30 – 10:50am	Networking Break Sponsored by Global Restructuring and Insolvency Professionals (GRIP) Convention Floor Foyer
10:50 – 11:30am	Concurrent Panels
Panel J Fairview 4&5	<p>Can Fresh Start Compete with Policies Under BIA Section 178?</p> <p>Chair: Madam Justice Georgina Jackson, Saskatchewan Court of Appeal</p> <p>James Moses, Moses Advisory Group Inc., Edmonton, <i>Student Loans – How the Bankruptcy Provisions Could Benefit from Additional Parliamentary Review</i></p> <p>Commentators: Chantal Gingras, Ginsberg, Gingras & Associates, Ottawa, Professor Micheline Gleixner, University of Moncton, Faculty of Law, Moncton</p>
Panel K Kitsilano D	<p>From Sea to Shining Sea: Tensions Between a National Practice, Local Practitioners, and Filing Jurisdiction</p> <p>Chair: Madam Justice Chantal Corriveau, Cour supérieure du Québec</p> <p>Guy Martel, Stikeman Elliott LLP, Montreal (IIC)</p> <p>Peter Rubin, Blake, Cassels & Graydon LLP, Vancouver (IIC)</p> <p>Toni Vanderlaan, FTI Consulting Canada, Toronto</p> <p>Marc Wasserman, Osler, Hoskin & Harcourt LLP, Toronto (IIC)</p>
Panel L Parq Salon EF	<p>Reversal of Fortune: The Rise of Creditor Driven CCAAs</p> <p>Chair: Mr. Justice Laurence Pattillo, Ontario Superior Court of Justice</p> <p>Arad Mojtahedi, Norton Rose Fulbright Canada LLP, Montreal, <i>In Search of a Purpose: The Rise of Super Monitors & Creditor-Driven CCAAs</i> co-authored with Luc Morin, Norton Rose Fulbright LLP, Montréal</p> <p>Noah Zucker, McCarthy Tétrault LLP, Montréal, <i>Creditor Activism in CCAA Proceedings: Beyond the Vote</i> co-authored with Gabriel Faure, McCarthy Tétrault LLP, Montréal and Jocelyn Perreault, McCarthy Tétrault LLP, Montréal (IIC)</p> <p>Commentator: Kyla Mahar, Miller Thomson LLP, Toronto</p>
Panel M Kitsilano ABC	<p>A Taxing Issue - Deemed Trusts and the GST/HST</p> <p>Chair: Mr. Justice Sean Dunphy, Ontario Superior Court of Justice</p> <p>Sam Babe, Aird & Berlis LLP, Toronto, <i>Provincial Deemed Trusts 30 Years After British Columbia v. Henfrey Samson Belair Ltd.</i></p> <p>Maurice Chiasson, QC, Stewart McKelvey, Halifax (IIC), <i>Deemed Trusts and the GST – Lessons for Secured Creditors</i></p> <p>Commentators: Harvey Chaiton, Chaitons LLP, Toronto (IIC), Diane Winters, Department of Justice, Toronto (IIC)</p>

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Panel N Burrard	To Supply or Not Supply that is the Question? - The Post-Filing Creditors Dilemma Chair: Madam Justice Barbara Romaine , Alberta Court of Queen's Bench James Foran , Deloitte LLP, Halifax Lisa Hiebert , Borden Ladner Gervais LLP, Vancouver Ari Sorek , Dentons Canada LLP, Montréal
11:40 – 12:20pm	Concurrent Panels
Panel O Burrard	LILA (Low Income/Low Asset) Debtors - Is Streamlining the Process a Realistic Approach? Chair: Guylaine Houle , Pierre Roy & Associés Inc., Montréal André Bolduc , BDO Canada Limited, Ottawa Elisabeth Lang , Office of the Superintendent of Bankruptcy, Ottawa Richard Schwartz , Tapper Cuddy LLP, Winnipeg
Panel P Kitsilano D	Sitting in Judgment - Practical Advice for Claims Adjudication Chair: Sara L. Scott , Stewart McKelvey, Halifax Scott Boucher , Norton Rose Fulbright Canada LLP, Vancouver, <i>Sitting in Judgment - Practical Advice for Trustee and Lawyers in the Claims Adjudication Process</i> and Craig Munro , FTI Consulting Canada, Vancouver (IIC) co-authored with Nathan Jones, Norton Rose Fulbright LLP, Vancouver Commentator: JJ Burnell , MLT Aikins LLP, Winnipeg
Panel Q Parq Salon EF	In the Wake of Redwater: the Final Chapter and Aftermath Chair: Mr. Justice Thomas McEwen , Ontario Superior Court of Justice Tom Cumming , Gowling WLG, Calgary, <i>The Intersection of Regulatory and Insolvency Law: Redwater's Final Chapter and the Aftermath</i> co-authored with Jeffrey Oliver, Cassels Brock & Blackwell LLP, Calgary (IIC), and Caileen Hanert, Gowling WLG, Calgary Commentators: Alex Corbett , ATB Financial, Calgary, Neil Honess , KPMG, Calgary
Panel R Kitsilano ABC	Is It Really a Material Adverse Change? Chair: Mr. Justice Glenn Hainey , Ontario Superior Court of Justice Michelle Grant , PricewaterhouseCoopers LLP, Vancouver (IIC), <i>Is it Really a Material Adverse Change?</i> Commentators: Dylan Chochla , Fasken LLP, Toronto, Denis Ferland , Davies Ward Phillips & Vineberg LLP, Montréal (IIC)
12:20 – 1:15pm	Networking Lunch Parq Salon ABCD
1:20 – 2:05pm Parq Salon EF	The Honourable Donald Brenner Memorial Keynote The Honourable Clément Gascon , Adjudicating in Canada's Insolvency / Restructuring Regimes: Hindsight, Foresight and "20/20" Vision Introduction by Conference Co-Chair Madam Justice Shelley Fitzpatrick

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2:10 – 2:50pm	Concurrent Panels
<p>Panel S Parq Salon EF</p>	<p>How Many Ways Can You Slice a Pie? A Look into Professional Fees and Who is Entitled to a Charge</p> <p>Chair: Mr. Associate Chief Justice Ken Nielsen, Alberta Court of Queen's Bench</p> <p>Katie Mak, Clark Wilson LLP, Vancouver, <i>To Canwest and Beyond: A Look at Priority Charges Securing Professional Fees</i> co-authored with Claire Wheldon, PricewaterhouseCoopers LLP, Vancouver</p> <p>Commentators: Mario Forte, Goldman Sloan Nash & Haber LLP, Toronto (IIC), Peter Reardon, Nathanson Schachter & Thompson LLP Vancouver (IIC)</p>
<p>Panel T Burrard</p>	<p>Surplus Income in Insolvency Proceedings – A Difficult Concept to Accept!</p> <p>Chair: Mr. Justice Darrell Stephenson, Court of Queen's Bench of New Brunswick</p> <p>Professor Stephanie Ben-Ishai, Osgoode Hall Law School, Toronto (IIC)</p> <p>Colleen Craig, C.E. Craig & Associates Inc., Victoria</p> <p>Daniel Charrette, Office of the Superintendent of Bankruptcy, Ottawa</p>
<p>Panel U Kitsilano D</p>	<p>This Buzz is For You, Cannabis Across the 49th Parallel</p> <p>Chair: Judge Mary Jo Heston, U.S. Bankruptcy Court, Western District of Washington, Washington</p> <p>Oren Bitan, Buchalter, Los Angeles</p> <p>Cindy Cheuk, Dentons Canada LLP, Vancouver</p> <p>Lincoln Eckhardt, FTI Consulting, Lake Oswego</p> <p>Michael McTaggart, PricewaterhouseCoopers LLP, Toronto</p>
<p>Panel V Kitsilano ABC</p>	<p>Creditors, Choose Your Weapon: Protecting Creditors from Opportunistic Debtors</p> <p>Chair: Mr. Justice Blair Nixon, Alberta Court of Queen's Bench</p> <p>Professor Jassmine Girgis, University of Calgary, Faculty of Law, Calgary, <i>An Oppression Remedy v Fraudulent Conveyance Legislation: Which Legislative Scheme Better Protects Creditors from Opportunistic Debtors?</i></p> <p>Commentators: Joe Healey, Ernst & Young Inc., Winnipeg (IIC), Rebecca Morse, Farris LLP, Vancouver</p>
<p>Panel W Fairview 4&5</p>	<p>Building a Mystery - Investigations and Realizing on Foreign Assets</p> <p>Chair: Mr. Justice Louis J Gouin, Juge coordonnateur de la Chambre commerciale, Cour supérieure du Québec</p> <p>Gregory Azeff, Miller Thomson LLP, Toronto</p> <p>Donna Fuller, Deloitte LLP, Vancouver</p> <p>Allan Nackan, Farber Financial Group, Toronto (IIC)</p> <p>Kyle Plunkett, Aird & Berlis LLP, Toronto</p>

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2:55 – 3:35pm	Concurrent Panels
<p>Panel X Kitsilano D</p>	<p>Herding Cats - Lessons from the Quadriga case on Representative Counsel and Creditors' Committees</p> <p>Chair: Madam Justice Jessica Kimmel, Ontario Superior Court of Justice</p> <p>Gavin MacDonald, Cox & Palmer LLP, Halifax (IIC), <i>Representative Counsel & Creditors' Committees: Lessons from the Quadriga Case</i> co-authored with Gregory Azeff, Miller Thomson LLP, Toronto</p> <p>Commentators: Rebecca Kennedy, Thornton Grout Finnigan LLP, Toronto, Brendan O'Neill, Goodmans LLP, Toronto (IIC)</p>
<p>Panel Y Kitsilano ABC</p>	<p>Canada North: Deemed Trust v. Priming Charges</p> <p>Chair: Mr. Justice Mark Schrager, Cour d'appel du Québec</p> <p>Randal Van de Mosselaer, Osler Hoskin & Harcourt LLP, Calgary</p> <p>Mary Buttery, QC, Cassels Brock & Blackwell LLP, Vancouver (IIC)</p> <p>Kelly Bourassa, Blake, Cassels & Graydon LLP, Calgary (IIC)</p>
<p>Panel Z Burrard</p>	<p>A Fraud on Bankruptcy: Do We Still Need the Anti-Deprivation Rule?</p> <p>Chair: Mr. Justice Paul Walker, British Columbia Supreme Court</p> <p>Aditya Badami, Norton Rose Fulbright LLP, London, <i>Canada's Tired Anti-Deprivation Rule: Capital Steel Inc v Chandos Construction Ltd</i> co-authored with Meghan Parker, Norton Rose Fulbright LLP, Calgary</p> <p>Commentators: Adrienne Ho, Borden Ladner Gervais LLP, Toronto, Chris Simard, Bennett Jones LLP, Calgary (IIC)</p>
<p>Panel AA Parq Salon EF</p>	<p>Yikes We've Only Got 10 days and Other Changes Coming From the 2019 Amendments</p> <p>Chair: Madam Justice Lynne Leitch, Ontario Superior Court of Justice</p> <p>Jocelyn Perreault, McCarthy Tétrault LLP, Montréal (IIC)</p> <p>Paul Darby, PricewaterhouseCoopers LLP, Calgary (IIC)</p> <p>Kibben Jackson, Fasken LLP, Vancouver (IIC)</p>
<p>3:40 - 4:25pm Parq Salon EF</p>	<p>Closing Plenary Judicial Panel</p> <p>Introduction by Linc Rogers, Blake, Cassels & Graydon, Toronto (IIC)</p> <p>Chair: Mr. Chief Justice Geoffrey Morawetz, Ontario Superior Court of Justice</p> <p>Madam Justice Chantal Corriveau, Cour supérieure du Québec</p> <p>Madam Justice Barbara Romaine, Alberta Court of Queen's Bench</p> <p>Mr. Justice Darrell Stephenson, Court of Queen's Bench of New Brunswick</p> <p>Mr. Justice Paul Walker, British Columbia Supreme Court</p>
<p>4:25 - 4:30pm Parq Salon EF</p>	<p>Closing Thank You</p> <p>Conference Co-Chair Tevia Jeffries, Dentons Canada LLP, Vancouver (IIC) & Chair, ARIL Society Inc., Edward Sellers, Black Swan Advisors Inc., Toronto (IIC)</p>
<p>4:30 – 5:15pm</p>	<p>Closing Reception</p> <p>JW Marriott Parq, Convention Floor Foyer</p>

CONFERENCE THANK YOUS

We would like to thank everyone who has contributed to this year's conference. We greatly appreciate your continued support of ARIL.

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Thank you to our sponsors for their generous support of the conference.

Thank you to all the firms listed in the agenda for their support for travel of the speakers.

Thank you to the student editors and volunteers who help make the conference run smoothly (full listing on aril.ca and cairp.ca)

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Most importantly, we would like to thank all of the authors and speakers for their tremendous contribution to both the volume and to the conference.

2020 Planning Committee

Michelle Grant, PricewaterhouseCoopers LLP, Vancouver (IIC)

Madam Justice Shelley Fitzpatrick, British Columbia Supreme Court

Guylaine Houle, Pierre Roy & Associés, Montreal

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