



# 17<sup>TH</sup> ANNUAL REVIEW OF INSOLVENCY LAW CONFERENCE

FEBRUARY 7, 2020  
VANCOUVER, BRITISH COLUMBIA

## CONFERENCE CO-CHAIRS

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**Madam Justice Shelley Fitzpatrick**  
British Columbia Supreme Court

**Michelle Grant**  
PricewaterhouseCoopers LLP, Vancouver (IIC)

**Tevia Jeffries**  
Dentons Canada LLP, Vancouver (IIC)

## ARIL CO-EDITORS

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**Mr. Justice Blair Nixon**  
Alberta Court of Queen's Bench

**Professor Jill Corraini**  
Business Law Camosun College, Victoria

## 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](http://www.aril.ca)

### ACCOMMODATIONS:

JW Marriott Parq, 39 Smithe Street, Vancouver  
& The DOUGLAS Parq, 45 Smithe Street,  
Vancouver  
Room Rates: \$234 + applicable taxes and fees

**REGISTRATION:** Click [HERE](#) to register

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# AGENDA

## THURSDAY, FEBRUARY 6, 2020

6:00 – 7:00pm **Opening Reception** sponsored by CAIRP: JW Marriott Parq, 39 Smithe Street, Vancouver

## FRIDAY, FEBRUARY 7, 2020

7:00 – 8:00am **Breakfast and Registration**

8:00am **Welcome**

Conference Co-Chair **Michelle Grant**, PricewaterhouseCoopers LLP, Vancouver (IIC)

8:05 – 8:50am **Dr. Janis Sarra Opening Plenary: Bad Moon Rising – New Dawn Ahead? Climate Change and Solvency Risk**

Chair: **Linc Rogers**, Blake, Cassels & Graydon LLP, Toronto (IIC)

**Dr. Janis Sarra**, University of British Columbia, Peter Allard School of Law, Vancouver (IIC), *Bad Moon Rising – New Dawn Ahead? Climate Change and Solvency Risk*

**Andrew Chisholm**, Member of Canada’s Expert Panel on Sustainable Finance, Toronto

**Superintendent Jeremy Rudin**, Office of the Superintendent of Financial Institutions, Ottawa

9:00 – 9:40am **Concurrent Panels**

**Insolvency and Family Law – Can They Coexist Fairly?**

Chair: **Mr. Justice Fred Myers**, Ontario Superior Court of Justice

**Robert Klotz**, Klotz Associates, Toronto, *Matrimonial Property Claims: Does the Cause of Action Vest in the Trustee?*

Panel A

**Michael Myers**, Papazian Heisey Myers, Toronto, *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?*, co-authored with Michael Krygier-Baum, Papazian Heisey Myers, Toronto

Commentator: **Jennifer McCracken**, BDO Canada Limited, Vancouver

**JIN and Coca-COMI: Cross-Border Protocols and Working Together**

Chair: **Mr. Justice David Brown**, Ontario Court of Appeal

**James Reid**, Blake, Cassels & Graydon LLP, Calgary, *Let’s Work Together: Application of the Joint Insolvency Network Guidelines Around the World and in Canada* co-authored with Ryan Adlington, Deloitte LLP, Calgary

Panel B

**Mark Russell**, KSG Attorneys, George Town, *A Model of Disharmony: What is the Relevant Date to Determine COMI Under the Model Law on Cross-Border Insolvency?*

Commentator: **Monique Sassi**, Cassels Brock & Blackwell LLP, Toronto

**All Eyes on the Resource Industry: The Implications of Third Eye v. Dianor**

Chair: **Mr. Justice Louis J Guoin**, Juge coordonnateur de la Chambre commerciale, Cour supérieure du Québec

Panel C

**Carole Hunter**, DLA Piper (Canada) LLP, Calgary

**Tushara Weerasooriya** McMillan LLP, Toronto

**Steve Weisz**, Brauti Thorning LLP, Toronto (IIC)

# AGENDA

Panel D	<p><b>Trust me - The Addition of the Duty of Good Faith to Insolvency Legislation</b></p> <p>Chair: <b>Madam Justice Karen Horner</b>, Alberta Court of Queen's Bench</p> <p><b>Tracey Henry</b>, 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</p> <p><b>Jules Monteyne</b>, Blake, Cassels &amp; Graydon LLP, Toronto, <i>The New Duty of Good Faith and How It Applies in Insolvency Proceedings</i></p> <p>Commentators: <b>Natasha MacParland</b>, Davies Ward Phillips &amp; Vineberg LLP, Toronto (IIC), <b>Honourable Frank Newbould</b>, Thornton, Grout Finnigan LLP, Toronto</p>
9:50 -10:30am	<b>Concurrent Panels</b>
Panel E	<p><b>The Imperishable Asset? Understanding Real Estate Insolvencies</b></p> <p>Chair: <b>Neil Narfason</b>, Walton Global Investments Ltd., Calgary (IIC)</p> <p><b>Robyn Gurofsky</b>, 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</p> <p><b>David Ullmann</b>, 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</p> <p>Commentator: <b>Jonathan Kreiger</b>, Grant Thornton Limited, Toronto (IIC)</p>
Panel F	<p><b>A Partial Fix: 2019 Amendments and Registered DSPs</b></p> <p>Chair: <b>Madam Justice Allisen Rothery</b>, Saskatchewan Court of Queen's Bench</p> <p><b>Dr. Anna Lund</b>, 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></p> <p>Commentators: <b>Ian Penney</b>, Janes &amp; Noseworthy Limited, St. John's</p>
Panel G	<p><b>Oh Won't You (Extend the) Stay, Just a Little Bit Longer: Long CCAA Stay Extensions</b></p> <p>Chair: <b>Mr. Justice David Orsborn</b>, Supreme Court of Newfoundland and Labrador</p> <p><b>Tevia Jeffries</b>, 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</p> <p>Commentators: <b>Kathryn Esaw</b>, Aird &amp; Berlis LLP, Toronto, <b>Mitchell Vininsky</b>, KSV Advisory Inc., Toronto</p>
Panel H	<p><b>2020 - A (Cyber) Space Odyssey - Technology Asset Realizations in the New World</b></p> <p>Chair: <b>Mr. Justice David Kroft</b>, Manitoba Court of Queen's Bench</p> <p><b>Vanessa Allen</b>, 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 <b>Dean Hutchison</b>, Caron &amp; Partners LLP, Calgary</p> <p>Commentators: <b>Anthony Tillman</b>, Alvarez &amp; Marsal, Vancouver (IIC), <b>Vincent Yip</b>, McCarthy Tétrault LLP, Vancouver</p>

# AGENDA

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

# AGENDA

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

# AGENDA

2:10 – 2:50pm	Concurrent Panels
Panel S	<p><b>How Many Ways Can You Slice a Pie? A Look into Professional Fees and Who is Entitled to a Charge</b></p> <p>Chair: <b>Mr. Justice Ken Neilsen</b>, Alberta Court of Queen’s Bench</p> <p><b>Katie Mak</b>, Clark Wilson LLP, Vancouver, <i>To Canwest and Beyond: A Look at Priority Charges Securing Professional Fees</i> co-authored with <b>Claire Wheldon</b>, PricewaterhouseCoopers LLP, Vancouver</p> <p>Commentators: <b>Mario Forte</b>, Goldman Sloan Nash &amp; Haber LLP, Toronto (IIC), <b>Peter Reardon</b>, McMillan LLP, Vancouver (IIC)</p>
Panel T	<p><b>Surplus Income in Insolvency Proceedings – A Difficult Concept to Accept!</b></p> <p>Chair: <b>Mr. Justice Darrell Stephenson</b>, Court of Queen’s Bench of New Brunswick</p> <p><b>Professor Stephanie Ben-Ishai</b>, Osgoode Hall Law School, Toronto (IIC)</p> <p><b>Colleen Craig</b>, C.E. Craig &amp; Associates Inc., Victoria</p> <p><b>Daniel Charrette</b>, Office of the Superintendent of Bankruptcy, Ottawa</p>
Panel U	<p><b>This Buzz is For You, Cannabis Across the 49th Parallel</b></p> <p>Chair: <b>Judge Mary Jo Heston</b>, U.S. Bankruptcy Court, Western District of Washington, Washington</p> <p><b>Cindy Cheuk</b>, Dentons Canada LLP, Vancouver</p> <p><b>Elaine Carey</b>, FTI Consulting, Los Angeles</p> <p><b>Michael McTaggart</b>, PricewaterhouseCoopers LLP, Toronto</p> <p><b>Oren Bitan</b>, Buchalter, Los Angeles</p>
Panel V	<p><b>Creditors, Choose Your Weapon: Protecting Creditors from Opportunistic Debtors</b></p> <p>Chair: <b>Mr. Justice Blair Nixon</b>, Alberta Court of Queen’s Bench</p> <p><b>Associate Professor Jasmine Girgis</b>, 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: <b>Joe Healey</b>, Ernst &amp; Young Inc., Winnipeg (IIC), <b>Rebecca Morse</b>, Farris LLP, Vancouver</p>
Panel W	<p><b>Building a Mystery - Investigations and Realizing on Foreign Assets</b></p> <p>Chair: <b>Mr. Justice Martin Castonguay</b>, Cour supérieure du Québec</p> <p><b>Gregory Azeff</b>, Miller Thomson LLP, Toronto</p> <p><b>Donna Fuller</b>, Deloitte LLP, Vancouver</p> <p><b>Allan Nackan</b>, Farber Financial Group, Toronto (IIC)</p> <p><b>Kyle Plunkett</b>, Aird &amp; Berlis LLP, Toronto</p>

# AGENDA

2:55 – 3:35pm	<b>Concurrent Panels</b>
Panel X	<p><b>Herding Cats - Lessons from the Quadriga case on Representative Counsel and Creditors' Committees</b></p> <p>Chair: <b>Madam Justice Jessica Kimmel</b>, Ontario Superior Court of Justice</p> <p><b>Gavin MacDonald</b>, Cox &amp; Palmer LLP, Halifax (IIC), <i>Representative Counsel &amp; Creditors' Committees: Lessons from the Quadriga Case</i> co-authored with Gregory Azeff, Miller Thomson LLP, Toronto</p> <p>Commentators: <b>Rebecca Kennedy</b>, Thornton Grout Finnigan LLP, Toronto, <b>Brendan O'Neill</b>, Goodmans LLP, Toronto (IIC)</p>
Panel Y	<p><b>Canada North: Deemed Trust v. Priming Charges</b></p> <p>Chair: <b>Mr. Justice Mark Scharager</b>, Cour d'appel du Québec</p> <p><b>Randal Van de Mosselaer</b>, Osler Hoskin &amp; Harcourt LLP, Calgary</p> <p><b>Mary Buttery</b>, Cassels Brock &amp; Blackwell LLP, Vancouver (IIC)</p> <p><b>Kelly Bourassa</b>, Blake, Cassels &amp; Graydon LLP, Calgary (IIC)</p>
Panel Z	<p><b>A Fraud on Bankruptcy: Do We Still Need the Anti-Deprivation Rule?</b></p> <p>Chair: <b>Mr. Justice Paul Walker</b>, British Columbia Supreme Court</p> <p><b>Aditya Badami</b>, 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: <b>Adrienne Ho</b>, Borden Ladner Gervais LLP, Toronto, <b>Chris Simard</b>, Bennett Jones LLP, Calgary (IIC)</p>
Panel AA	<p><b>Yikes We've Only Got 10 days and Other Changes Coming From the 2019 Amendments</b></p> <p>Chair: <b>Madam Justice Lynne Leitch</b>, Ontario Superior Court of Justice</p> <p><b>Philippe Bélanger</b>, McCarthy Tétrault, Montréal (IIC)</p> <p><b>Paul Darby</b>, PricewaterhouseCoopers LLP, Calgary (IIC)</p> <p><b>Kibben Jackson</b>, Fasken LLP, Vancouver (IIC)</p>
3:40 – 4:25pm	<p><b>Closing Plenary Judicial Panel</b></p> <p>Chair: <b>Mr. Chief Justice Geoffrey Morawetz</b>, Ontario Superior Court of Justice</p> <p><b>Madam Justice Chantal Corriveau</b>, Cour supérieure du Québec</p> <p><b>Madam Justice Barbara Romaine</b>, Alberta Court of Queen's Bench</p> <p><b>Mr. Justice Darrell Stephenson</b>, Court of Queen's Bench of New Brunswick</p> <p><b>Mr. Justice Paul Walker</b>, British Columbia Supreme Court</p>
4:25 – 4:30pm	<p><b>Closing Thank Yous</b></p> <p>Conference Co-Chair <b>Tevia Jeffries</b>, Dentons Canada LLP, Vancouver (IIC) &amp; Chair, ARIL Society Inc., <b>Edward Sellers</b>, Black Swan Advisors Inc., Toronto (IIC)</p>
4:30 – 5:15pm	<p><b>Closing Reception</b></p> <p>JW Marriott Parq, 39 Smithe Street, Vancouver</p>

# CONFERENCE INFORMATION

**Registration:** [https://cairp.ca/cgi/page.cgi/\\_evtcal.html?evt=278](https://cairp.ca/cgi/page.cgi/_evtcal.html?evt=278)

**Fees:**

General Registrant: \$975 (plus applicable taxes)

Judges, Articling Students, Full-time Academics: \$225 (plus applicable taxes)

Sorry, no refunds permitted, only substitutions.

**Reservations:** JW Marriott Parq, 39 Smithe Street, Vancouver & The DOUGLAS Parq, 45 Smithe Street, Vancouver

Online: <https://book.passkey.com/go/17thARILConference>

Phone: Call 1.888. 236.2427.

Callers must identify themselves as being with ARIL 2020 in order to qualify for group rate.

**Room Rates:** Standard Guest Room: \$234 + applicable taxes and fees

We are offering two hotel options for conference attendees, based on availability. The JW Marriott Parq & The DOUGLAS are connected and both are available for conference attendees at the same price. The two hotels share the same reservation database which promises a seamless experience for guests at either property.

The cut-off to receive the conference room rate is **January 14, 2020**. After this date, the conference room rate will no longer be available and reservations are subject to availability.

Group rate will be extended three (3) days pre and post conference, based on availability.

All reservations must be accompanied by a first night room deposit OR guaranteed with a major credit card.

For more information about the conference, please contact Natalie Alfano at 647.560.5449 or [natalie.alfano@cairp.ca](mailto:natalie.alfano@cairp.ca)

## 2020 Planning Committee

**Michelle Grant**, PricewaterhouseCoopers LLP, Vancouver (IIC)

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

**Guylaine Houle**, Pierre Roy & Associés, Montreal

**Tevia Jeffries**, Dentons Canada LLP, Vancouver (IIC)

**Linc Rogers**, Blake, Cassels & Graydon, Toronto (IIC)

**Sara Scott**, Stewart McKelvey LLP, Halifax