ANNUAL REVIEW OF INSOLVENCY LAW

12th FORMATION CONFERENCE
UBC FACULTY OF LAW

FEBRUARY 6, 2015, TORONTO

2015 Conference Co-Chairs:
The Honourable Geoffrey Morawetz, Regional Senior Justice, Ontario Superior Court of Justice
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Linc Rogers, Blake Cassels & Graydon, LLP, Toronto, IIC
Dr. Janis Sarra, UBC Faculty of Law, IIC

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

6:30 pm - 7:30 pm THURSDAY FEBRUARY 5, 2015
OPENING RECEPTION
RIPLEY'S AQUARIUM OF CANADA, 288 BREMNER BOULEVARD, NEXT TO THE CN TOWER
Reception co-hosted by Borden Ladner Gervais LLP and UBC Faculty of Law

FRIDAY FEBRUARY 6, 2015
WESTIN HARBOUR CASTLE CONFERENCE CENTRE, 11 BAY STREET, TORONTO

6:30 am - 8:00 am REGISTRATION - Frontenac Foyer
7:00 am BREAKFAST - Frontenac Ballroom
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 Metropolitan Centre
The Honourable Donald Brenner Memorial Keynote
Lester J. Wong, Deputy Superintendent, Pensions (Interim), Financial Services Commission of Ontario
Pension Security and the Challenge for Insolvency Workouts

8:40 am - 9:25 am Metropolitan Centre
Plenary: How to Frame Issues for the Supreme Court of Canada
Chair: The Honourable Geoffrey Morawetz, Regional Senior Justice, 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
### CONCURRENT PANELS

#### PANEL A
**Metropolitan West**
**Intelлектually Challenging: Dealing with IP in Insolvency Cases**
**Chair:** Madam Justice Shelley Fitzpatrick, British Columbia Supreme Court, Vancouver

**Chris Hunter,** Norton Rose Fullbright Canada LLP, Toronto, Overview of IP Issues from the Perspective of an IP Lawyer

**Mary Buttery,** Davis LLP, Vancouver, IIC, co-authored with Jeffrey Bichard, 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

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#### PANEL B
**Metropolitan East**
**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, UNOITRAL Working Group V, Recognition and Enforcement of Insolvency-Related Judgments in Foreign Proceedings

**Commentators:** **Professor John Pottow,** University of Michigan Law School, article by Gordon Levine The Interplay between Comity, Public Policy and Paramountcy in Recognition of Foreign Judgments in Insolvency Matters

**David Ward,** Cassels Brock, Toronto

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#### PANEL C
**Metropolitan Centre**
**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

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#### PANEL D
**Metropolitan West**
**The Long-Arm of International Pension and Environmental Legislation**
**Chair:** Madam Justice Barbara Conway, Ontario Superior Court of Justice

**Israel Goldwitz,** 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

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#### PANEL E
**Metropolitan Centre**
**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

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#### PANEL F
**Metropolitan East**
**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)

**Commentators:** **André Bolduc,** BDO Canada Limited, Ottawa

**Matt McCulloch,** BDO Canada Limited, Edmonton

**Robb English,** Aird & Berlis, Toronto

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#### PANEL G
**Metropolitan West**
**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 Fullbright 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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<td>Bob Keach, Bernstein Shur, Portland, United States, Chapter 11 trustee, Montreal, Maine &amp; Atlantic Canada Co.</td>
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FRIDAY FEBRUARY 6, 2015  WESTIN HARBOUR CASTLE CONFERENCE CENTRE, TORONTO

3:55 pm - 4:50 pm  Metropolitan Centre  
Closing Plenary: 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  
Michael Doi, Financial Services Commission of Ontario

4:50 pm  Closing Thanks

5:00 pm - 6:00 pm  Closing Reception, Toula Ristorante (38th floor of the Westin Harbour Castle Hotel)

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We would like to thank the following firms for their support for travel of the speakers  
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Volunteers: William Stransky, Alena Robinson, Valerie Cross, Jerry Ji and Michelle Burchill  
Staff: Kate Shepherd, Sandra Mulholland and Allyson Woodrooffe

We also would like to thank all of the authors and speakers for their tremendous contribution to both the volume and to the conference.