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BANKRUPTCY AND INSOLVENCY LAW OF CANADA

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This resource contains the complete text of the *Bankruptcy and Insolvency Act* and Rules, the *Companies' Creditors Arrangement Act*, the *Farm Debt Mediation Act*, the *Wage Earner Protection Program Act* and the *Winding-Up and Restructuring Act*. The section-by-section and rule-by-rule case annotations and commentary provide an extensive and detailed resource tool for insolvency lawyers, trustees, receivers and liquidators. The collection of Policy Documents, Model Orders, Forms and Precedents provide additional practice guides to make it the most complete resource for the professional.

What's New in this Update:

This release features updates to the commentary in Chapters 1 (*BIA* — General; Short Title), 2 (*BIA* — Part I Administrative Officials), 3 (*BIA* — Part II Bankruptcy Orders and Assignments), 4 (*BIA* — Part III Proposals), 5 (*BIA* — Part IV Property of the Bankrupt), 6 (*BIA* — Part V Administration of Estates), 7 (*BIA* — Part VI Bankrupts), 8 (*BIA* — Part VII Courts and Procedure), 10 (*BIA* — Part IX Miscellaneous Provisions), 12 (*BIA* — Part XI Secured Creditors and Receivers), 21 (*CCAA* — Part I: Compromises and Arrangements), 22 (*CCAA* — Part II Jurisdiction of Courts), 23 (*CCAA* — Part III: General), 24 (*CCAA* — Part IV: Cross-Border Insolvencies), and 27 (Farm Debt Mediation Act). Appendix TC Table of Concordance has also been updated.

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Case Law Highlights

- Justice Conway of the Ontario Superior Court of Justice dismissed a motion brought by moving parties who sought an order to stay implementation of a settlement until Purdue Canada demonstrates that the implementation is not unlawful, prejudicial, preferential, or an abuse of process. Conway J. acknowledged that Purdue Canada was brought into these insolvency proceedings through the related party stay; but these Part IV recognition proceedings are with respect to the Chapter 11 debtors and Purdue Canada is not a Chapter 11 debtor. In questioning Purdue Canada's solvency, the moving parties pointed to the fact that the Canadian Governments withdrew their CAD \$80 billion claim in the Chapter 11 proceedings and settled for \$150 million after receiving financial disclosure from Purdue Canada. Justice Conway held that this withdrawal did not lead to the conclusion that Purdue Canada cannot afford to pay the \$150 million settlement over seven years or that doing so will render it insolvent. The moving parties have not provided a sufficient evidentiary foundation for the court to require Purdue Canada to prove that it is not insolvent: *Re Purdue Pharma*, 2024 CarswellOnt 8290, 2024 ONSC 3252 (Ont. S.C.J. [Commercial List]).
- The Court of Appeal for Ontario dismissed an appeal by the moving parties/appellants asking the Court to review a decision made by a single judge of the Court of Appeal (*Cardillo v. Medcap Real Estate Holdings Inc.*, 2023 CarswellOnt 19788, 10 C.B.R. (7th) 1, 2023 ONCA 852, [2023] O.J. No. 5701 (Ont. C.A.)). The Court held that it is well established that, on a panel review of the order of a single judge pursuant to s. 7(5) *Courts of Justice Act*, R.S.O. 1990, c. C.43 (*CJA*), the panel may interfere with the order if the chambers judge failed to identify the applicable principles, erred in principle or reached an unreasonable result. None of these grounds exist here. The fact that the issue of leave was raised via a challenge to the asserted right of appeal, rather than by way of a motion for leave to appeal, does not affect a single judge's authority to make a determination of whether leave should be granted. That decision is still made pursuant to s. 193(e) of the *BIA* and therefore any conflict with rule 61.16.(2.2) is resolved in favour of the federal *BIA*. The Court of Appeal held that since the appeal in this case also stems from an order under the *BIA*, paramountcy applies and a panel is not required, notwithstanding that the order affected a non-bankruptcy proceeding: *Cardillo v. Medcap Real Estate Holdings Inc.*, 2024 CarswellOnt 5411, 12 C.B.R. (7th) 213, 2024 ONCA 278 (Ont. C.A.).