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BRITISH COLUMBIA DEBTOR-CREDITOR LAW AND PRECEDENTS

Lyman R. Robinson
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This work is an authoritative review of the law and procedures for enforcing monetary judgments and orders in British Columbia. This valuable resource covers the procedural rules in the B.C. Supreme Court, the B.C. Small Claims Court and the Federal Court of Canada, accompanied with useful precedents. The topics included are pre-judgment proceedings, garnishment, execution against real and personal property, enforcement and fraudulent conveyances and preferences.

What's New in this Update:

This release updates the Table of Concordance Small Claims Rules of Procedure and Words and Phrases.

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In this Release:

- **WORDS AND PHRASES—“CONVERSION”**—“The tort of conversion involves the wrongful interference with the goods of another, such as taking, using or destroying the goods in a manner inconsistent with the owner’s right of possession. ... Preventing access to an owner’s property can constitute handling or using of the property to give rise to conversion. In the context of electronic information, software, or databases, this can include preventing the owner’s access to its property.” (*Serinus Energy PLC v. SysGen Solutions Group Ltd.*, 2023 CarswellAlta 2833 (Alta. K.B.).)
- **WORDS AND PHRASES—“EQUITABLE MORTGAGE”**—“An equitable mortgage is a contract which creates in equity a charge on the property, but does not pass the legal estate to the mortgagee. An equitable mortgage can be created in several ways, including by the fact that the mortgagor has not executed an instrument sufficient to transfer the legal estate. Where an equitable mortgage derives from an agreement, determining whether there is an equitable mortgage is a matter of contractual interpretation. The normal principles of contractual interpretation apply. The court is to determine the intent of the parties, based on the words in the contract used in their ordinary and grammatical meaning, consistent with the surrounding circumstances reasonably known to the parties at the time the contract was formed.” (*Grillo v. Spadafora*, 2024 CarswellOnt 4281 (Ont. S.C.J.).)
- **WORDS AND PHRASES—“MARKET INTEREST RATES”**—“Interpreting ‘market interest rates’ to mean prejudgment interest rates or bank rates does not conform with the plain meaning of the prejudgment interest provisions of the CJA [*Courts of Justice Act*, R.S.O. 1990, c. C.43], the object, or the legislative intention with respect to these provisions, as is required under the modern rules of statutory interpretation.” (*Aubin v. Synagogue and Jewish Community Centre of Ottawa (Soloway Jewish Community Centre)*, 2024 CarswellOnt 12242 (Ont. C.A.).)