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BANKRUPTCY AND INSOLVENCY LAW OF CANADA

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Release No. 6, July 2026

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:

A new binder has been issued with this release. Please refer to the Filing Instructions on how to file your new materials.

This release features updates to the commentary in Chapters 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), 9 (*BIA* — Part VIII Offences), 12 (*BIA* — Part XI Secured Creditors and Receivers), 21 (*CCAA* — Part I: Compromises and Arrangements), and 23 (*CCAA* — Part III: General). The Forms (chapter 18) have also been updated.

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Case Law Highlights

- The Court of Appeal for Ontario held that it has jurisdiction to review a decision regarding a motion for directions on the issue of whether an appeal can proceed as of right under ss. 193(a)-(d) of the *BIA*; however, it owes deference to the judge's determination that leave is required. The panel will only interfere if the judge failed to identify the applicable principles, erred in principle, or reached an unreasonable result. In contrast, the Court of Appeal may review the decision of a single judge dismissing a motion for leave to appeal under s. 193(e) of the *BIA* only in very exceptional circumstances, where the chambers judge "mistakenly declines jurisdiction", such as where the chambers judge did not reach a decision on the merits of the leave to appeal motion: *Unity Health Toronto v. 2442931 Ontario Inc.*, 2026 CarswellOnt 1594, 2026 ONCA 82 (Ont. C.A.).
- The Alberta Court of King's Bench granted summary judgment against a *CCAA* debtor for losses incurred in a cheque kiting scheme and held that the accepted claim could not be compromised without the creditor's agreement, as per s. 19 of the *CCAA*. Justice Lema also found the director and president personally liable for the creditor's losses, along with the debtor entities: *Compeer Financial PCA v. Sunterra Farms Ltd*, 2026 CarswellAlta 165, 24 C.B.R. (7th) 1, 2026 ABKB 57 (Alta. K.B.), leave to appeal refused, 2026 CarswellAlta 1008, 2026 ABCA 125 (Alta. C.A.). In the same proceeding, the Alberta Court of King's Bench held that the claim of a bank was too remote or speculative to be recognized in the *CCAA* proceedings.
- The Court of Appeal for Ontario held that a Mareva order that was made after a bankruptcy order had the effect of removing the capacity of the bankrupt with respect to his property, including any right to challenge the Mareva order. In the circumstances, Zarnett J.A. stated that the Mareva order was final and was appealable as of right pursuant to s. 6(1)(b) of the *CJA*. Justice Zarnett also noted that ordinarily, on the making of a bankruptcy order, a judgment creditor would not be permitted to ask for further post judgment relief against the debtor to assist in execution of its judgment, as a result of the s. 69.3(1) of the *BIA* automatic stay. However, the court has the power to declare that the stay does not apply to a particular step by a particular creditor: s. 69.4. Here, the judge effectively exercised that power in making the Mareva order complementary to the powers afforded to the trustee in bankruptcy. Justice Zarnett saw no reversible error in that exercise of discretion. Accordingly, Zarnett J.A. dismissed the appeal: *Re Aquino*, 2026 CarswellOnt 2528, 2026 ONCA 132 (Ont. C.A.).