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Practical Takeaways from the 2026 Annual Review of Insolvency Law Conference

The 2026 Annual Review of Insolvency Law Conference (ARIL) brought together judges, practitioners, and academics to discuss developments in restructurings, bankruptcies, and receiverships. While the panels covered a wide range of topics, three themes stood out as particularly relevant to day-to-day practice:

1. Courts are insisting on a stronger evidentiary foundation when parties seek exceptional relief.
2. The insolvency "toolkit" continues to expand, with increased focus on process, control, and privilege.
3. The scope and limits of *Companies' Creditors Arrangement Act* (CCAA) protections, particularly stays, remain actively contested.

1. Exceptional Relief Requires a Clear Record and a Principled Justification

A consistent message at ARIL was that parties should not expect courts to grant extraordinary remedies, such as reverse vesting orders or broad third-party releases, without proper evidence and a clear explanation of why that relief is necessary. The point was not that courts are closed to creative solutions, but rather that discretion is exercised on the strength of the record. Where the relief sought departs from conventional restructuring tools, counsel should expect closer scrutiny of alternatives, stakeholder impacts, and the factual basis said to justify the remedy.

This theme aligned closely with the panel "Good Faith Under Scrutiny: Navigating Bad Behaviour in Insolvency," which focused on the increasingly concrete way courts assess good faith, including conduct that demonstrates honesty, candour, and reasonableness. In practice, that means good faith is not just something argued in submissions; it is something that should be visible in the disclosure, the proposed process, and the way stakeholders are treated.

2. A Growing Toolkit, With Greater Attention to Process and Privilege

Two panels highlighted how often insolvency files now turn on “process” questions that used to be treated as secondary.

First, receiverships continue to rise as a flexible enforcement option, particularly where control, speed, and value preservation matter. The “Receiverships Redefined: Navigating Privilege, Control, and Their Rise as an Alternative to Foreclosure” panel put a spotlight on the practical issues that follow from court appointment, including privilege disputes and information governance. A useful practice point is to address these issues early, whether through protocols, clearer role definition, or targeted order language.

Second, the sessions on funding investigations and litigation reflected the reality that complex recovery efforts can be hard to resource from an insolvent estate. As third-party funding becomes more common, parties should expect closer attention to transparency, control, and the overall fairness of the arrangement.

3. The Boundaries of CCAA Stays Remain a Live Issue

Panel discussions on the evolution of CCAA stays reinforced that stays are being sought (and tested) in increasingly varied ways, including with respect to third parties. This “boundary testing” was also reflected in discussion about whether rent obligations can be halted during a disclaimer period. Although technical, the issue is important in practice as it affects liquidity, leverage, and the allocation of restructuring burdens between debtors and landlords.

A Cross-Border Perspective from the Keynote

Former US Ambassador to Canada David L. Cohen delivered a keynote that provided valuable context for the cross-border dimensions of modern insolvency practice. Ambassador Cohen emphasized the durability of the Canada/US partnership and the depth of economic integration that makes the relationship resilient even during politically noisy periods. For insolvency counsel, the takeaway is practical: many files are influenced by cross-border capital, counterparties, and supply chains, and that context often shapes strategy from day one.