FTR Now

Supreme Court of Canada to Render *Indalex* Decision on February 1, 2013

Date: January 29, 2013

The Supreme Court of Canada has announced that it will render its decision in *Sun Indalex Finance, LLC et al. v. United Steelworkers et al.* ("*Indalex*") on Friday, February 1, 2013.

The appeal relates to a decision of the Court of Appeal for Ontario that granted "super-priority" to pension funding deficits in a *Companies' Creditors Arrangement Act* proceeding. A detailed discussion of the Court of Appeal decision can be found in our *FTR Now* of April 15, 2011, "Ontario Court of Appeal Revisits Pension and Insolvency Principles: *Indalex*."

The decision of the Supreme Court of Canada has been eagerly awaited by both insolvency and pension experts, who are hopeful that the Court will provide further clarity on the issues raised in *Indalex*, including the issue of how officers and directors are to manage the fiduciary duties owed to plan members along with the fiduciary duties owed to the corporation.

Hicks Morley's Pension, Benefits and Executive Compensation group will be closely reviewing the Supreme Court of Canada decision and will be providing an analysis of the decision in an *FTR Now*.

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