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Creditors' Remedies in Ontario: With Forms and Precedents on Disk

Eugene Meehan, Jennifer E. Babe, David R. Byers, Thomas M. Conway, Barbara Kincaid & William J. Simpson
Toronto: Butterworths, 1994, 530 pp.

Reviewed by Doug Downey[†]

I know there is a danger of losing credibility if a point appears overemphasized. That being said, I will still suggest that this is an excellent reference book.

Creditors' Remedies is most useful for someone practising in Ontario but is not limited to that jurisdiction. A lot of the basics are covered that are transferable to other provinces.

At first, the book appears lengthy, given the subject matter, but the material is broken down into 20 chapters. Some reference books of this length make the mistake of being repetitive. This book avoids that pitfall; none of the material is repeated.

To be fair, this is not 530 pages of scholarly enlightenment. About one-quarter to one-third of the book is comprised of sample forms and letters that can be used. This is one aspect that makes it more useful than most textbooks.

Along with the sample forms and letters there is extensive footnoting of precedents and other reference materials. This approach ensures that it will become obsolete but it also makes it more useful at present. These sample forms, letters, and precedents for reference are not only in the book, but they are also on a computer disk.

The 3 1/2" disk is IBM compatible. The format is WordPerfect 5.0 or an updated version (including Windows). The authors also include a short user guide. If you know how to use WordPerfect you will find the forms and letters very useful. If you do not, it

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may be cumbersome fitting information in the forms (since the spacing may get frustrating).

Creditors' Remedies is set out in a very logical order. There are three sections to the book: considerations of suing, the judicial process, and legislation and forums.

The first part begins with a discussion of the solicitor-client relationship and progresses through considerations of different actions. Not only is there a discussion of what should be done, but many pitfalls are also highlighted. The authors take a very practical approach in discussing different options at each stage of the process.

The second part is more procedural, discussing the basics of service and more advanced strategic concepts like *Mareva injunctions* and *Anton Piller orders*. Both procedural and strategic considerations are clearly discussed. Comprehensiveness, however, is traded for conciseness. There is an attempt to make up for this by including pages of references further elaborating on subjects. Although this is not a definitive reference work, it is possible to tell, by very quickly reading through sections, whether they are even worth pursuing for your client in any given situation. Various tests are listed and footnoted for speedy reference.

The third part moves into more specific situations. Small Claims, Landlord and Tenant, PPSA, the Solicitor as Creditor, the *Liens Act*, and bulk sales are separately addressed. The previous chapters are all relevant, but these topics are discussed with specific reference to anomalies and unique requirements in each respective area of law. This section would be least useful outside of Ontario, but it constitutes only about one-quarter of the book.

Chapters in the middle of this book go beyond getting a judgment. Various enforcement and garnishment techniques and reciprocal and inter-jurisdictional enforcement are also discussed.

Creditors' Remedies is not designed for a lay-person, yet it is not overly academic. It is a good reference book for someone with an understanding of the basics of consumer and commercial transactions.

Tables of cases and statutes placed in the book provide easy cross referencing with the text. Comprehensive footnoting allows the reader to encounter a useful concept and to apply it in accordance with precedent and the rules of civil procedure.

The attempt to automate the information is an indication of the direction reference tools are headed. It is apparent that this is a developing area.

In conclusion, if you are a student going into civil litigation in Ontario, this is a book you must at least know where to find if you do not have the cash to own your own copy.