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**Subject:** CCIR now needs to act to change current insurance legislation to protect employer sponsored disability insurance

### **Canadian Council of Insurance Regulators**

Mark Prefontaine, Assistant Deputy Minister, Alberta, Alberta Finance and Enterprise  
Carolyn Rogers, CEO and Superintendent, British Columbia, Financial Institutions Commission  
Jim Scalena, Superintendent, Manitoba, Financial Institutions Regulation Branch  
Doug Murphy, Superintendent of Insurance, Credit Unions and Trust and Loan Companies, Nova Scotia, Department of Finance  
Deborah J. McQuade, Superintendent of Insurance, New Brunswick, Department of Justice - Insurance Branch  
Douglas Connolly, Director - Financial Services Regulation Division, Newfoundland And Labrador, Department of Government Services  
Douglas Doak, Superintendent of Insurance, Northwest Territories And Nunavut, Dept. of Finance, G.N.W.T.  
Philip Howell, Chief Executive Officer & Superintendent of Financial Services, Ontario, Financial Services Commission of Ontario  
Robert Bradley, Superintendent of Insurance, Prince Edward Island, Office of the Attorney General  
Danielle Boulet, Surintendante de l'encadrement de la solvabilité, Québec, Autorité des marchés financiers  
Jim Hall, Superintendent of Insurance, Saskatchewan, Saskatchewan Financial Services Commission  
Fiona Charbonneau, Superintendent of Insurance, Yukon, Department of Community Services  
Penny Lee, Director, Federal Government, Office of the Superintendent of Financial Institutions

**The Canadian legal community and judges have failed to serve justice and the public good in the Nortel disabled case. The precedents set in the Nortel bankruptcy case have caused all employer sponsored disability insurance administered by insurance companies to be certain to be unsafe. The Canadian Council of Insurance Regulators now needs to act to change current Provincial and Federal insurance legislation and to promote a change in Federal income tax and bankruptcy legislation in order to protect disabled Canadians from catastrophic financial loss impairing not only their quality of life, but life itself.**

The Conference for Advanced Life Underwriting has published a comprehensive article in September 2011 on Systemic Failure of Disability Insurance within INFOExchange for its members. The CALU members are senior sales representatives and expert advisors to corporations and small businesses on insurance and other employee benefits, and to individuals buying insurance and wealth management products.

### [CALU INFOExchange - Systemic Failure of Disability Insurance in HWTs 2011 Vol 3](#)

It is clear to us the Ontario Courts and the Supreme Court of Canada are not working for the Canadian disabled. Our Federal and Provincial Governments are also not working for the Canadian disabled. Please take the time to read my research report below that provides evidence on the systemic failure of employer sponsored disability insurance, who is responsible for the failure, and what our governments need to do in legislative reforms so as not to be negligent in the protection of its most vulnerable citizens, the seriously ill and injured. 1.1 million Canadian workers are vulnerable to future catastrophic financial loss due to the misrepresentations of employer sponsored disability insurance and the breaches of trust in the withdrawal of money from Health and Welfare Trusts and Employee Life and Health Trusts for expenditures that are not the intended use for the disability insurance reserves in these trusts.

### [Systemic Failure of Employer Sponsored Disability Insurance Updated September 2011](#)

Listen to Peter Burns' CBC interview before his death on May 13, 2011 and reflect upon how the Canadian legal community has lost its way in "Ending the Lives of Canadian Disabled." It is time for the Canadian Council of Insurance Regulators to change this legacy.

### [Ending Lives of Canadian Disabled](#)

The Nortel disabled have serious diseases like, Multiple Sclerosis, Parkinson, Scleroderma, Spinal Injuries and Cancer. What makes this group unique? They bought disability insurance, when they were healthy to ensure that, if they succumbed to illness, their family would be taken care of. They would not become a financial burden to their spouses, parents, children and taxpayers.

It turns out their insurance was phony. Nortel's bankruptcy court proceedings have set the precedent for all employer sponsored disability insurance in Canada to fail. The dissenting Nortel disabled have taken many avenues to fight for justice. They have been beaten down every time. **It took them over a year to find a lawyer, then they watched the Ontario court system not accept the professional opinions of senior and experienced legal, financial and actuarial experts and not enforce the multiple Provincial statutes governing misconduct by suppliers of consumer products and services, and by insurance and trust companies and the common law on constructive trust and breach of trust. Nortel was liquidated and not restructured,**

**and it now has \$10 billion of cash in its global bankruptcy estate. There was not informed consent and no votes permitted on the interim disabled employee settlement that provided just nine months of medical benefits in exchange for a legal release waiving the rights of this group to seek a legal remedy for the misrepresentations, constructive trust and breach of trust in their disability insurance funded by Nortel, administered by Sun Life, and subject to the third party trustee duties of Northern Trust.**

Both the Court of Appeal of Ontario and the Supreme Court of Canada denied hearing appeals of Justice Geoffrey Morawetz's decisions in the Ontario Superior Court of Justice bankruptcy court. One judge's decisions have impaired the employer sponsored disability insurance marketplace and the lives of 360 Nortel disabled former employees and their 160 dependent children, without a review by any appeal court.

Supreme Court of Canada Justice Rosalie Silberman Abella's speech to The Empire Club of Toronto, on not being indifferent to injustice and standing up for the vulnerable, is meaningless to the Nortel disabled group.

**[Toronto Star - Text of speech by Justice Abella Feb. 9, 2011](#)**

On the other hand, Governor General David Johnston's Speech to the Canadian Bar Association 2011 Canadian Legal Conference resonates with them. The National Post quote from his presentation was: "Canada's lawyers and judges are losing sight of their commitments to justice and the public good, and the profession must reform itself and rebuild the trust of ordinary citizens."

**[National Post - Governor General urges lawyers to rebuild public trust Aug. 14, 2011](#)**  
**[Governor General David Johnston Speech - The Legal Profession in a Smart and Caring Nation Vision for 2017](#)**

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