

## ***Successor Liability***

What once was thought to be a well-established principle in Canada, that where two corporations merge, the new, corporation would assume all of the liabilities and obligations of both corporations and all was good right?.....Not so fast. One ability to limit liability may be an asset purchase which is possible and subject to exceptions. However, some of these exceptions are statutory, such as ones that may be found in employment standards, labour relations, and environmental legislation to name a few. Because these exceptions are legislated, it allows the parties to an asset purchase to structure and price the agreement accordingly. However, and less clear, and therefore much more difficult to take into consideration when structuring an agreement such as an “asset purchase” is “successor liability” at common law.

Previously, it was thought that when one company merges or even completes an "asset purchase", that company becomes liable for all prior liabilities of the old corporation that had occurred, However in the decision of the Court of the Queen's Bench of Alberta in

[\*Cooperatieve Centrale Raiffeisen-BoerenleenBank BA \(Rabobank International\) v Liebig & Keown LLP, 2016 ABQB 417 \(CanLII\)\*](#)

Released on July 26 2016, where the court states at (paragrph 26) that thw law is clear;

"The doctrine of successor liability does not apply in Alberta, nor indeed, does it apply in Canada"

So begs the question

***Is this decision the beginning of the end of the successor liability doctrine here in Canada?***