

**Attorneys
Partner**

• Donald S. Zakarin

Litigation Chair Donald Zakarin Quoted by Reuters in Article About BCE Buyout

Donald Zakarin, Chair of Pryor Cashman's Litigation Group, was quoted by Reuters on November 26, 2008 in an article about the floundering \$28.2 billion leveraged buyout of BCE Inc. entitled "BCE faces tough battle against insolvency opinion."

As reported by author Jessica Hall, BCE's accountants, KPMG, had issued a preliminary opinion that the company that emerges after the buyout would not meet a solvency test because of current market conditions and the amount of debt involved in the financing. However, a positive solvency opinion is a condition if the deal is to close on December 11, 2008 as planned and without it, the buyout is unlikely to proceed.

Zakarin was interviewed about BCE's options in the face of the negative KPMG opinion and stated that BCE could try to find another accounting firm to give an independent solvency agreement or launch a legal challenge that KPMG's opinion was flawed. "BCE will likely bring in another consulting accounting firm to evaluate KPMG's assumptions and show they made XYZ errors or incorrect assumptions. There will likely be challenges to the assumptions that KPMG used and potentially challenges to KPMG to re-evaluate its assumptions. Accounting isn't cut and dry. There's more than mathematical rigor involved."

Asked about whether the buyout would go forward without the required opinion, Zakarin responded: ""A solvency opinion is a requirement of closing. Unless someone is willing to waive that requirement, the deal won't close. Especially in this environment, the chances of someone waiving a solvency agreement are slim."

To read the article, please [click here](#).