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<p>DEBT RESTRUCTURING: Principles and Practice John D. Honsberger, Q.C., and Vern DaRe Release No. 3, August 2025</p>
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This work is the authority on reorganization and debt restructuring of insolvent, or near insolvent, commercial and financial institutions, and farmers in Canada. Included is a critical discussion of the history, theory and purpose of the debt restructuring process. Also included are discussions on drafting and an interpretation of the *Bankruptcy and Insolvency Act* (BIA) and the *Companies’ Creditors Arrangement Act* (CCAA). Together this provides an in-depth and overall analysis and understanding of what’s on the line during the debt restructuring process.

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What's New in this Update

Release No. 3 features updates to the case law and commentary in Chapter 5 (Legal Issues) and Chapter 9 (Arrangements Under the Companies' Creditors Arrangement Act).

Highlights

● **CHAPTER 5—LEGAL ISSUES**—Reverse vesting transactions are now recognized restructuring vehicles embraced by Canadian courts, and director releases are integral to the viability of these transactions. The court has authority under section 11 of the CCAA to grant releases in favour of directors. The legal test set out in the cases with respect to director releases are the following five factors: (1) whether the parties to be released were necessary to the restructuring of the debtor; (2) whether the claims to be released are rationally connected to the purpose of the restructuring and necessary for it; (3) whether the restructuring could succeed without the releases; (4) whether the parties being released contributed to the restructuring; and (5) whether the releases benefit the debtors as well as the creditors generally.

● **CHAPTER 9—ARRANGEMENTS UNDER THE COMPANIES' CREDITORS ARRANGEMENT ACT**—As to the social stakeholders that opposed the CCAA Plans and recommended changes to the plans at the sanction hearing, in which there was otherwise widespread support for the plans, the Court was of the view that such recommendations must be approached with great caution. In particular, the Court held in *Imperial Tobacco Canada Limited* (2025), 17 C.B.R. (7th) 224, 2025 CarswellOnt 2810, 2025 ONSC 1358, 2025 A.C.W.S. 1267 (Ont. S.C.J.) at para. 160 that the “court’s role in determining what is fair and reasonable for purposes of sanctioning a plan of arrangement does not extend to amending or rewriting the CCAA Plans to incorporate the concerns of social stakeholders, notwithstanding how laudable those concerns may be.” In *Teal-Jones Group (Re)*, 2025 CarswellBC 1399, 2025 BCSC 861 (B.C. S.C.), at para. 130, the Court noted that while the more generalized concerns of social stakeholders can be considered, the court must approach such concerns with some caution if addressing such concerns amounts to detracting from the statutory objectives in the CCAA.