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<p>DEBT RESTRUCTURING: Principles and Practice John D. Honsberger, Q.C., and Vern DaRe Release No. 3, June 2024</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 case law and commentary in Chapter 8 (Proposals Under the Bankruptcy and Insolvency Act), Chapter 9 (Arrangements Under the Companies' Creditors Arrangement Act) and Appendix WP (Words and Phrases)

Highlights

● **Preliminary Procedures and Legal Issues — Arrangements Under the Companies' Creditors Arrangement Act — Assignment of Agreements** — The courts have recognized that an application under s. 11.3 of the CCAA to approve an assignment requires a balancing of competing interests including the debtor, creditors and contract counterparties: *In the Matter of a Plan of Arrangement of UrtheCast Corp.*, 2021 BCSC 1819 (B.C. S.C.) and *Donnelly Holdings Ltd. (Re)*, 2024 BCSC 275 (B.C. S.C.)

● **Preliminary Procedures and Legal Issues — Proposals Under the Bankruptcy and Insolvency Act** — The Court held that the lockout step by the creditor was a continuing remedy or “other proceeding” that fell within the scope of the section 69(1)(a) stay and that the creditor’s actual or possible secured creditor status made no difference in the circumstances. As a result, the lockout step, commenced before the NOI stay began, was a continuing collection remedy and was stayed when the NOI was filed according to the Court. Continuing the lockout after the filing of the NOI, therefore, was a breach of the stay: *Blade Energy Services Corp (Re)*, 2024 ABKB 100 (Alta. K.B.)