

UPDATE: BARAFIELD REALTY LTD. V. JUST ENERGY (B.C.) LIMITED PARTNERSHIP

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On October 7, 2015, the British Columbia Court of Appeal reversed the Supreme Court of British Columbia's decision in *Barafield Realty Ltd. v. Just Energy (B.C.) Limited Partnership* ["**Barafield Realty**"].^[1] In July of 2014, we wrote the attached bulletin <http://www.mcmillan.ca/Assigning-contracts-in-Canadian-insolvency-proceedings> on the lower court decision. Our bulletin discusses the importance of notice and the court's jurisdiction to approve assignments in proceedings under the *Companies' Creditors Arrangement Act* ("**CCAA**").^[2] The Court of Appeal overturned the lower court's decision on the grounds of a lack of privity of contract between the plaintiff and the assignee. The Court of Appeal specifically affirmed the trial judge's finding that the CCAA Court's vesting order did not waive the requirements of consent or notice, which was analyzed in our earlier bulletin.

by Adam C. Maerov and Mitchell R. Allison

[1][ps2id id='1' target='/'] *Barafield Realty v Just Energy (B.C.) Limited Partnership*, 2014 BCSC 945, [2014] BCWLD 4177, rev'd in part 2015 BCCA 421, [2015] BCWLD 7694.

[2][ps2id id='2' target='/'] Adam Maerov & Mitchell Allison, "Assigning Contracts In Canadian Insolvency Proceedings" (2014), 26:6 Commercial Insolvency Reporter 63.

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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