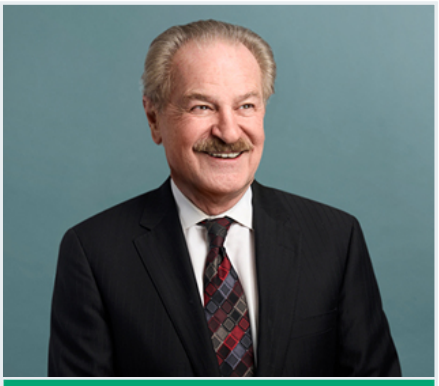
burns fitzpatrick



CONTACT

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DENNIS **FITZPATRICK***

Partner

Dennis Fitzpatrick advises commercial clients based on the applicable law, both in the boardroom and where necessary, in the courtroom. Many transactions require court supervision of disputes as to commercial rights or to establish priorities where there is inadequate value to satisfy all claims. A consideration of both the in court and out of court alternatives permits clients to examine their rights from both perspectives.

Dennis represents banks, secured lenders, franchisors, landlords and other commercial entities in enforcing their rights, often against insolvent debtors. Timely enforcement of creditors' rights in foreclosure and under the Personal Property Security Act is the foundation of the practice. Dennis represents insolvent debtors in restructuring transactions against their creditor groups. Dennis recognizes that commercial insolvency is real time litigation in the sense that a business is ongoing and creditors' realizations are maximized with the continuation of a business. Timing of enforcement is key to recovery. Value may be preserved or enhanced by the manner in which the business is continued. The requirements of business operation to the community, employees and the principals of the debtor are paramount considerations in strategic enforcement. Accordingly, asset protection and realization are driven by legal principles and strategic action applied together.

Dennis has established relationships with the special loans groups in major banks and with many trustees in bankruptcy in their capacity as trustee, receiver or consultant. Dennis has acted for many chartered banks. Currently, Dennis acts for BDC, RoyNat and CIBC.

Dennis has also acted for landlords and tenants in lease disputes and participated in Companies Creditors Arrangement Act restructurings starting in 1982 with the early proceedings for the debt restructuring of Daon Development Corp. Those attendances have continued to the present when he as acted on the restructuring of Interac Forest Products, Pacific Shores;, League Assets Corp., the Falls and Sandhills Golf Courses, Baldy Ski Resort and Yukon Zinc. Dennis also acts as independent counsel for receivers and trustees in commercial insolvencies.

PRACTICE AREAS

Business

- Business and Corporate
- Commercial Litigation
- Insolvency
- Real Property

EDUCATION

- LLB, University of British Columbia (1980)
- BA, University of British Columbia (1977)
- Advanced Commercial Mediation (1991)

BAR LOCATIONS

- British Columbia (1981)

* Practicing through a Law Corporation

As a senior member of the Vancouver Insolvency Bar, he has been a partner with the firm since 1990. Completing articles at Clark Wilson in 1981, he was introduced to the downturn in the 1980's which strongly influenced the legal principles which now govern debt enforcement.

Dennis and his colleagues also act as the registered office to a wide variety of companies, from startups to established businesses and in that context offers commercial advice on all aspects of business and, in particular, on purchase and sale transactions.

Work Highlights

- Yukon Zinc Corporation (Re), 2015 BCSC 836
- League Assets Corp (Re), 2015 BCSC 42
- Biosource Power Inc. v. Cedarhurst Forestry Products Ltd., 2013 BCSC 1932
- LLS America LLC (Trustee of) v. Grande, 2013 BCSC 1745
- Pacific Shores Resort & Spa Ltd. (Re), 2011 BCSC 1775
- MacMillan v. Northstar Tool Corporation, 2009 BCSC 148
- The Consumers' Association of Canada v. Coca-Cola Bottling Company et al, 2007 BCCA 356
- The Consumers' Association of Canada et al v. Coca-Cola Bottling Company et al, 2006 BCSC 863
- PD Management Ltd. v. Chemposite Inc., 2006 BCCA 489

Publications

- Liability for Exercising Management or Control of Borrowers by Lenders and Their Agents, National Creditor/Debtor Review, January 1991, Vol 6. No1
- Bankruptcy and Family Law, CLE Family Law Conference 1995
- Commercial Lease Enforcement and Collection, Lorman Education Services, October 2006
- Insolvency Practice, Update 1998
- Collections for the Building Trades, March 2, 1997
- Collections and Recovery: A One Day Seminar, Vancouver Credit Bureau, November 15, 1995
- Creditors Remedies in B.C., CLE, November 20, 2001

Associations and Memberships

- Former Chairman and Program Director, Insolvency Subsection, Canadian Bar Association, BC Branch
- Occasional Lecturer on debtor and creditor remedies for the Continuing Legal Education Society of BC and creditor's groups
- Founding Board Member, Mulgrave School
- Board Member, Vancouver Community College Educational Foundation
- Former PADI Scuba Diving Instructor, Marine Technology Highline Community College
- Arbitrator, British Columbia Arbitration & Mediation Institute November (2008)