



Healthcare, Retail, Energy to Fuel Restructurings

The healthcare, retail and energy sectors will be the most active for out-of-court restructurings through the end of 2017.

By [Kirk O'Neil](#)

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Uncertainty with the Affordable Care Act and rising costs will prompt more out-of-court restructurings in the healthcare industry, while the retail and energy sectors will have a steady flow of restructurings through the end of the year, according to restructuring attorneys and advisers.

Earlier in the year, attorneys and advisers had thought uncertainty with the ACA would prompt a rise in healthcare industry out-of-court-restructurings but backed off on those predictions as the second quarter came to a close.

After the [U.S. Senate](#) in July rejected legislation to repeal the ACA, some attorneys and advisers believe the uncertainty has returned, which could prompt more restructurings.

"I'm predicting we'll see an increase in distress with regard to healthcare practices as they receive lower Medicare and Medicaid reimbursements from the federal government," said Ted Gavin, co-founder of bankruptcy and restructuring adviser [Gavin/Solmonese LLC](#). "The problem with the Affordable Care Act is there is too much uncertainty. As insurers exit the market, the healthcare practices take it on the chin."

Rural and inner-city hospitals will be the most impaired by patients who cannot pay for care, Gavin said.

"The rural hospitals will have the greater loss factor from unrecouped non-payment of healthcare costs," Gavin said.

However, [Michael Eisenband](#), global co-leader of corporate finance & restructuring at [FTI Consulting Inc.](#), said overall rising costs of healthcare will be the primary reason for increased out-of-court restructurings in the healthcare industry.

"I think you'll see assisted living facilities, nursing homes and hospitals seeking out-of-court restructurings, not from uncertainty with the Affordable Care Act, but because of low reimbursements from Medicare and Medicaid. The healthcare industry must get its cost structures in line," Eisenband said.

Some notable out-of-court restructurings in the healthcare industry in the second quarter of 2017 included [Valeant Pharmaceuticals International Inc.](#), which has been selling off assets to pay down about \$29 billion in debt. [Aurora Diagnostics Holdings LLC](#) in April launched a debt exchange for about \$200 million in senior notes as it sought to restructure about \$390 million in debt.

Competition from [Amazon.com Inc.](#) and other online retailers will trigger more out-of-court restructurings for brick and mortar retailers through the end of the year, according to restructuring attorneys and advisers.

"You're still going to see brick and mortar retailers trying to adapt to online retailers," said [Robin Phelan](#), bankruptcy attorney at Robin Phelan Law. "They will try to renegotiate leases and try to develop an online presence, which might not necessarily be their skill set."

"We don't see an end to retail out-of-court restructurings in the near future," Eisenband said. "We think it's going to continue for several years."

Retail distress will result in more out-of-court restructurings in the commercial real estate sector, particularly for owners of regional malls and shopping centers who are losing tenants, according to attorney [Steven D. Jerome](#) of [Snell & Wilmer LLP](#).

"I just had three transactions where borrowers surrendered malls back to banks because they couldn't make their loan payments," Jerome said. "What we're not seeing is mall owners going into Chapter 11 and trying to fight to keep their property."

Some of those mall tenants were seeking out-of-court restructurings in the second quarter of 2017, including [J. Crew Group Inc.](#) and Eddie Bauer. J. Crew completed a restructuring of debt that included a \$566 bond exchange and restructuring of a \$1.5 billion term loan.

Eddie Bauer in June was exploring strategic alternatives to restructure a \$225 million secured term loan and \$200 million revolving line of credit.

The energy sector will continue to have distress, resulting in out-of-court restructurings, but not on the same scale as in 2016.

"We're still seeing a high level of out-of-court activity in the energy space," said attorney [Stephen Pezanosky](#) of [Haynes & Boone LLP](#). "We're seeing oil and gas, power and coal companies still under distress.

"After oil prices rebounded earlier in the year to over \$50 a barrel, the industry began to recover. But prices seemed to have dropped again," Pezanosky said.

Some of the more prominent energy sector out-of-court restructurings in the second quarter included coal company Armstrong Energy obtaining a forbearance agreement after missing an \$11.75 million interest payment and offshore oil rig contractor [Seadrill Ltd.](#) working to restructure \$9 billion in debt.