The Cramdown

Newsletter for the Tampa Bay Bankruptcy Bar Association

Fall 2026

Cover Art By Heather Hauser

President's Message

Angelina Lim
Johnson, Pope, Bokor, Ruppel & Burns, LLP

Welcome back to another year with the TBBBA. Our new year had a successful start with the investiture of Judge Rivera shortly after our TBBBA Annual Dinner. We look forward to having him on the bench and part of our community in a different role. As our country has just hosted part of the 2026 FIFA World Cup, I realized that meeting people brings joy and harmony. In that vein, I look forward to engaging all of you in our membership activities. I know we have busy schedules and our practice area is on the upswing. However, there's still time to mingle with our colleagues, catch up with each other, and to strengthen our bond and learn from each other in our bankruptcy community. This is the main goal for this TBBBA year – encouraging participation and social connection in our community…..and for all of us to reap the benefits from that thereafter.

The other TBBBA goal is encouraging pro bono volunteers. I know it's been said many times before, but I cannot stress this enough. These are stressful financial times for many members of our community. Please consider volunteering for our pro bono clinics. Taylor Petrie is the chair of pro bono this year and we would greatly appreciate your help. For those who heard Mike Markham, my partner, in his recorded video acceptance speech for the Don M. Stichter Award for Exceptional Service, he is willing to assist those who step up as a volunteer. In addition to the pro bono clinics, TBBBA, in conjunction with the other bar associations, will participate for the first time in the Senior Financial Literacy Program. We're excited to be part of this very much needed education program for our elderly population in the Tampa Bay area. You can volunteer for this program by contacting Jeff Schlert at jeffrey.schlerf@stinson.com.

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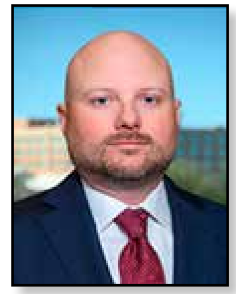

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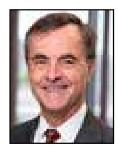

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In This Issue

We look forward to the re-scheduled Honorable Michael G. Williamson portrait unveiling ceremony coming up on November 4, 2026, at the Tampa River Center, 402 W Laurel St, Tampa FL, 33602, starting at 5 p.m. We hope to see you there.

To the firms who are sponsors of the TBBBA this year, our very special thanks. The association would not be able to carry out some of our activities without your generous assistance. We look forward to the CLEs, Happy Hours and other educational and fun-filled activities. If your firm is not a sponsor, please consider doing so.

We just celebrated our 250th Independence Day for USA, I also realized our association has a longer history than many of you may know. TBBBA has 38 years of its own rich history as well. It started in 1988 and some of you may not even have been born yet. Leonard Glibert was the Chairperson and Don Stichter was the first president. The logo of TBBBA is a broken bench and adopted because it is generally accepted that the word "bankrupt" comes to us from the roman practice of lending. Roman "banks" were benches or tables (bancus) on which the early money lenders would do their business. When a banker failed the bench was broken (ruptus) to signify that he was no longer in business.[1] We, as a board, are committed to our association's historical objectives - assisting in creating an enviable professional camaraderie despite our adversarial positions in cases. This we hope to accomplish by meeting your educational and networking needs. In exchange, we hope you will participate in this association as well as a volunteer for pro bono and other civic services. Individually and as an organization, we will all benefit from your participation.

1 AI generated definition – I made no independent verification but many prior board members also told me the same.

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At Your Service: Perfecting the Art of Excellent Certificates of Service

By Kathleen L. DiSanto,
Bush Ross, P.A.

Hon. Luis E. Rivera II[1],
United States Bankruptcy Court for the Middle District of Florida

The Bankruptcy Code speaks extensively of notice and a hearing, as the phrase appears in the Code in more than 80 instances. Indeed, notice and service are more than just pixie dust—"[p]roper notice and service is the touchstone of bankruptcy practice."[2] The advisory committee's notes to Federal Rule of Bankruptcy Procedure 1007 underscore that "[n]otice to creditors and other parties in interest is essential to the operation of the bankruptcy system."[3] It is fundamental to ensuring the due process requirements of the Bankruptcy Code and Bankruptcy Rules are carried out, as "[u]nlike in a civil action where process must be formally served before a party may be entitled to relief, in bankruptcy cases debtors, creditors, and other interested parties can often achieve extraordinary relief by providing simple notice by mail or through the Court's CM/ECF filing system of their intended action."[4] As bankruptcy courts often act on compressed time frames, "the notice requirements of due process should continue to counter-balance a bankruptcy proceeding's expeditiousness."[5]

Thus, certificates of service are an opportunity for advocacy—to demonstrate to the Court that appropriate notice to parties has been provided. While often an afterthought for many attorneys, certificates of service deserve the same attention and care as the rest of the paper. And crafting the perfect certificate of service is easy if you know the secrets of CM/ECF.

A good certificate of service answers the questions who, what, where, and how. It clearly states the paper being served, who was served with the paper, the mailing or email address where the paper was served, and the means of service (CM/ECF, email, or mail). It is not sufficient to simply state that the paper was served on all registered CM/ECF users.

Bankruptcy Rule 9036(b)(1) permits service to be made on registered users through the CM/ECF system. But simply stating that the paper was served on all parties who receive notice via CM/ECF with nothing more may not be sufficient or may leave a lawyer in the untenable position of being able to consult only the certificate of service to determine who was served and the manner of service.

It is easy to determine the parties who received service via CM/ECF, and with a few clicks of the mouse and a cut and paste, a certificate of service can specifically identify who received service via CM/ECF.

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1 This article is presented as an academic paper and does not express any opinions or positions regarding any issues that may arise, or any parties that may appear, in any cases before Judge Rivera.
2 *In re Kuzniar,* Case No. 24-12793-SMG, 2025 WL 1911388, at *2 (Bankr. M.D. Fla. July 10, 2025) (citing *In re Wilcox*, 463 B.R. 143 (B.A.P. 10th Cir. 2011)).
3 Fed. R. Bankr. P. 1007, Advisory Committee Notes (2005).
4 *Kuzniar*, 2025 WL 1911388, at *2.
5 *In re Carlo*, 392 B.R. 920, 922 (Bankr. S.D. Fla. 2008).

At Your Service

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First, click Utilities from the ribbon menu.

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Enter your case number and select your case to generate the list.

Mailing Information for Case 8:26-bk-00085-CED

Electronic Mail Notice List

The following is the list of **parties** who are currently on the list to receive email notice/service for this case.

- **Carolyn S Crichton** ccrichton@southmilhausen.com, elaluz@southmilhausen.com
- **Kathleen DiSanto** kdisanto@bushross.com, bnkecf@bushross.com;bankruptcy.eservice@bushross.com;kdisanto@ecf.courtdrive.com
- **Ryan J. Mittauer** rmittauer@thelilesfirm.com, aperry@thelilesfirm.com
- **Ruediger Mueller** trustee@tcmius.com, crm11@trustesolutions.net
- **United States Trustee - TPA** USTPRegion21.TP.ECF@USDOJ.GOV
- **Nathan A Wheatley** nathan.a.wheatley@usdoj.gov

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 9, 2026, I electronically filed a true and correct copy of the foregoing *Debtor's Emergency Motion to Pay Prepetition Claims of Independent Contractors* with the Clerk of the United States Bankruptcy Court for the Middle District of Florida by using the CM/ECF system, which sent automatic email notices of electronic filing to all parties indicated on the electronic filing receipt, and I furnished a copy of the foregoing document(s) to the following parties in the manner of service indicated below:

Via the CM/ECF system which will send a Notice of Electronic Filing to:

- **Ruediger Mueller** trustee@tcmius.com, crm11@trustesolutions.net
- **United States Trustee - TPA** USTPRegion21.TP.ECF@USDOJ.GOV
- **Nathan A Wheatley** nathan.a.wheatley@usdoj.gov
- All parties who receive electronic service via the CM/ECF system

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CFG Merchant Solutions, c/o Bill Gallagher, President, 180 Maiden Lane, Floor 15, New York City, NY 10010

CFG Merchant Solutions, c/o The Law Office of Jason Gang, Attn: Jason Gang, P.O. Box 478, Hewlett, NY 11557-0478

CT Corporation System, as Registered Agent, 330 N. Brand Blvd., Suite 700, Attn: SPRS, Glendale, CA 91203

The LCF Group, Inc., 3000 Marcus Avenue, Suite 2W15, Lake Success, NY 11042

The LCF Group, Inc. c/o Andy Parker, CEO, 411 Hempstead Tpke, Suite 101, West Hempstead, NY 11552

U.S. Small Business Administration, 2 North Street, Suite 320, Birmingham, AL 35203

U.S. Small Business Administration, c/o Kelly Loeffler, Administrator, 409 3rd Street SW, Washington, D.C. 20416

U.S. Attorney's Office, Attn. Civil Process Clerk, 400 N. Tampa St., Suite 3200, Tampa, FL 33602-4798

Pam Bondi, Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Ave. NW, Washington D.C. 20530

All Parties listed on the attached Local Rule 1007-2 Parties in Interest Matrix who did not receive service electronically via the CM/ECF system

Via first class United States Mail, postage prepaid, and via certified mail, return receipt requested, to:

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First Home Bank, c/o Anthony N. Leo, CEO, 700 Central Avenue, St. Petersburg, FL 33701

Heritage Bank, c/o Lee Scheben, President, 1818 Florence Pike, Burlington, KY 41005

Regions Bank, c/o John M. Turner, Jr., President, 1900 Fifth Avenue North, Birmingham, AL 35203

Transportation Alliance Bank, Inc., c/o Tyler Heap, President, 4185 Harrison Blvd., Ste. 200, Ogden, UT 84403

Via e-mail to:

Corporation Service Company, as Representative (uccsprep@cscglobal.com)

The LCF Group., Attn: Carol Mcdonald, Collection Agent (cmcdonald@thelcfgroup.com)

Regions Bank, Patrick Amoaku (patrick.amoaku@regions.com)

Regions Bank, Richard Rowsey (richard.rowsey@regions.com)

/s/ Kathleen L. DiSanto
ATTORNEY

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Then, under the Case Information Reports header, select Docket Report.

Reports

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CM/ECF INFORMATION

Calendar Reports
341 Meeting Calendar
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Case Activity Reports
Claims Activity
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Case Information Reports
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Enter your case information, but be sure to click the radio button for including links to electronic notices of filing.

Docket Sheet

Case number 8:26-bk-85
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Documents to

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Links to Notices of Electronic Filing
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Document options:
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Sort by Oldest date first

Run Report Clear

Run the report, and then click on the sphere before the docket number on the docket report.

01/23/2026	38 (2 pgs)	Order Granting Motion To Extend Deadline to File Schedules and Statements (Related Doc # 37) 01/23/2026)

Next, select HTML version as the receipt type, click display receipt, and then print to PDF.

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Select Receipt Type.

(•) Html Version
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Do not notice for BK case:

Message-Id:<94850613@flmb.uscourts.gov>
Subject:8:26-bk-00085-CED Order on Motion to Extend Deadline to File Schedules, Statements, Plans
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U.S. Bankruptcy Court

Middle District of Florida

Notice of Electronic Filing

The following transaction was entered on 1/23/2026 at 10:26 AM EST and filed on 1/23/2026
Case Name: Credit Suite Inc.
Case Number: 8:26-bk-00085-CED
Document Number: 38

Docket Text:
Order Granting Motion To Extend Deadline to File Schedules and Statements (Related Doc # [37]) Service Instructions: Kathleen DiSanto is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of entry of the order. (Brenton)

The following document(s) are associated with this transaction:

Document description: Main Document
Original filename: Credit_Suite_order.pdf
Electronic document Stamp:
[STAMP bkecfStamp_ID=1021488240 [Date=1/23/2026] [FileNumber=94850611-0] [1c38478eb4dd979ce05b65eb3d1d66c28420631eb03c8a0fbc6ccf80eae05fa942371c07872f64aea6b45659874d528bf8f4cec216fc1195b7ef0a59fec9da6d]]

8:26-bk-00085-CED Notice will be electronically mailed to:

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ccrichton@southmilhausen.com, elaluz@southmilhausen.com

Kathleen DiSanto on behalf of Debtor Credit Suite Inc.
kdisanto@bushross.com, bnkecf@bushross.com;bankruptcy.eservice@bushross.com;kdisanto@ecf.courtdrive.com

Ryan J. Mittauer on behalf of Creditor BayFirst National Bank
rmittauer@thelilesfirm.com, aperry@thelilesfirm.com

Ruediger Mueller

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At Your Service
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As Judge Grossman explained in his *Kuzniak* opinion,

> [a] certificate of service is important. It is not some after-the-fact box to check after filing amotion. Failure to provide proper notice has serious consequences and repercussions, including the possibility that creditors who did not receive adequate notice may not be bound by the relief granted. The Court expects counsel to provide the same attention and care to certificates of service as to the substantive relief being requested. Failure to do so could come back to bite one's client in the future.[6]

So do yourself and your clients a favor—do not make it guessing game for the court or any party in interest to determine who was served and the manner of service.

All Is Not Lost: A Case Study in Selling a Chapter 7 Small Business as a Going Concern

By Noel R. Boeke,
Holland & Knight LLP

Ethan T. Ghozali,
J.D. Candidate '27,
University of Florida Levin College of Law

Ever watch an Olympic swimmer come up from behind? When the United States Bankruptcy Court for the Middle District of Florida converted AquaServ Pool Service Inc. ("*AquaServ*") from chapter 11 to chapter 7 earlier this year, it would have been easy to assume the race was over. The company's tangible assets were worth perhaps $25,000 at liquidation. Twenty-one employees faced imminent unemployment. For most chapter 7 cases, that would be the end: a sale of physical assets and a modest distribution to creditors.[1]

But this case took a different path. Through the authority granted by the Court pursuant to 11 U.S.C. §§ 721 and 363, AquaServ's chapter 7 trustee, Carolyn R. Chaney, orchestrated something unusual. She entered into an interim management agreement with a potential purchaser, conducted a competitive sale process that yielded an additional bidder, and ultimately closed the sale of the business as a going concern for $402,000.

Chapter 7 Conversion and Authority to Operate

AquaServ is a pool services company that provides pool cleaning, maintenance, and repair services for residential and commercial customers in St. Petersburg, Florida. On November 8, 2025, the company filed for chapter 11 bankruptcy, but on May 8, 2026, the Court converted the case to chapter 7.

Typically, the duty of a chapter 7 trustee is to cease the debtor's business and distribute liquidated assets to creditors.[2] However, section 721 provides that "[t]he court may authorize the trustee to operate the business of the debtor for a limited period, if such operation is in the best interest of the estate and consistent with the orderly liquidation of the estate."[3] Under section 363(b)(1), after notice and a hearing, the trustee may also "use, sell, or lease, other than in the ordinary course of business, property of the estate."[4]

Most chapter 7 trustees, understandably focused on liquidation, do not risk continuing operations and selling a business as a going concern. Indeed, there are several potential detriments to operating a business in chapter 7 bankruptcy: appointment of a trustee may cause a default in various business relationships, and customers may take their business elsewhere out of concern that the trustee will lose key personnel or fail to operate the business effectively.[5]

Here, however, Chaney recognized that the conditions were right to harness sections 721 and 363. Prior to conversion, another company, First Class Pools Holdings, LLC ("First Class Pools"), had submitted a letter of intent to purchase the assets of AquaServ.

The Stalking Horse and Auction

Just days after conversion, Chaney filed a motion to operate AquaServ pursuant to an interim management agreement among First Class Pools, AquaServ's former president, and Chaney in her capacity as trustee. First Class Pools would assume overall management responsibility and cure salary obligations, while AquaServ's former president would handle day-to-day operations. Although she was out of town, the Honorable Catherine Peek McEwen recognized that time was of the essence and entered an interim order ex parte authorizing Chaney to operate the business pending further expedited hearing.

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1 The duty of the chapter 7 trustee is to "collect and reduce to money the property of the estate for which such trustee serves, and close such estate as expeditiously as is compatible with the best interests of parties in interest." 11 U.S.C. § 704(a)(1).
2 11 U.S.C. § 704(a)(1).
3 *Id.* § 721.
4 *Id.* § 363(b)(1).
5 John C. DiDonato et al., *Alternatives to Chapter 11: Receiverships, Operating 7s, Mortgage Trusts and More*, 070614 Am. Bankr. Inst. 161 (2007).

Save the Date

For more information, including dates, details, and registration, visit the TBBBA's website at www.tbbba.com/calendar

October 6, 2026
Consumer CLE Luncheon

October 13, 2026
CLE Luncheon

November 3, 2026
Consumer CLE Luncheon

November 4, 2026
The Portrait Unveiling of Michael G. Williamson

November 5, 2026
View From The Bench

November 10, 2026
2026 CLE Luncheon

December 1, 2026
Consumer CLE Luncheon

All Is Not Lost

Subsequently, Judge McEwen entered a final order allowing Chaney to operate the business. She then authorized bid procedures and a stalking horse asset purchase agreement between Chaney and First Class Pools. Chaney then went to work to find a second bidder on short notice. Using generative AI, Chaney marketed the company to trade associations in the pool services industry. A second qualified bidder emerged which ultimately helped double the net stalking horse offer. First Class Pools acquired AquaServ as a going concern, and both the business and its workforce were preserved.

Takeaways

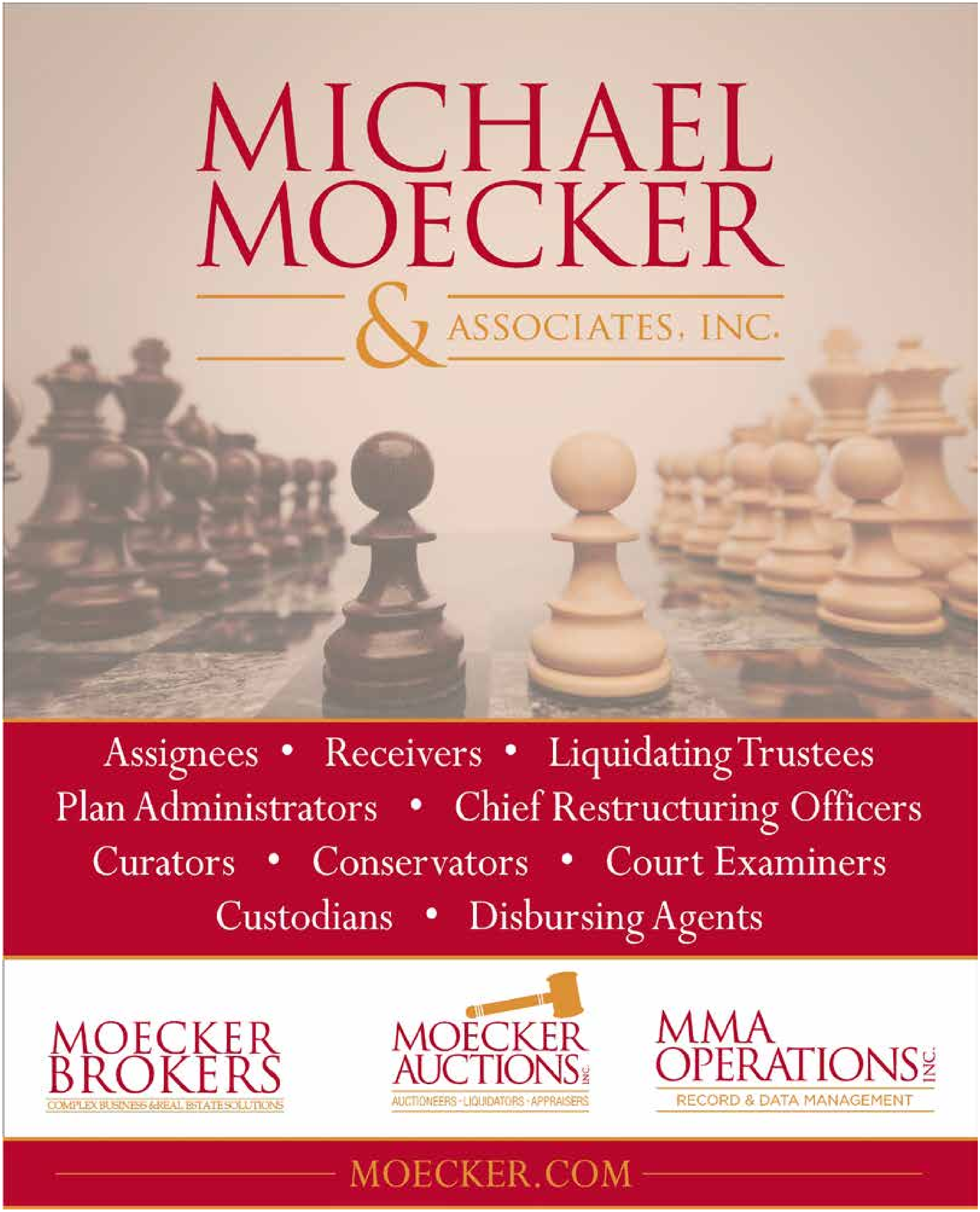
This case study offers several practical lessons:

First, section 721 can be a powerful tool under the right circumstances in a chapter 7 bankruptcy. Trustees should consider whether a period of continued operations could bridge the gap to a value-maximizing sale. When conditions are right, such as when there is already an interested "tire kicker" or an industry-specific business broker with an inventory of potential buyers, continuing operations may lead to a going concern sale—netting more for creditors and saving jobs.

Second, creative structuring can help to eliminate risk. Here, the interim management agreement made continued operations feasible by shifting payroll and management costs to First Class Pools, while allowing AquaServ to continue serving customers. By moving quickly via expedited motions, Chaney was able to keep the business operating, preserve twenty-one jobs, continue serving customers without interruption, and create a more robust distribution to creditors.

Thus, even in chapter 7, all is not lost. Under the right conditions—with a proactive trustee, resourceful counsel, and a judge willing to hear expedited motions—a chapter 7 case can be the vehicle through which a business finds new life under new ownership while unlocking substantial value for the estate.

6 *Executive Office for U.S. Trustees, U.S. Dep't of Justice, Handbook for Chapter 7 Trustees*, 4-30 (2012) ("Section 721 allows a trustee to sell the business as a going concern . . . . [C]ontinued operation of the debtor's business may be authorized when it appears that the debtor's business can be sold for a greater price as a going concern.").
7 For example, "We Sell Restaurants" is a business broker franchise focused on the food service industry.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Annual Golf Tournament • May 1

Annual Installation Dinner • June 9

America250 celebrations • June 10 and July 1

Investiture of Judge Luis E. Rivera, II • June 12

Conversation with Judge Craig A. Pugatch • June 12

MIDDLE DISTRICT OF FLORIDA
BANKRUPTCY PRO SE ASSISTANCE CLINIC
JUNE 2026 STATISTICS

Notices Issued to Pro Se Parties

2022	**Jacksonville**	**Orlando**	**Tampa**	**Ft. Myers**
TOTAL:	69	152	155	13

Total Notices Issued District-Wide in 2022: 389

2023	**Jacksonville**	**Orlando**	**Tampa**	**Ft. Myers**
TOTAL:	270	580	534	72

Total Notices Issued District-Wide in 2023: 1,456

2024	**Jacksonville**	**Orlando**	**Tampa**	**Ft. Myers**
TOTAL:	324	638	660	69

Total Notices Issued District-Wide in 2024: 1,691

2025	**Jacksonville**	**Orlando**	**Tampa**	**Ft. Myers**
TOTAL:	392	849	882	92

Total Notices Issued District-Wide in 2025: 2,215

2026	**Jacksonville**	**Orlando**	**Tampa**	**Ft. Myers**
January	57	87	114	13
February	40	91	98	13
March	52	114	136	10
April	52	104	134	9
May	54	88	102	21
June	50	117	129	15
TOTAL:	305	601	713	81

Total Notices Issued District-Wide in 2026: 1,700

IN-PERSON PRO SE CLINIC APPOINTMENTS
ATTORNEY VOLUNTEERS

TAMPA

Jeffrey Schlerf
Katelyn Vinson
Melanie Foley
Nicole Noel
Peter Zooberg
Taylor Petrie

Number of Virtual Pro Se Clinics Held

2022		2023		2024		2025		2026	
Sep =	21	Jan =	42	January =	60	January =	83	January =	131
Oct =	24	Feb =	52	February =	45	February =	83	February =	116
Nov =	21	Mar =	35	March =	32	March =	105	March =	122
Dec =	21	Apr =	30	April =	33	April =	95	April =	130
TOTAL:	87	May =	46	May =	43	May =	67	May =	148
		Jun =	42	June =	93	June =	97	June =	139
		Jul =	40	July =	52	July =	101	July =	
		Aug =	51	August =	73	August =	104	August =	
		Sep =	52	September =	77	September =	94	September =	
		Oct =	37	October =	63	October =	85	October =	
		Nov =	29	November =	68	November =	101	November =	
		Dec =	36	December =	43	December =	102	December =	
		TOTAL:	492	TOTAL:	682	TOTAL:	1,117	**TOTAL:**	**786**

Total Number of Virtual Pro Se Clinics Held to Date: 3,164

Number of Pro Se Parties Signed Up for Clinic

2022		2023		2024		2025		2026	
Sep =	29	Jan =	30	January =	65	January =	89	January =	131
Oct =	28	Feb =	54	February =	48	February =	90	February =	124
Nov =	21	Mar =	40	March =	32	March =	116	March =	132
Dec =	24	Apr =	41	April =	33	April =	99	April =	143
TOTAL:	102	May =	36	May =	44	May =	74	May =	159
		Jun =	44	June =	99	June =	104	**June =**	**152**
		Jul =	37	July =	54	July =	111	July =	
		Aug =	37	August =	78	August =	108	August =	
		Sep =	44	September =	85	September =	105	September =	
		Oct =	31	October =	77	October =	101	October =	
		Nov =	31	November =	78	November =	111	November =	
		Dec =	39	December =	60	December =	119	December =	
		TOTAL:	464	TOTAL:	753	TOTAL:	1,227	**TOTAL:**	**841**

Total Number of Pro Se Parties Signed Up for Clinic to Date: 3,387


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By Christie Arkovich
info@christiearkovich.com

We are now past the July 1, 2026 date where the Working Families Tax Cuts Act takes effect and a lot has changed for the federal student loan repayment system.

The notices are the result of the Department of Education ("ED") ending the SAVE plan, a Biden-era income driven repayment program that has been bogged down in lawsuits over the past several years. Borrowers who have remained on a SAVE forbearance where no payment was due will be in for quite a shock when new payment notices are issued.

There are still around six million borrowers on a SAVE forbearance. Most servicers started sending out 90-day notice letters starting July 1 – but Nelnet is reporting that it will not be able to send these notice letters until March 2027. If that is your client, there is the possibility that some people will be able to stay in a SAVE forbearance until the summer of 2027.

What does this 90-day notice mean?
Basically, a borrower has 90 days to choose a repayment plan. For loans dated prior to July 1, 2026, the old Income Driven Plans will remain available for two additional years. If no plan is chosen, ED will automatically place the loan(s) into the Tiered Standard Repayment Plan and the monthly payment may skyrocket, depending upon how much is owed.

The loans will not automatically remain in forbearance. When choosing a repayment plan, do not assume the servicer will make the best choice. Doing nothing is a short-term (and short-sight ed) solution – defaulting on a federal student loan will result in 25% added to the balance, bad credit, tax refund seizure, and mandatory wage garnishment or social security offset.

What should you do now?
Log into Studentaid.gov, confirm your contact information, identify your deadline, and compare your options using the Repayment Calculator.

Consolidation:
First, anyone who has not completed a consolidation prior to July 1, 2026, probably should not consider a consolidation right now. Any new loans after July 1, 2026 (which includes a consolidation loan) will only be eligible for RAP or a standard repayment plan. Options for the new or old IBR, ICR, PAYE, or even ICR, will no longer be available for any new loans – or existing loans that are newly consolidated. Perhaps even more importantly, it is very likely that a consolidation will result in the loss of any credits toward forgiveness under one of the income-driven plans.

Interest Rate Savings:
To encourage repayment, ED has announced that it is offering 1% autopay discounts, provided the borrower signs up by September 30. Remember, the payment will be made automatically even if wrong. Setting up another account and transferring funds to it to cover the auto-payment may be wise as errors are being reported.

RAP:
The new Repayment Assistance Plan (RAP) began on July 1, 2026. Remember, while RAP is a 30-year plan for forgiveness, it does offer an elusive interest subsidy that the older Income Driven Plans do not. Any accrued credits toward an IDR will transfer to RAP. Also, only timely payments count toward forgiveness.

RAP is not available for those with Parent Plus loans or any Consolidation loan which includes a Parent Plus loan. In sum, the interest subsidy provided by RAP does not apply to any Parent Plus loans.

Tiered Standard Repayment Plan:
This plan is no longer based upon a 10-year term for everyone. It is now based upon the principal of the loans:

Under $25k: 10 years
$25k to $49,999: 15 years
$50k to $99,999: 20 years
$100k +: 25 years

Importantly, the Tiered Standard plan does not count for PSLF. In most cases, RAP is the better option because it counts toward PSLF and has an interest subsidy. The older IDR plans are still available for two more years until mid-2028 and they may be the best option.

Parent Plus Loans:
Those with Parent Plus loans which have not been consolidated into a Direct Consolidation loan will no longer qualify for income driven repayment or Public Service Loan Forgiveness (PSLF). If you missed the July 1, 2026 deadline, this leaves access to three legacy

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repayment plans: Standard (10 years), Graduated (10 Years), or Extended (25 years). Graduated payments start lower, and increase every two years. Extended payments are available for anyone with $30,000 or more in federal student debt – can be either fixed or graduated – but will result in more total interest. Our advice over the years for anyone choosing Extended Payments is that it is a good plan to keep your monthly expenses low, but try to pay the loan down with bonuses and extra funds to keep the interest under control.

Anyone who previously consolidated before July 1 is eligible for Income Contingent Repayment (ICR) and may have the option to switch to Income Based Repayment for a lower payment. Switching as early as possible is best for a lower payment. ICR is scheduled to be eliminated on July 1, 2028, at which time anyone remaining on ICR will have the option to switch to IBR. Abundant Lawsuits: While there are many lawsuits pending regarding these plans, they really can be boiled down to three main areas: 1) PSLF, 2) Discharge, 3) Professional Definition.

PSLF – there are presently no restrictions as a court has invalidated the new rules to block some organizations from giving their employees PSLF.

Discharge – the Department of Education is slowing working through its backlog of discharge for approximately 1.5 million people who should have been entitled to a discharge already. Provided the discharge date was before the end of 2025, any processing delays will not cause the forgiveness to be taxed on a federal level.

Professional definition: ED has limited the definition of professional students which causes some to face borrowing limits of $20,500 annually instead of $50,000 per year. A court has blocked the lower limits imposed by ED, but colleges and universities have been applying the lower limits which has, in turn, caused first year students to apply for more private aid.

Good news:
the attestation process for anyone filing an adversary proceeding in bankruptcy is working quite well. It is important to have Direct Loans prior to filing bankruptcy and to have a ten-year repayment history (including forbearances) for the best results. As other repayment options decline, we anticipate that more borrowers will elect to file adversary actions in bankruptcy to eliminate unaffordable payment requirements. For instance, those with Parent Plus loans who have not consolidated prior to July 1, 2026 will have extremely high loan repayments and few options.

The information provided in this Sidebar does not, and is not intended to, constitute legal advice. For a 1-on-1 consultation, please email info@christiearkovich.com or call (813) 258-2808.

EDITORS NOTE – BE SURE TO CHECK OUT ADMINISTRATIVE ORDER FLMB-2026-4 RE PRESCRIBING AVAILABLE PROCEDURES IN ADVERSARY PROCEEDINGS FILED UNDER 11 U.S.C. § 523(A)(8) TO DETERMINE THE DISCHARGEABILITY OF STUDENT LOANS HELD BY THE DEPARTMENT OF EDUCATION. THE FIRST PAGE OF THE ADMINISTRATIVE ORDER IS REPRINTED ON THE NEXT PAGE FOR YOUR CONVENIENCE.

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
www.flmb.uscourts.gov

In re	)	
	)	
ADMINISTRATIVE ORDER PRESCRIBING AVAILABLE PROCEDURES IN ADVERSARY PROCEEDINGS FILED UNDER 11 U.S.C. § 523(a)(8) TO DETERMINE THE DISCHARGEABILITY OF STUDENT LOANS HELD BY THE DEPARTMENT OF EDUCATION	)))))	Administrative Order FLMB-2026-4

AMENDED ADMINISTRATIVE ORDER PRESCRIBING AVAILABLE PROCEDURES IN ADVERSARY PROCEEDINGS FILED UNDER 11 U.S.C. § 523(a)(8) TO DETERMINE THE DISCHARGEABILITY OF STUDENT LOANS HELD BY THE UNITED STATES DEPARTMENT OF EDUCATION[1]

Section 523(a) of the Bankruptcy Code lists the types of debts that are excepted from discharge in a debtor's bankruptcy case. Under 11 U.S.C. § 523(a)(8), student loans are excepted from discharge unless excepting the debt from discharge would impose an undue hardship upon the debtor and the debtor's dependents. Under Federal Rule of Bankruptcy Procedure 4007, a debtor may file a complaint to determine whether a debt is dischargeable at any time. Rule 4007 does not set a deadline for filing the complaint. This Administrative Order applies to any educational benefit loan or overpayment made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit, or any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, which is held by the United States Department of Education (the "DOE"), and on which the Debtor is an obligor.

On November 17, 2022, the United States Department of Justice (the "DOJ") issued its *Guidance for Department Attorneys Regarding Student Loan Bankruptcy Litigation* (the "Guidance"). The Guidance is available on the U.S. Trustee's website at www.justice.gov/ust/student-loan-guidance. The Court finds that a debtor's use of the document preparation software and the portal described below may facilitate the submission to the DOJ and the DOE and their review of the complete and accurate information necessary to meet the debtor's burden of proof under 11 U.S.C. § 523(a)(8).

[1] This Administrative Order amends and supersedes Administrative Order FLMB-2026-3 to clarify that it applies only to educational loans held by the Department of Education; it supplements but does not supersede the Court's Administrative Order Prescribing Procedures for Student Loan Management Program (Administrative Order FLMB-2022-1).

EDITORS NOTE - BE SURE TO CHECK OUT THE FULL ADMINISTRATIVE ORDER. THE FIRST PAGE IS REPRINTED HERE FOR YOUR CONVENIENCE.


THE LODGE

The Policy Buyback as a Shield: How *In re The Stephan Co.* Uses § 363 to Insulate an Insurer from Present and Future Mass Tort Claims Without Running Afoul of *Purdue*

By Luigi Orengo, Jr., Esq.

Olivia Zukowski, Esq., *Carlton Fields, P.A.*

Introduction

On July 16, 2026, the Honorable Catherine Peek McEwen entered a final order in *In re: The Stephan Co.*, Case No. 8:25-bk-08937-CPM (Bankr. M.D. Fla.), approving what may be the case's most consequential transaction: Fireman's Fund Insurance Company ("FFIC")'s buyback of its own historical liability policies, free and clear of all interests, including present talc personal injury claims and future asbestos demands, under §§ 105(a) and 363 of the Bankruptcy Code.[1] This decision addresses how finality for an insurer may be achieved in the wake of the Supreme Court's 2024 decision in *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204 (2024), a ruling that shook the foundation of the mass tort restructuring bar, which often relied on insurance policy settlements in bankruptcy as a vehicle for achieving finality.

In June 2024, the Supreme Court held in *Harrington v. Purdue Pharma L.P.* that the Bankruptcy Code does not permit a chapter 11 plan to grant a non-consensual discharge of civil claims held by third parties against non-debtor entities.[2] The five-Justice majority found no express statutory authority in the Code for such relief and rejected the notion that the general equitable powers in § 105(a) could supply it.[3] After *Purdue*, the plan-level release mechanism for non-debtor insurers appeared to be on uncertain legal ground, at least in circuits that had not independently authorized such relief by local circuit precedent. Practically, if insurers could not reliably obtain finality through bankruptcy, they would either have to litigate a dispute to exhaustion in piecemeal tort actions or decline to participate in reorganization plans at all. This would reduce the pool of funds available to victims and make reorganization economically unworkable for smaller debtors.

The Stephan Co. Structural Solution: § 363(f) Rather Than Plan Releases

The answer in *The Stephan Co.* is not a plan-level release. Rather than seeking a plan-level non-consensual injunction against talc claimants' rights to sue the FFIC, the debtor sold the FFIC policies back to the FFIC under § 363(b) and (f) of the Bankruptcy Code as an out-of-plan sale of estate property, free and clear of all interests.

The mechanism rested on three sequential legal propositions: (1) the insurance policies are property of the estate under § 541;[4] (2) § 363(f)'s free-and-clear conditions were satisfied, including that non-debtor parties who did not object to the sale waived their right to oppose a free-and-clear transfer under § 363(f)(2) and that any talc claimant who established a right to recover could be compelled in a legal or equitable proceeding to accept a money satisfaction of such interest under § 363(f)(5), with the settlement constituting "reasonably equivalent value"; and (3) the "Settling Insurer Injunction," is an injunction-in-aid of the § 363 sale, rather than a plan confirmation release under § 105 or § 1141.

Critically, FFIC is receiving consideration in the form of the release, finality, and trust protections, in exchange for paying the full aggregate remaining policy limits into the estate for distribution to claimants through the § 524(g) trust. This finality is grounded in contract and property law, not a judicially imposed non-consensual discharge of a third party's obligation.

continued on p. 29

1 Final Order Granting Motion Pursuant to § 105(a) and § 363 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, and 9019(a) for an Order (I) Approving, the FFIC Settlement Agreement, Release and Policy Buyback, (II) Approving the Sale of the FFIC Policies Free and Clear, (III) Enjoining Claims, and (IV) Granting Related Relief, In re The Stephan Co., Case No. 8:25-bk-08937-CPM (Bankr. M.D. Fla. July 16, 2026).
2 603 U.S. 204, 220–21 (2024).
3 Id. at 216 n.2, 218.
4 See In re Stevens, 130 F.3d 1027, 1029 (11th Cir. 1997); In re Scott Wetzel Services, Inc., 243 B.R. 802, 804 (Bankr. M.D. Fla. 1999).

Policy Buyback
continued from p. 28

The § 524(g) Layer: Statutory Authority for Future Claimants

The protection of future claimants, including individuals not yet symptomatic at the time of confirmation, requires a separate and independently-grounded analysis. Section 524(g) of the Bankruptcy Code expressly authorizes a bankruptcy court to issue a channeling injunction directing all present and future asbestos-related demands to a dedicated trust.[5] Unlike the non-consensual discharge at issue in *Purdue*, § 524(g) represents an explicit congressional grant of authority that the *Purdue* majority said was absent for plan-level third-party releases. On and after *The Stephan Co.*'s plan's effective date, all present and future holders of channeled claims will be permanently enjoined from pursuing those claims against the debtor, the reorganized debtor, the non-debtor affiliates, the FFIC as a settling insurer, and other protected parties, with recovery available solely from the Talc Personal Injury Trust under its Trust Distribution Procedures.

Practical Takeaways for Insurers and Mass Tort Practitioners

The Stephan Co. offers a replicable template for insurance policy settlements in mass tort chapter 11 cases, though several structural requirements must be satisfied to achieve the same result: the policies must be estate property; the settlement amount must be fair and reasonable; notice must reach all reasonably ascertainable claimants; and distinctions from *Purdue* must be preserved in drafting. Additionally, practitioners should plan for parallel or sequential buybacks in multi-insurer cases.

Although the § 363(f) policy buyback mechanism is not confined to asbestos cases and is available in any chapter 11 where the debtor holds liability insurance as estate property, § 524(g) by its text applies only to debtors named as defendants in actions "seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products." A debtor facing purely non-asbestos tort liability such as opioids, PFAS, Roundup, or conventional pharmaceutical product liability cannot invoke § 524(g) for future claimant protection.

In re *The Stephan Co.* does not resolve every open question left by *Purdue* in the mass tort insurance context as plan confirmation and other insurers' coverage remains pending; however, the FFIC policy buyback demonstrates that a properly structured § 363(f) free-and-clear sale of insurance policies can deliver insurer finality, against both present and future claimants, on a statutory and contractual foundation that *Purdue* does not reach. Where the underlying liability is asbestos-related, the combination of the § 363 buyback and the § 524(g) channeling injunction provides the complete toolkit of insurer finality, debtor discharge, and future claimant protection while the future-claimant question for non-asbestos torts is unresolved.

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CASE LAW UPDATE

Editors:
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Winderweedle, Haines, Ward & Woodman, P.A.

Kathleen L. DiSanto
Bush Ross, P.A.

Eleventh Circuit Cases

AE OpCo III, LLC v. AAR Corp. (In re AE OpCo III, LLC), 172 F.4th 1291 (11th Cir. 2026).

AAR Corp. won a partial victory in a bankruptcy fight over a failed aircraft-parts deal, with the Eleventh Circuit reviving its claim for bankruptcy-related legal fees while upholding the rejection of a larger indemnification claim. Before bankruptcy, AE OpCo assumed performance obligations under a contract with Short Brothers, while AAR guaranteed AE OpCo's performance and received an indemnity from AE OpCo for resulting losses. After AE OpCo entered chapter 11 and rejected the procurement contract, AAR filed three claims: (1) indemnification for potential liability to Short Brothers, (2) reimbursement of defense costs incurred in related Northern Ireland litigation, and (3) attorney fees incurred in the bankruptcy case.

The bankruptcy court disallowed the indemnification claim under 11 U.S.C. § 502(e)(1)(B), allowed the defense-costs claim as noncontingent, and disallowed the bankruptcy-fees claim as an unsecured postpetition claim. In response, AAR appealed the disallowed claims, and the debtor appealed the allowed claims. The Eleventh Circuit affirmed in part and reversed in part, holding that AAR remained co-liable with the debtor because Short Brothers' covenant not to sue did not operate as a release under Delaware law. The court also held that defense costs already incurred were not contingent. But the court revived AAR's bankruptcy attorney fee claim, concluding that neither § 502(b) nor § 506(b) expressly disallowed such fees.

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In re No Rust Rebar, Inc.,
177 F.4th 1161 (11th Cir. 2026).

A bankruptcy court properly brought four related companies into a debtor's estate after finding they functioned as the debtor's alter egos, the Eleventh Circuit ruled, rejecting arguments that the entities were entitled to more process before being consolidated. At the center of the case is Donald Smith, who owns and operates No Rust Rebar and owns and controls four non-debtor entities: Raw Materials, Raw Energy Materials, Global Energy Sciences, and Raw. The companies, which Donald described as "a family," shared business locations, and had overlapping operations and assets.

No Rust filed a voluntary Chapter 11 bankruptcy petition, which a creditor moved to convert to a Chapter 7 liquidation. After an evidentiary hearing, the U.S. Bankruptcy Court for the Southern District of Florida converted the case to a Chapter 7 liquidation, finding that No Rust and the non-debtor entities are "a group of commingled entities whose responsibilities, assets, and liabilities were constantly shuffled to fit Smith's needs or whims." The bankruptcy court later granted a motion by the trustee to substantively consolidate the companies, based on factors the Eleventh Circuit identified in *Eastgroup Properties v. Southern Motel Ass'n*, 935 F.2d 245, 249–50 (11th Cir. 1991), and the debtor's four affiliates appealed.

On appeal, the Eleventh Circuit affirmed the ruling, finding that the bankruptcy court conducted a "thorough analysis" of the substantive consolidation factors outlined in *Eastgroup* and had the authority to order substantive consolidation based on its findings that the entities were alter egos with a substantial identity. Among the procedural arguments dismissed by the federal courts were that the non-debtor entities had the right to a new evidentiary hearing. However, when "pressed by the bankruptcy court, they failed to explain how errors [in the court's findings] would change the analysis," the Eleventh Circuit wrote. "And they could not tell us either."

Lil' Joe Recs., Inc. v. Ross,
177 F.4th 1170 (11th Cir. 2026).

A decades-old bankruptcy case derailed 2 Live Crew's bid to reclaim the copyrights to five of its albums, with the Eleventh Circuit ruling in a question of first impression that one member's termination interest still belonged to his bankruptcy estate when he tried to exercise it. The case revolves around five albums the rap group 2 Live Crew recorded between 1986 and 1989. Lil' Joe Records Inc. later obtained those copyrights. The Copyright Act provides artists a

continued on p. 32

"termination interest," which is the right, after a certain period, to reclaim the copyright in their work despite having granted it to a third party. Mark Ross and two other members (or their successors in interest) of 2 Live Crew purported to terminate grants of copyrights in those albums. Since 2 Live Crew had four members, three members could decide as a majority to reclaim the copyrights for the group.

However, about two decades before Ross signed the notice to terminate, he filed a Chapter 7 bankruptcy. Section 541(c)(1) of the Bankruptcy Code states that all that person's interests in property enter the bankruptcy estate, despite any provision in applicable nonbankruptcy law that "restricts or conditions transfer of such interest[s] by the debtor." Ross failed to mention or address his termination interest in the bankruptcy proceedings, which is a problem because the code says that any property in a Chapter 7 estate that is not addressed by the bankruptcy court remains property of the estate until it is. Lil' Joe Records argued that 2 Live Crew did not terminate their copyright grants, saying that Ross's termination interest were held by his bankruptcy estate when he exercised them. The Eleventh Circuit reversed the U.S. Bankruptcy Court for the Southern District of Florida's ruling, siding with Lil' Joe Records' argument. The decision, however, is limited. "We do not address how termination interests should be treated in bankruptcy," the Eleventh Circuit wrote. "And we do not decide today what Ross's heirs need to do to exercise those interests in the light of his bankruptcy."

Bankruptcy Court Cases

In re IHN Podiatry Servs., PLLC
678 B.R. 445 (Bankr. M.D. Fla. 2026) (Rivera, J).

On the debtor's emergency motion to enforce the automatic stay, Judge Rivera ruled the Centers for Medicare and Medicaid Services may keep withholding Medicare payments from a bankrupt podiatry practice to recover an alleged $3.7 million in overpayments, but the CMS, the Department of Treasury's Bureau of Fiscal Service and a private debt collector cannot collect from tax refunds or other non-Medicare property. IHN Podiatry Services PLLC, a mobile podiatry and wound-care practice whose revenue depended heavily on Medicare Part B reimbursements, asked the court to direct several entities including CMS to stop offsetting their disputed overpayment claims against the debtor's post-petition revenues from services rendered after the petition date to Medicare beneficiaries, as well as any other amount owed to the debtor by the federal government.

continued on p. 33

On the merits, the Court framed the dispositive issue as whether CMS's withholding was setoff, which is stayed under 11 U.S.C. § 362(a), or recoupment, which generally falls outside the stay because it merely determines the proper amount owed under a single transaction. The Court held that the Medicare payment regime constitutes a single integrated transaction in which payments are continually reconciled for overpayments and underpayments. Thus, the Court concluded that the automatic stay does not apply to CMS's past or future exercise of its right to recoupment. However, the Court ruled that the automatic stay barred CMS, the Treasury and CBE Group Inc. from any act to collect the alleged Medicare overpayments from property of the estate, including any non-Medicare debt owed to the debtor. The decision preserved CMS's recoupment remedy while limiting broader collection efforts against estate assets.

In re Shelling, No. 6:26-bk-02705-GER,
2026 WL 1482363 (Bankr. M.D. Fla. May 21, 2026) (Robson, J.).

Judge Robson ruled that a creditor who seized a Chapter 7 debtor's Ford Escape before her bankruptcy filing must give it back, finding the prepetition levy did not cut off the debtor's ownership interest in the vehicle. After the vehicle was seized by the judgment creditor, the debtor filed a voluntary chapter 7 petition, scheduled the vehicle as subject to a purchase-money security interest held by Partners Federal Credit Union, and claimed the vehicle as exempt. The debtor sought immediate turnover of the vehicle under 11 U.S.C. § 542.

The Court concluded that the vehicle remained the property of the estate. Although the creditor had obtained possession prepetition, the case did not involve a secured creditor's repossession under *Bell-Tel Federal Credit Union v. Kalter* 292 F.3d 1350 (11th Cir. 2002). Instead, citing reasoning from *In re Zajni* 403 B.R. 891 (Bankr. M.D. Fla. 2008), the Court held that a prepetition writ of execution did not transfer ownership of the vehicle by operation of law. And since the debtor retained a legal or equitable interest as of the petition date, the vehicle cruised into the bankruptcy estate under § 541.

The Court then addressed the debtor's ability to seek turnover. § 542 generally empowers the trustee, and not the chapter 7 debtor, to compel turnover. However, the Court treated the motion as an effort to preserve the debtor's claimed exemption through § 522. Since the creditor did not appear or object—and considering the risk that the trustee's inaction could impair the debtor's exemption interest—the Court ordered the creditor to immediately release the vehicle, without prejudice to later objections to the exemption.

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Case Law Update

continued from p. 33

Reyes v. Milbrath (In re Milbrath), Adv. No. 6:25-ap-00045-GER, 2026 WL 1266362 (Bankr. M.D. Fla. Apr. 23, 2026) (Robson, J.).

Judge Robson ruled that a woman cannot use Chapter 7 to wipe out about $17,400 she owes her former husband from a yearslong family-court fight over their child's medical expenses, finding the debt arose from obligations connected to their divorce case. The former husband brought an adversary proceeding under 11 U.S.C. § 523(a)(5) and § 523(a)(15), arguing that the remaining debt was nondischargeable.

First, the Court held that the state contempt order was entitled to issue-preclusive effect. Although the state court had not adjudicated dischargeability, it had actually and necessarily determined the validity of the debt, Milbrath's obligation under the dissolution judgment, and the reasonableness of the fee award. Milbrath thus could not relitigate those findings in bankruptcy court.

Then, turning to dischargeability, the Court concluded that the former husband was entitled to judgment as a matter of law. The debt was either a domestic support obligation under § 523(a)(5) or, at minimum, a divorce-related obligation incurred in connection with a court order under § 523(a)(15). Under either provision, the debt survived Chapter 7 discharge. However, the court denied the former's husband's request for postpetition attorney fees and costs incurred in the adversary proceeding, finding no independent statutory or contractual basis to support an award.