



Bankruptcy Advisory

Week of February 8, 2010

Masuda
Funai

Recent Significant Commercial Bankruptcy Filings

Masuda, Funai, Eifert & Mitchell routinely represents creditors in bankruptcy proceedings in order to protect their contractual and legal interests and rights to payment. The following is a list of some recent larger U.S. bankruptcy filings in various industries. To the extent you are a creditor to any of these debtors, or other entities which may have filed for bankruptcy protection, you as a creditor are entitled to certain protections under the Bankruptcy Code.

CONSTRUCTION CASTINGS

Iron foundry and heavy casting company Neenah Enterprises Inc. and at least 15 of its subsidiaries have filed for voluntary Chapter 11 reorganization.

COSMETICS

Skin care manufacturer Natural Products Group LLC has filed a prepackaged Chapter 11 bankruptcy plan.

ENTERTAINMENT

Video store chain operator Movie Gallery Inc. has filed for Chapter 11 protection for the second time in two years.

TECHNOLOGY

Medical technology provider Spheris Inc. filed bankruptcy to complete the sale of its assets to MedQuist Inc. and CBay Inc.

As a result of a bankruptcy filing, an automatic stay is put into effect prohibiting creditors from seeking to take certain action outside the bankruptcy proceedings to collect amounts due to them from the debtor which arose prior to the filing of the bankruptcy petition. Nonetheless, you as a creditor may be entitled to take certain legal action. For example, if you are a supplier who has shipped goods which were received by the debtor within forty-five (45) days prior to the Bankruptcy filing, you should submit a timely reclamation demand in order to recover possession of your products, or, at the debtor's option, receive a higher priority administrative claim as to those goods when compared to a typical unsecured claimant thereby significantly increasing the likelihood of receiving payment. In order to have the court consider such a demand, you must timely submit the reclamation demand in writing.

As part of court orders entered shortly after the filing of the case, the Bankruptcy Court may grant the debtor the discretion to pay certain "essential suppliers" – to be determined by the debtor – all or some of the pre-petition amounts due in exchange for an agreement to, among other things, continue supplying in accordance with similar terms. If deemed to be one of these "essential suppliers," a letter outlining this agreement will be sent to



you by the debtor. However, you can take certain action now to increase the likelihood of being designated a critical vendor.

The Court may also enter an order granting an administrative expense priority to creditors in connection with any products received by the Debtor shortly before and after the bankruptcy filing.

Please note that the filing of the bankruptcy petition by the debtor may relieve you from the agreements and understandings that you have exchanged with the debtor. Alternatively, if your agreement is assumed by the debtor, all amounts due to your company may be paid. You may have options available to you that may minimize your company's exposure under these proceedings; however, this would require a complete review of your agreements with the debtor.

The above is just a brief, preliminary advisory for informational purposes only and is not intended to replace legal counseling. If you require further information about the filing, have specific questions about your dealings with a company filing for bankruptcy or would like our assistance to take action to protect any claims you may have, please feel free to contact us.

For more information about this or any other litigation law topic, please contact Rein F. Krammer, Vice Chair of the Litigation Group, at 312.245.7500 or via email at rkrammer@masudafunai.com.

About the Litigation Group

The Litigation Group at Masuda, Funai, Eifert & Mitchell provides a broad range of dispute resolution and litigation services, including trial and appellate representation in federal and state courts throughout the United States and before arbitration tribunals, mediation neutrals and administrative agencies. We are devoted to providing premier services to domestic and foreign clients involved in both simple and complex commercial disputes. We understand that each client has different legal and business goals, and we strive to work closely with each client to develop a strategy that meets those objectives.

About Masuda, Funai, Eifert & Mitchell

Masuda, Funai, Eifert & Mitchell is a full-service law firm representing international and domestic companies operating and investing in the United States. Our 45 attorneys located in Chicago, Schaumburg and Los Angeles counsel clients in every aspect of business, including establishing, acquiring, and financing operations; ownership, development and leasing of real estate; transfer of overseas employees to the U.S.; employment, labor, and benefits counseling and dispute resolution; intellectual property, copyright and trademark; business litigation; creditors' rights and business risk management; structuring the distribution and sale of products and services throughout the U.S.; and estate planning and administration.

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