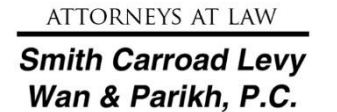




CLLA FALL EDUCATION BONANZA SEPTEMBER 9 - 11

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Commercial Law League of America
Case Law Update
September 10, 2020
Ron Peterson

Case Law Update
Supreme Court and Courts of Appeal

Supreme Court Corner

Decided Cases

Ritzen Group, Inc. v. Jackson Masonry, LLC
140 S.Ct. 582 (2020)

Issue: What is a final order in bankruptcy
Is the denial of a motion to lift stay a final order?

Rodriguez v. F.D.I.C., 140 S. Ct. 713 (2020)

When there is a corporate group that files a consolidated return, which entity is assessed the tax liability or is entitled to the tax refund? What is the appropriate basis for decision - State Law or Substantive Federal Common Law?

Pending Cases

In re Fulton 926 F.3d 916 (7th Cir. 2019)

Oral Argument in October

Issue: Is the mere retention of a debtor's property by a secured creditor a stay violation?

What are the possessing Secured Creditor's Duties when a Debtor files for Bankruptcy?

Who has the burden of going to Court first?

CONSUMER CORNER

Mass. Dep't of Revenue v. Sheck (947 F.3d 770 (11th Cir. 2020))

What is a Tax Return?

Is a Tax Return that is filed one day late a tax return for discharge purposes?

Davis v. Helbling (In re Davis) 960 F.3d 346
(6th Cir. 2020)

When a debtor has made payment to her 401(k) plan, must those payments be included in her disposable monthly income for Chapter 13 Purposes?

Avoiding Avoidance Actions

Deutsche Bank Trust Ams. V. Large Private
Beneficial Owners (In re Tribune Company
Fraudulent Conv. Litig.) 946 F.3d 66 (2d Cir. 2019)
Cert petition pending

Does 11 U.S.C. 546(e) pre-empt state law fraudulent
transfer laws?

Is there anything else in the bankruptcy code that
might pre-empt state fraudulent law?

Extraterritoriality

In re Picard, 917 F.3d 85 (2nd Cir. 2019)

May § 550 of the code be applied to recover a preference in a foreign jurisdiction against foreign nationals?

Isaiah v. JP Morgan Chase Bank
960 F.3d 1296 (11th Cir. 2020)

Is a transfer of debtor's cash to the debtor's bank account a transfer for purposes of avoidance?

Generation Res. Holding Co. LLV v. Spencer
Fane LLP, 19-3226, 2020 WL 3887850 (10th Cir.
July 10, 2020)

When cash is fraudulently transferred to an
immediate transferee and the immediate transferee
pays bills with the cash, is the subsequent
transferee liable?

Potpouri

In re Lane, 959 F.3d 1226 (9th Cir. 2020). Does the secured creditor retain its lien when it failed to file a timely proof of claim.

In re Cumbess, 960 F.3d 1325 (11th Cir. 2020). When a debtor assumes or rejects a lease without the Chapter 13 Trustee's assent, is the estate bound?