
Creditors' Rights Law Alert: Minimizing Your Exposure to Claims for Preferential Payments

In our last [Business Creditors Alert](#), we mentioned that among the problems a creditor in a bankruptcy case may encounter are claims to recover monies paid in the months leading up to the bankruptcy filing. The most common of these are Preference Claims, where a Trustee or Debtor-in-Possession can recover certain payments made on outstanding debts within 90 days of the filing of the bankruptcy case. Preference Claims do not generally apply to payments made in the “ordinary course” of both parties’ business, in accordance with ordinary business terms, or where what is termed “new value” has been created. There are also less common exceptions that may apply to other circumstances.

You should keep potential Preference Claims in mind when you are approached for accommodations and/or workout or payment plans by businesses experiencing what are claimed to be temporary problems meeting their obligations. A brief consultation with one of the lawyers in our Creditors’ Rights Practice Group can help you structure your transactions with distressed businesses in order to minimize your exposure to a Preference Claim. Of course, our lawyers also have the experience to defend you should you find yourself on the receiving end of such a claim. We look forward to helping you maximize your recovery.

Please visit our [Bankruptcy & Creditors’ Rights Practice](#) Area to learn more about the legal services we can provide in this area. If you have any questions or would like more information on the issues discussed in this communication, please contact any of our Bankruptcy & Creditors’ Rights attorneys.