AMERICAN BANKRUPTCY INSTITUTE

2023 Rocky Mountain Bankruptcy Conference

Subchapter V and § 523 Nondischargeability

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CONCURRENT SESSION

2023


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Salt Lake Marriott Downtown at City Creek
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JAN | 26-27 | 2023


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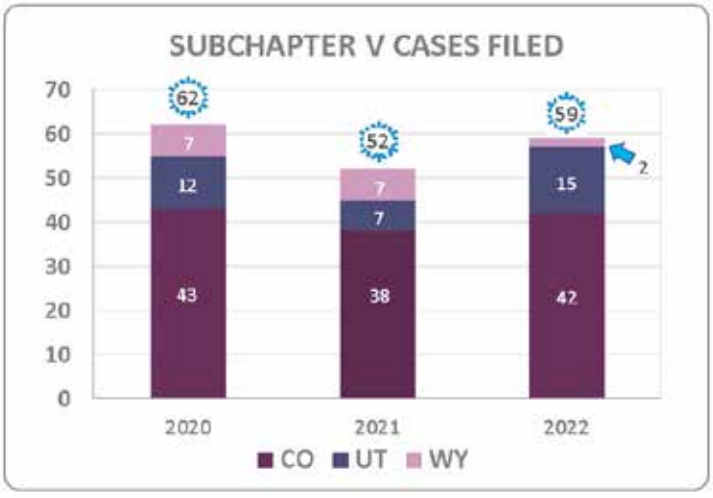
SUBCHAPTER V CASES FILED
70
60
50
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59
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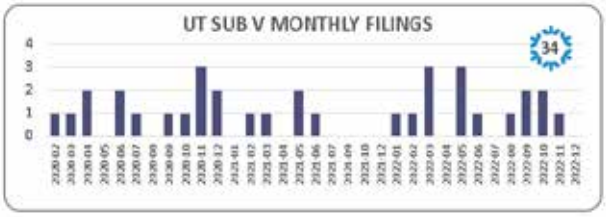

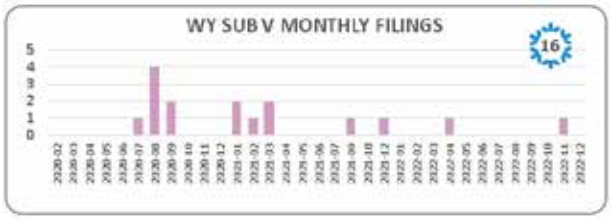

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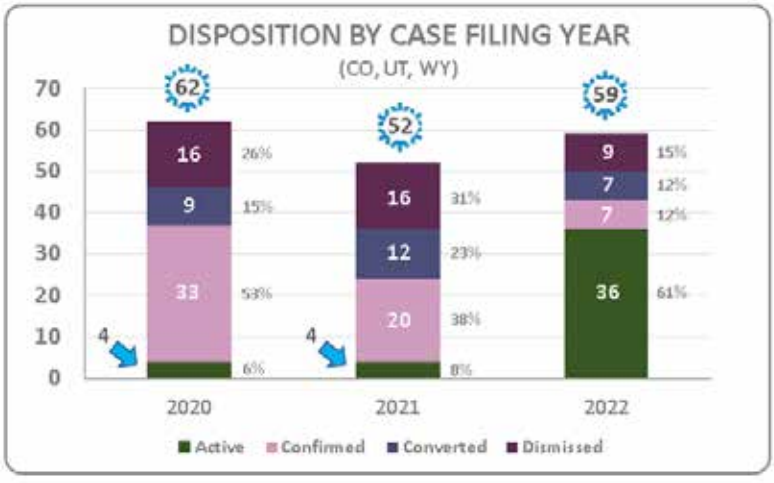

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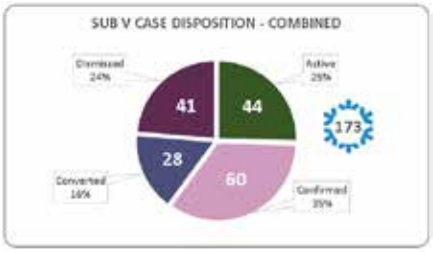

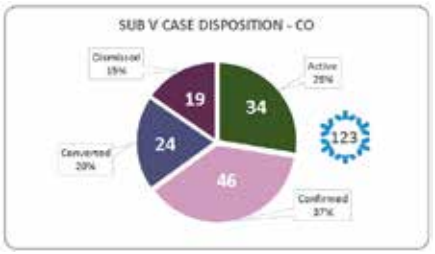

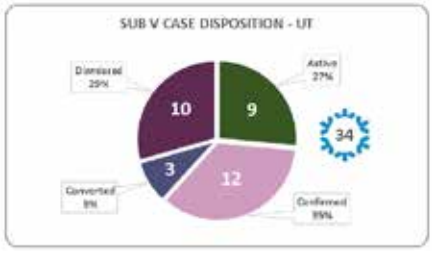

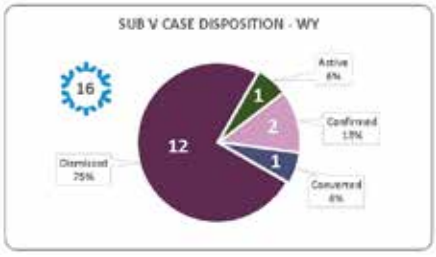

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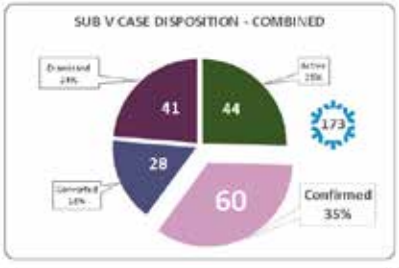

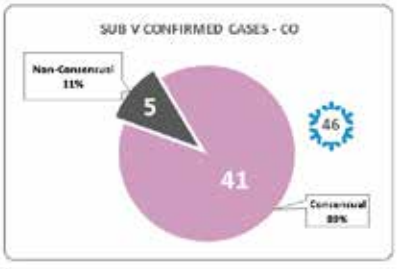

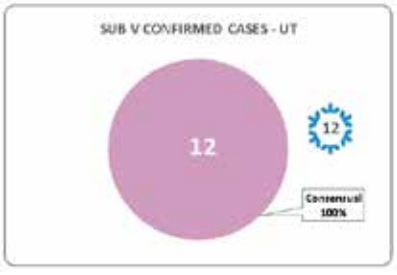


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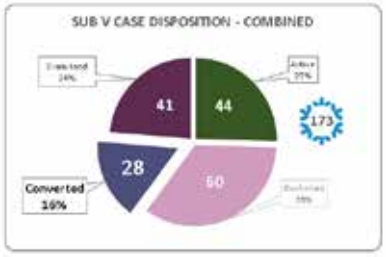
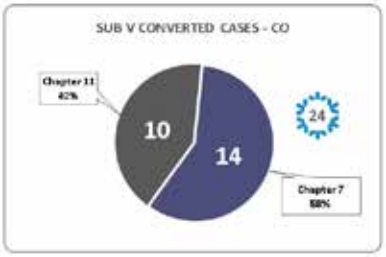
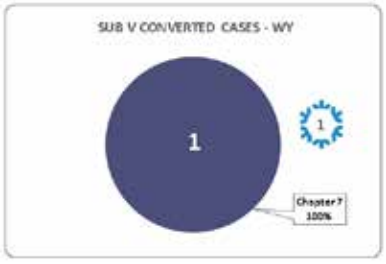

SUB V CASE DISPOSITION - COMBINED
41
44
173
28
60
Converted 16%


SUB V CONVERTED CASES - CO
Chapter 11 42%
10
14
24
Chapter 7 58%


SUB V CONVERTED CASES - UT
3
3
Chapter 7 100%


SUB V CONVERTED CASES - WY
1
1
Chapter 7 100%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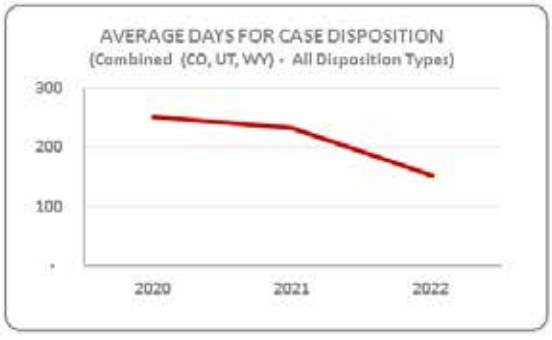
AVERAGE DAYS FOR CASE DISPOSITION
(Combined (CO, UT, WY) - All Disposition Types)
300
200
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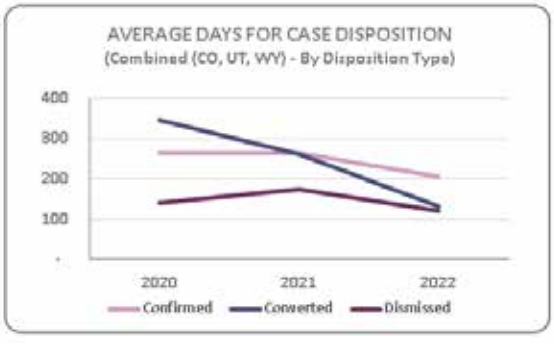
2020
2021
2022


AVERAGE DAYS FOR CASE DISPOSITION
(Combined (CO, UT, WY) - By Disposition Type)
400
300
200
100
2020
2021
2022
Confirmed
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Dismissed

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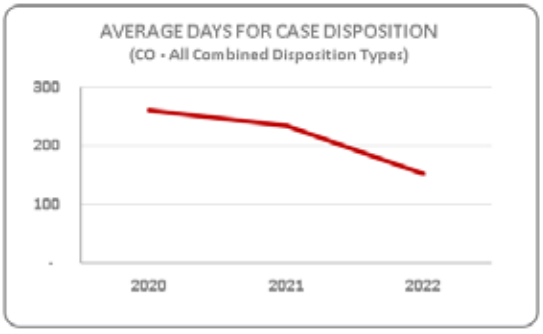

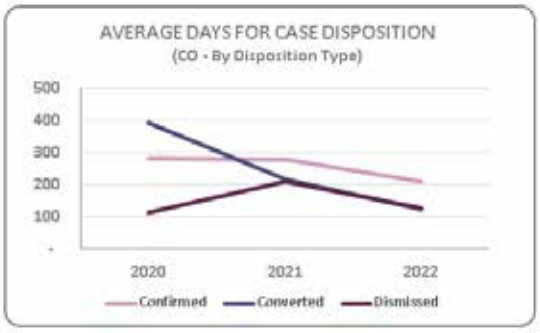

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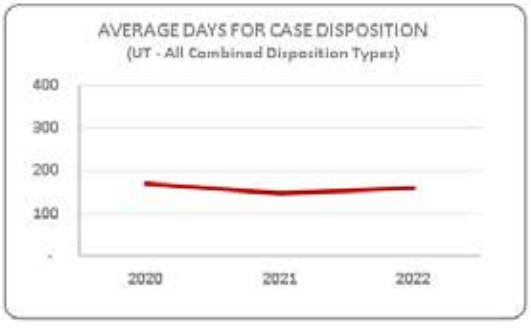

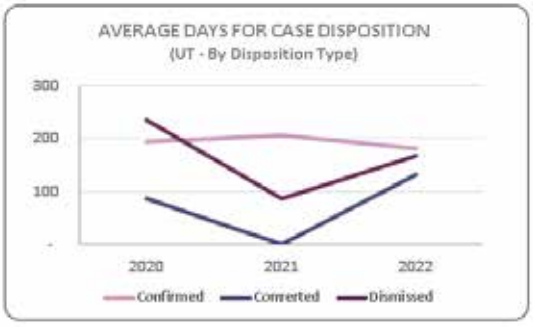

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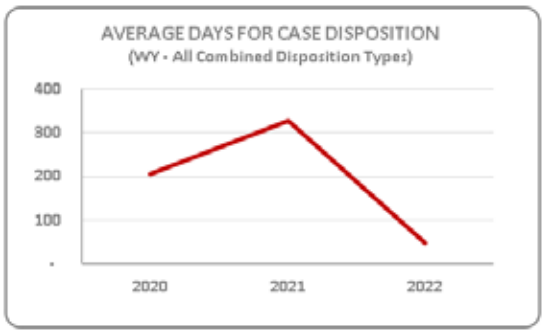

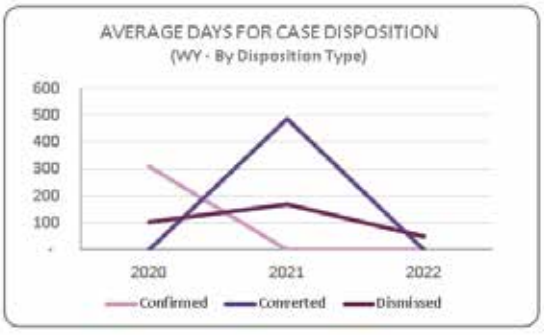

Eligibility Rules for Subchapter V Cases

Professor Brook Gotberg – BYU Law School

Under the U.S. bankruptcy code, almost any individual or entity may be a "debtor" under chapter 11, with limited exclusions for insurance companies, insurance banks, and credit unions.[1] Pursuant to the Small Business Reorganization Act (SBRA), which created subchapter V of chapter 11, there are additional eligibility requirements for debtors seeking to reorganize under subchapter V. Pursuant to § 1182 of the bankruptcy code only persons "engaged in commercial or business activities" with aggregate debts of "not more than $7,500,000 . . . not less than 50 percent of which arose from the commercial or business activities of the debtor" may file under subchapter V.[2] This statutory constraint creates three points of inquiry for eligibility: (1) is the debtor "engaged in commercial or business activities"; (2) does the debtor have less than $7,500,000 in debt; and (3) did at least 50% of the debtor's debt arise from the debtor's commercial or business activities. Since the enactment of the SBRA, courts have grappled with the precise parameters of the first inquiry in particular – what evidence is required to establish that the debtor is engaged in commercial or business activities? Most courts in the Rocky Mountain area have settled on a permissive interpretation that maximizes the availability of subchapter V.

A preliminary issue that arose quickly in the case law was whether or not the statutory language should be interpreted to include a sense of "current" engagement in commercial or business activities. The exact language of the statute uses the word "engaged," which conceivably could include a past tense usage (as in, the debtor *was* engaged in commercial or business activities prior to filing, but no longer) as well as a present tense usage (as in, the debtor *is* engaged in commercial or business activities now). The issue came before bankruptcy courts in Colorado and Utah almost simultaneously upon objections raised by the United States Trustee, and reached very similar conclusions.

In the case *In re Ikalowych*, Judge Thomas B. McNamara in the Bankruptcy Court for the District of Colorado noted that all parties – the debtor, the United States Trustee, and the Subchapter V Trustee – agreed that the phrase "engaged in" should be read as an adjective to describe the present state of the debtor. In other words, the court would need to consider whether the filer was presently engaged in commercial or business activities at the time of the bankruptcy filing.[3] In an opinion issued a mere week later, Judge William T. Thurman agreed that as used in the statute the term "engaged in" means "that a debtor is currently – as opposed to formerly – taking part in an activity."[4] With this restriction in place, both courts nevertheless reached very permissive conclusions regarding the type of activity that might satisfy the requirement of "commercial or business activities." The fact patterns were distinct enough that

[1] *See* 11 U.S.C. § 109(b) and (d).
[2] 11 U.S.C. § 1182(1)(A).
[3] 629 B.R. 261, 280 (Bankr. D. Colo. 2021).
[4] In re Offer Space, LLC, 629 B.R. 299, 305 (Bankr. D. Utah 2021).

both bear review. Together they suggest that the standard of eligibility in subchapter V would exclude very few potential filers.

Colorado – *In re Ikalowych*

Mr. Ikalowych was an individual filer who had been an entrepreneur for years. Although his businesses were limited liability companies, he personally guaranteed the company debts. When his company experienced financial difficulties and failed, that failure precipitated his own bankruptcy filing.[5] At the time of the filing his business was no longer operating and all its assets had been surrendered to a secured creditor.[6] However, the debtor argued that he continued to serve as the defunct entity's manager in completing the wind down of the company, which included interaction with creditors, landlords, former employees, and tax entities.[7] Although the court accepted what it termed the "Wind Down Work" as commercial or business activities, it noted that relying on this alone to trigger eligibility would be a close call, particularly given that the company had stopped operations a month before the bankruptcy filing.[8]

However, the court also noted that at the time of the bankruptcy filing, Mr. Ikalowych was "a salaried employee" working for CCIG, an insurance brokerage company, and concluded that "the Debtor's work as a wage earner with CCIG constitutes commercial or business activities."[9] Recognizing that this legal conclusion – that salaried employment could be sufficient to satisfy eligibility requirements – was particularly permissive, the court simply concluded:

> So be it. In a very real sense, even employees flipping burgers at fast food restaurants are 'engaged in commercial or business activities' as a part of grand American economy in that they are helping produce and sell a product. There is no reason that 'commercial or business activities' are somehow reserved only for business titans, company owners, or management.[10]

At least for individual filers, this standard would effectively exclude only those individuals not gainfully employed at the time of filing.

Utah – *In re Offer Space*

Offer Space LLC filed as a business entity after having sold its proprietary software – the main operational asset of the business – to a Canadian company several months previously.[11] At the time of its filing, the debtor's only assets included a bank account, accounts receivable, the stock it received from the sale of its software, and claims in a lawsuit against a third party.[12] The

[5] In re Ikalowych, 629 B.R. at 267.
[6] *Id.* at 270.
[7] *Id.* at 270-71.
[8] *Id.* at 285.
[9] *Id.* at 286 (internal quotation marks omitted).
[10] *Id.* at 287.
[11] In re Offer Space, LLC, 629 B.R. at 302.
[12] *Id.* at 303.

debtor had no employees, was no longer operational, and filed with the apparent goal of simply liquidating its assets in an orderly fashion.[13] In ruling that the debtor nevertheless met the standard of eligibility, the court concluded that "(1) having active bank accounts; (2) having accounts receivable; (3) analyzing and exploring counterclaims in a lawsuit involving [the third party]; (4) managing the Stock; and (5) winding down its business" constituted commercial or business activities sufficient to satisfy the statutory requirements.[14] The court did reject any argument that simply filing the bankruptcy, and therefore engaging in all that such a filing entails, should constitute engagement in "commercial or business activities."[15] However, it found that the debtor's activities in this case were enough, noting that its decision also seemed consistent with contemporary caselaw.[16]

New Mexico – *In re McCune*

Not all rulings on eligibility have found in favor of the filer, although the evidentiary standard for engaging in commercial or business activities is not particularly high. A few months after the *Ikalowych* and *Offer Space* decisions, Judge Robert H. Jacobvitz ruled against a would-be subchapter V filer in the Bankruptcy Court for the District of New Mexico.[17] The case involved individuals seeking to convert their chapter 13 case to a case under subchapter V of chapter 11. The individuals owned multiple business entities, but failed to produce any evidence to the court of current operations or commercial activity among those entities.[18] The court noted that one of the entities had "some outstanding accounts receivable," but observed "Debtors are not involved in winding up [the entity's] operations, collecting the accounts receivable, or conducting any other activities related to MWI, except defending against claims in state court litigation."[19] Further, the debtors were not employed outside the defunct entities, with their sole income coming from social security and a family spendthrift trust.[20] There is some factual overlap between *McCune* and *Offer Space*, but the cases appear to be distinguishable based on a showing of evidence that the principals are actively engaged in winding down the business.

Ninth Circuit – *In re RS Air, LLC*

The Ninth Circuit Bankruptcy Appellate Panel (BAP) appears to have enshrined this more permissive standard of eligibility. In ruling that a "profit motive is not required to satisfy § 1182(1)(A)," the BAP upheld eligibility to file in subchapter V for an LLC with no ongoing operations, employees, or historical profitability.[21] The bankruptcy court had placed the burden on the objecting creditor to show that the filer was *not* eligible, then concluded that the objecting creditor had failed to meet that burden.[22] The BAP panel found that the bankruptcy court erred

[13] *Id.* at 304.
[14] *Id.* at 306.
[15] *Id.* at 307.
[16] *Id.* at 311.
[17] In re McCune, 635 B.R. 409 (Bankr. D. N.M. 2021).
[18] *Id.* at 412.
[19] *Id.* at 412.
[20] *Id.* at 413.
[21] In re RS Air, LLC, 638 B.R. 403, 406 (B.A.P. 9th Cir. 2022).
[22] *Id.* at 407.

insofar as the debtor should have the burden of establishing eligibility,[23] but also concluded that the error was harmless, because the ruling of eligibility was ultimately correct.[24] The court noted that a debtor need not be actively operating on the petition date, so long as it was still engaged in commercial or business activities at the time of filing.[25] The BAP panel then upheld the bankruptcy court's determination that the debtor was engaged in commercial or business activities when it was (1) litigating with its primary contractual partner (who was also the creditor objecting to eligibility); (2) current on its registration fees; (3) in good standing as an LLC; and (4) current on its tax returns.[26] Both courts also took note of the fact that the debtor had a stated intent to resume operations with a different contractual partner once the litigation was complete.[27]

Reading these cases together, it seems apparent that the standards for eligibility in the Rocky Mountain are not onerous, and would permit liquidating plans for non-operating entities, so long as those entities are engaged in some wind-down procedures or brought into bankruptcy through an individual filer who remains gainfully employed. The relevant question (to be explored by the panel) is whether such filings are advisable in the subchapter V system, not whether they are permitted.

[23] *Id.* at 413.
[24] *Id.* at 414-415.
[25] *Id.* at 409.
[26] *Id.* at 407, 411
[27] *Id.*

The Scope of Subchapter V Discharge

Are the debts enumerated in section 523(a) of the Bankruptcy Code dischargeable for a corporate debtor in Subchapter V? There is no dispute that section 523(a) debts are nondischargeable for individual debtors in Subchapter V, but there is a split among courts on whether this extends to corporate debtors.

Generally, section 1192 provides that if a debtor confirms a non-consensual Subchapter V plan, after the debtor completes making payments to creditors under the plan, the debtor will be discharged from all debts "except any debt . . . of the kind specified in section 523(a) . . . ." And section 523(a) specifies twenty-one kinds of debts that are excepted from discharge. But courts are grappling over the import of section 523(a)'s introductory clause, which limits the nondischargeable debts to those of "an individual debtor."

Fourth Circuit – Corporate Debtor is Subject to Section 523(a)

In re Cleary Packaging, LLC, 36 F.4th 509, 511 (4th Cir. 2022) is the leading case supporting the position that section 523(a) debts are nondischargeable for corporate debtors in Subchapter V.[1] In *Cleary*, the Fourth Circuit relied on a "textual review" of sections 523(a) and 1192 along with "practical and equitable considerations."

The Fourth Circuit found that section 1192 applies to both individual and corporate debtors and this statute only excepts from discharge the "*debts of the kind*" listed in section 523(a). The Fourth Circuit stated:

> The section's use of the word "debt" is, we believe, decisive, as it does not lend itself to encompass the "kind" of *debtors* discussed in the language of § 523(a). This is confirmed yet more clearly by the phrase modifying "debt"—i.e., "of the kind." Thus, the combination of the terms "debt" and "of the kind" indicates that Congress intended to reference only the *list of non-dischargeable debts* found in § 523(a).[2]

The Fourth Circuit then added, relying on principles of statutory interpretation that:

> to the extent that one might find tension between the language of § 523(a) addressing individual debtors and the language of § 1192(2) addressing both individual and corporate debtors — that the more specific provision should govern over the more general.[3]

The court in *Cleary* also found section 1141(d)(6) of the Bankruptcy Code convincing. Section 1141(d)(6) is applicable in standard Chapter 11 cases and provides that "confirmation of a plan does not discharge a debtor that is a corporation from any debt." The Fourth Circuit noted

[1] In *In re Better Than Logs, Inc.,* 631 B.R. 670, 682 (Bankr. D. Mont. 2021), the bankruptcy court also applied section 523(a) to a corporate debtor in Subchapter V, but the court did not directly discuss the implications of this provision to a corporate debtor.
[2] *In re Cleary Packaging, LLC*, 36 F.4th at 515.
[3] *Id.*

that section 523(a) applies to section 1141, just as it includes section 1192. "Yet, § 1141 incorporates specified debts listed in § 523(a) to apply *to corporate debtors*, excluding from discharge debts 'of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a).'"[4] (Emphasis in original).

The Fourth Circuit also referred to Chapter 12 and its language in section 1228(a), which is "virtually identical" to section 1192.[5] And courts construing the scope of section 1228(a) have concluded that this encompasses both individual and corporate debtors.[6]

Lastly, turning to "fairness and equity," the Fourth Circuit recognized one of the key differences between the standard Chapter 11 case and Subchapter V: Subchapter V may involve a non-consensual plan (*i.e.,* a cram-down), in which stakeholders in Subchapter V are not protected by the absolute priority rule.[7] Thus, under a Subchapter V non-consensual plan, owners of the debtor can retain their equity "at the expense of and over the objection of creditors."[8] "Given the elimination of the absolute priority rule, Congress understandably applied limitations on the discharge of debts to provide an additional layer of fairness and equity to creditors to balance against the altered order of priority that favors the debtor."[9]

Bankruptcy Courts – Corporate Debtor is Not Subject to Section 523(a)

Several bankruptcy courts across the country that have held that section 523(a) is not applicable to corporate debtors in Subchapter V.[10] In making these rulings, these bankruptcy courts stress the preamble of section 523(a), which states that a discharge under the Bankruptcy Code "does not discharge an *individual* debtor" from the twenty-one enumerated debts. (Emphasis added). And "[b]ecause § 523(a) unequivocally applies only to individuals, the language of § 1192(2) does not empower § 523(a) to cast a wider net than the text of § 523(a) permits."[11]

Ironically, some bankruptcy courts have also applied a textual review, but reached an opposite result than *Cleary*. Applying the maxim of statutory interpretation that "every word must be given meaning so that no word in a statute is rendered superfluous," the court reasoned that "the reference to Section 1192 added to Section 523(a) by the SBRA must be given meaning, and the only reasonable meaning is that Congress intended to continue to limit application of the Section 523(a) exceptions in a Subchapter V case to individuals."[12]

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[4] *Id.* at 516.
[5] *Id.*
[6] *Id.* (citing *Breezy Ridge Farms*, 2009 Bankr. LEXIS 1396, 2009 WL 1514671, at *1-2; *New Venture P'ship v. JRB Consol., Inc. (In re JRB Consol., Inc.)*, 188 B.R. 373 (Bankr. W.D. Tex. 1995)).
[7] *Id.* at 517.
[8] *Id.*
[9] *Id.*
[10] *In re GFS Indus., LLC*, 2022 Bankr. LEXIS 3199 (Bankr. W.D. Tex. Nov. 10, 2022); *In re Lapeer Aviation, Inc.,* Case Nos. 21-31500-JDA, 22-3002, 2022 Bankr. LEXIS 1032, (Bankr. E.D. Mich. Apr. 13, 2022); *In re Rtech Fabrications, LLC*, 635 B.R. 559 (Bankr. D. Idaho 2021); *In re Revelant, LLC,* Case No. 20-16717-MER (Bankr. D. Colo. Aug. 3, 2021); *In re Satellite Rests. Inc.*, 626 B.R. 871 (Bankr. D. Md. 2021).
[11] *In re GFS Indus., LLC*, 2022 Bankr. LEXIS 3199, at *10.
[12] *In re Satellite Rests. Inc.*, 626 B.R. at 876; *see also In re GFS Indus., LLC*, 2022 Bankr. LEXIS 3199, at *11-12.

In *In re GFS Indus., LLC*, the court also looked at the history of Chapter 11 and how corporate debtors have been immune from nondischargeability actions under section 523(a).[13] Based on this history, the court reasoned:

> For Congress to suddenly depart from this well-established principle when it enacted Subchapter V defies reason. It is much more likely, and confirmed by the language used in Subchapter V, that Congress intended to expand, not discontinue, the principle that Chapter 11 corporate debtors are not subject to § 523(a) complaints to determine dischargeability. Because Subchapter V is merely a subchapter to the broader Chapter 11, this is the required result.[14]

Subchapter V is still in its nascent stages. And so, as could be expected, there are going to be some circuit splits as judges begin writing on blank canvases. The interplay of sections 523(a) and 1192 is one such example as courts across the country begin to weigh in on this important issue.

[13] *In re GFS Indus., LLC*, 2022 Bankr. LEXIS 3199, at *12.
[14] *Id.* at 13.

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Sub V Panel - Protector / Undertaker

ASSET ANALYSIS - BALANCE SHEET

CLASS I CASH AND GENERAL DEPOSIT ACCOUNTS
1. Note account names / multiple accounts
2. Not likely equal to cash per bank statement due to uncashed checks
3. Negative balances = liability / line of credit

CLASS II FX / US GOVERNMENT / TAX EXEMPT OBLIGATIONS
1. Often publicly traded, knowable values
2. Interest and foreign exchange rates cause changes in value
3. Brokerage relationship needed to liquidate

MOST LIQUID

CLASS III ACCOUNTS RECEIVABLE
1. Obtain aging report, collection less likely for old receivables
2. Verify that invoices exist, and that associated products / services delivered
3. Direct verification outreach to largest customers

CLASS IV INVENTORIES
1. Verify most recent date of physical count
2. Per GAAP, valuation is the lower of market price or original cost
3. Lower valuation = higher Cost of Goods Sold = losses

CLASS IV LOANS TO SHAREHOLDERS
1. Owner(s) have borrowed funds from the business
2. Is it collectible? Have the owners filed for bankruptcy individually?
3. Often used in lieu of "compensation," to avoid income / payroll tax

CLASS V BUILDINGS AND OTHER DEPRECIABLE ASSETS
1. Cost (less depreciation) can vary dramatically from FMV
2. Appraisal may therefore be needed to assess existence of equity
3. Professionals required to sell / auction

LESS LIQUID

CLASS VI INTANGIBLES / PATENTS / TRADEMARKS
1. Different types: Utility (process), Design, Plant
2. Can be "provisional" (less valuable), or complete
3. Professional valuation required

CLASS VII GOODWILL / GOING CONCERN VALUE
1. Valuation opinion often needed - Income/Balance Sheet/Market approaches
2. Professional services businesses often require ongoing owner involvement
3. Ultimate price discovery at auction

ILLIQUID

AMERICAN BANKRUPTCY INSTITUTE
ROCKY MOUNTAIN BANKRUPTCY CONFERENCE

Sub V Panel - Protector / Undertaker

ALAMEDA RESEARCH (FTX AFFILIATE)[1]
COMPARATIVE BALANCE SHEET ("JUST AN ESTIMATE")

BEWARE ILLIQUID ASSETS, THEY CAN EVAPORATE!!!!

		31-Dec-21	31-Oct-22	% Decline
ASSETS				
	LIQUID	7.0 bn	4.0 bn	-43%
	LESS LIQUID	84.0 bn	14.0 bn	-83%
	ILLIQUID	23.0 bn	4.0 bn	-83%
	TOTAL	114.0 bn	22.0 bn	
LIABILITIES				
	LIQUID	15.0 bn	12.0 bn	-20%
NET ASSET VALUE		99.0 bn	10.0 bn	-90%
NET LIQUID ASSET VALUE		(8.0 bn)	(8.0 bn)	0%

[1] Source: Business Insider India www.businessinsider.in/

Faculty

Mark D. Dennis, CPA, CFF is a partner with SL Biggs, A Division of SingerLewak LLP, in Denver and has public accounting experience providing tax consulting, compliance and preparation services to individuals, partnerships and corporate entities. He also has specialized experience in the areas of insolvency, bankruptcy and litigation support. Mr. Dennis is regularly retained by trustees, attorneys and debtors to handle the financial aspects of chapter 7, 11 and 13 bankruptcy estates. He assists with asset administration, the preparation of monthly operating reports, tax forecasting and preparation, chapter 11 debtor-in-possession reorganizations, and court-reporting compliance. Mr. Dennis's experience in matters of forensic accounting and litigation support includes records reconstruction and tracing of funds to identify recoverable assets, including fraudulent and/or preferential conveyance transactions, liquidation and insolvency analyses, claims analysis and preparation of evidentiary schedules and reports. He has been admitted and has testified as an expert in the U.S. Bankruptcy Court and has been appointed by the U.S. Department of Justice as a subchapter V trustee for Region 19 (Colorado and Wyoming). Mr. Dennis is the former president of Dennis & Company, PC, which combined its practice with SLBiggs in June 2020. He is a member of the Colorado Society of CPAs, the American Institute of Certified Public Accountants, ABI, the National Association of Bankruptcy Trustees and the Turnaround Management Association. Mr. Dennis received his B.A. in economics from Cornell University in 1992 and his M.B.A. from London Business School in 1999.

Prof. Brook E. Gotberg is a professor of law at Brigham Young University J. Reuben Clark Law School in Provo, Utah, where she teaches bankruptcy, contracts, secured transactions and other commercial law subjects. She joined the university in 2020 and has since been named the 2022 recipient of the Francis R. Kirkham Professorship, which honors exceptional achievements in scholarship, teaching or citizenship. Prof. Gotberg's scholarship focuses primarily on debtor and creditor relations, both in and out of bankruptcy. She recently presented on bankruptcy venue reform, avoidance actions, and the relationship between small businesses, the SBRA and COVID-19. Prior to joining the BYU faculty, she was an associate professor at the University of Missouri School of Law. Prof. Gotberg's experience with commercial law stems from her time with Sullivan & Cromwell in Los Angeles, where she represented both debtors and creditors in a variety of cases from large antitrust suits to minor contract disputes. She also clerked for Hon. Milan D. Smith, Jr. on the Ninth Circuit Court of Appeals, and for Hon. Thomas B. Donovan in the U.S. Bankruptcy Court for the Central District of California. Prof. Gotberg has been published in the *ABI Law Review* and is a 2019 ABI "40 Under 40" honoree. She received her B.A. *magna cum laude* in political science from Brigham Young University and her J.D. *cum laude* from Harvard Law School.

Carson Heninger is an associate with Greenberg Traurig LLP in Salt Lake City, where he advises on complex finance, restructuring and bankruptcy issues, representing financial institutions, secured creditors, trustees, committees, and debtors on matters related to bankruptcy cases and out-of-court workouts. He focuses much of his practice on bankruptcy litigation matters and has experience in receivership cases, including Ponzi schemes. Regularly appearing in court, Mr. Heninger has represented clients across a broad range of industries, including banking, mass tort, aviation, health care, energy, real estate, retail, restaurant and food services, and technology. He is a member of ABI's Ethics and Professional Compensation Committee and the Turnaround Management Associa-

tion's Rocky Mountain Chapter, and he is a member of the Federal Bar Association, Utah Bankruptcy Law Section, Litigation Section of the Utah State Bar, Salt Lake County Bar, Utah State Bar Young Lawyers Division, California Lawyers Association, Litigation Section of the California Lawyers Association and California Young Lawyers Association. Mr. Heninger received his B.S. in 2016 from Brigham Young University and his J.D. *magna cum laude* from Brigham Young University J. Reuben Clark Law School in 2019, where he was elected to the Order of the Coif and served as managing editor of submissions for the *BYU Journal of Public Law*.

D. Ray Strong, CPA, CIRA, CFE, CFF is a director at Berkeley Research Group, LLC in its Salt Lake City office. He provides expert advisory and fiduciary services involving investigative and forensic accounting, internal investigations, bankruptcy, receiverships, corporate restructuring, and litigation support in regional, national and international matters. Mr. Strong has served as a chapter 11 trustee, subchapter V trustee, examiner, court-appointed receiver and in other fiduciary capacities. His experience has involved operating and restructuring distressed businesses, asset liquidations, bankruptcy plan development and feasibility, investigation of fraud and mismanagement, tracing of funds and assets, financial data reconstruction, "big data" analysis and prosecution of avoidance actions. Mr. Strong received his B.S. from Westminster College and his M.P.A. from the University of Utah.

Melinda P. Willden is a trial attorney with the Office of the U.S. Trustee in Salt Lake City. She previously practiced law in the Tax and Corporate Section at Kirton McConkie, P.C. in Salt Lake City, where she served on the firm's hiring committee. After a hiatus from practicing law, Ms. Willden changed focus and spent four years as a judicial law clerk at the Utah Bankruptcy Court. She is admitted to practice in the District of Utah and is a member of the Utah State Bar. Ms. Willden is vice-president of the Utah Bankruptcy Bar Section and has presented at multiple CLEs. She received her J.D. *magna cum laude* in 1999 from Brigham Young University J. Ruben Clark Law School.