



YOUNG CONAWAY
STARGATT & TAYLOR, LLP

YCST BANKRUPTCY YEAR END REVIEW



The Delaware Bankruptcy Court was busy at the end of 2012, entering orders and opinions on a variety of topics. Set forth below are headlines and links to those decisions. All the best to you, our friends and colleagues, for a healthy and prosperous 2013.

COURT ENFORCES RELEASE AND DISMISSES \$5 MILLION PREFERENCE CLAIM—*Burtch v. Avnet, Inc. (In re Managed Storage Int'l, Inc.)*, No. 09-10368, Adv. No. 12-50026 (Bankr. D. Del. Nov. 26, 2012) (Walrath, J.)

COURT FINDS MAJORITY OF CLAIMS SUFFICIENTLY PLED IN CONSIDERING MOTION TO DISMISS AN ACTION ARISING FROM “MASSIVE FRAUD.”—*Indus. Enters. of America, Inc. v. Mazzuto (In re Pitt Penn Holding Co.)*, No. 09-11475, Adv. No. 11-51880 (Bankr. D. Del. Nov. 29, 2012) (Shannon, J.)

COURT APPROVES SETTLEMENT WITH, AND PRIMING LIEN IN FAVOR OF, VENDOR OVER OBJECTION OF SECURED CREDITOR—*In re Satcon Tech. Corp.*, Case No. 12-12869 (Bankr. D. Del. Dec. 7, 2012) (Gross, J.)

COURT APPROVES PROTECTIVE ORDER PURSUANT TO ATTORNEY WORK PRODUCT DOCTRINE—*Burtch v. Luminescent Systems, Inc. (In re AE Liquidation, Inc.)*, No. 08-13031, Adv. No. 10-55460 (Bankr. D. Del. Dec. 11, 2012) (Walrath, J.)

COURT DENIES TRANSACTION FEE WHERE PARTY CLEARLY NOT ENTITLED TO THE FEE UNDER THE SUBJECT ENGAGEMENT AGREEMENT—*In re Abitibowater Inc.* (Bankr. D. Del. Dec. 12, 2012) (Carey, J.)

COURT DISMISSES WARN ACT CLAIM FOR FAILURE TO STATE A CLAIM—*Sanchez v. AFA Foods (In re AFA Inv., Inc.)*, No. 12-11127, Adv. No. 12-50710 (Bankr. D. Del. Dec. 14, 2012) (Walrath, J.)

COURT REMANDS TO NY AN ACTION FOR EQUITABLE REFORMATION/SUBORDINATION—*Oppenheimer, Inc. v. TD Bank, N.A.*, (In re Bionol Clearfield, LLC), No. 11-12301, Adv. No. 12-50582 (Bankr. D. Del. Dec. 17, 2012) (Walsh, J.)

COURT DENIES \$29 MILLION CLAIM FILED BY STATE OF OREGON ON CONSTITUTIONAL GROUNDS—*Wash. Mut., Inc.*, No. 08-12229 (Bankr. D. Del. Dec. 19, 2012) (Walrath, J.)

COURT (I) ENFORCES PLAN RELEASE AND INJUNCTION AND (II) ENJOINS CLAIMS—*In re CD Liquidation Co.*, No. 09-13038 (Bankr. D. Del. Dec. 28, 2012) (Gross, J.)

If you have any questions or would like to discuss the decision further, please contact any of the Bankruptcy and Corporate Restructuring partners at Young Conaway. The Firm is also available for complimentary Delaware Update CLE programs to address any aspects of Delaware law that are of interest to our friends and colleagues around the country.

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The Bankruptcy and Corporate Restructuring Partners

Joseph M. Barry
Sean M. Beach
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M. Blake Cleary
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David R. Hurst
Matthew B. Lunn
Pauline K. Morgan
Edmon L. Morton
Michael R. Nestor
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Joel A. Waite
Sharon M. Zieg

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Young Conaway Stargatt & Taylor, LLP, with offices in New York and Delaware, counsels and represents national, international and local clients, handling sophisticated advisory and litigation matters involving bankruptcy, corporate law and intellectual property. Nearing its sixth decade, Young Conaway also guides regional businesses and individuals through a myriad of employment, real estate, tax, estate planning, environmental, and banking issues from the firm's offices in downtown Wilmington, DE.