



Case Alert: Friedman's Inc. v. Roth Staffing Companies, L.P.

In a November 30, 2011 decision in *Friedman's Inc. v. Roth Staffing Companies, L.P.*, the United States Bankruptcy Court for the District of Delaware found that "neither the post-petition provision of new value by the creditor nor the post-petition payment of unpaid, pre-petition new value affects [a] preference calculation." Prior to the debtor's bankruptcy filing, the debtor made a preferential transfer to a creditor. Following the transfer but prior to the debtor's bankruptcy filing, the creditor provided new value to the debtor, which went unpaid prior to the petition date. Following the petition date, the debtor sought and obtained authority from the Bankruptcy Court to pay a portion of the creditor's pre-petition claim as an administrative expense claim. The question before the Bankruptcy Court was "whether the post-petition payment of...the unpaid, pre-petition claim relates back to the preference period...[such that] the creditor's subsequent new value defense is reduced and, thus, the creditor's preference liability is increased." The Bankruptcy Court, "[a]pplying Third Circuit Law...[held] that the filing of the bankruptcy 'fixes' the preference analysis as of the petition date. Thus, neither the post-petition provision of new value by the creditor nor the post-petition payment of the unpaid, pre-petition new value affects the preference calculation."

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Opinion

In re: Friedman's Inc., et al.

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