



**Date: June 10, 2026**  
**Session: #38076**

# Trade Creditors in Court: Legal Battles and Insolvency Lessons from the Front Lines

Presented by: Ronald Bruckmann

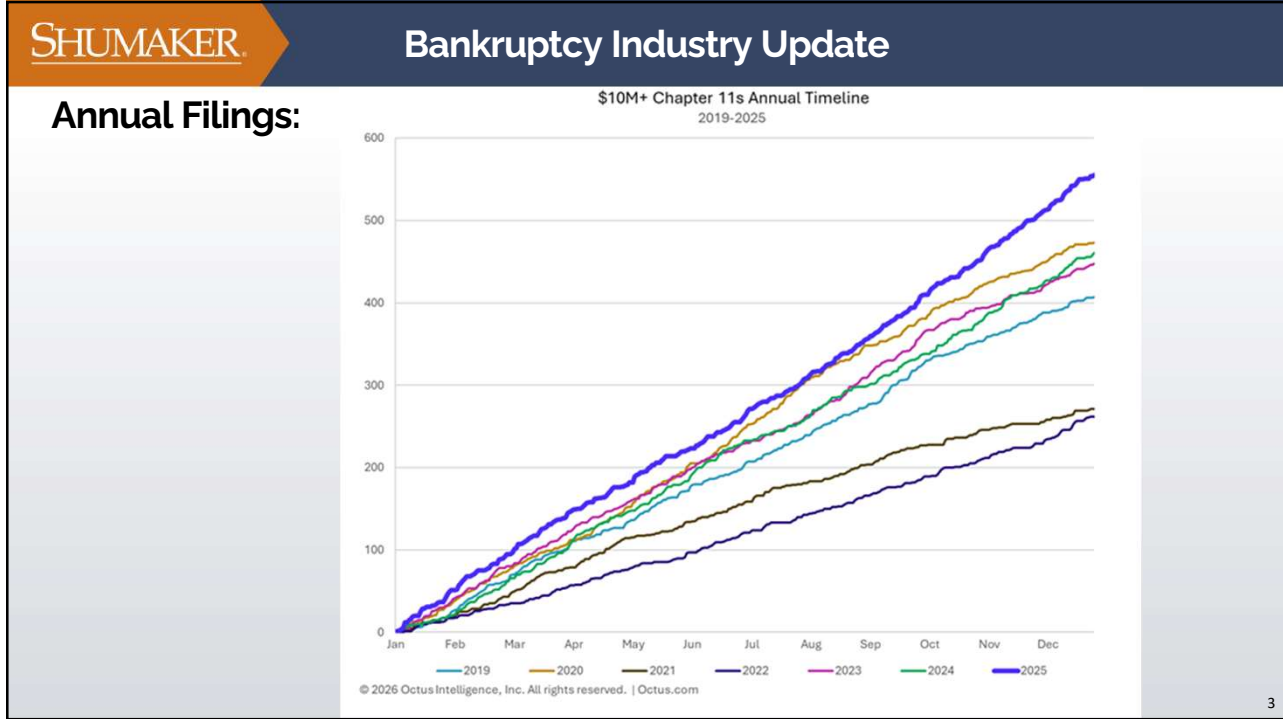
1

**SHUMAKER** Bankruptcy Industry Update

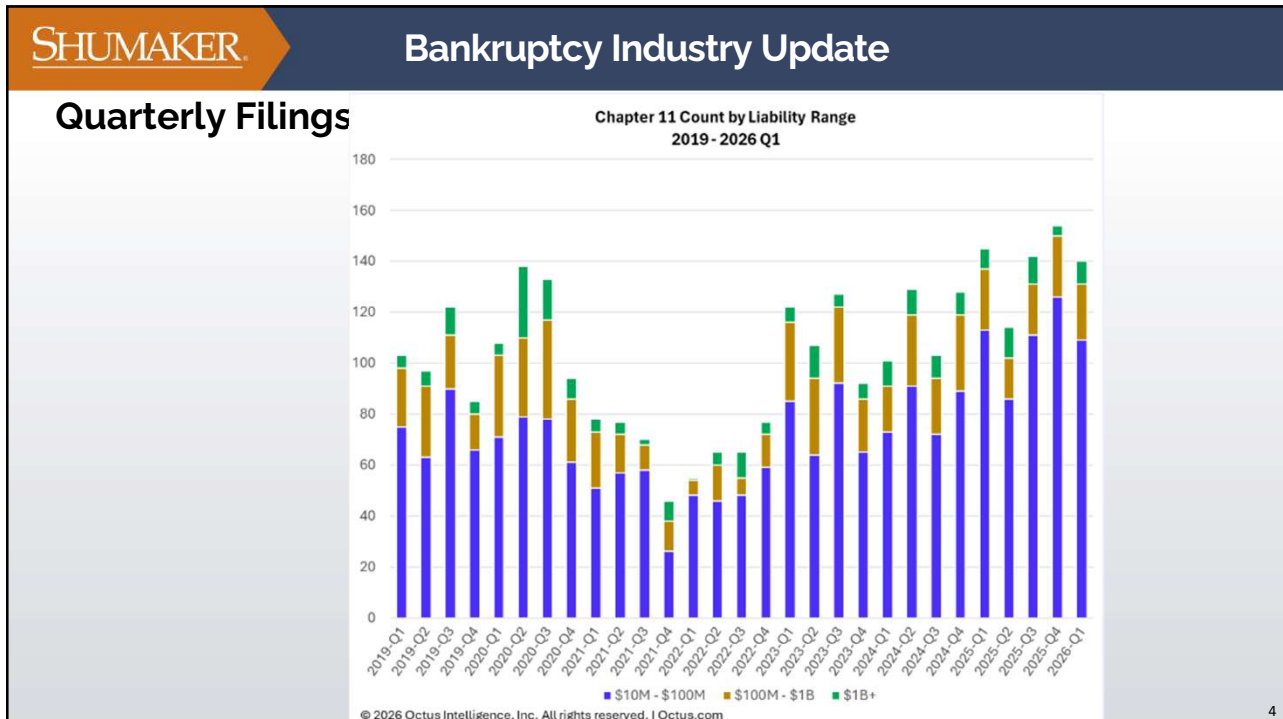
**Top Trends and Drivers of Distress:**

- Effects of Covid-19    **Corporate Governance**    Failed Strategies/Expansions
- Changing Consumer Behavior**
- Litigation and Regulation**    **Inflation and Interest Rates**
- One-Off External Shocks**
- Tariffs and Trade Policy**    **Supply Chain Disruptions**
- Debt Service and Liquidity**
- Lender-Forced Liquidation**    **Competition**    **Fraud**

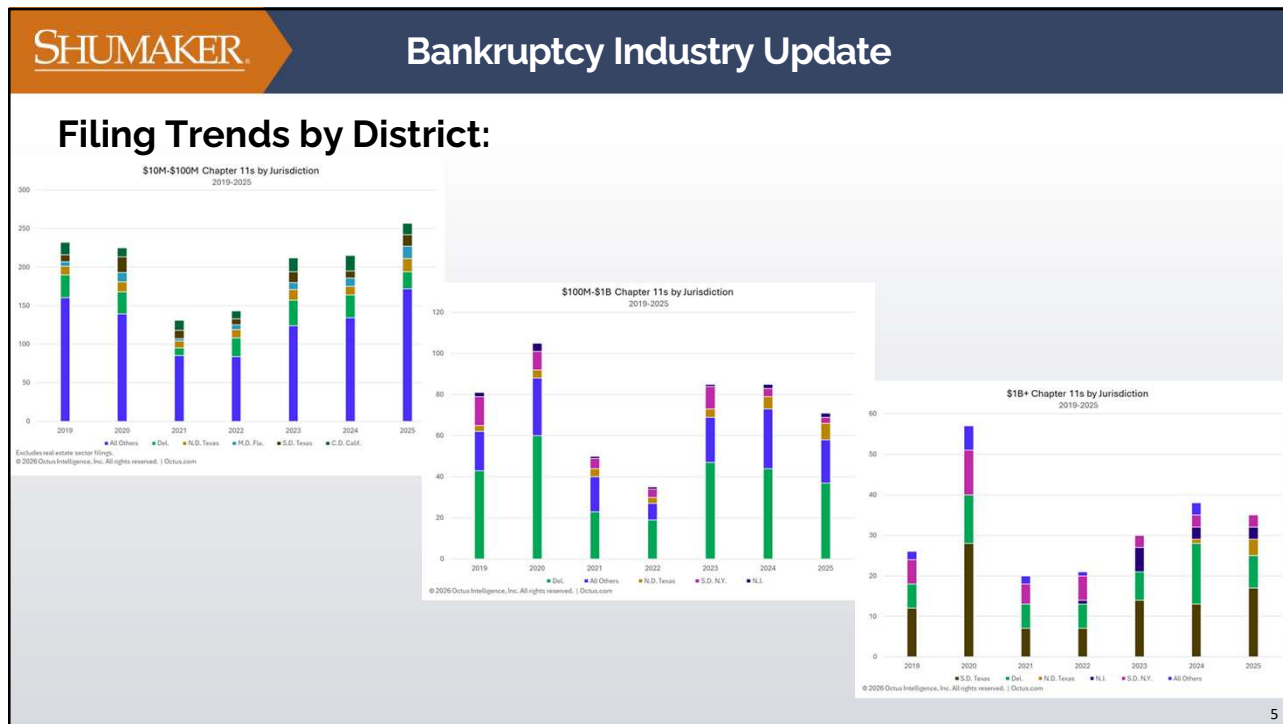
2



3



4



5

**SHUMAKER** Bankruptcy Industry Update

### The Tariff Tipping Point


- Companies Citing Tariffs as Bankruptcy Drivers, including:
  - At Home:** Balkan Express, At Home Group, Claire's Stores, Rite Aid Corp., First Brands Group, Kloeckner Pentaplast, West Marine, Trinseo
  - Abroad:** Oak and Fort, GiftCraft Ltd., Sinobec Resources, Fossil (UK)
- February 20, 2026: The U.S. Supreme Court ruled that the President is **not authorized** to impose tariffs to the extent that he had under the International Emergency Economic Powers Act (IEEPA).
- IEEPA Tariff Refunds: Post-Supreme Court Development
  - Sale of Tariff Refund Claims
- May 7, 2026: Section 122 Global Tariffs Held Unlawful

6

SHUMAKER
Case Studies: Worldwide Stay Motions

## Bankruptcy Code Section 362

- Trend towards "restating" (and sometimes overextending) the automatic stay
- Recent examples include:
  - January 14, 2026: *STG Logistics*
  - February 2, 2026: *Multi-Color Corporation*
  - February 10, 2026: *Eddie Bauer*



4. Pursuant to sections 362 and 365 of the Bankruptcy Code, notwithstanding a provision in a contract or lease or any applicable law, all persons are hereby stayed and restrained from terminating or modifying any and all contracts and leases to which the Debtors are party or signatory, at any time during the pendency of these chapter 11 cases, because of a provision in such contract or lease that is conditioned on the (a) insolvency or financial condition of the Debtors at any time before the closing of these chapter 11 cases or (b) commencement of these chapter 11 cases under the Bankruptcy Code. Accordingly, all such persons are required to continue to perform their obligations under such contracts and leases during the postpetition period.

7

SHUMAKER
Case Studies: Critical Vendor Developments


→ Harsher Penalties

Refusing to extend customary terms after accepting critical vendor payments — do stricter consequences apply?

→ Zachry's Order Modifications

→ Emails vs. Form Agreements

Emails replacing formal critical vendor agreements — implications for enforceability and compliance.



6. In the event that a Trade Claimant that receives payment pursuant to this Interim Order does not maintain or reinstate trade terms at least as favorable as those existing in the twelve months prior to the Petition Date during the pendency of the chapter 11 cases, regardless of whether a Trade Agreement has been executed, the Debtors shall have all remedies available at law or in equity with respect to such Trade Claimant and the payment made to such Trade Claimant.

**\*All Trade\* Motions**

Broad motions impacting all trade creditors — scope, precedent, and strategic considerations in critical vendor contexts.

**Multi-Color Corporation**

**QVC**

8

SHUMAKER Case Study: True Value – 503(b)(9) Pitfalls



### The Drop Shipment Exception

**Key Consequences**

- **Exception Triggered**  
The drop shipment exception applies when the vendor ships directly to the debtor's end customer rather than to the debtor itself.
- **Priority Protection Lost**  
This common practice **eliminates 503(b)(9) priority protection** – leaving the vendor as a general unsecured creditor.
- **Vendor Risk**  
Vendors relying on drop shipment models must reassess their exposure in any customer bankruptcy scenario.

### 503(b)(9) Claims

1

**20-Day Window**

Claims apply exclusively to goods delivered within **20 days before** the bankruptcy filing date

2

**Full Payment Entitlement**

Entitled to **full payment** under Section 1129(a)(9) of the Bankruptcy Code, giving vendors priority over general unsecured creditors.

3

**Filing Requirement**

Vendors **must file** a motion or special proof of claim to formally secure priority status – failure to act forfeits the right.

9

9

SHUMAKER Case Study: Instant Brands – Divisible Contracts

## Supply Agreements in the Pressure Cooker

March 18, 2026: Fifth Circuit affirmed S.D. Texas Bankruptcy Court ruling.

Debtor may sell rights under a Master Supply Agreement while retaining indemnification rights tied to individual purchase orders.


- Section 365 Context
- Takeaways:
  - Separation of Supply Agreements from Underlying Purchase Orders and Invoices
  - Drafting Supply Agreements to Mitigate Risk




10

10

SHUMAKER
Case Study: Administrative Claims – Bang Energy




11 U.S.C. § 503(B)(1)(A)  
READING DOCTRINE

**The Incident**

Debtor failed to return dunnage equipment post-petition, constituting unauthorized retention of creditor assets. This disrupted operations and represents an actual, necessary cost arising from post-petition conduct.

**Legal Basis**


Under *Reading Co. v. Brown*, damages caused by a debtor's post-petition operations carry administrative expense priority. The estate — not the injured creditor — bears the cost of the debtor's operational failures.



11

11

SHUMAKER
Case Study: Big Lots – Administrative Insolvency



September 2024 1

Big Lots enters Chapter 11 with \$707.5M DIP financing secured

December 2024 2

UCC reveals DIP default and unpaid administrative claims — alarm bells raised

December 17, 2024 3

UCC files motion demanding payment or conversion to Chapter 7

November 4, 2025 4

Court approves conversion to Chapter 7 after fifth distribution

**Administrative Claims Overview**

\$290M

Total Claims Pool

Administrative expense and 503(b)(9) claims: \$274–290 million

\$75M

Total Paid Out

Fifth distribution brought cumulative payments to nearly \$75 million

27%

Recovery Rate

Described by parties as a **"better-than-expected result"**

**503(b)(9) & Critical Vendor Shortfall**

**\$61.9M Budgeted**

Total 503(b)(9) claims for goods received within 20 days before petition date

**\$23M Paid**

Debtors paid only \$23 million out of the budgeted 503(b)(9) amount — a significant shortfall

**Critical Vendor Gap**

Vendors provided millions in goods post-petition under critical vendor arrangements, compounding unpaid obligations

▲ The Big Lots case illustrates the cascading risk of administrative insolvency: DIP default, unpaid 503(b)(9) claims, and critical vendor shortfalls ultimately forced conversion from Chapter 11 to Chapter 7 — leaving vendors with only 27 cents on the dollar.

12

12

SHUMAKER Case Study: First Brands – Fraud

*"When you see one cockroach, there are probably more, and so everyone should be forewarned of this one."* — JPMorgan CEO Jamie Dimon

*"There are now documented allegations of rampant fraud against the debtors' owner and CEO, Patrick James, and ongoing criminal investigations, which imperil the very fate of this company."* — Alan Greenberg, DIP Lender Counsel

**Off-Balance Sheet Financing**

Investigation reveals hidden liabilities and undisclosed financing structures obscuring true financial condition.

**Examiner Appointment**

Court-ordered examiner appointed to investigate fraud allegations and report to creditors and the court.

**Trade Creditor Implications**

Fraud findings may trigger clawbacks, voidable transfers, and reduced recoveries for unsecured creditors.



























13

13

SHUMAKER Case Study: Multi-Color Prepack Pace Meets Venue Fight



D.N.J. | FILED JAN 29, 2026

**The Filing**

Prepack backed by first-lien holders (~72.3% of covered obligations). Designed as a balance-sheet reset: cut net debt ~\$3.9B, **trade claims unimpaired**, \$550M+ liquidity at emergence.

**The Venue Dispute**

Cross-holders and the U.S. Trustee sought transfer or dismissal, alleging venue shopping. Judge Kaplan denied, finding MCC-Norwood's "principal assets" were ~\$1.05M in N.J. bank accounts opened shortly before filing.

**Legal Framework**

Applied an **asset-based approach** under 28 U.S.C. § 1408, anchored to petition-date principal assets. Declined to narrow the statute to close perceived loopholes—even while acknowledging the result "doesn't sit right."

14

14

SHUMAKER Navigating Third-Party Releases Post-*Purdue*

## The *Purdue* Wall vs. The Chapter 15 Gateway

### Chapter 11 After *Purdue*

The Supreme Court's 2024 *Purdue Pharma* ruling barred nonconsensual third-party releases in domestic Chapter 11 cases, finding no statutory authority to support them. Debtors can no longer use the plan confirmation process to shield non-debtor parties from liability without creditor consent.

### Chapter 15 — A Different Standard

Chapter 15 operates on the principles of **comity and international cooperation**. U.S. courts may recognize and enforce foreign restructuring plans — including those with nonconsensual third-party releases — provided they satisfy procedural fairness standards. *Purdue*-style restrictions do not automatically apply to these ancillary proceedings.

❗ Courts now draw a clear distinction: Chapter 11 is a domestic reorganization tool; Chapter 15 is an ancillary framework for international proceedings governed by its own rules.

15

15

SHUMAKER Navigating Third-Party Releases Post-*Purdue*

## The *Crédito Real* Blueprint

### The Ruling

In March 2026, the District of Delaware affirmed that nonconsensual third-party releases approved in a Mexican *concurso mercantil* proceeding remained fully enforceable in the U.S. under Chapter 15.

### The Precedent

This marked the first appellate-level confirmation that *Purdue* does not extend to Chapter 15 recognition proceedings — a landmark data point for cross-border restructuring strategy.

### ✔ Takeaway

Multinational debtors will evaluate initiating foreign proceedings in jurisdictions that permit nonconsensual releases, then seek U.S. recognition under Chapter 15 — accessing protections that remain out of reach domestically under Chapter 11.

16

16

SHUMAKER
Avoidance Action Updates

**Preferential Transfers:  
Ongoing Impact of Auriga Polymers – A Critical Precedent**

**Decision:** *Auriga Polymers Inc. v. PMCM2, LLC as Tr. for Beaulieu Liquidating Tr.*,  
40 F.4th 1273 (11th Cir. 2022)

In the

# United States Court of Appeals

## For the Eleventh Circuit

**i** In a unanimous decision written by Judge Lagoa, **the 11th Circuit agreed** that when read in context an "otherwise unavoidable transfer" has pre-petition meaning, and the SNV defense cannot be depleted by post-petition payments.

17

17

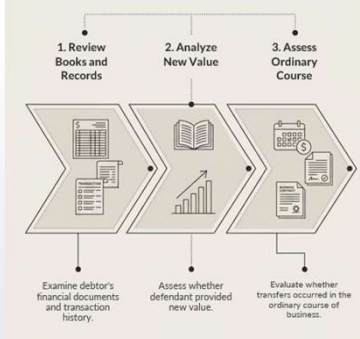
SHUMAKER
Avoidance Action Updates

**Preferential Transfers:**

- **Due Diligence Must Be Sufficiently Pled**
  - *Miller v. Prestige Patio Co. Ltd. (In re Christmas Tree Shops, LLC)*, Bankr. D. Del. (Dec. 5, 2025)
  - Dismissal for Failure to Plead Pre-Lawsuit Due Diligence

**i** **Strategic Takeaway:** Treat due diligence as a **core element** of the claim, not a post-filing afterthought.

- **Ordinary Course of Business Under Pressure**
  - *Fred's Inc.*
    - C.H. Robinson Case
    - Terminix Case
- **Critical Vendor is No Defense**



18

18

**SHUMAKER** Avoidance Action Updates

**Preferential Transfers:**

- **Disputed Releases**
  - *Rite Aid*
  - *Yellow Corporation*
- Releases in Critical Vendor Agreement, Setoff Agreement, Sale Order, Plan and Confirmation Order
- Requirement of Court Approval
- Limitation to "Go-Forward" Vendors
- Adjusted Small Transfer Safe Harbor




**SHUMAKER** Case Study: Uncle Nearest – Power of Receivership



**The Power Play**

- 1 — **August 2025**  
Federal receivership established; Phillip G. Young Jr. appointed by District Judge Atchley
- 2 — **March 17, 2026**  
CEO Fawn Weaver files Chapter 11 for Uncle Nearest entities – a bid to end the receivership and reclaim operational control
- 3 — **The Reality**  
The court-appointed receiver still held the keys. Management had already been divested of that authority.

**SHUMAKER** Assignments for the Benefit of Creditors

2025 | Assignment for Benefit of Creditors Act

• **Uniform ABC Act:**

**Assignment for the Benefit of Creditors:**  
A voluntary, debtor-initiated liquidation procedure.

**Uniform Tool**  
Potential nationwide framework for distressed business resolution.

**Consistency**  
Replacing fragmented patchwork law with more predictable process.

**Recovery**  
Efficient corporate wind-downs.

Map | Bill List | Summary | Enactment History

Enactment Map ● Introduced ● Enacted

21

21

**SHUMAKER**

# Questions?

Thank you for your attendance.

Ronald Bruckmann || [rbruckmann@shumaker.com](mailto:rbruckmann@shumaker.com) || 704.945.2171

Manufacturing • Customers • Vendors • Supply Chain  
Insolvency • Litigation • Commercial and Financial Contracts •  
Cross-Border

22

22



**Global Advocaten**  
BUSINESS WITHOUT BORDERS

Global Advocaten is a Zürich-based, Chambers-ranked global network of leading law firms, represented in over 70 cities across 4 continents, with more than 3,000 attorneys speaking 40 languages.

David Conaway, Chairman of Global Advocaten (2022-present)

Chambers  
RANKED IN  
**Global**  
2025  
Global Advocaten

23



**BANKRUPTCY,  
INSOLVENCY AND  
CREDITORS' RIGHTS**

24

**We help stakeholders in business insolvencies protect and maximize the value of their interests.**

As capital markets, the global economy, and industries evolve and change, corporate insolvencies play an increasingly significant role in today's business environment. Companies utilize the special provisions of bankruptcy law to buy and sell distressed assets, shed unwanted contractual obligations, restructure balance sheets, resolve legacy obligations, and achieve reductions in workforce. Shumaker helps various stakeholders in business insolvencies to protect and maximize the value of their interests. Clients tell us we add value by getting it right. We devise creative, strategic solutions that meet our clients' goals, both nationwide—including representation in bankruptcy courts in 36 states—and around the globe. Clients involved in a business insolvency need decisive, spot-on advice to maximize outcomes in insolvency situations. Recognizing that there is little margin for error in business insolvencies, we proactively use our experience and command of applicable law to our clients' advantage.

**U.S. Nationwide Insolvency Practice**

- Lawyers in our Bankruptcy group have handled numerous cases as lead counsel in bankruptcy cases throughout the U.S., including in Delaware, the Southern District of New York, and the Southern District of Texas. The U.S. Bankruptcy Code is federal law and is applied substantially uniformly in all U.S. states.
- Delaware is a unique jurisdiction. Its status as a popular state of incorporation results in many Chapter 11 filings there, even though the Chapter 11 debtors are headquartered elsewhere. Due to Bankruptcy Code venue rules, many cases are also filed in the Southern District of New York and the Southern District of Texas. Many professionals who are involved in Chapter 11 cases in these districts are not licensed or located in the districts. The Bankruptcy Courts routinely allow outside professionals to participate in Chapter 11 matters.
- Shumaker has represented numerous creditors' committees as well as individual creditors and stakeholders regarding their particular legal issues. These include suppliers, customers, counter-parties to contracts, financial institutions, purchasers of assets, and distressed companies.

**Global Insolvency Practice**

- Shumaker handles inbound insolvency matters for foreign-based companies or their administrators, including informal restructurings, formal Chapter 11 or Chapter 15 filings, sales of assets, and litigation related to a U.S. presence or business activities. We also represent U.S.-based entities regarding insolvencies in foreign jurisdictions and partner with our global network of professional colleagues for outbound insolvency matters

25

**OUR CLIENTS**

- Creditors' committees
- Suppliers to or customers of distressed companies
- Financial institutions and lenders (both secured and unsecured)
- Distressed companies, including boards of directors, private equity, and portfolio companies
- Foreign debtors or administrators in cross-border insolvency cases
- Trustees in bankruptcy
- Receivers for distressed assets
- Counter-parties to contracts with distressed companies
- Buyers of distressed assets
- Landlords and tenants

**OUR SERVICES**

- Official creditors' committee representation
- Unsecured creditors' rights and remedies
- Secured lender rights and remedies
- Bankruptcy or workout planning
- Fiduciary duties of officers and directors
- Chapter 11 filings
- Chapter 7 liquidations
- Cross-border insolvencies, including Chapter 15
- Post-petition financing
- First-day motions
- Receiverships
- Assignments for the benefit of creditors
- Non-bankruptcy workouts and forbearance agreements
- Avoidance litigation
- Preference defense
- Equitable subordination claims
- Lender liability claims
- Section 363 sales
- Forensic analysis
- Intellectual property rights in bankruptcy
- Labor and employment rights for insolvent companies
- Collective bargaining and retiree obligations
- Tax issues arising from distressed companies

26

## REPRESENTATIVE CHAPTER 11 OR INSOLVENCY MATTERS

<p>Allens, Inc. (Arkansas)                  American Apparel Company (South Carolina)                  Appvion, Inc. (Delaware)                  Armstrong Flooring, Inc. (Delaware)                  Bernard Madoff Investment Securities, LLC (New York)                  Blue Water Automotive, Inc. (Detroit)                  Borden Dairy Company (Delaware)                  Burlington Industries, Inc. (Delaware)                  Central Grocers, Inc. (Delaware)                  Collins &amp; Aikman Inc. (Michigan)                  DB Holdings Liquidation, Inc. (Delaware)                  Dana Automotive, Inc. (New York)                  Dean Foods Company (Texas)                  Del Monte Foods Corporation II Inc. (New Jersey)                  Eastman Kodak Company (New York)                  Fairfield Sentry Limited (New York)                  Federated Department Stores, Inc. (Ohio)</p>	<p>First Brands Group, LLC (Texas)                  Fruit of the Loom, Inc. (Delaware)                  GT Advanced Technologies, Inc. (New Hampshire)                  General Motors (New York)                  Heritage Home Group, LLC (Delaware)                  Hertz Corporation (Delaware)                  Hexion Holdings (Delaware)                  hhgregg, Inc. (Indiana)                  Imerys Talc America (Delaware)                  J.A. Jones Construction (Charlotte)                  Jo-Ann Stores, LLC (Delaware)                  Jos. A. Bank Clothiers, Inc. (Tailored Brands, Inc.) (Texas)                  Kmart Corporation (Illinois)                  LSC Communications, Inc. (New York)                  Levitz Furniture Incorporated (Delaware)                  Logo Athletics, Inc. (Delaware)                  MF Global Inc. (New York)                  McDermott International, Inc. (Chicago Bridge &amp; Iron Company) (Texas)                  Montgomery Ward (Delaware)                  NORPAC Foods, Inc. (Oregon)                  Neiman Marcus Group Ltd LLC (Texas)                  PTL Heritage USA (South Carolina)                  Pillowtex, Inc. (Delaware)</p>	<p>Polaroid Corporation (Delaware)                  Quebecor, Inc. (New York)                  Remington Outdoor Company, Inc. (Delaware)                  Revlon, Inc. (New York)                  Rite Aid Corporation (New Jersey)                  Sears Holdings Corporation (New York)                  SemCrude, L.P. (Delaware)                  Smurfit-Stone Container Corporation (Delaware)                  Southern Grocers, LLC (BiLo/Winn-Dixie) (Delaware)                  Sports Authority Holdings, Inc. (Delaware)                  TK Holdings Inc. (Takata) (Delaware)                  The Bon-Ton Stores, Inc. (Delaware)                  Toys "R" Us, Inc. (Virginia)                  True Value Company (Delaware)                  United Industries Corporation/Spectrum Brands, Inc. (Texas)                  Vital Pharmaceuticals, Inc. (dba Bang Energy/Quash Seltzer) (Florida)                  Visteon Corporation (Delaware)                  Willowood USA Holdings, LLC (Colorado)                  Z Gallerie, LLC (Delaware)</p>
---	--	---

27

# CHARLOTTE

## MAJOR U.S. BUSINESS HUB

**#1** STATE FOR BUSINESS IN 2022 ACCORDING TO CNBC'S ANNUAL COMPETITIVENESS RANKING



POPULATION OF THE CHARLOTTE METRO REGION **3.1M**

HOME TO 1,000+ FOREIGN COMPANIES, CHARLOTTE IS A GLOBAL BUSINESS HUB

**1000+**



**17** FORTUNE 100/500/1000 HEADQUARTERS CALL CHARLOTTE HOME, INCLUDING LOWE'S, HONEYWELL, DUKE ENERGY, AND NUCOR, THE LARGEST STEEL MANUFACTURER IN THE U.S.

MANUFACTURING IS CHARLOTTE'S 2<sup>nd</sup> LARGEST INDUSTRY AND GENERATES \$26B FOR THE REGIONAL ECONOMY

**\$26B**

2<sup>nd</sup> LARGEST BANKING CENTER IN THE U.S. WITH HEADQUARTERS FOR: BANK OF AMERICA (2<sup>nd</sup> LARGEST), WELLS FARGO (4<sup>th</sup> LARGEST), TRUIST (7<sup>th</sup> LARGEST), ALLY BANK (22<sup>nd</sup> LARGEST)

**5<sup>th</sup>**

CHARLOTTE DOUGLAS INTERNATIONAL AIRPORT IS RANKED 5<sup>th</sup> WORLDWIDE FOR AIR TRAFFIC WITH OVER 118,000 PEOPLE TRAVELING DAILY



28