

PUBLICATIONS

Circuit Courts Split On Review of Bankruptcy Court's Denial of Motion to Dismiss

The Bankruptcy Strategist

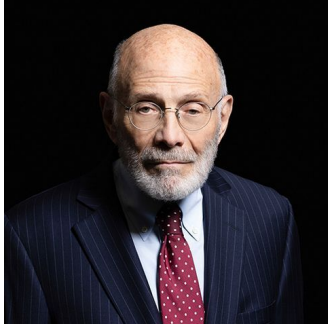
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In his latest article for *The Bankruptcy Strategist* titled, "Circuit Courts Split On Review of Bankruptcy Court's Denial of Motion to Dismiss," Schulte Roth & Zabel of counsel Michael L. Cook discusses the division of appellate courts in reviewing bankruptcy court denials of motions to dismiss cases, with recent contradictory rulings highlighting this split.

Appellate courts are split on whether to review a bankruptcy court's denial of a motion to dismiss an entire case. Two district judges within the past few months, hearing appeals from the bankruptcy court, have reached contrary results that underline the split among the nation's courts of appeals noted below. *See, e.g., In re Maison Royale, LLC*, 2024 WL 2699994 (E.D. La. May 24, 2024) (denied leave to appeal interlocutory order that denied a creditor's "motion to dismiss the bankruptcy case due to bad faith filing.") citing *In re Phillips*, 844 F.2d 230 (5th Cir. 1988); *contra, In re AIG Financial Products Corp.*, 2024 WL 810051 (D. Del. Feb. 27, 2024) (order denying dismissal of Chapter 11 case *is final and appealable*), citing *In re Brown*, 916 F.2d 120 (3d Cir. 1990). As discussed in this article, if Congress does not resolve this particular circuit split, appellate courts should adopt the Third Circuit's "pragmatic" approach to review these denial orders.

Read the article.

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