

# United States



INTERNATIONAL  
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## United States

### ***Bankruptcy Threshold Adjustment and Technical Corrections Act (Pub. L. No. 117-151)***

- Signed into law on June 21, 2022
- Purpose:
  - Modify certain eligibility requirements for personal and small business debtors
  - Make certain other technical modifications





## United States

### ***Bankruptcy Threshold Adjustment and Technical Corrections Act (Pub. L. No. 117-151)***

- Raises debt cap for individuals in Chapter 13 proceedings = \$2.7 million
  - [Amending 11 U.S.C. § 109(e)]





## United States

### ***Bankruptcy Threshold Adjustment and Technical Corrections Act (Pub. L. No. 117-151)***

- Reinstates the upper limit for “small business debtors” qualifying for Subchapter V = \$7.5 million
  - [Amending 11 U.S.C. § 1182(1)(A)]
- Originally raised in response to Covid-19
  - Sunsets after 2 years (June 21, 2024)





## United States

### ***Bankruptcy Threshold Adjustment and Technical Corrections Act (Pub. L. No. 117-151)***

- Narrows the “issuer affiliate” exception
  - [Amending 11 U.S.C. § 1182(1)(B)]
- Disqualified if affiliate of “issuer”
  - Issuer = Securities Exchange Act = public company





## United States

### ***Bankruptcy Threshold Adjustment and Technical Corrections Act (Pub. L. No. 117-151)***

- Subchapter V trustee can operate business in the event debtor ceases to be “in-possession”
  - [Amending 11 U.S.C. § 1183(d)]





## United States

### ***Siegel v. Fitzgerald, No. 21-441 (U.S. June 6, 2022)***

- 2017 increases of US Trustee system fees violated the uniformity requirement of the US Constitution's Bankruptcy Clause
  - [US Const., Art. I, § 8]





## United States

### ***Siegel v. Fitzgerald, No. 21-441 (U.S. June 6, 2022)***

- US Trustee system:
  - 48 states
  - Self-funded
- Bankruptcy Administrator system
  - 2 states
  - General judiciary fund





## United States

### ***Siegel v. Fitzgerald, No. 21-441 (U.S. June 6, 2022)***

- 2017 fee increases applied differently across programs
  - Different rates in time and location
  - Significant disparity = \$500k!





## United States

***Siegel v. Fitzgerald,  
No. 21-441 (U.S. June 6, 2022)***

*“[The Congress shall have Power . . . ] To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;”*





## United States

### ***MOAC Mall Holdings v. Transform Holdco,*** **No. 21-1270, cert. granted June 27, 2022**

- Granted to resolve a circuit-split re: Section 363(m) and the scope of appellate jurisdiction of bankruptcy sale orders





## United States

### ***MOAC Mall Holdings v. Transform Holdco,*** **No. 21-1270, cert. granted June 27, 2022**

*Section 363(m):* The reversal or modification on appeal . . . of a sale or lease of property does not affect the validity of a sale or lease . . . to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, *unless such authorization and such sale or lease were stayed pending appeal*





## United States

### *In re Black Gold S.A.R.L*

### **BAP No. NC-21-1068-BGT (B.A.P. 9<sup>th</sup> Feb. 2022)**

- 9<sup>th</sup> Circuit BAP holding that alleged bad faith conduct does not provide sufficient basis to deny Chapter 15 recognition





## United States

### *In re Black Gold S.A.R.L*

### **BAP No. NC-21-1068-BGT (B.A.P. 9<sup>th</sup> Feb. 2022)**

- Bankruptcy court is not “helpless” post-recognition
- Chapter 15 has “other tools” to deal with misconduct and cases filed in bad faith
  - Abstention and dismissal powers
  - Relief from stay
  - Termination of recognition





## United States

### ***In re Talal Qais Abdulmunen al Zawawi*** **2022 WL 596836 (M.D. Fla. Feb. 28, 2022)**

- “[C]ompliance with Section 109(a) is not a prerequisite to obtaining recognition under Chapter 15”
- Rejects contrary decision in *Drawbridge Special Opportunities Fund LP v. Barnet (In re Barnet)*, 737 F.3d 238 (2d Cir. 2013)





## United States

***In re Talal Qais Abdulmunen al Zawawi***  
**2022 WL 596836 (M.D. Fla. Feb. 28, 2022)**

- “Debtor” vs. “foreign representative”
- Section 109 vs. Section 1502





## United States

***In re Modern Land (China) Co., Ltd.***

**No. 22-10707 (MG) (Bankr. S.D.N.Y. July 18,  
2022)**

- Clarifying debtor's ability to receive substantive discharge of debt governed by New York law upon recognition of foreign main proceeding





## United States

***In re Modern Land (China) Co., Ltd.***  
**No. 22-10707 (MG) (Bankr. S.D.N.Y. July 18, 2022)**

- Respectfully disagreeing with the High Court of Hong Kong in *Rare Earth*, [2022] HKCFI 1686 (Harris J), June 6, 2022
- “[Chapter 15] recognition does not appear as a matter of United States’ law to discharge the debt.”





## United States

### ***Stream TV Networks v SeeCubic,*** **Case No. 360-2021(Del. June 15, 2022)**

- Delaware Supreme Court case repudiating “insolvency exception” under the D.G.C.L.
- Insolvency does not circumvent requirement for majority consent to authorize the sale or exchange of all or substantially all of the company’s property





## United States

### ***Mass Tort Liabilities***

- *In re LTL Management, LLC*, Case No. 21-03032-MBK (Bankr. D. N.J. Feb. 25, 2022)
- *In re Aearo Technologies LLC*, Case No. 22-02890 (Bankr. S.D. Ind. Aug. 26, 2022)





## United States

### ***Student Loan Debt***

- *Wolfson v. DeVos (In re Wolfson)*, Case No. 19-11618(LSS) (Bankr. D. Del. Jan 14, 2022)
  - Permitting discharge but applying *Brunner*
- Presidential executive action forgiving federal student loans
  - Up to \$20,000 per borrower
  - Based on indirect “emergency” legislation