

News

Lowndes Secures Landmark Eleventh Circuit Ruling Protecting Creditors in Subchapter V Bankruptcy

Press Release
Lowndes
07.18.2025

Related Attorneys

[Michael S. Provenzale](#)

Related Expertise

[Creditors' Rights & Bankruptcy](#)

Lowndes recently achieved a precedent-setting appellate victory in the U.S. Court of Appeals for the Eleventh Circuit. In *Benshot LLC v. 2 Monkey Trading LLC*, the court ruled that corporate debtors proceeding under Subchapter V of Chapter 11 cannot discharge debts arising from willful and malicious conduct or certain other “bad acts” such as fraud. This landmark ruling is now binding in Florida, Georgia, and Alabama and provides important protections for creditors.

Case Overview

Lowndes represented BenShot LLC, a Wisconsin-based company known for its bullet-embedded glassware. A Wisconsin jury had awarded BenShot \$3.1 million after finding that the defendants copied BenShot’s design, imported knockoffs from China, and falsely advertised them as “Made in the USA.” The jury specifically found the defendants acted “maliciously” toward BenShot.

Following the verdict, the defendants filed for bankruptcy under Subchapter V of Chapter 11 and sought to discharge the judgment. After BenShot’s objection to discharge was dismissed by the bankruptcy court, Lowndes successfully argued on appeal that such debts are nondischargeable under Sections 523(a) and 1192(2) of the Bankruptcy Code. This result preserves BenShot’s judgment, despite the defendants’ subsequent bankruptcy.

The Victory: Corporate Debtors Can't Escape Certain Debts

In a 2-1 decision, the Eleventh Circuit ruled that debts arising from willful and malicious conduct, or other “bad acts,” such as fraud, are not dischargeable by corporate debtors in Subchapter V bankruptcy cases. This ruling now applies to all bankruptcy courts in Florida, Georgia, and Alabama, creating much-needed uniformity across the circuit.

Importantly for Florida, the decision overturns several prior rulings from bankruptcy courts within the state that had allowed corporate debtors to escape these types of debts. Florida creditors can now rely on this established law when challenging attempts to discharge debts based on willful and malicious conduct.

What This Means for Creditors

This ruling provides critical protections for creditors, especially those who have been wronged by corporate bad actors. Here's why it matters:

- **Preserving Valid Claims:** Creditors with judgments for "bad acts" debt can now take action in the bankruptcy case to preserve their claims, even after a corporate debtor confirms a Subchapter V bankruptcy plan. If properly pursued in the bankruptcy court, these debts will no longer be wiped clean.
- **Deterring Bad Behavior:** The ruling sends a clear message that bankruptcy cannot be used to escape liability for intentional wrongdoing. Companies can't simply commit fraud or other intentional wrongs and then hide behind bankruptcy protection.
- **Leveling the Playing Field:** Subchapter V permits the debtor's owners to retain their equity, even if creditors are not paid in full. This ruling helps counterbalance that benefit by ensuring that creditor's hard-won "bad acts" judgments will survive the bankruptcy process.

Looking Forward

With this precedent now established across three federal circuits, creditors can proceed with greater confidence when pursuing claims against corporate debtors who have engaged in fraud, willful and malicious conduct, or other bad acts, even if they file a Subchapter V case.

The decision reinforces that bankruptcy is meant to provide a fresh start for honest debtors, not an escape hatch for bad actors. For businesses that have been harmed by fraud or other willful misconduct, this ruling provides a crucial tool for protecting their interests, even when wrongdoers seek bankruptcy protection.

The Lowndes appellate team was led by Shareholder **Mike Provenzale** (creditors rights' & bankruptcy).

For more information about creditor rights in bankruptcy proceedings, contact the Lowndes Creditors' Rights & Bankruptcy team.

MEDIA COVERAGE

- No Circuit Split: Sub V Corporate Debtors Can Have Nondischargeable Debts, American Bankruptcy Institute
- 11th Circ. Revives Case Over \$3.1M Glassware Verdict Debt, *Law360*