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Pension Plan Withdrawal Liability Takes Center Stage in Bankruptcy Judge's "Preliminary Observations" - Kramer Levin

A recent decision from the Bankruptcy Court for the District of Delaware in *In re Yellow Corp.* could have widespread implications for bankruptcy cases, including municipal bankruptcy cases. Of particular interest, the Judge determined:

- Settlement of a claim to which a third party has filed an objection is subject to a heightened standard of review;
- The bankruptcy code's disallowance of post-petition interest applies to claims accelerated pre-petition;
- Where future payments include an interest component (either explicit or implicit), that component is disallowed as unmatured interest, but no further discounting is appropriate;
- The proper discount rate to use to calculate the present value of a pension withdrawal claim is the pension plan's assumed rate of return on assets; and
- The limitation on withdrawal liability applicable to an insolvent employer (ERISA section 4225(b)/29 U.S.C. § 1405(b)) undergoing liquidation or dissolution is applied after the application of the 20-year cap.

On Monday, April 7, 2025, Judge Craig T. Goldblatt published "preliminary observations" on a dispute between the Debtors, MFN Partners (which held both debt and equity), and various multiemployer pension plans on the amount of the pension plans' claims.^[1] Judge Goldblatt was originally prepared to issue a decision on various motions for summary judgment that were before him, but after the Debtors and the Official Committee of Unsecured Creditors (the "UCC") requested that he hold off in light of the filing of a joint plan that would settle the dispute, he instead released his thoughts as preliminary observations.

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