



BANKRUPTCY BLOG

Tricky Moves May Doom Your Chapter 11 Plan

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Recently, a bankruptcy judge denied confirming a Chapter 11 plan because the Debtor preferred one creditor among a class of creditors over the others. Section 1122(a) is a mandatory prerequisite for confirmation. That section requires Chapter 11 plans place substantially similar claims in the same class. In the case at hand, *In re Consolidated Land Holdings, LLC*, No. 6:19-BK-04760-KSJ, 2021 WL 3701799, at *4 (Bankr. M.D. Fla. Aug. 20, 2021), the judge concluded the debtor attempted to manipulate § 1122(a) by creating a separate class of unsecured creditors. Accordingly, plan confirmation was denied.

Moreover, “[w]hile the [Bankruptcy] Code does not address whether all substantially similar claims must be placed in the same class, courts have held that separate classification of similar claims must be supported by a legitimate business reason.” *Id.* at *5. Otherwise, a plan may be doomed from inception because “thou shalt not classify similar claims differently in order to gerrymander an affirmative vote on a reorganization plan.” *Id.*