

PUBLICATIONS

Second Circuit Affirms Slashing of Unreasonable Fees In Dismissed Involuntary Bankruptcy Case

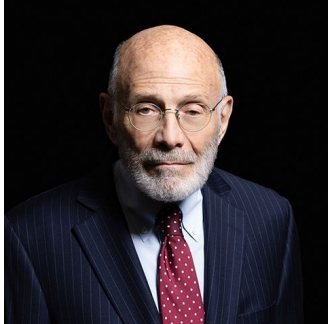
The Bankruptcy Strategist

July 2023

In his recent article for *The Bankruptcy Strategist* titled “Second Circuit Affirms Slashing of Unreasonable Fees In Dismissed Involuntary Bankruptcy Case,” Schulte Roth & Zabel of counsel Michael L. Cook discusses unreasonable fees in a dismissed involuntary bankruptcy case, *In re Navient Solutions, LLC*.

The U.S. Court of Appeals for the Second Circuit quietly affirmed a bankruptcy court’s dismissal of an involuntary petition because the petitioners’ “claims were the subject of bona fide disputes within the meaning of” Bankruptcy Code (Code) §303(b)(1) (petitioner may not hold claim that is “the subject of a bona fide dispute as to liability or amount”). *In re Navient Solutions, LLC*, 2023 WL 3487051 (2d Cir. May 17, 2023). More important, the court affirmed “the bankruptcy court’s [reduced] award of a sum of \$44,000 in attorneys’ fees and costs” under Code §303(i)(1)(B) to the debtor, “to be paid by [the lawyer for the petitioning creditors]” – a 90 percent reduction. The court did not dwell on the facts of this litigation, but they have major practical significance. As shown in this article, an involuntary bankruptcy petition is a limited, risky remedy for both creditors’ counsel and debtor’s counsel. The substantial fee problems encountered by counsel for the petitioners and the putative debtor in this case provide a cautionary tale.

Related People



**Michael
Cook**

Of Counsel
New York

Practices

BUSINESS REORGANIZATION

Attachments

[!\[\]\(de95854c7ee024cfadc48187bbb781b2_img.jpg\) Download Article](#)