

PUBLICATIONS

Recoupment: Eighth Circuit Rejects ‘Balancing of the Equities’ Test

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The United States Court of Appeals for the Eighth Circuit recently held that equitable considerations could not prevent a creditor’s recouping amounts owed to it by a Chapter 7 debtor. *Terry v. Standard Ins. Co.* (In re Terry), 687 F.3d 961 at 965 (8th Cir. 2012). Reversing the bankruptcy court and the Bankruptcy Appellate Panel (BAP), the Eighth Circuit explained that “once a party meets the same-transaction test ... a court should not impose an additional ‘balancing of the equities’ requirement” on the doctrine of recoupment. *Id.* Ending a three-year battle in three courts over the sum of \$45,316, the court’s straightforward ruling resulted in a win for a disability insurer over a disabled individual. In reality, however, nobody won.

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