

PUBLICATIONS

Inside the Latest Make-Whole Claim Case

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A lender's right to recover a make-whole premium as part of its allowed claim in a bankruptcy case has been the subject of several recent court decisions. A Delaware bankruptcy court recently allowed a make-whole premium of \$23.7 million on a \$67 million term loan and found that the premium was not "plainly disproportionate" to the creditor's possible loss. As a result, the make-whole was not an unenforceable penalty under New York law. *In re School Specialty Inc.*, No. 13-10125, Slip Op. (Bankr. D. Del. Apr. 22, 2013).

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