

ALERTS

Split Ninth Circuit Narrows Definition of Bad Faith Insider in Cramdown Case

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“A creditor does not become an insider simply by receiving a claim from a statutory insider,” held a split panel of the U.S. Court of Appeals for the Ninth Circuit on Feb. 8, 2016. *In re The Village at Lakeridge, LLC*, 2016 WL 494592, at *1 (9th Cir. Feb. 8, 2016) (2-1). According to the court, “Insiders are either statutory [per se] [e.g., officers, directors] or non-statutory [de facto].” For a person to be a de facto insider, “the creditor must have a close relationship with the debtor and negotiate the relevant transaction at less than arm’s length,” explained the court in finding that a particular creditor did “not qualify as a statutory or non-statutory insider” for voting on the debtor’s Chapter 11 cramdown plan.

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