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Second Circuit Rejects Use of Involuntary Bankruptcy Petition As Collection Tool

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A bankruptcy court properly dismissed a creditor’s involuntary bankruptcy petition “for cause” when it “would serve none of the Bankruptcy Code’s goals or purposes ... and [when] the sole [petitioning] creditor is not substantially prejudiced by remedies available under state law,” held the U.S. Court of Appeals for the Second Circuit on Aug. 14, 2018. In its view, the bankruptcy court “declined to serve as a ‘rented battle field’ or ‘collection agency’” for a single creditor. The bankruptcy court had stressed that “bankruptcy is not a judgment enforcement device.” In this article, of counsel Michael Cook discusses the relevance of the Second Circuit’s decision to dismiss a creditor’s involuntary bankruptcy petition in *In re Murray*.

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