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Two Circuits Limit Creditors' Setoff Rights in Bankruptcy Cases

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“The right of setoff ... allows entities to apply their mutual debts against each other to avoid the pointless exercise of ‘making A pay B when B owes A.’” held the Seventh Circuit on Aug. 17, 2018. But the Bankruptcy Code limits “a creditor’s right of setoff during the ninety-day period prior to the” date of bankruptcy, said the court. In this article, of counsel Michael Cook discusses the Third Circuit and Seventh Circuit decisions to limit a creditor’s right of setoff.

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