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Involuntary Bankruptcy: Limited Remedy and Strong Sanctions for Abuse

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The remedy of involuntary bankruptcy “exists as an avenue of relief for the benefit of the overall creditor body [I]t was not intended to redress the special grievances, no matter how legitimate, of particular creditors” *In re Murray*, 900 F.3d 53, 59-60 (2d Cir. 2018). The courts of appeals have been consistent. A bankruptcy court decision recently detailed how courts applying Bankruptcy Code (Code) § 303(i) can sanction creditors who “abuse ... the power given to [them] ... to file an involuntary bankruptcy petition.” *In re Anmuth Holdings LLC*, 2019 WL 1421169, at 1 (Bankr. E.D.N.Y. Mar. 27, 2019). Because the three involuntary petitions against corporate entities in *Anmuth* admittedly “lacked any merit,” *Id.* at 12, the court ultimately awarded the debtors attorneys’ fees, punitive damages, retroactive dismissal of the involuntary petitions to the dates on which they were filed, and an injunction against future filing by the petitioning creditors. *Id.* at 27. In this article, of counsel Michael Cook discusses the court’s decision and why the filing of an involuntary bankruptcy requires careful pre-filing legal judgment.

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**Michael
Cook**

Of Counsel
New York

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