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Fifth Circuit Subordinates Claim for Deemed Dividends

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“Payments owed to a shareholder by a bankrupt debtor, which are not quite dividends but which certainly look a lot like dividends, should be treated like the equity interests of a shareholder and subordinated to claims by creditors of the debtor,” held the U.S. Court of Appeals for the Fifth Circuit on Sept. 3, 2019. *In re Linn Energy, LLC*, 2019 WL 4149481 (5th Cir. Sept. 3, 2019). According to the court, subordination of a purported creditor’s claims “was appropriate” when “deemed dividends gave the [creditor] benefits normally reserved for equity investors.” In this article, of counsel Michael Cook discusses this Fifth Circuit decision and the court’s overall broad interpretations of claims arising from Bankruptcy Code §510(b).

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