

## NEWS AND DEVELOPMENTS

### Delaware Bankruptcy Court Rules in Antecedent Debt Case

By Marcos A. Ramos

Can a plaintiff state a preference claim by generally alleging that one or more of the debtor entities made the transfer at issue on account of an antecedent debt? The Delaware Bankruptcy Court (the Honorable Mary F. Walrath, presiding) recently reminded plaintiffs that the answer is no. See [\*Stanziale v. DMJ Gas-Marketing Consultants, LLC\*](#). In *DMJ*, the defendant moved to dismiss the plaintiff's preference claim including on the grounds that the plaintiff had parroted the statutory language when alleging an antecedent debt and failed to identify the specific debtor that made the transfer at issue. To survive a motion to dismiss, the Court noted that a plaintiff must include in its complaint: (a) an identification of the nature and amount of each antecedent debt; and (b) an identification of each alleged transfer by (1) date, (2) name of transferor, (3) name of transferee, and (4) amount of transfer.

Moreover, “[w]hen there are multiple debtors in a case, the Complaint must state which debtor owed the antecedent debt and that the same debtor made the preferential transfer.” Here, the plaintiff did not identify the transferor by name in the body of its complaint, but it did identify a specific transferor in an exhibit attached to the complaint. For the Court, that was sufficient to survive the motion to dismiss. However, the Court granted the motion to dismiss for failure to allege sufficient facts regarding the parties’ business relationship. While the plaintiff generally alleged that the parties conducted business together and the transfers were made on account of an antecedent debt, the plaintiff did not allege any specific facts regarding that relationship, including but not limited to the nature of the service or good provided by the defendant to the debtor. For the Court, the plaintiff’s allegations amounted to little more than “[t]he recitation of the elements of section 547 in place of factual allegations” and were not sufficient to survive the motion to dismiss.

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