



LOWENSTEIN BANKRUPTCY LOWDOWN

Lowenstein Bankruptcy Lowdown Video 10 - The Constitutionality of Increased Trustee Fees In Bankruptcy

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Michael Savetsky: Welcome to the Lowenstein Bankruptcy Lowdown. I'm Michael Savetsky, and with me here today is my colleague Erica Mannix.

In June of this year, the U.S. Supreme Court decided the case of *Siegel v. Fitzgerald*, holding that Congress' increase under the Bankruptcy Judgeship Act of 2017 in the amount of quarterly fees a Chapter 11 debtor must pay into the United States Trustee System Fund was unconstitutional because it did not apply uniformly in U.S. Trustee Program districts, which cover most of the country, and Bankruptcy Administrative Program districts, which exist only in Alabama and North Carolina.

The Circuit Courts of Appeal had disagreed as to whether the statute implementing the trustee fee increase violated the uniformity requirement of the Bankruptcy Clause of the U.S. Constitution, which authorizes Congress to enact uniform laws in the subject of bankruptcies. This issue came before the U.S. Supreme Court in the case of *Siegel v. Fitzgerald*.

Erica Mannix: Circuit City Stores, Inc. filed for Chapter 11 bankruptcy in 2008 in the Eastern District of Virginia, a Trustee Program district, and confirmed a liquidating plan in 2010. The case was still pending when the fee increase took effect in 2018.

Siegel, the liquidating trustee, challenged the additional trustee fees that the liquidating trust incurred as a result of the fee increase, contending it violated the Bankruptcy Clause because it was not uniform across the Trustee and Administrator districts. The Supreme Court agreed with Siegel, and reversed and remanded the case to the Fourth Circuit.

The Court held that Congress cannot treat identical debtors differently based on arbitrary distinctions that Congress itself had created—i.e., the Trustee and Administrator district distinctions. The Court's ruling may provide an opportunity for Chapter 11 debtors, liquidating trustees, and plan administrators across the country to obtain refunds of those overpayments of quarterly trustee fees from 2018-2020. It remains to be seen what remedy the Fourth Circuit will provide on remand.

We here at Lowenstein will continue to monitor the docket of this case on remand, and other interesting bankruptcy topics. Thank you for joining us today for the [Lowenstein Bankruptcy Lowdown](#).