

Recent Delaware Chapter 11 Case Supports Vendors' Reclamation Claims

Business Information for
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In *Reichhold Holdings US, Inc.*, on August 24, 2016, the Delaware Bankruptcy Court ruled that a vendor's reclamation trumped a lender's lien on inventory, arising from a post-petition DIP loan (that was used to repay the prepetition loan).

Generally, reclamation claims are subject to existing liens on inventory. However, where a prior loan is paid, the underlying liens are extinguished, and the existing reclamation claim becomes the first "lien" on the inventory. Liens arising from a subsequent DIP loan are junior to the pre-existing reclamation claim.

The Delaware court overruled the lender's argument that the post-petition loan "related back" to the pre-petition loan and was an "integrated transaction."

No doubt, lenders will now include a provision in court orders approving DIP loans that specifically provide that the loan takes priority over reclamation claims. Vendors with material claims should object to proposed DIP financing to preserve reclamation rights and should prevail, at least in Delaware. New York has not been as favorable.

Not only was the Delaware ruling favorable, it was a well-reasoned legal decision.