# *Requirements and Risks in Petitioning for an Involuntary Bankruptcy Case*

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***Abstract***

*This article provides an overview of the requirements petitioning creditors must satisfy to commence an involuntary process and discusses certain circumstances under which an involuntary filing may be contested by a putative debtor.*

Aside from the traditional path of pursuing a judgment against the putative debtor in state court, one or more creditors—if certain criteria are met—can force a delinquent debtor into a bankruptcy proceeding through the filing of an *involuntary* bankruptcy petition. Commencing an involuntary bankruptcy is a powerful remedy to secure payment. However, involuntary bankruptcy cases account for less than one percent of bankruptcy proceedings in the United States each year.[1]

An 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 . . . ." *Wilk Auslander LLP v. Murray (In re Murray)*, 900 F.3d 53, 59–60 (2d. Cir. 2018) (citation omitted). For example, an involuntary bankruptcy is an appropriate tool to prevent funds and assets from being dissipated to the detriment of creditors or to ensure certain creditors are not receiving preferential treatment or payments. Commencement of an involuntary proceeding is also an effective way to provide a supervised forum to review the debtor's prepetition transactions and implement an orderly liquidation. On the other hand, the case law and Bankruptcy Code are clear that an involuntary bankruptcy filed for the purpose of settling a two-party dispute will…



[1] *See* Table 7.2–U.S. Bankruptcy Courts Judicial Facts and Figures (September 30, 2022), (available at https://www.uscourts.gov/statistics/table/72/judicial-facts-and-figures/2022/09/30).