

What Not to Believe About Chapter 11

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"Don't worry about extending credit to the debtor during Chapter 11. You'll have an administrative claim."

True but not fully. Claims that arise during the bankruptcy case from goods or service received by the debtor during bankruptcy have an administrative claim. But it is the rule that a lender to the debtor will require a super priority administrative claim as a condition to making loans to the debtor (called "DIP" loans). This means that, if the bank is not paid in full from its collateral, the bank's administrative claim is senior to other administrative claims, such as those of a vendor.

Professionals retained in the case typically have a "carve out" so that their administrative claims become senior, even to those of the bank, so the super priority administrative claim given to the bank will affect professionals less. Further, professionals are...

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Kenneth A. Rosen, Esq - Lowenstein Sandler Chair Emeritus, Bankruptcy & Restructuring Department with more than 35 years of proven experience, Ken is the first call for companies seeking a strategic plan for recovery from financial distress.