

News & Insights

Andrew Connor Authors Article in *The Secured Lender*

Observes that *In Re TOUSA, Inc. Judgment Has a "Through the Looking Glass" Feel*

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Andrew H. Connor, member in Dykema's Corporate Finance and Mergers and Acquisitions Practice Groups, wrote an article, "A New Word Game Called TOUSA," that appears in the October 2012 issue of *The Secured Lender*, a monthly magazine aimed at practitioners in the asset-based financial services industry.

In the article, Connor discusses *In Re TOUSA, Inc.*, the hotly-debated Eleventh Circuit Court of Appeals decision issued earlier this summer. This decision reversed a district court order and affirmed the liability findings of a bankruptcy court, which declared that certain subsidiaries of the company failed to receive "reasonably equivalent value" in exchange for their liens. Connor notes that the decision not only elevates the uncertainties faced by lenders of struggling companies and their creditors, but invites courts to "arbitrarily revisit and reassess business deals after the fact."

Connor observes that contracts are entered into with both parties expecting the law to enforce them as written—not rewritten, interpreted or invalidated on the basis of what the court thinks is "fair"—and this Eleventh Circuit decision has the potential to throw all manner of contracts into jeopardy, a situation that he likens to the upside-down logic that forms the basis of Lewis Carroll's "Through the Looking Glass".

To read this article in its entirety, [click here](#).

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