



Scott Rollwagen
416-865-2896
srollwagen@litigate.com

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Legal Notes: Contracted compensation clauses run afoul of the law during bankruptcy

Scott Rollwagen was quoted in the Daily Commercial News article *Legal Notes: Contracted compensation clauses run afoul of the law during bankruptcy*.

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As explained by Scott Rollwagen of Lenczner Slaght, the anti-deprivation rule, “is a general principle that prevents private parties to a bilateral arrangement from frustrating the scheme of distribution in insolvency by providing clauses in contracts for payments or other benefits triggered by bankruptcy.”

Rollwagen writes the Supreme Court majority determined that the arrangements made between Chandos and Capital, “were a ‘direct and blatant’ violation of the rule, effectively depriving Capital Steel’s other creditors of amounts owing to it. It also stressed that the test is effects-based, not purpose-based. What should be considered is whether the effect of the contractual provision is to deprive the estate of assets upon bankruptcy, not whether the intention of the contracting parties was commercially reasonable.”

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<https://canada.constructconnect.com/dcn/news/government/2021/01/legal-notes-contracted-compensation-clauses-run-afoul-of-the-law-during-bankruptcy>