The Conflicting Concerns of the Automatic Stay and Environmental Laws

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Suppose John Debtor owns a company that specializes in maintaining gas pumps throughout the state in which his company is operating. John is like any other American. He puts in over 40 hours a week working. He does his best to ensure that his customers are getting the quality and value that they should expect from his company. John does his best in making sure that his company keeps up with all the laws and regulations it is subjected and makes sure that those rules are followed. Now suppose that the company’s business starts diminishing because of the current economic environment and price of oil just will not let the demand of his services sustain at the levels they had once been. John suddenly realizes that the company is no longer making a profit but is actually running at a loss. He knows that many employees and their families rely on him to pay them so that they can in turn pay their own bills and expenses. John believes that the economy has to turn around at some point because he knows that recessions do not last forever. So what does he do? He takes out loans from various creditors so that he can keep his company afloat through the tough economic times so that the company can once again become lucrative after the recession lift. But there’s an unforeseen problem on the horizon.

What John doesn’t know is that the recession is going to last a lot longer than he thought and he now finds himself in a situation where he can no longer pay his employees much less the money that he owes to his creditors. He starts receiving harassing phone calls from the various banks and lenders he had borrowed from demanding that he make good on his repayments. The stress is building up on him. John just was trying to make the American dream work for him. He had every intention of paying the loans back. He has no other choice but to file bankruptcy on
behalf of his company. Almost magically, the phone calls stop. Creditors are no longer breathing
down the back of his neck demanding money. John is given a chance to take a deep breath and
relax while a plan is derived on where to go from here. John and his company are enjoying the
protections of bankruptcy law’s Automatic Stay. But what if the company had had an accident
causeing hazardous petroleum to spill out into the environment? A government, whether Federal
or state, will most certainly bring about some kind of action trying to force the polluting debtor
to provide for cleaning up the waste. How will all of this affect the debtor’s bankruptcy case and
the automatic stay?

Environmental laws’ objectives and purposes are to make sure that the polluter either
cleans up any hazard they have caused or pays for the costs and that those costs do not fall onto
the public at large. There is no doubt that the objectives of environmental laws come into
conflict with bankruptcy’s purpose at large and with the automatic stay. Clean ups of hazardous
sites can often be very expensive which can pose grave problems on the debtor in bankruptcy. To
understand this conflict, one must examine which provisions under the Bankruptcy Code’s
automatic stay are at issue in relation to environmental laws and what their purposes are. Next,
one must determine what the typical federal and state environmental laws, ones most commonly
arising in bankruptcy, try to achieve and what they demand of someone who has violated those
laws. The final step is to combine the two concepts together and see how they interact with one
another. Once one has done these steps, then the conflict is clear and a solution to the problem
can be offered.

What is the Automatic Stay?

The Bankruptcy Code’s automatic stay provision, 11 U.S.C. § 362, provides the debtor
with a “breathing spell” as it stops most collections and actions against the debtor while allowing
the debtor to organize a repayment plan or just to relieve “financial pressures that drove him into bankruptcy.” iii But it is not just this “debtor’s ease” that the automatic stay is concerned with. It is also the idea that all the debtor’s creditors should all get the same treatment in the case, meaning that they will not “gain a leg up” on any of the other creditors by satisfying their debts despite the bankruptcy case. iv The automatic stay is in force as soon as the debtor files a petition for bankruptcy. v

Better put, the automatic stay is “a bar to all judicial and extrajudicial collection efforts against the debtor or the debtor’s property.” vi Black’s law dictionary goes on to say that the purpose of the automatic stay is so that creditors’ rights could be determined and the administration of the debtor’s assets are not interfered with by other creditors. vii

**Which Environmental Laws Affect the Automatic Stay?**

There are numerous federal and state laws that pertain to the environment. The two main federal laws that appear most frequent in bankruptcy cases are the Comprehensive Environmental Response, Compensation, and Liability act, or CERCLA, and the Resource Conservation and Recovery Act, or RCRA. viii The goal of CERCLA is to clean up past hazards while RCRA’s goal is to prevent future hazards. ix Under CERCLA, the government has the option to sue the polluter to get an injunction forcing the polluter to clean up the site or they can clean up themselves and sue the polluter for response costs. x The government has the same options under RCRA. xi There are very similar environmental laws at the state level. xii

**The Exception to the Automatic Stay**

But, what if a government agency or unit needs to force the debtor to comply with the law? An exception is provided for this in 11 U.S.C. 362(b)(4). The “police and regulatory exception” to the automatic stay allows for government units to continue or commence
proceedings and enforce judgments for the debtor’s acts that occurred before the petition for
bankruptcy was filed.\textsuperscript{xiii} The statute says: “under paragraph (1), (2), (3), or (6) of subsection (a)... the commencement or continuation of an action or proceeding by a government unit... to enforce such governmental unit’s... police and regulatory power, including the enforcement of a judgment other than a money judgment obtained in an action or proceeding.”\textsuperscript{xiv} One can see that two elements arise under this section. The action must be one to enforce a government’s police and regulatory power and the government may not enforce a money judgment.

The 362(b)(4) exception applies only to sections (1), (2), (3), and (6) of 362(a).\textsuperscript{Xv} Section (1) stays judicial proceedings to recover prepetition claims, section (2) stays the enforcement of judgments, section (3) stays acts to gain possession or control over the bankruptcy estate, and section (6) stays acts to recover claims.\textsuperscript{xvi} This means that if the governmental unit is exercising its police and regulatory power and not enforcing a money judgment then the automatic stay will not apply in any of the above mentioned subsections of 362(a). Following this logic, a governmental unit can continue judicial proceedings to recover claims, enforce judgments, and take possession of property.

One must now look to how federal and state environmental laws interact with the automatic stay and its exception. To determine this interaction the police and regulatory exception needs to be broken down and the environmental laws applied to the respective parts of the exception.

\textbf{Is the Enforcement of Environmental Laws an Exercise of Police and Regulatory Power?}

“Enforcement” is defined by Black’s Law Dictionary as “the act or process of compelling compliance with a law, mandate, or command.”\textsuperscript{xvii} The legislative history makes clear that governments may sue a debtor to prevent or stop violations of many areas of law, environmental
protection being one of them. However, courts have applied varying tests and analysis to reach conclusions as to whether environmental laws fall into the police and regulatory exception.

The Second Circuit held that CERCLA actions fell within the police and regulatory power exception to the automatic stay in *New York v. Exxon*. In that case, the government had sought a damage action for completed violations of CERCLA. The court held that it was an exercise of police power because a damage action would provide for a quick response to environmental pollution and thereby protecting the health and safety of citizens. In coming to that conclusion, the Second Circuit court found that a damage action would encourage a quick response to future environmental crises by allowing the government to clean up the hazard, resting assured that they will be able to pursue reimbursement afterwards, provide an effective deterrent to law violators, and to discourage “refuge seeking“ in bankruptcy. It seems as though the Second Circuit is concerned with environmental law-breakers taking advantage of the bankruptcy automatic stay and that this can be alleviated by allowing the government to exercise its police power derived from CERCLA. This position is legitimate because it would not be reasonable for legislators to enact a bankruptcy law that would allow for a debtor to break the law and then seek refuge in bankruptcy.

The Third Circuit has clearly held that environmental injunctions constitute exercises of police power that the 362(b)(4) exception is meant to apply to. The court in *Penn Terra Limited v. DER* stated that injunctions sought under Pennsylvania’s environmental laws to clean up environmental hazards are exercises of police power. The court felt so strongly about the issue that it stated in the opinion “No more obvious exercise of the State’s power to protect the health, safety, and welfare can be imagined.” Therefore, the Third Circuit holds that if a government action is one that enforces the protection of public health, safety and welfare is
deemed to be an act of police power excepted under 362(b)(4). This is a fair position taken by the Third Circuit. No rational person would argue that protecting the public welfare is an exercise of police power. A governmental unit should not be prevented from protecting citizens of whatever jurisdiction it is in just because a debtor files for bankruptcy. The safety of citizens should never be taken likely and the law just cannot allow for property in a bankruptcy estate to be a risk to the health and welfare of citizens. It is exactly this sort of issue that Congress had in mind when they drafted the police and regulatory exception in 362(b)(4).²⁵

But does protecting the public welfare require that there be an imminent risk caused by the environmental hazard to protect against? One court has held that in order for a an act to be one enforcing police power that there must be an actual risk to public health or safety.²⁶ The Bankruptcy Court for the District of Delaware found that in a case where the New Jersey Department of Environmental Protection was seeking a fine for environmental pollution was not an enforcement of police power because the EPA had already cleaned up the hazardous site.²⁷ There was no longer any imminent threat to public welfare because the site had already been cleaned up. Therefore the State was not enforcing its police or regulatory powers because there was no possible harm to the public safety arising from the cleaned site. Without the threat of public harm, the State could not be enforcing its police and regulatory powers and was therefore stayed under 362(a).²⁸ This position makes a lot of sense and seems to work well hand-in-hand with the purposes of the automatic stay. If the purpose of environmental law is to cleanup harm that is being done to the environment and holds those liable who are responsible for the harm, shouldn’t there be an actual harm that is imminent to the public welfare? There is no reason why a governmental unit should be able to drag the debtor into court, expending the debtor’s limited resources when there is no actual harm that is imminent to the public.
The Fifth Circuit disagrees with the Bankruptcy Court for the District of Delaware’s conclusion that there must be an imminent harm in order for a government action to qualify as one of police power. The court of In re Commonwealth Oil Refining held overtly that the police and regulatory power exception was not to only apply to cases where “imminent and identifiable harm to public health and safety or urgent public necessity is shown.” The court found that the language of the exception was unambiguous and clearly did not apply nor stated that it applied only to those cases where there was an urgent public need. The problem with this stance is that if there is no imminent harm to the public safety, then government is not exercising its police and regulatory power to protect the public welfare and safety because they need no protecting. It is the equivalent of providing a police transport for someone who has not had their life threatened in any way. Sure the person will be safer, but there is no apparent need to protect her because the situation is lacking imminent harm to her person. In short, if there is no harm to protect against, there is no need to protect against it. But alas, commentators have stated that protection of the environment falls under a government’s police and regulatory exception.

The Fourth Circuit in Safety-Kleen v. Wyche held that the court must look to the purpose of the law to see if it falls within the exception. In that case, Safety-Kleen had owned and operated a hazardous waste landfill in South Carolina and the South Carolina Department of Health and Environmental Control required that Safety-Kleen acquire bonds that would help in maintenance and post-maintenance of the hazardous site. Safety-Kleen could not secure the bonds which they saw as DHEC seeking to close down Safety-Kleen’s hazardous waste site. The court used a test in order to conclude what the purpose of the law was, not the purpose for which the state was seeking to enforce it. The court stated that if the law was in furtherance of a
public safety or welfare concern or to effectuate public policy then the State was acting under its police and regulatory powers. \textsuperscript{xxxvi} It also held that if an environmental law has the dual purpose of public welfare and protecting the state’s pecuniary interest, the primary purpose of the law took the day. \textsuperscript{xxxvii}

What the Fourth Circuit had done was apply the “pecuniary purpose” test. The pecuniary purpose test asks whether “the government is acting primarily to protect its pecuniary interest or to protect the public safety.” \textsuperscript{xxxviii} As this test is drifting into the “money judgment” zone it provides an adequate segue

\textbf{Money Judgments: The Exception to the Exception}

It is well settled from reviewing the cases above that when a governmental unit is enforcing environmental laws, they are enforcing their police and regulatory powers because they are protecting the general health and welfare of the public. The Bankruptcy Code allows for governmental units to enforce judgments under \textit{362(b)(4)}. \textsuperscript{xxxix} However, that very same section states that governmental units are not allowed to enforce money judgments because the language reads “to enforce such governmental unit’s... police and regulatory power, including enforcement of a judgment other than a money judgment.” \textsuperscript{xlix}(emphasis added) A “money judgment” is defined as “a judgment for damages subject to immediate execution, as distinguished from equitable or injunctive relief.” \textsuperscript{lx} “Relief” and “remedy” are synonymous with each other and Black’s Law Dictionary defines “equitable remedy” as “a nonmonetary remedy, such as an injunction or specific performance, obtained when monetary damages cannot adequately redress the injury.” \textsuperscript{lxi} Therefore it is pretty clear that a governmental unit cannot force a debtor in bankruptcy to pay money to the government. It should also follow from the definitions above that if the remedy sought by the governmental unit is not an equitable one or an injunction then it is a money
judgment. Also by the definition, an equitable remedy is sought where money would not fix the problem. Therefore, if money damages could fix the problem and the government seeks an equitable remedy of forcing the debtor to cleanup, this should be held as a money judgment. However, courts are all over the place on whether a governmental unit is seeking to enforce a money judgment. There are also other important aspects to the “money judgment” exception to the police and regulatory power exception that one should be made aware of. It is important to note that when a court is attempting to analyze whether a governmental unit is attempting to enforce a money judgment under environmental law more times than not goes to the favor of the government.

The Third Circuit approached the issue of what the definition of a “money judgment” was in a case where Pennsylvania sought to enforce an injunction requiring a debtor in bankruptcy to cleanup an environmentally hazardous site. The court in that case construed the term “money judgment” narrowly to the affect that it requires two things: the identification of the parties involved and of the party the judgment is being sought against, and a definite amount as to the monetary judgment, that is a certain money amount. The court went on to say that a money judgment requires that the damages be liquidated and that since the injunction sought a cleanup where the monetary value of such were not obtainable because the conduct of cleaning up had not yet been done. What this in effect does to the debtor is require the debtor to expend assets of the bankruptcy estate so that it could adhere to the injunction. In reality, the Third Circuit held that if the remedy in which the governmental unit is seeking is one that seeks to protect against future harm then it could not be a money judgment because the amount of which was not and could not be ascertained until after the cleanup was done. This comes into direct conflict with the policy of the automatic stay to orderly determine the creditors’ rights against the debtor and the
to keep the assets free from creditor interference. Even though the governmental unit has the option and ability to commence with the cleanup itself and sue the debtor for response costs, it is given a “by-pass” around the purposes of bankruptcy because it can elect to just force the debtor to expend all of the bankruptcy estate’s assets to come into compliance with the cleanup injunction. The court even made it clear in its opinion that the mere expenditure of money on behalf of the debtor did not amount to a money judgment.

The Fifth Circuit has also held that the mere expenditure of money by the debtor does not amount to a money judgment. The court of In re Commonwealth Oil Refining Co. found that where the EPA was seeking to enforce an injunction under RCRA to force the debtor to cleanup an environmentally hazardous site was not barred by the automatic stay. The debtor in that case would have to expend funds to come into compliance with the RCRA injunction by cleaning up the site and thereby cut away from the assets in which the debtor’s creditors were to have been paid what they would be determined to take. Again, the EPA could have done the cleanup themselves expending government money and then seek reimbursement against the debtor once the debtor had gone through bankruptcy.

Still other courts have rebelled against the idea that an injunction which expends the debtor’s assets to do required cleanup work does not amount to a money judgment. The case of In re Thomas Solvent Co. is one such example. In that case the debtor, Thomas Solvent Co., had operated a chemical and solvent storage and distribution company which the State of Michigan had found to have contaminated ground water. Michigan sought an injunction which would require Thomas Solvent to cleanup and purify the ground water which would have cost millions of dollars. This was an amount that would have consumed all the assets that the bankruptcy estate had in its possession and would leave Thomas Solvent’s creditors in the dark with no hope
of recovering any money. Judge Nims found that since the cleanup would leave the remaining creditors with nothing, that the injunction amounted to a money judgment that should be stayed under bankruptcy’s automatic stay.\textsuperscript{lv}

Another example is the case \textit{United States v. Johns-Manville Sales Corp.} In that case the debtor, Johns-Manville Sales Corporation (“Manville”), had been disposing of asbestos waste in several sites throughout New Hampshire and the State sought to file a complaint against Manville to cleanup the disposal sites in which it had polluted, but the bankruptcy court had stayed the proceeding under the automatic stay.\textsuperscript{lvi} The court found that neither the State nor Federal governments had sought to cleanup the waste themselves which the environmental laws allowed for.\textsuperscript{lvii} The court reasoned that the injunction sought no more than to deplete the funds of the bankruptcy estate which would leave the creditors of Manville without any recourse and no repayment from bankruptcy, and since the governmental units had forgone doing the cleanup themselves they were therefore attempting to enforce a money judgment.\textsuperscript{lviii}

The cases of \textit{In re Thomas Solvent Co.} and \textit{U.S. v. Johns-Manville} seem to follow the originally discussed logic arising from the definitions of “money judgment” and “equitable relief.” As was already mentioned, an “equitable relief” requires that the judgment of an injunction or specific performance be given when monetary damages could not satisfy the problem.\textsuperscript{lix} The problem is, monetary damages obviously would rectify the problem since environmental laws give the government the option of doing the cleanup themselves and later suing the polluter for response costs. Therefore, the injunctions requiring that the debtor cleanup in these environmental law cases do not fit the definition of an “equitable relief” and therefore should fall under actions for “money judgments.”\textsuperscript{lix} The conflict between the governments’ enforcement of environmental laws and with bankruptcy law is made very clear in the previous
four cases discussed. The reasoning that some courts find that these expensive injunctions are not money judgments may come from the idea that a debtor and/or bankruptcy trustee must run the estate in accordance with the law.\textsuperscript{lxvi} Dealing with a trustee trying to abandon property of the estate, the Supreme Court case \textit{Midlantic v. NJDEP} provides an excellent explanation of this position.\textsuperscript{lxvii}

The Supreme Court found that the Bankruptcy Code required that a trustee must manage property of the bankruptcy estate in compliance with governmental laws.\textsuperscript{lxviii} After making that finding, the Court went on to hold that a trustee may not abandon estate property that would be against a law that is designed to protect the public health or safety from environmental hazards.\textsuperscript{lxix} There can be no doubt that this holding would apply with equal force concerning the estate under the automatic stay provision. Debtors simply do not get a free pass to disobey laws of the land just because they have filed for bankruptcy under this rule of law.

There is yet another conflict that arises between bankruptcy and environmental law concerning 362(b)(4)’s “money judgment exception” in that the language of 362(b)(4) reads that it is the “enforcement of a judgment other than a money judgment” that is excepted from the automatic stay.\textsuperscript{lxv} The legislative history of the Bankruptcy Code and a line of cases from various circuits have addressed this very issue and will be analyzed to further understand the conflict.

The legislative history to Section 362 of the Code reads, “...the exception extends to permit an injunction and enforcement of an injunction, and to permit the \textit{entry} of a money judgment, but does \textit{not} extend to permit \textit{enforcement} of a money judgment” (emphasis added).\textsuperscript{lxvi} It continues on to say that allowing a governmental unit to enforce a money judgment would give it preferential treatment against the other creditors of the debtor.\textsuperscript{lxvii} “Enforcement” being defined as “the act or process of compelling compliance with a law, mandate, or command, \textsuperscript{lxviii} when
applied to the “enforcement of a money judgment” exception would mean that it would be a judicial proceeding to compel compliance from the debtor to pay the money judgment that would not be allowed by the automatic stay. A governmental unit is free, however, to seek to obtain a money judgment in court against a debtor because they would not yet be enforcing that money judgment. By this line of thought, if the governmental unit attempted to compel the debtor to pay the money judgment it would be trying to enforce its money judgment and would be stayed from doing so.

The Third Circuit addressed the issue with the case, In re Mystic Tank Lines. In that case, the debtor, Mystic Tank Lines (“Mystic”) had operated a gasoline delivery service and the State of New York had found that Mystic had contaminated ground water and soil. New York sought a judgment for the costs that it had expended in cleaning up the contamination that Mystic had caused. The court found that because New York sought only a judgment for money damages and that the automatic stay was not violated unless the enforcement of that money judgment was sought. This holding helps to confirm that a proceeding that seeks to obtain a money judgment is not stayed, but that the enforcement of that judgment would indeed be stayed.

The Bankruptcy Court for the Northern District of Illinois, Eastern Division, has ruled in a very similar manner with the case In re Lenz Oil Service. In that case Illinois had sought to obtain a judgment against the debtor, Lenz Oil, to cleanup contaminated property and to impose fines for violating Illinois’s environmental laws. The court held that since the State’s action only sought to impose fines, and therefore a money judgment, and not enforce them, the action was not barred by the automatic stay.

This issue of allowing proceedings which seek to obtain money judgments for cleanup
done by a governmental unit but not enforce them causes a direct conflict between the purposes of the automatic stay and environmental law. While the debtor and his creditors do not have to worry with the government taking assets away from the bankruptcy estate via a money judgment, they do have to helplessly watch assets be drained by way of court costs and attorney’s fees.

**Conclusion**

There is no doubt that the conflicts between the automatic stay and most of the environmental laws of this nation are prevalent. The purpose of the automatic stay is to provide the debtor with a “breathing spell” as well as to give the debtor’s creditors adequate protection of any claims they may have in the bankruptcy case.\(^{lxxv}\) The purpose of the exception to the automatic stay is to insure that debtors do not seek to escape the judicial proceedings of governmental units that seek to enforce the law and to insure that the government can adequately protect the welfare of the public from health and safety concerns.\(^{lxxvi}\)

Environmental laws tend to have drastically different goals of making sure that those who do harm to the environment are held responsible for that harm they caused without making the public pay for the costs.\(^{lxxvii}\) Clearly, a debtor is not provided a “breathing spell” nor are the debtor’s creditors insured that their claims will be adequately protected if the purposes of environmental law reign supreme. Simply the two policies are at stark odds with each other and as demonstrated above many courts from various jurisdictions have struggled to reconcile the two so that the purposes of both laws are adhered to as much as they possibly can be.

The allowance by some courts to allow an injunction to be entered against a debtor which forces the debtor to expend most if not all of the assets of the bankruptcy estate has proven to be the most problematic conflict arising between bankruptcy and environmental law. The problem with allowing these injunctions is not simply the fact that the debtor must comply with the law,
indeed a debtor must comply with the law even if he is in bankruptcy. The problem lies with the fact that governmental units are provided with the option to do the cleanup themselves and then sue the debtor for response costs. Since the collecting of money from the debtor would be stayed under the “money judgment” exception to 362(b)(4), governmental units are not provided with any incentive to do the cleanup themselves, which would best serve one of the policies that lies behind environmental laws, to cleanup the hazard as quickly as possible so that public safety is not jeopardized. Instead, the government can sit by and just sue to force the debtor to expend all of the limited assets of the bankruptcy estate in doing the cleanup themselves, which is not the quickest way for a cleanup to get effectuated because they must now go through the court system. Courts must recognize that the government is aware of this problem and will undoubtedly opt for forcing the debtor to expend the assets of the estate. This amounts to no more than a money judgment that should be stayed under 362(a). If the courts are unwilling to implement a rule of this sort, then it is up to Congress to pass a law that would reconcile the two areas of law by allowing for a person in bankruptcy to avoid cleaning up themselves. Rather the government would proceed with the cleanup and would then pursue the response costs from the debtor once he arises from bankruptcy.

It is appropriate that courts allow a governmental unit to obtain a money judgment without enforcing it in lieu of the debtor being in bankruptcy so long as substantial assets from the bankruptcy estate will not be expended in defending such a case.

The conflicts between the automatic stay and environmental laws remains an issue of great importance and deep impact. Until the two areas are reconciled either the debtor or the governmental unit will gain an unfair advantage of some sort, whether it be the debtor by avoiding law enforcement or it be the governmental unit in jumping ahead of all other creditors.
in the bankruptcy suit.

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i Adam P. Strochak et. al., Collier Monograph: Environmental Issues in Bankruptcy Cases Sec. 3 (Matthew Bender 2010), Retrieved from LEXIS.

ii Id.


vii Id.


ix Id.


xii See Penn Terra Ltd v. Dep’t of Envtl. Res., 733 F.2d 267, 269 (3d Cir. 1984) (Pennsylvania environmental laws require those who’ve done damage to environment to rectify harm).


xiv Id.

xv Id.


xx Id.
Id.

Penn Terra, 733 F.2d at 274.

Id.

Id.


Id. at 682.

Id.

See In re Commonwealth Oil Refining Co., 805 F.2d 1175 (5th Cir. 1986).

Id. at 1184.

Id.

Tabb, The Law of Bankruptcy at 278.


Id. at 856.

Id.

Id. at 865.

Id.

Id. at 279.


Id.


Tabb, The Law of Bankruptcy at 279.
Penn Terra, 733 F.2d at 275.

Id.

Id. at 277.

See Black’s Law Dictionary 1425 (7th ed. 1999).

Penn Terra, 733 F.2d at 277.

Commonwealth Oil Refining, 805 F.2d at 1184.

Id.


Thomas Solvent, 44 B.R. at 84.

Id.

Id. at 88.


Id. at 5.

Id. at 15.

See Black’s Law Dictionary 1297 (7th ed. 1999).

See Black’s Law Dictionary 848, 1297 (7th ed. 1999).


Id. at 505.

Id. at 507.


Id.


In re Mystic Tank Lines, 544 F.3d 524 (3rd Cir. 2008).

Id. at 525.

Id. at 527.


Id. at 293.

Id. at 295.

Tabb, The Law of Bankruptcy at 244.


Strochak, Environmental Issues in Bankruptcy at Sec. 3.

See Midlantic Nat’l Bank at 474.