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- [280 In re AAPEX SYSTEMS, INC.](#)? 547(b)(2), NYS Uniform Commercial Code ? 4-301, Trustee?s motion for Summary Judgment denied. There was no advance of credit and no antecedent debt in preference action when HSBC honored presented checks with incoming deposits before the Uniform Commercial Code midnight deadline. (BK 98-20728/ AP 00-2073) (12/14/04)
- [195 In re AAPEX SYSTEMS, INC.](#), 26 U.S.C. §7501 Trust does not extend to funds held in third-party, non-employer, non-agent's hands. Decline to extend Begier (98-20728/AP 99-2082, 99-2054, 99-2137) (12/30/99); **AFFIRMED 00-CV-6137L (10/13/00)**, [PDF - USDC Decision] **cert. denied.; 273 B.R. 19 (Bankr. W.D.N.Y. 2002)** [PDF - USDC Decision]
- [237 In re AAPEX SYSTEMS, INC.](#), §547, 26 U.S.C. §7501 Trust, Decline to extend Begier; Tax, penalties and interest payments made by payroll service provider are avoidable preferential transfers (98-20728/AP 99-2135) (1/31/02) 273 B.R. 35 (Bankr. W.D.N.Y. 2002); **AFFIRMED. 01-CV-6395L (W.D.N.Y. January 22, 2003) Larimer, J.** [PDF - USDC Decision]
- [248 In re AAPEX SYSTEMS, INC.](#), Rule 7015 - Motion to amend complaint denied where Trustee did not make mistake regarding correct identity of parties (98-20728/AP 99-2054; 99-2137) (8/16/02)
- [98 In re ALLEN](#), §523(a)(5) Dischargeability - Child Support (94-21872/AP 94-2122) (5/25/95)
- [15 In re AMBUSH](#), §1301 Co-debtor Stay; Burden of Proof (90-22523) (6/19/92)
- [64 In re AMERICAN ENVIRONMENTAL SERVICES CO., INC.](#), §101(5), §101(1), §547(b) Definition of Claim; Definition of Creditor; Preferences - Debtor/Creditor Relationship (92-20551/AP 93-2161) (1/20/94) 164 B.R. 462 (Bankr. W.D.N.Y. 1994)
- [226 In re AMERICAN FREEDOM SECURITIES, INC., BLOCH INDUSTRIES, INC., FIRST AMERICAN RELIANCE, INC., MONEY MANAGERS, INC., QUAKER MAID/BLOCH INDUSTRIES, INC., THE SCHOOLHOUSE GROUP OF COMPANIES, INC., UNIFIED COMMERCIAL CAPITAL, INC., WEALTH & SECURITY PLANNING, INC.](#), §330, §327, Attorney for Trustee and Special Counsel awarded reasonable attorneys fees based upon lodestar approach. No fee enhancement or common fund analysis was appropriate (98-23909, 98-24376, 98-23906, 98-23907, 98-24000, 98-24377, 98-23908, 98-24100) (5/31/01)
- [1 In re ANDERSON](#), §548, §544 & NYS Debtor & Creditor Law §270, §522 (g) Fraudulent Conveyances - Exemptible Property (89-20813/AP 91-2070) (3/23/92)
- [264 In re ANDERSON](#), Rule 7015 Amended complaint could not "relate

- back" to the initial complaint that never intended to plead a cause of action under 523(a)(15).
- [271 In re ANDERSON \(David\)](#), Partial summary judgment granted in favor of Plaintiff determining attorney's fees to be non-dischargeable as being in the nature of support under Section 523(a)(5). (02-23651 / AP 02-2276)
 - [88 In re ARNOLD](#), §502(j), §524(c), §524(d) Reconsideration of Claim; Reaffirmation Agreements (93-20385) (10/19/94)
 - [170 In re AUTO WORKS, INC.](#), §546(c), NY UCC §2-702; Reclamation Rights in Bankruptcy; Limitation on Trustee's Avoiding Powers (97-22809/AP 97-2238) (8/31/98)
 - [219 In re AUTO WORKS, INC.](#), §546(c)(2)(A), Summary judgment denied due to insufficient proof that as a result of and immediately following the leveraged buy-out the Debtor was rendered balance sheet insolvent, left with unreasonably small capital, or unable to pay its debts as they matured (97-22809/AP 97-2238) (2/15/01)
 - [80 In re AXIAL PROPERTIES NORTH, II](#), §1141(c), §1141(d), Bankruptcy Rule 3003(c), 9006(b)(1), NYS Lien Law §39, 39-a - Discharge of Claims - Without Notice of Confirmation Hearing; Time for Filing Proof of Claim - Chapter 11 - Notice; Enlargement of Time to File Proof of Claim - Excusable Neglect; Willful Exaggeration of Mechanics Lien (91-21236) (6/30/94)
 - [272 In re BARSE](#), The standard for determining the value of a motor vehicle to be redeemed under Section 722 is its wholesale value. (03-22270) **AFFIRMED from bench. 03-CV-06662 (W.D.N.Y. April 6, 2004) Larimer, J.** [[PDF - USDC Decision](#)]
 - [89 In re BEDELL](#), §522, §541(a), NYS Debtor & Creditor Law §282 and CPLR §5206 - Homestead Exemption; Objection to Exemption; Creation of Estate; Sale Proceeds of Exempt Property (94-20023) (11/4/94) 173 B.R. 463 (Bankr. W.D.N.Y. 1994)
 - [202 In re BELL](#), §348(f)(1)(A), Once a Chapter 13 Plan is confirmed, if the debtor converts to Chapter 7 any undistributed plan payments are to be distributed by the Chapter 13 Trustee (98-24065) (5/12/00) 248 B.R. 236 (Bankr. W.D.N.Y. 2000)
 - [222 In re BENJAMIN / In re MOODY](#), NY DCL §283(2), Right to refund of funds given as retainer does not qualify for "cash" exemption (00-20534/00-22921) (3/7/01)
 - [182 In re BENTLEY](#), §522(g) and §544, Assignment of annuity contract - improperly assigned annuity contract can be avoided by a trustee. (97-22384) (oral decision 4/15/98); **AFFIRMED 98-CV-6364T (3/31/99)** [[PDF - USDC Decision](#)]
 - [11 In re BERNARD](#), §501(a) & Bankruptcy Rule 3001(f) Objection to Claim (91-20164) (6/3/92)
 - [254 In re BETANCES](#), premature §362(d) lift stay motions before §341 meeting of creditors (02-23293) (10/22/02)
 - [226 In re BLOCH INDUSTRIES, INC., AMERICAN FREEDOM SECURITIES, INC., FIRST AMERICAN RELIANCE, INC., MONEY MANAGERS, INC., QUAKER MAID/BLOCH INDUSTRIES, INC., THE SCHOOLHOUSE GROUP OF COMPANIES, INC., UNIFIED COMMERCIAL CAPITAL, INC., WEALTH & SECURITY PLANNING, INC.](#), §330, §327, Attorney for Trustee and Special Counsel awarded reasonable attorneys fees based upon lodestar approach. No fee enhancement or common fund analysis was appropriate (98-23909, 98-24376, 98-23906, 98-23907, 98-2400, 98-24377, 98-23908, 98-24100) (5/31/01)
 - [187 In re BLOCK](#), Summary Judgment Motion, §523(a)(2)(A), §523(a)(6) - Fraud and wilful and malicious injury based upon construction of a

defective foundation; §727(a)(2)-(5) based upon Confession of Judgment and failure to turnover books and records and explain missing assets; debtor does not have to receive money directly for debt to be fraudulent (97-23199/AP 97-2263) (7/2/99)

- 101 In re BLUME, §523(a)(2)(A) - Dischargeability - False Pretenses - Concealment - Materiality (94-21245/AP 94-2091) (6/9/95)
- 68 In re BOHRER, §523(a)(2)(A), §523(a)(6) Dischargeability - Fraud - State Court Judgment; Dischargeability - Willful and Malicious Injury - State Court Judgment; Collateral Estoppel (92-21223) (2/8/94)
- 207 In re BOUDRIEAU, §524, §727, Rule 9024 - To vacate discharge to file a reaffirmation agreement extraordinary circumstances must be shown (99-23716) (8/2/00)
- 43 In re BOUNTY BAY ASSOC., §1141(a) Effect of Confirmation (89-20505) (4/1/93)
- 134 In re BRADDOCK, et al. §110(h)(2) - Reduction of Bankruptcy Petition Preparer Fees (96-21716 (10/21/96) (See Ladelfa & MacWhorter)
- 55 In re BRADLEY, Sr. Bankruptcy Rule 7056, NYS Partnership Law §27, §66 (91-13893/AP 93-2136) (9/27/93)
- 253 In re BRILL, §523(a)(2)(A), Dischargeability - Fraud - SBA Loan (00-23702) (10/22/02)
- 85 In re BRISTOL, (92-21616/AP 93-2074) See In re Welcher Industries
- 163 In re BRISTOL HARBOR REALTY ASSOCIATES, §330, §503(b)(3)(D), §503(b)(4) - Compensation of Officers test; Allowance of Administrative Expense for Substantial Contribution; Allowance of Administrative Expense for Reasonable Compensation for Professional Services (96-22697) (3/31/98)
- 24 In re (Keith B.) BROWN, §1325(a)(6) Confirmation of Chp. 13 Plan - Feasibility (91-21391) (8/26/92)
- 121 In re (Douglas) BROWN, §523(a)(8)(A) - Dischargeability - Student Loan - First Became Due; Consolidation Loans (95-22567/AP 96-2007) (6/20/96)
- 131 In re (Lois) BROWN, §350(b) - Reopening Case (90-20730) (10/3/96)
- 120 In re BUONO, §727(a)(2)(A), §523(a)(6) - Denial of Discharge; Dischargeability - Willful and Malicious Injury; Discharge - Standard of Proof; Reliance on Advice of Attorney (95-20524) (6/10/96)
- 263 In re BURCH, 330(a)(4)(B) - Local Rule 2016-2 Debtor's attorney must be appointed under 327, or have obtained the pre-consent of the of the Chapter 7 trustee before receiving compensation from the Chapter 7 estate.
- 118 In re BURTON, §362(d), §362(f) - Relief from Stay - Emergency Hearing; Annulment of Automatic Stay; Ch. 13 Serial Filings (96-20517) (5/16/96) 195 B.R. 588 (Bankr. W.D.N.Y. 1996)
- 169 In re BUTTON, §521(3)&(4); §727(a)(2)(B) - Failure to Turn Over Property of the Estate - Tax Refunds; Denial of Discharge; Constructive Trust Theory and Trust Pursuit Rule; "car wash" (97-22529/AP 98-2045) (8/20/98)
- 54 In re CALLAHAN, §1322(b), §1325(a) Cure - Present Value Factor on Arrearages, Confirmation of Plan - Secured Home Mortgage - Interest/ Present Value Factor on Arrearages (93-20452) (9/13/93) 158 B.R. 898 (Bankr. W.D.N.Y. 1993); **AFFIRMED 93-CV-6494L and 93-CV-6495L (W.D. N.Y. May 27, 1994) Larimer, J.**[PDF - USDC Decision]
- 103 In re CALLAWAY, §523(a)(2), Bankruptcy Rule 7056 - Summary Judgment; Dischargeability - Damage (94-21815/AP 94-2117) (8/9/95)
- 16 In re CANNON, §1112(b) Dismissal (91-23095) (6/22/92) 143 B.R. 805 (Bankr. W.D.N.Y. 1992)
- 151 In re CARLTON / In re KORNFELD, §707(b) Substantial Abuse - Chapter 7; "Ability to Pay" (96-23200/96-22165) (6/23/97); 211 B.R. 468

(Bankr. W.D.N.Y. 1997); [AFFIRMED 215 B.R. 705 \(W.D.N.Y. 97-CV-6330L, Nov. 7, 1997\) \[PDF - USDC Decision\]](#); [AFFIRMED 2nd Cir. Jan. 1999 \(97-5080\) \[PDF - Circuit Decision\]](#)

- [299 In re CARPENTER](#), Rule 4003, ?554, ?522, NY CPLR ? 5206, Abandonment Motion granted. The Trustee did not timely object to Debtor's amended exemption, and as a result, there was no non-exempt equity for the property to be of value to the estate.(03-24714) (5/31/06). [APPEAL Withdrawn ..](#)
- [10 In re CARR](#), §105 & Bankruptcy Rule 9020 Contempt (87-20453)(6/1/92)
- [45 In re CHAPIN](#), §523(a)(6), §523(a)(9) Dischargeability - Willful & Malicious Injury - Driving While Intoxicated (Property Damage), Dischargeability - Driving While Intoxicated (92-22214/AP 92-2153 (6/24/93) 155 B.R. 323 (Bankr. W.D.N.Y. 1993)
- [75 In re CHATELL](#), §101(31), §547(b)(4)(B), §1325(a)(3), Bankruptcy Rule 9011 - Definition of "Insider"; Preferences - Insider; Confirmation of Chapter 13 Plan - Good Faith - Payment by Parents & Superdischarge; Sanctions (92-22651) (4/28/94)
- [154 In re CHATMAN / In re VAN MANEN](#), §507(a)(8), §523(a)(1), NYS Tax §659 - Dischargeability - Tax Claim Priority; Report of Federal Tax Assessment (96-21185/AP 96-2225) (96-23980/AP 97-2011) (9/5/97); [AFFIRMED No.97-CV-6495L and No. 97-CV-6496L \(W.D.N.Y. March 16, 1998\) \[PDF - USDC Decision\]](#)
- [242 In re CHORNEY](#), NY UCC §§ 9-106, 9-318, 9-104(g), 9-104(k), 9-702(c), 9-709(a), Debtor granted a security interest in structured settlement payments and summary judgment granted to creditor that had a perfected security interest in such payments; Former Article 9 applicable (00-23177/AP 01-2122) (5/2/02); 277 B.R. 477(Bankr. W.D.N.Y. 2002)
- [296 In re CINOLE, INC.](#), § 1112(b), § 362(d), Chapter 11 petition filed in bad faith and dismissed for cause when dissolved corporate debtor filed on eve of City of Rochester In Rem tax foreclosure proceeding. Automatic stay annulled for cause retroactive to the date of the filing of the petition. (05-25705) (3/16/06).
- [77 In re CLARK](#), §1325(a)(5)(B)(ii), Confirmation of Plan - Property Taxes - Interest/Present Value Factor 93-22408) (6/2/94); 168 B.R. 280 (Bankr. W.D. N.Y. 1994)
- [279 In re COLOMBO \(Jeanne C.\)](#), §544, NYS Debtor Creditor Law §§ 273, 275 & 276. Motion for Summary Judgment granted for Trustee where debtor fraudulently conveyed her interest in real property with actual intent to hinder, delay and defraud creditors in violation of NYS Debtor Creditor Law § 276 and with constructive intent in violation of §§ 273 & 275. The fraudulently conveyed property had "value" even though the cost to "clean up" the property exceeded an appraised fair market value (02-22795 / AP 03-2170)(11/2/2004).
- [92 In re COLOMBO \(Richard J.\)](#), §523(a)(6), §523(a)(4) - Dischargeability - Willful & Malicious Injury; State Court Default Judgment; Conversion of Partnership Assets; Res Judicata/Collateral Estoppel; Dischargeability - Fiduciaries (93-21983/AP 93-2225) (12/20/94)
- [221 In re COLONIAL TRANSPARENT PRODUCTS CO., INC.](#), §544, NY UCC §9-203(1), Financing statement and additional documents not sufficient to demonstrate grant of security interest in equipment (899-90170-478/AP 800-8112-478) (2/12/01) Brooklyn
- [102 In re COLONY BROKERAGE COMPANY OF BALTIMORE-WASHINGTON, INC.](#), §1112(b) - Dismissal - Unauthorized Filing; Bad Faith Filing (95-20112) (7/5/95)
- [48 In re CONNELLY](#), §105(a), §109(g)(2), Bankruptcy Rule 8005 Power of Court - Chp. 13 Serial Filings and Foreclosure Sale; Eligibility for Relief -

Voluntary Dismissal of prior Chp. 13 case by Debtor after relief from stay motion; Stay pending appeal (93-20873 (8/6/93); 195 B.R. 227 (Bankr. W.D. N.Y. 1994); **AFFIRMED No. 93-CV-6499L (W.D.N.Y. April 13, 1995)**; [[PDF - USDC Decision](#)] **APPEAL DISMISSED Aug. 7, 1995 (95-5032) USCA** [[PDF - Circuit Decision](#)]

- [205 In re COOLBAUGH](#), NYCPLR §5205(d)(2) & §522 - Earnings exemption available in bankruptcy; initial burden on debtor to prove exemption based upon duty to file accurate schedules; presumptions on flow of money into and out of the debtor's bank account (99-23706) (7/6/00); 250 B.R. 162 (Bankr. W.D.N.Y. 2000)
- [209 In re COX](#), If there is significant equity (\$10,000) over and above the mortgage in question, the secured creditor must give the debtor a 10-day notice to cure prior to moving to lift the stay, or no fees and expenses will be awarded (99-23397) (8/7/00); 251 B.R. 446 (Bankr. W.D.N.Y. 2000)
- [235 In re CURTISS](#), §1325(a)(6), §362(d), Speculative and uncertain income and prospects for refinancing as well as understated expenses render Plan non-confirmable due to lack of feasibility; stay lifted and property abandoned (01-23919) (12/14/01)
- [176 In re D'AMICO](#), §544, NYDCL §§276, 276-a. Transfer of property to Debtor's spouse with actual intent to hinder, delay or defraud then-existing or future creditors; factors to consider regarding fraud; award of attorneys' fees (96-23724/AP 97-2230) (12/16/98)
- [19 In re D'ORAZIO](#), §522, NYS Debtor & Creditor Law §282 & CPLR §5205 (c) Exemptions - Rollover IRA (92-20840) (7/23/92)
- [94 In re DANVILLE PROPERTIES, INC.](#), §327(a), §101(14)(A) Employment of Professionals - Attorney for Debtor; Definition of Disinterested Person (94-22537) (2/10/95); 177 B.R. 174 (Bankr. W.D.N.Y. 1995)
- [274 In re DAVIE](#), NYS Commissioner of Agriculture and Markets had a pre-petition claim within the meaning of Section 101(5) that is dischargeable pursuant to this Court's decision in *In re Tucker*. (98-20847) 12/12/03
- [179 In re DEAN](#), §523(a)(15). Attorney fees; overview of meaning and legislative intent of §523(a)(15). (98-23137/AP 99-2004) (3/19/99) 231 B.R. 19 (Bankr. W.D.N.Y. 1999).
- [66 In re DECOSMO](#), §522(c)(1), §522(f), §523(a)(5) - Exempt Property Subject to Nondischargeable Debts - §523(a)(5); Avoidance of Judicial Liens - Nondischargeable Debts under §523(a)(5); Dischargeability - Alimony, Maintenance, Support - Avoidance of Judicial Liens (93-21288) (1/31/94); 163 B.R. 227 (Bankr. W.D.N.Y. 1994)
- [283 In Re DELANO](#) ? 502(a), Bankruptcy Rule 3001(f), 28 U.S.C. 455, Objection to Claim; Burden of Proof; Recusal (04-20280) (4/4/05). **AFFIRMED No. 05-CV-6190L (WDNY August 21, 2006)**[[PDF USDC Decision](#)]
- [255 In re DELYSER](#), §523(a)(4); PACA §499e - Debt arising under PACA Trust is nondischargeable (02-21130) (11/26/02)
- [268 In re DELYSER](#), Section 523(a)(4); PACA Section 499(e) Seller loses trust fund benefits when it fails to include payment terms previously agreed to on the invoice it uses to give notice of its intent to preserve the PACA Trust. (02-21130) [7-11-03]
- [35 In re DILIBERTO](#), §522(f)(1) Avoidance of Judgment Liens - Subsequent Federal Tax Lien (92-22147) (1/22/93); 150 B.R. 7 (Bankr. W.D.N.Y. 1993)
- [100 In re DOLAN](#), §350(b), §362(c), §1141(b) - Reopening; Termination of the Automatic Stay; Revested Title to Property of the Estate (92-21462) (5/30/95)
- [59 In re DWYER](#), Bankruptcy Rule 9011 Sanctions; Sanctions - Filing Chapter 11 case (93-20620) (12/31/93)

- [266 In re DZIENDZIEL](#), Section 506 "Pond" Hearing / "Rash" Hearing Debtors in opposed Pond Motions are required to submit to the Court additional information prior to the Evidentiary Hearing Calendar. For Rash Valuation Hearings, parties should obtain vehicle replacement value appraisals. (03-20536) [6/18/03]
- [150 In re EASTWAY LINCOLN-MERCURY, INC.](#), §541(a)(1), §503 Property of Estate; Allowance of Administrative Claims (96-22201) (6/12/97)
- [208 In re EGGLESTON](#), There is no exemption for a TAP/PELL Grant Payment. (00-20136) (8/7/00)
- [239 In re ELLERSICK](#), Power of Attorney Filing (01-24426) (2/15/02)
- [144 In re ELLINWOOD](#), §§105(a), 362(a), (d) - Power of the Court; Relief from Stay; Annulment of the Automatic Stay; Serial Ch. 13 Filings to Prevent Tax Foreclosure Sale (96-23849) (3/5/97); 206 B.R. 300 (Bankr. W.D. N.Y. 1997)
- [196 In re ENGEL](#), §362(h) Violation of Automatic Stay due to computer error, causing billing statements to be mailed to the Debtor (99-20946) (1/4/00)
- [41 In re ESTES](#), §330 Attorney's Fees - Attorney for Debtor - Dischargeability; Attorney's Fees - Attorney for Debtor - Reaffirmations (91-20185) (3/30/93); 152 B.R. 32 (Bankr. W.D.N.Y. 1993)
- [42 In re EVAUL](#), §522(f)(1), §522(c) Avoidance of Judgment Liens - Nondischargeable Debts (92-23232) (3/30/93); 152 B.R. 31 (Bankr. W.D.N.Y. 1993)
- [51 In re FARNSWORTH](#), §546(a)(1), §1141 Two-Year Time Limitation on Avoidance Actions - Application to Chp. 11 Debtor; Effect of Confirmation (89-20338/AP 93-2056) (8/16/93)
- [70 In re FENTI](#), §523(a)(2)(A) Dischargeability - Fraud (92-22400/AP 92-2152) (oral decision 5/13/93, additional findings 5/24/93); **AFFIRMED No. 93-CV-6366L (W.D.N.Y. February 23, 1994) [PDF - USDC Decision]** **AFFIRMED USCA (#94-5025) 10/4/94 [PDF - Circuit Decision]**
- [226 In re FIRST AMERICAN RELIANCE, INC., AMERICAN FREEDOM SECURITIES, INC., BLOCH INDUSTRIES, INC., MONEY MANAGERS, INC., QUAKER MAID/BLOCH INDUSTRIES, INC., THE SCHOOLHOUSE GROUP OF COMPANIES, INC., UNIFIED COMMERCIAL CAPITAL, INC., WEALTH & SECURITY PLANNING, INC.](#), §330, §327, Attorney for Trustee and Special Counsel awarded reasonable attorneys fees based upon lodestar approach. No fee enhancement or common fund analysis was appropriate (98-23909, 98-24376, 98-23906, 98-23907, 98-2400, 98-24377, 98-23908, 98-24100) (5/31/01)
- [227 In re FIRST AMERICAN RELIANCE, INC. / In re MONEY MANAGERS, INC. / In re WEALTH & SECURITY PLANNING, INC.](#), Ponzi Scheme - Proximate Cause & Damages (98-23907/98-23906/98-24100/AP 00-2243) (6/8/01)
- [258 In re FISHER](#), 506(a) Pond Valuation (02-23310) [1/29/03]
- [105 In re FISHER](#), §362, §544(a)(1), N.Y. Veh. & Traf. Law §§2108(c), 2118 (b)(1)(A) Relief from Stay; Avoidance of Lien - Trustee as Judgment Creditor; Perfection - Certificate of Title (95-20450) (8/23/95); 185 B.R. 457 (Bankr. W.D.N.Y. 1995)
- [167 In re FISHER](#), §506(b) - Attorney's Fees - Oversecured Lender (97-20883) (7/17/98)
- [145 In re FISHGOLD](#), §362(d) - Relief from Automatic Stay for Cause; §523 (a)(4) - Exception to Discharge for Debt for Fraud or Defalcation While Acting in a Fiduciary Capacity; §523(a)(3) - Unscheduled Creditors with

- Actual Notice (96-20157) (3/10/97); 206 B.R. 50 (Bankr. W.D.N.Y. 1997)
- [76 In re FLEXSEAL](#), Bankruptcy Rule 7065 - Preliminary Injunction (93-22373 and 93-22374) (5/25/94)
- [86 In re FLEXSEAL](#), §1112(b)(1), §1112(b)(2) Conversion to Chapter 7 - Continuing Loss or Diminution; Rehabilitation; Inability to Effectuate a Plan (93-22373 and 93-22374) (9/22/94)
- [87 In re FLEXSEAL](#), §105(a) Power of Court - Consolidation (93-22373 and 93-22374) (9/27/94)
- [91 In re FLEXSEAL](#), §506(a), Uniform Commercial Code §9-113 - Determination of Validity, Extent and Priority of Lien; Security Interests Arising Under Article on Sales; Perfection by Possession; Unjust Enrichment (93-22374/AP 94-2010) (11/22/94)
- [111 In re FLEXSEAL](#), §330, §105(d), Bankruptcy Rule 7016 - Attorney's Fees - Reasonable Compensation - Billing Judgment; Status Conference (93-22374) (12/29/95)
- [185 In re FLOOD](#), §§362(a),(b),(c), §524, Rochester City Code §47a-16 - Post-petition demolition charges asserted by City for unsafe and dangerous conditions that existed pre-petition, real property ownership responsibilities (94-20245) (6/7/99) 234 B.R. 286 (Bankr. W.D.N.Y. 1999)
- [244 In re FORGUE](#), §547(c)(8), Avoidability of Transfer/s Exceeding \$599.99 (02-20338/AP 02-2149) (5/21/02)
- [284 In re FOXTON](#), §727(a)(2) and (a)(4) Debtor's discharge denied based on knowingly and fraudulently made false oaths or accounts. (04-22377/AP 04-2154) (4/12/05).
- [57 In re FREDDY'S LIMITED PARTNERSHIP](#), §331, §365(d)(3), §503(b), §507(a)(1) Attorney's Fees - Interim compensation in Chapter 11; Unpaid lease obligations - Priority; Allowance of Administrative Expenses - Cost of preserving estate; Priority - Administrative expenses (93-20542) (11/23/93)
- [122 In re FREDDY'S LIMITED PARTNERSHIP](#), §505, Fla. Stat. Ann. §193.011 - Determination of Tax Liability; Tax Assessment; Tangible Personal Property Taxes (93-20542) (6/25/96)
- [128 In re FREDDY'S LIMITED PARTNERSHIP](#), NYS UCC Sec. 2-602, 2-606(1), 2-608, 2-709(1)(b) - Rejection of Goods; Acceptance of Goods; Effect of Acceptance - Payment at Contract Rate; Revocation of Acceptance; Action for the Price (93-20542) (9/5/96)
- [13 In re FREDERES](#), §§ 541 & 542 Turnover of Property; Property of Estate - Marital Property (89-20844/AP 91-2196) (6/5/92); 141 B.R. 289 (Bankr. W.D.N.Y. 1992); **APPEAL DISMISSED per stipulation, No. 92-CV-6344 (W.D.N.Y. June 8, 1993) [PDF - USDC Decision]**
- [60 In re FRIEL](#), Bankruptcy Rule 2002, Bankruptcy Rule 2002(g), Bankruptcy Rule 3002(c), Bankruptcy Rule 9010 - Notices - filing of claims; Notices - Filed Request of Creditor; Time of Filing Proof of Claim - Chapter 7; Notice of Appearance (90-20197) (1/11/94). 162 B.R. 645 (Bankr. W.D.N.Y. 1994)
- [140 In re G&G CHEESE COMPANY, INC.](#), The Perishable Agricultural Commodities Act of 1930 ("PACA"), 7 U.S.C. §499(a), et seq. - Interstate vs. Intrastate Transactions; Filing of Trust Notices with the U.S.D.A.; Inflated Trust Notices; Pre-Judgment Interest; Determination of Attorneys Fees (95-22612/AP 96-2142) (12/17/96)
- [190 In re GALLAGHER](#), §523(a)(15)(A) - Ability to pay property settlement to ex-spouse (which includes court ordered attorney fees) measured over a reasonable period of time (98-23847/AP 99-2002 & 99-2003) (9/13/99).
- [138 In re GARCZYNSKI](#), Informal Proof of Claim in a Chapter 13 Case (94-22621) (12/4/96)
- [125 In re GARDNER](#), §522, NYS Debtor & Creditor Law §282(ii)(2)(a) and §283(2), NYS Social Services Law §137 Exemptions - Income Tax Refunds;

Exemptions - Earned Income Credits; Exemptions - Local Public Assistance Benefit (96-20123) (7/17/96)

- 14 In re GATES COMMUNITY CHAPEL OF ROCHESTER, INC., §1112(b) Dismissal (90-21729/AP 91-2036) (6/8/92)
- 40 In re GATES COMMUNITY CHAPEL OF ROCHESTER, INC., §1129 Confirmation (90-21729) (3/25/93)
- 153 In re GATES COMMUNITY CHAPEL OF ROCHESTER, INC., §350, Bankruptcy Rule 3022, 28 U.S.C. §1930(a)(6) - Payment of U.S. Trustee Quarterly Fees; Closing of Case; Final Decree in Chapter 11 case; "Fully Administered" (90-21729) (8/25/97); 212 B.R. 220 (Bankr. W.D.N.Y. 1997)
- 96 In re GEORGE, §727(d)(1), §521(1) - Revocation of Discharge; Duties of Debtor; Knowledge of Fraud; Discharge - Standard of Proof (93-21658/AP 94-2030) (3/10/95)
- 112 In re GEORGE, Bankruptcy Rule 3002(c) - Time of Filing Proof of Claim - Chapter 7; Informal Proof of Claim (93-21658) (2/26/96)
- 186 In re GIARDINA, §554, N.Y. Real Property Law 290 - Improperly scheduled real property for abandonment purposes but properly scheduled for subsequent bona fide purchaser (96-20421) (6/10/99)
- 168 In re GIBBS, Federal Rules of Civil Procedure 56(c) - Summary Judgment Standard; Intended Third Party Beneficiary; Restatement (Second) of Contracts §302; Fraud - must be a beneficiary to pursue an action; Wrongful Termination - must be a beneficiary to pursue an action; Detrimental Reliance or Promissory Estoppel - must reasonably expect reliance (AP 97-5080 Conn.) (8/7/98); **AFFIRMED 98-CV-1718 (Conn)(JCH) 9/30/99** [[PDF - USDC Decision](#)]
- 69 In re GLASGOW, §544(a)(1), §544(a)(3) - Avoidance of lien - Trustee as Judgment Creditor; Avoidance of lien - Trustee as bona fide purchaser (91-21116) (2/28/94); **AFFIRMED 94-CV-6191 W.D.N.Y. (8/24/95)** [[PDF - USDC Decision](#)]
- 286 In re GODSEY, ? 506, ? 1322, ? 1325, A Retail Installment Contract with Smart Buy Rider is not an executory contract. (04-23492) (5/16/05)
- 215 In re GOFF, §506(a) & §506(d) - Ch. 7 Debtor prohibited from stripping off wholly unsecured junior mortgage lien (00-21836) (10/4/00)
- 143 In re GREENBRIAR PROPERTIES I, §330(a)(3)(A) - Determination of Reasonable Compensation for Award of Post-Petition Attorney Fees; Determination of Fees for Pre-Petition Services; Disbursements (94-20351) (1/17/97)
- 142 In re HARALAMBOPOULOS, §522(f) - Avoidance of Judgment Lien; Determination of Fair Market Value of Property for Purposes of Avoiding Judgment Lien; Remainder of Unavoidable Amount of Judgment Lien (96-21707) (1/10/97)
- 113 In re (Clay & Lori) HARRIS, §105(a), §362(d) - Power of Court - Abusive Serial Filings and Foreclosure Sale; Annulment of Automatic Stay 96-20015) (3/1/96); 192 B.R. 334 (Bankr. W.D.N.Y. 1996)
- 50 In re (Margaret) HARRIS, §362(d)(2) Relief from Stay - Chp. 13 - Necessary for Effective Reorganization (93-21262) (8/12/93)
- 97 In re (Nancy) HARRIS, Bankruptcy Rule 7056, §547(b)(4), §548(a)(2), §544, §101(31), §550(d) - Summary Judgment; Preferences - Fraudulent Conveyances; Fraudulent Conveyances and State Law; Preferences - Insider; Good Faith Transferee Improvements (93-22778/AP 94-2095) (3/24/95); 195 B.R. 577 (Bankr. W.D.N.Y. 1995)
- 183 In re HART, Rules 4004(a) and 4007(c), Rule 7012 - Extension of time to file and adversary proceeding requirements, standards used for motion to dismiss complaint for failure to state a claim (98-23000/AP 98-2216) (5/4/99)
- 262 In re HARTFORD, Sections 523(a)(1)(A) and 507(a)(8)(A) - Three-year

- look-back period for which a governmental unit may pursue an unsecured claim is equitably tolled during the pendency of a prior bankruptcy petition.
- [158 In re HARTSOCK](#), §522(f), §522(g) - Avoidance of non-PMSI in motor vehicles; Exempt property and Avoidance Powers (97-22473) (1/15/98)
 - [298 In re HAYWARD](#), §522, NY CPLR §5206, NY DCL §282, NY Stat §54, The 8/30/05 amendment to NY CPLR § 5206 homestead exemption is remedial and may be applied retroactively to general unsecured debts, not reduced to judgment and incurred before the effective date of the amendment. (05-27165) (5/25/06).
 - [282 In re HENNING](#), The Court's Abandonment Order was consistent with its policy in [In re Flood](#), 234 B.R. 286 (Bankr. W.D.N.Y. 1999) and [In re Red Bird Development Inc.](#), (Case No. 95-22791) (5/8/97), permitting the City of Rochester to submit post-petition claims for costs incurred to prevent or correct code violations or property conditions that presented an imminent danger to the public. The Order did not require the City of Rochester to file claims and did not intend to eliminate any post-petition liability of the debtor/owner of the properties. (02-21047) (3/17/05). **Appeal Discontinued**
 - [267 In re HERALD](#), §522(d)(10); NYS Debtor & Creditor Law 282 Workers' compensation payments are exempt disability benefits under 282.2 (c) of the DCL. (99-20788) [6/26/73]
 - [212 In re HESS](#), §523(a)(2)(A) - False Representations and False Pretenses - Requirements to be nondischargeable (99-22144/AP 99-2289) (8/18/00); **AFFIRMED No. 00-CV-6508L (W.D.N.Y. November 19,2001)** [[PDF](#) - [USDC Decision](#)]
 - [74 In re HICKEY](#), Burden of Proof - Account Receivables of Professional Fees; Court Procedure - Date of Trial (92-22292/AP 93-2205) (4/19/94)
 - [79 In re HICKEY](#), §544, §550, §550(b)(1), NYS Debtor & Creditor Law §273, §276, §276(a) - Fraudulent Conveyances and State Law; Fraudulent Conveyances - Transferee Liability; Good Faith Transferee - Duty of Inquiry; Fraudulent Conveyances - Constructive Fraud - Insolvency; Fraudulent Conveyances - Actual Fraud; Fraudulent Conveyances - Actual Fraud - Attorney's Fees (92-22292/AP 93-2133) (6/27/94); 168 B.R. 840 (Bankr. W.D.N.Y. 1994)
 - [84 In re HICKEY](#), §550, NYS Debtor & Creditor Law §273, §278 - Fraudulent Conveyances and State Law; Fraudulent Conveyances - Burden of Proof; Good Faith Transferee - Duty of Inquiry (92-22292/AP 93-2133) (8/18/94)
 - [172 In re HICKS](#), §350(b) - Motion to Reopen; non-exclusive jurisdiction to determine if non-scheduled affirmative defense is available to debtors in state court proceedings; 'Rooker Feldman Doctrine' 96-22204) (9/17/98)
 - [211 In re HICKSON](#), NY Insurance Law §3212, DCL §282 - Life insurance policies are exempt from debtor/owner's trustee as long as there is a third-party beneficiary and it is exempt from a debtor/beneficiary's trustee because the interest is contingent (00-20130) (8/14/00)
 - [294 In re HOJNOSKI](#), §544(a)(3), NY RPL §291, NY RPL §316, Bankruptcy Rule 7056, Motion for summary judgment granted in favor of mortgage company. Trustee is charged with constructive notice of correction affidavit properly recorded in chain of title despite incorrect municipality indexed by the County Clerk. (04-24564/ AP 05-2013) (1/4/06). **Appeal Pending**
 - [287 In re HOPKINS](#), § 544, Bankruptcy Rules 9023 and 9024, NYS Vehicle & Traffic Law § 2118(a), Motion to vacate default judgment denied where default was willful and deliberate and not the result of excusable neglect. (03-25089/ AP 05-2009) (6/8/05).
 - [289 In Re HOYT](#), § 523(a)(4), 523(a)(6), Rule 7012, Federal Rules of Civil Procedure 12(b), Nondischargeability causes of action dismissed for the failure to state a claim upon which relief can be granted. (03-20001/ AP 05-2023) (6/27/05).

- [295 In re HOYT](#), §§727(a)(2) and (a)(4) Debtor's discharge denied based on knowingly and fraudulently made false oaths or accounts. (03-20001/AP 05-2023) (2/8/06).
- [81 In re \(Mark D.\) HULL](#), §362(d), §362(h), §1307(b), §1307(c) - Annulment of Automatic Stay; Willful Violation of Automatic Stay; Dismissal After Motion to Convert; Conversion (91-22749) (7/8/94)
- [171 In re \(Denise M.\) HULL](#), §523(a)(8)(A) - Dischargeability of Consolidated Student Loan; Sovereign Immunity; 20 U.S.C. §1078-3(e) (97-24821/AP 98-2050) (8/31/98); 223 B.R. 876 (Bankr. W.D.N.Y. 1998)
- [194 In re HUNTER](#), §541 Pre-petition tax refund received post-petition is property of the estate (98-24955) (12/10/99)
- [12 In re HUSTED](#), §§ 1322 & 1325 Confirmation of Chp. 13 Plan - Separate Classification & Nondischargeable Debt (92-20415) (6/5/92); 142 B.R. 72 (Bankr. W.D.N.Y. 1992)
- [291 In re HUTCHINSON](#), § 727(a)(4), Debtor's discharge denied based on knowingly and fraudulently made false oaths or accounts. (04-25436/ AP 05-2027) (8/2/05).
- [184 In re INDUSTRIAL CERAMICS, INC.](#), §503(a) and §365 - Filing of an administrative proof of claim for difference between what was charged and amount that could have been charged (96-22069) (6/3/99)
- [197 In re INDUSTRIAL CERAMICS, INC.](#), BCL § 513; §544; §550; an equitably insolvent corporation cannot redeem its stock and if the stock is redeemed prior to the filing the former shareholder can be required to refund the money (96-22069/AP 98-2076) (3/14/00) APPEAL DISMISSED BY * Official Creditors Committee of Indus. Ceramics, Inc. v. Industrial Ceramics Associates, 25 BR. 296, 2000 WL 1159304 (W.D.N.Y. August 11, 2000) (No. 00-CV-6222L)
- [47 In re INTERCO SYSTEMS, INC.](#), §706(a), §1104(a) and §1112(b) Conversion; Appointment of a Chapter 11 Trustee; Conversion to Chapter 7 (93-20144) (7/19/93)
- [83 In re INTERCO SYSTEMS, INC.](#), §327, §328, §330(a)- Professional fees - Disinterested Person; Attorney's Fees - Reasonable Compensation - Billing Judgment; Attorney's Fees - Use of Expert Witnesses; Professional Fees - Chp. 11 - Fees Incurred Opposing Motion to Convert (93-20144) (8/1/94)
- [104 In re INTERCO SYSTEMS, INC.](#), Bankruptcy Rules 7004(b)(3), 7004 (f), 7012(a), 7055, Federal Rule of Civil Procedure 55(c) - Set Aside Default - Good Cause - Wilful Default - Meritorious Defense - Prejudice; Service of Answer: Service Upon Partnership; Reissue Summons (93-20144/AP 95-2043) (8/21/95); 185 B.R. 447 (Bankr. W.D.N.Y. 1995)
- [107 In re INTERCO SYSTEMS, INC.](#), §547(c)(2), §547(g), Bankruptcy Rule 7056 - Preferences - Ordinary Course of Business; Preferences - Burden of Proof; Summary Judgment (93-20144) (9/14/95)
- [110 In re INTERCO SYSTEMS, INC.](#), §547(b) Preferences; Constructive Trust; Unjust Enrichment (93-20144/AP 95-2048) (12/14/95)
- [117 In re INTERCO SYSTEMS, INC.](#), 28 U.S.C. §§1409, 1412 - Venue (93-20144/AP 95-2139) (4/23/96)
- [135 In re INTERCO SYSTEMS, INC.](#), §549(a), (b) - Avoidable Post-Petition Transfer of Property of the Estate; §548(a)(2)(B)(i) - Avoidable Fraudulent Conveyance; §547(b) - Avoidable Preferential Transfers; §547(c) - Pre-Petition Payments Made Outside the Ordinary Course of Business (93-20144/AP 95-2084) (11/1/96); 202 B.R. 188 (Bankr. W.D.N.Y. 1996)
- [146 In re INTERCO SYSTEMS, INC.](#), Fee Applications - Fee Enhancement, Premiums (93-20144) (3/20/97); 206 B.R. 61 (Bankr. W.D.N.Y. 1997)
- [85 In re IRA BRISTOL INDUSTRIES](#), See In re Welcher Industries
- [6 In re IZZO](#), §522, NYS Debtor & Creditor Law §283(2) Exemptions - Income Tax Refunds; Exemptions - Eastman Kodak Bonus (90-21471)

- (4/21/92)
- [21 In re IZZO](#), §105 & Bankruptcy Rule 9020 Contempt - Turnover of Property to Trustee (90-21471) (8/10/92)
 - [173 In re JEFFRIES](#), §1322(b)(2); §506(a) - Modification of Homestead Mortgages; Determination of Secured Status by Motion rather than Adversary Proceeding (98-20500) (9/28/98)
 - [193 In re JOHNSON](#), §362(h) Principal must give agent notice of filing and automatic stay. State and County agencies must notify child support collection units once the agency gets notice of a bankruptcy petition (98-22592) (12/3/99); **AFFIRMED 00-CV-6019 (11/27/00)** [PDF - USDC Decision]
 - [123 In re JONES](#), Bankruptcy Rules 7004(b)(6) and 7055, CPLR §311(4), FRCP 55(c), 60(b)(4) and 60(b)(6) Service upon Governmental Subdivision; Set Aside Default; Relief from Void Judgment (94-22408/AP 96-2061) (7/11/96)
 - [73 In re \(Thomas Bernard\) KANE](#), §506(c) - Recovery by Trustee of Costs of Preserving Secured Property; Estoppel (89-22332/AP 93-2175) (4/14/94)
 - [229 In re \(William III & Donna\) KANE](#), NY DCL §283(2) - Specific bequest does not qualify for "cash" exemption (01-20501) (10/29/01)
 - [78 In re KEAN](#), §1322(b)(2), §1325(a)(5)(B) - Chp. 13 Plan - Modify Rights of Secured Claim on Principal Residence; Confirmation of Chp. 13 Plan - Value of Property not Less Than Allowed Secured Claim (94-20396) (6/26/94)
 - [61 In re KEPHART](#), 42 U.S.C. §254(o)(d)(3)(A) - Dischargeability of student loan - National Health Service Corps Loan Repayment Program (92-21082/AP 92-2042) (1/11/94) 167 B.R. 767 (Bankr. W.D.N.Y. 1994); **REVERSED 170 B.R. 787 (W.D.N.Y. 1994)** [PDF - USDC Decision]
 - [200 In re KIMBELL](#), §506(a); §1322(b)(2) - Mortgage on a two-family home can be crammed down even if it is the debtor's residence (99-23699) (4/11/00); 247 B.R. 35 (2000)
 - [151 In re CARLTON / In re KORNFIELD](#), §707(b) Substantial Abuse - Chapter 7; "Ability to Pay" (96-23200/96-22165) (6/23/97); 211 B.R. 468 (Bankr. W.D.N.Y. 1997); **AFFIRMED 215 B.R. 705 (W.D.N.Y. 97-CV-6330L, Nov. 7, 1997)** [PDF - USDC Decision]; **AFFIRMED 2nd Cir. Jan. 1999 (97-5080)** [PDF - Circuit Decision]
 - [152 In re KORNFIELD](#), Bankruptcy Rule 8005 - Stay Pending Appeal (96-22165) (8/7/97)
 - [28 In re KRAFT](#), §303 Dismissal of Involuntary Petition (91-22937) (9/29/92)
 - [58 In re KRAFT](#), §303(i) Dismissal of Involuntary Petition - Award of Attorney's Fees, Costs, Damages or Punitive Damages (91-22937) (12/29/93)
 - [124 In re KROCHALIS](#), Bankruptcy Rule 3001(f) Gift - Donative Intent; Claims - Burden of Proof (93-21162) (7/11/96)
 - [139 In re KROCHALIS](#), N.Y. Debtor and Creditor Law §§273-a, 274, 276, 276-a, Bankruptcy Rules 7008, 7009 - Amended Complaint; Allowance of Additional Claims (93-21162/AP 94-2090) (12/6/96)
 - [49 In re KUHN](#), §523(a)(5)(A) Dischargeability - Child Support - Confinement Expenses (92-23410/AP 93-2075) (8/10/93)
 - [297 In re Labelon](#), Attorney fees for representation of the Chapter 11 Debtor are subordinate to a Super-Priority Claim. Fees awarded pursuant to carve-out and reasonable value of work. (02-22582) (3/24/06).
 - [181 In re LaBORDE](#), §522(f)(1) - Avoiding Judgment Liens on one spouse's tenancy in common interest after a divorce, when the other spouse takes a fee interest in the property. (98-24430) (3/29/99). 231 B.R. 162 (Bankr. W.D. N.Y. 1999).
 - [134 In re LaDELFA](#), §110(h)(2) - Reduction of Bankruptcy Petition Preparer Fees 96-21529) (10/21/96) (See also Braddock & MacWhorter)

- [247 In re LANKHEET](#), §330 Compensation for Professionals Employed under §327 (00-22334) (7/30/02)
- [216 In re LANZATELLA](#), §544, NY UCC §9-203(1), NY V&T Law §2101(j), (k) - Creation of security interest in automobile (00-20865/AP 00-2141) (10/19/00). 254 B.R. 84 (Bankr. W.D.N.Y. 2000)
- [7 In re LASNER](#), §1307(c), §109(e), Bankruptcy Rule 9011 Dismissal; Chp. 13 - Unsecured Debt Limitations; Sanctions; Res Judicata-State Court Judgment (92-200805) (4/22/92)
- [17 In re LAWRENCE](#), § 541 & 362 Relief from Stay; Property of Estate-Supersedes Bond (91-23255) (6/30/92)
- [230 In re LEAST CHEVROLET INC. / LEAST FORD INC. / LEAST CHRYSLER PLYMOUTH DODGE INC. \(d.b.a.\) CHRYSLER DODGE JEEP](#), §361 & 363(f) - Denial of Request to Use Cash Collateral (01-24200; 01-24206; 01-24207) (11/16/01)
- [114 In re LOMBARDI](#), §722, §506(a) - Redemption; Allowance of Secured Claim 95-22611) (3/8/96); 195 B.R. 585 (Bankr. W.D.N.Y. 1996)
- [270 In re LOPEZ](#), Section 544; NYS DCL 272 Transferee's agreement to assume indebtedness of transferor can be an element of fair consideration to support the transfer of property. Fair market value of Debtor's interest in real property not reduced by hypothetical costs of sale. (01-21082/ AP 02-2164)
- [206 In re LUDDEN](#), §362(c) & (d) - Credit union had contractual right to apply money on deposit in joint account of debtor and non-debtor to loan of joint debtors based upon the documents and New York law (99-23772) (7/10/00)
- [275 In re LUSTER-COATE METALIZING CORP.](#), Section 547(b) and Rule 7056. Preferential payment avoidable under Section 547(b) - Summary judgment granted in favor of Trustee. (01-22764 / AP 03-2022) 2/3/04
- [201 In re MacARTHUR](#), §523(a)(4); NYS Penal Law §§190.05 and 155.05 - "bad payroll checks" not larceny under Federal Common Law and New York State Law because no taking of property (99-20834/AP 99-2179) (4/28/00) 247 B.R. 613 (Bankr. W.D.N.Y. 2000); **AFFIRMED No. 00-CV-6276CJS (W.D.N.Y. July 11, 2001)** [PDF - USDC Decision]
- [134 In re MacWHORTER](#), §110(h)(2) - Reduction of Bankruptcy Petition Preparer Fees (96-21509) (10/21/96) (See LaDelfa & Braddock)
- [62 In re MAIER](#), §105, §365, §1307(c), §1322(b)(7), Bankruptcy Rule 9011 - Power of Court - Sanctions; Rejection of Executory Contract - Chp. 13; Conversion; Chapter 13 Plan - Rejection of Executory Contract; Sanctions (93-21670) (1/12/94)
- [34 In re MAIRA](#), §§ 101(41) & 109(b) Definition of "Person" - Decedent's Estate; Eligibility for Relief under Chp. 7 (92-23273) (1/15/93)
- [33 In re MALEY](#), §502(j) & Bankruptcy Rule 3008, §505 Jurisdiction to Reconsider an Allowed Tax Refund Claim; Determination of Tax Liability (80-21383) (12/30/92); 152 B.R. 789 (Bankr. W.D.N.Y. 1992)
- [188 In re MARASCO](#), §541 & §542 Turnover Motion for attorney fee retainer refunded to Debtor, but funded by Debtor's father (98-20230) (8/24/99)
- [281 In re MARLIN](#), ? 727 (d)(1), ? 727(e)(1) and Rule 4004(c)(1), The one year statute of limitations period provided for by ? 727 (e)(1) begins to run from the date that the Court grants the debtor a discharge, not from the time fixed for filing a complaint objecting to the discharge. (03-23073/AP 04-2168) (3/16/05). **Leave to Appeal Denied, case remanded 05-CV-6137- CJS, (W.D.N.Y. September 30, 2005) Siragusa, J.** [PDF-Decision USDC]
- [65 In re MARTIN](#), §523(a)(8)(B) Dischargeability - Student loan hardship discharge (93-20701/AP 93-2163) (1/20/94)
- [37 In re MASSA](#), Bankruptcy Rule 8005 Stay Pending Appeal (92-21841)

(2/24/93) [District Court (3/2/93)]. **APPEAL DISMISSED No. 93-CV-6056 (W.D.N.Y. March 2, 1993)** [[PDF - USDC Decision](#)]

- [159 In re MASSA](#), §521(1), §523(a)(3)(B), §524(a) - Duties of debtor; Bankruptcy Court's concurrent jurisdiction with state courts to determine dischargeability of §523(1)(3)(B) debts; Bankruptcy Court's exclusive jurisdiction to determine dischargeability of §523(a)(2), (4), (6), and (15) debts; Rooker-Feldman Doctrine; Effect of Discharge (92-21841) (2/3/98); 217 B.R. 412 (Bankr. W.D.N.Y. 1998); **AFFIRMED 98-CV-6069 (J. Siragusa)** [[PDF - USDC Decision](#)]; **AFFIRMED 187 F.3d 292 (2nd Cir. 1999)** [[PDF - Circuit Decision](#)]
- [27A In re MASTOWSKI](#), §523(a)(6), §727 Dischargeability - Willful & Malicious Injury; Debtor's Discharge (92-21928) (9/24/92)
- [210 In re MAYE](#), §1325(a)(5)(B); §506(a) - "Rash" replacement value of an automobile (99-23947) (8/14/00)
- [192 In re McCOLLISTER](#), §523(a)(1)(B) - Tax debt nondischargeable because the Debtor did not file actual tax returns and the Debtor's actions did not constitute an honest and reasonable attempt to satisfy the tax law requirements (98-24569/AP 99-2122) [11/1/99]
- [249 In re McFADDEN.](#), §§ 1327, 1328, 521, 348 - Property of the estate in a case converted from Chapter 13 to Chapter 7 consists of property that remains in the possession of the debtor on the date of conversion (00-22684) (9/12/02)
- [90 In re MESSERSCHMITT](#), §1307(c), Bankruptcy Rule 9024, Federal Rule of Civil Procedure 60, Bankruptcy Rule 8005 - Dismissal; Conditional Order; Relief from Judgment or Order - Reinstate Bankruptcy Case; Stay Pending Appeal (92-21820) (11/16/94); **AFFIRMED 94-CV-6587L (W.D.N.Y. May 5, 1995)** [[PDF - USDC Decision](#)]
- [53 In re METRO WATER & COFFEE SERVICES, INC.](#), §548, §544 and NYS Debtor & Creditor Law §270, §276 Fraudulent Conveyances - Executory Contract Termination (90-21416/AP 93-2095) (8/26/93); 157 B.R. 742 (Bankr. W.D.N.Y. 1993)
- [218 In re MIDTOWN ROCHESTER LLC](#), §362 - Valuation of Midtown Plaza (00-21486/AP 00-2145) (11/27/00)
- [288 In re MONDORE](#), §727(a)(4), Debtor's discharge denied based on knowingly and fraudulently made false oaths or accounts. (04-21316/AP 04-2124, 04-2130) (6/14/05).
- [226 In re MONEY MANAGERS, INC., AMERICAN FREEDOM SECURITIES, INC., BLOCH INDUSTRIES, INC., FIRST AMERICAN RELIANCE, INC., QUAKER MAID/BLOCH INDUSTRIES, INC., THE SCHOOLHOUSE GROUP OF COMPANIES, INC., UNIFIED COMMERCIAL CAPITAL, INC., WEALTH & SECURITY PLANNING, INC.](#), §330, §327, Attorney for Trustee and Special Counsel awarded reasonable attorneys fees based upon lodestar approach. No fee enhancement or common fund analysis was appropriate (98-23909, 98-24376, 98-23906, 98-23907, 98-2400, 98-24377, 98-23908, 98-24100) (5/31/01)
- [227 In re MONEY MANAGERS, INC. In re FIRST AMERICAN RELIANCE, INC./In re WEALTH & SECURITY PLANNING, INC.](#), Ponzi Scheme - Proximate Cause & Damages (98-23907/98-23906/98-24100/AP 00-2243) (6/8/01)
- [222 In re MOODY / In re BENJAMIN](#), NY DCL §283(2), Right to refund of funds given as retainer does not qualify for "cash" exemption (00-20534/00-22921) (3/7/01)
- [234 In re MOSS](#), §362(d), Failure of government to withdraw Debtor's pre-petition exclusion and debarment does not constitute a violation of the automatic stay (01-21609) (12/11/01); 270 B.R. 333 (Bankr. W.D.N.Y. 2001)

- [256 In re MR. TOW, INC.](#), UCC § 1-201(37) - financing statement, true lease - summary judgment - motion to dismiss (02-20956) (12/11/02)
- [228 In re MUNDRICK](#), Retaining Lien - Determination of Rights in Cash in Possession of Law Firm from Matrimonial (01-20111) (8/23/01)
- [44 In re MURPHY](#), Bankruptcy Rule 1005, Bankruptcy Rule 2002(n), Bankruptcy Rule 3002(c) Caption of Petition; Caption of Notice; Time of Filing Proof of Claim - Chapter 13 (92-20898) (6/23/93)
- [261 In re NEPHEW](#), §523 (a)(3); Rule 1019(5); §348(d) - "Tucker" - Debtor's reckless failure to schedule post-petition pre-conversion debts found to be nondischargeable (98-24923) (3/6/03); 290 B.R. 202 (Bankr. W.D.N.Y. 2003)
- [265 In re NEPHEW](#), FRBP 9023; 523(a)(3)(A) - Debtors' motion to reconsider a nondischargeable debt arising out of Debtors' failure to schedule creditor denied. (98-24923) [5/13/03]
- [115 In re NEVERLA](#), §1322(B)(2), §506(a) - Modification of Homestead Mortgages; Determination of Secured Status (95-22789) (4/10/96); 194 B.R. 547 (Bankr. W.D.N.Y. 1996) **REVERSED by In re POND, 252 F.3d 122 (2nd. Cir. 2001)** [PDF - Circuit Decision]
- [26 In re NEW YORK BAKING CO.](#), §365(d) Assumption of Lease - Pro Rata Rent (92-21865) (9/9/92)
- [250 In re NINOS](#), §§ 1325, 1307 - Debtor's right to a dismissal when a case is converted from Chapter 7 to Chapter 13 (01-20600) (9/12/02)
- [8 In re NOBLE](#), §523(a)(6) Dischargeability - Willful & Malicious Injury; Res Judicata\ Collateral Estoppel (91-23479/AP 92-2007) (4/22/92)
- [243 In re NUNN](#), (HOEPA) 15 U.S.C. §§1602(aa)(1)(B)(i), 1639, Rescission - Indirect broker's fees are not included in the eight percent points and fees trigger (01-21920/AP 01-2104) (5/9/02) **AFFIRMED. 30-CV-6008L (W.D.N.Y April 20, 2004) Larimer, J.** [PDF-USDC Decision]
- [246 In re NUNN](#), Motion to Reconsider indirect broker's fees denied (01-21920/AP 01-2104) (7/11/02) **AFFIRMED. 30-CV-6008L (W.D.N.Y April 20, 2004) Larimer, J.** [PDF-USDC Decision]
- [204 In re NYE](#), §522(m); Rule 1009 - Joint debtors can split their exemptions, but only to the extent of the debtor's interest in the property. Rebuttable presumption that ownership in joint asset is 50/50 (99-23398) (6/27/00); 250 B.R. 46 (Bankr. W.D.N.Y. 2000)
- [292 In re O'BRIEN](#) §707(a), A bad faith filing is cause to dismiss under ? 707(a) and the Court will apply a totality of circumstances test. A debtor?s ability to pay may be considered as one factor, but not the sole factor in the Court?s analysis. (05-21316) (8/15/05).**APPEAL DISMISSED 05-CV6476L (W.D.N.Y. Nov. 4, 2005) Larimer, J** [PDF Decision] attached:
- [224 In re PACELLI](#), §521(3) &(4), Trustees may give written notice to debtors of deadline to purchase estate's interest in non-exempt assets or turnover of non-exempt assets or their value to the trustee. (00-20281) (4/13/01)
- [20 In re PARLATO](#), §1325(a)(3) Confirmation of Chp. 13 Plan - Good Faith - Serial Filings (91-20179) (8/4/92)
- [269 In re PECORA](#), Section 524(a)(1)&(2); Equitable Lien Creditor did not violate the discharge injunction by recording its mortgage 2 years after Debtors' received their discharge. Creditor retained an equitable lien on Debtors' real property that passed through bankruptcy unaffected. (99-23153) [7/21/03]
- [191 In re PENN YAN MOTORS](#), §506(b) Secured Creditor's request for attorney fees, the secured creditor must focus on what is necessary and justified request based upon the economics of the case (94-21774/AP 96-2052) (10/28/99)
- [177 In re PERK DEVELOPMENT CORP. and In Re BRAMBURY](#)

- ASSOCIATES, §503(b)(3)(F) - Expenses of Creditors Committee Members incurred in performance of Committee duties. Must be an actual Committee Member's expenses or justification as to why someone other than the Committee Member incurred the expenses (98-21910/98-21909) (1/5/99)
- 199 In re PERK DEVELOPMENT CORP. and In Re BRAMBURY ASSOCIATES, §507(a)(4) - Workers' compensation insurance is not entitled to priority as a contribution to an employee benefit plan (98-21910/98-21909) (4/3/00); 246 B.R. 753 (2000)
 - 30 In re PHILLIPS, §506, §349, §348 Chp. 13 Allowance of Claim (bifurcation) - Cost of Sale; Effect of Dismissal; Effect of Conversion (92-21849) (10/23/92)
 - 164 In re PIERRI, §727(a)(4)(A) - Denial of Discharge (97-20461) (4/21/98)
 - 106 In re PIERRI'S MOTEL ASSOCIATES, Bankruptcy Rule 3001(f) - Burden of Proof - Claims (94-21347) (8/28/95)
 - 108 In re PITTSFORD POLO CLUB, INC., §362(d), NYS Real Property Actions and Proceedings Law §1371 - Relief from Stay; Deficiency Judgments; Foreclosure - Multiple Properties; (93-21185) (11/9/95); 188 B. R. 339 (Bankr. W.D.N.Y. 1995)
 - 99 In re PLANO, §522(f)(1) - Avoidance of Judicial Liens - Statutory Liens; State Tax Liens (94-21948) (5/30/95)
 - 285 In re POWERS, §362(h), NYS Lien Law §184, Debtors' contempt motion denied. The Debtors' vehicle was lawfully repossessed prior to their chapter 13 bankruptcy filing. In order to obtain the release of the vehicle, the debtors must pay or otherwise provide for the payment of reasonable repossession fees and storage charges on terms acceptable to the secured creditor or repossessing agent and demonstrate to the secured creditor, repossessing agent and Chapter 13 Trustee that the Chapter 13 filing was in good faith. (05-21090) (5/12/05).
 - 260 In re PTASINSKI, 727(a)(2)(B) and (4)(A) Debtors' discharge denied based on knowingly and fraudulently made false oaths or accounts.
 - 290 In re PULVER, §523(a)(2)(A), Rule 7056, Rule 7015, Fed. R. Civ. P. 56, Fed. R. Civ. P. 15(a), 15(c)(2). Summary Judgment granted in part where state court judgment of divorce and findings of facts were given collateral estoppel effect in 523(a)(2)(A) cause of action. Motion to Amend Complaint granted where additional causes of action relate back to original complaint. (03-22084/ AP 04-2165) (7/25/05).
 - 226 In re QUAKER MAID/BLOCH INDUSTRIES, INC., AMERICAN FREEDOM SECURITIES, INC., BLOCH INDUSTRIES, INC., FIRST AMERICAN RELIANCE, INC., MONEY MANAGERS, INC., THE SCHOOLHOUSE GROUP OF COMPANIES, INC., UNIFIED COMMERCIAL CAPITAL, INC., WEALTH & SECURITY PLANNING, INC., §330, §327, Attorney for Trustee and Special Counsel awarded reasonable attorneys fees based upon lodestar approach. No fee enhancement or common fund analysis was appropriate (98-23909, 98-24376, 98-23906, 98-23907, 98-2400, 98-24377, 98-23908, 98-24100) (5/31/01)
 - 238 In re PRATIVADI & SESHADRI, 26 U.S.C. §1398, §507(a)(8)(A)(iii), Individual Chapter 7 & Chapter 11 cases and §1398 election (00-23357) (2/11/02)
 - 71 In re RAMA ORIENTAL CARPETS, §363, 28 U.S.C. §144, 28 U.S.C. §455 Sale - Ordinary course of business - Prohibit going-out-of-business sale, recusal (94-20569) (4/14/94)
 - 141 In re RASMUSSEN, §101(31), 547 - Insider Preferences, Fraudulent Transfers (as among Members of the Mennonite Church); Bankruptcy Rule 7056 - Motion for Summary Judgment (95-22275/AP 96-2072) (12/20/96)
 - 147 In re RED BIRD DEVELOPMENT, INC., §502(b)(6), §502(b)(6)(A) -

- Environmental Clean-Up costs as Allowable Administrative Expenses; Computation of Damages Resulting from Termination of Lease (95-22791) (5/8/97)
- [5 In re RIVA](#), §105 Estoppel (90-21609) (4/6/92)
 - [27 In re RIVA](#), §365(b)(1) Executory Contract - Cure (90-21609) (9/24/92)
 - [127 In re R.J. RUSSELL ASSOCIATES, INC.](#), §365 Executory Contracts; Unitary Contracts; Fundamental Fairness (96-22155/AP 96-2220) (8/30/96); **AFFIRMED No. 96-CV-6451T and 96-CV-6452T (W.D.N.Y. March 17, 1997)** [[PDF - USDC Decision](#)]
 - [130 In re R.J. RUSSELL ASSOCIATES, INC.](#), §553(a), §541, §507(a)(3)(B), NYS Uniform Commercial Code §9-106 - Set-off Rights of Co-Brokers; Property of the Estate - Gross Listing and Selling Commissions Due Real Estate Broker; Rights of Brokers and Salespersons to Commissions; Accounts - Listing and Selling Agreement Commissions; Fundamental Fairness (96-22155/AP 96-2220) (9/24/96); **AFFIRMED No. 96-CV-6451T and 96-CV-6452T (W.D.N.Y. March 17, 1997)** [[PDF - USDC Decision](#)]
 - [236 In re RODGERS](#), §362(d), §541, Post-Petition Delivery of Deed by Referee in Regularly Conducted NY In Rem Mortgage Foreclosure Proceeding - Public sale completed pre-petition (01-24220) (1/10/02); **AFFIRMED 02-CV-6091L (W.D.N.Y. June 14, 2002)**; [[PDF - USDC Decision](#)] **AFFIRMED #02-5044 (USCA 6/16/03)** [[PDF - Circuit Decision](#)]
 - [56 In re RODRIGUEZ](#), Bankruptcy Rule 4007, Bankruptcy Rule 7015, Federal Rule of Civil Procedure 15(a), Federal Rule of Civil Procedure 15(c) Deadline for Filing §523(c) Complaints, Amendment to Pleading/Relation Back, Amendment to Pleading, Amendment to Pleading - Relation Back (92-23388/AP 93-2076) (9/30/93)
 - [36 In re RUDOLPH](#), §109(g), Bankruptcy Rule 9024 Failure to Make Payments in Prior Chp. 13 Case; Relief from Judgment or Order - Reinstate Bankruptcy Case (91-22026) (2/11/93)
 - [109 In re RUGGIERO](#), §547(b), §1327, §549, §546(a), §502(d), §363(f), Bankruptcy Rule 3007 - Objections to Claims; Preferences - Prima Facie Avoidable; Reasonable Notice and Opportunity to Be Heard 91-21368/AP 95-2381) (12/11/95)
 - [95 In re \(David Wm.\) RUSSELL](#), §523(a)(6), §523(a)(2)(A), §523(a)(7) - Dischargeability - Wilful & Malicious Injury; Dischargeability - Fraud - State Court Judgment; Dischargeability - Fine, Penalty or Forfeiture; Punitive Damages - State Court Judgment; Reasonable Reliance; Collateral Estoppel (93-22321/AP 94-2015) (3/8/95)
 - [156 In re \(David Wm.\) RUSSELL](#), §727(d)(1), (d)(2) - Discharge - Revocation (93-22321/AP 95-2392 & 95-2393) (9/30/97)
 - [165 In re \(David Wm.\) RUSSELL](#), Bankruptcy Rule 9011 - Sanctioning of Debtor When Discharge Is Revoked (93-22321) (6/9/98)
 - [245 In re RUSSO](#), §1322(b)(5) - Forbearance Agreement (01-24624) (6/21/02)
 - [63 In re SARKIS](#), §328(b), §586, §704 - Attorney's fees - Trustee Duties/ Attorney for Trustee; Duties of U.S. Trustee; Duties of Trustee (89-21160) (1/12/94)
 - [178 In re SAWERS](#), Bankruptcy Courts are to give preclusive effect to state court judgments if other state courts would do so, re-litigation of attorney fees awarded in state court when the debtor defaulted is not allowed under doctrines of res judicata and collateral estoppel (98-23213) (1/5/99)
 - [119 In re SCARPINO](#), §522(f)(1), CPLR §5203(a), CPLR §5206(a) - Avoidance of Judicial Liens; Simultaneous Attachment of Judicial Liens; Homestead Exemption (95-22558) (5/23/96); 196 B.R. 16 (Bankr. W.D.N.Y. 1996); **AFFIRMED (W.D.N.Y. 96-CV-6281-T, August 13, 1996)** [[PDF - USDC Decision](#)]; **VACATED 113 F.3d 338 (2nd Cir. 1997)** [[PDF - Circuit](#)]

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- 293 In re SCHLITZER, ? 362(h), ?521(a)(2), New Code Section 362(h) is not applicable in a Chapter 13 case. (05-80001) (11/17/05).
- 220 In re SCHWARTZ, §523(a)(2)(A), §523(a)(3)(B), Action under §523(a)(2)(A) failed and debt was discharged in Chapter 7 case that was reopened and creditors added because creditor failed to prove that Debtor's actions were done with intent to cause the alleged injury (898-80437-478/AP 800-8054-478) (2/12/01) Brooklyn
- 162 In re SECURITYLINK CORPORATION, §341, §546, §701, §702(b), §703, Bankruptcy Rule 2012, Meeting of Creditors - Limitations on Avoiding Powers - Interim Trustee - Successor Trustee - Substitution of Trustee or Successor Trustee (CT case) (91-52578) (3/18/98)
- 257 In re SHEPARD NILES, INC., UCC § 9-203 Perfection of Security Interest, artisan's lien (02-20110) (1/7/03)
- 39 In re SHERIDAN, §1325 Confirmation of Chp. 13 Plan - Zero Payment Plan (91-23392) (3/23/93)
- 157 In re (Scott H.) SMITH, §523(a)(5), (a)(15) - Dischargeability - Alimony, Maintenance, Support; Factors to ascertain mutual intent of parties; Determination as not affecting income tax liabilities; Dischargeability - items not in nature of Alimony, Maintenance, Support (96-22706/AP 96-2317) (11/19/97)
- 251 In re (Craig A. and Charlotte A.) SMITH, §542 - Turnover of estate property (95-22760) (10/9/98); **REVERSED AND REMANDED (W.D.N.Y. 99-CV-6137T) (3/28/00) [PDF - USDC Decision]**
- 180 In re SOCHIA, §343 and §341 - Three Part Exceptional Circumstances Test to have personal appearance excused at 341 meeting. (98-24688) (3/19/99). 231 B.R. 158 (Bankr. W.D.N.Y. 1999)
- 160 In re SPENCER, §366(b), NY Public Service Law §36.3 - Adequate assurance of payment for future utility services; residential utility service deposits (97-23123) (2/12/98); 218 B.R. 290 (Bankr. W.D.N.Y. 1998)
- 25 In re STAMP, §§ 524(c) & 524(d), §350 Reaffirmation Agreements; Reopen (91-21686) (8/26/92)
- 148 In re STEWART, CPLR 5206(a) Homestead Exemption (96-23495) (5/12/97)
- 3 In re STRAND, §727(b), Bankruptcy Rule 1009 Debtor's Discharge, Amendment to Schedules (90-21669/AP 91-2153) (3/23/92); appeal dismissed in District Court (5/28/92)
- 149 In re STUART, CPLR 5222, §547(b) Effect of Serving Restraining Notice; Avoidance of Preferential Transfer (96-20025) (6/4/97)
- 161 In re STUART, §106 Waiver of Sovereign Immunity (96-20025) (3/23/98)
- 126 In re SUSS, §523(c)(1), Bankruptcy Rules 4007(c) and 9011 Dischargeability - Complaint; Adversary Proceedings - Commencement; Signature of Papers (96-20079/AP 96-2096) (7/19/96)
- 32 In re SWAN, §505 Determination of Tax Liability (91-23395) (12/23/92); 152 B.R. 28 (Bankr. W.D.N.Y. 1992)
- 2 In re SWEETING, §522(f)(1) Avoidance of Judgment Lien - Subsequent Consensual Lien (91-22192) (3/23/92); 151 B.R. 322 (Bankr. W.D.N.Y. 1992)
- 273 In re TAYLOR, For purposes of Chapter 13 Plans and Section 1325(a)(4), the Court will use the Internal Revenue Service regulations and tables to determine the values of life estates and remainder interests. (03-21873)
- 23 In re TEARS, §§ 503(a)(1) & 541(a) Allowance of Administrative Expense - Attorney's Fees in Prior Case (92-20754) (8/14/92)
- 52 In re THAYER, Bankruptcy Rule 9024 Relief from Judgment or Order (92-20311) (8/20/93)
- 226 In re THE SCHOOLHOUSE GROUP OF COMPANIES, AMERICAN

- FREEDOM SECURITIES, INC., BLOCH INDUSTRIES, INC., FIRST AMERICAN RELIANCE, INC., MONEY MANAGERS, INC., QUAKER MAID/BLOCH INDUSTRIES, INC., INC., UNIFIED COMMERCIAL CAPITAL, INC., WEALTH & SECURITY PLANNING, INC., §330, §327, Attorney for Trustee and Special Counsel awarded reasonable attorneys fees based upon lodestar approach. No fee enhancement or common fund analysis was appropriate (98-23909, 98-24376, 98-23906, 98-23907, 98-2400, 98-24377, 98-23908, 98-24100) (5/31/01)
- 214 In re THOMAS, §362(d) Void sale of real property (00-21422) (10/3/00)
 - 38 In re THOMPSON, §§ 506 & 1322(b)(5) Chp. 13 Allowance of claim (bifurcation) (92-23097) [2/23/93] - Arrears -1993 Bankr. Lexis 286 (February 23, 1993); 159 B.R. 127 (Bankr. W.D.N.Y. 1993)
 - 175 In re TIBERIA, CPLR 5205(a)(6) - Engagement rings are not exempt under New York State Law, although wedding rings are exempt (98-20866) (11/13/98); 227 B.R. 26 (Bankr. W.D.N.Y. 1998)
 - 233 In re TMP NATIONAL CARTAGE CORPORATION, f/k/a FLOWER CITY EXPRESS, NY UCC §§ 1-201(37), 2A-103(1)(j), Lease Agreement held to be a true lease, not a financing agreement or security interest (01-22939) (12/7/01)
 - 259 In re TOMPKINS, Section 523(a)(6) Default judgment arising out of Debtor's alleged discriminatory conduct did not constitute sexual harassment under Title VII, or otherwise meet the requirements of Geiger, and therefore was determined to be dischargeable.
 - 22 In re TUCKER, §523(a)(3), §521, §350 Dischargeability - Unscheduled Debt; Duties of Debtor; Reopen (91-21046/AP 92-2002) [9/24/92]; 143 B.R. 330 (Bankr. W.D.N.Y. 1992) (8/12/92); **AFFIRMED No. 92-CV-6407 (W.D.N.Y. July 28, 1993)** [PDF - USDC Decision]
 - 116 In re TWIN PARCELS, INC., §1141(c), N.Y. U.C.C. §9-403(2) - Lien Survival in Ch. 11 Plan; Perfection - Lapsed Filing (92-20400) (4/18/96)
 - 72 In re TYLER, §108(c), §362, N.Y.S. Real Property Actions and Proceedings Law §1371 Extension of time period of pre-petition non-bankruptcy actions, Relief from stay - deficiency judgments; Deficiency judgments - claim for after relief from the stay (92-22143) [4/14/94]; 166 B.R. 21 (Bankr. W.D.N.Y. 1994)
 - 23 In re TYO, §§ 503(a)(1) & 541(a) Allowance of Administrative Expense - Attorney's Fees in Prior Case (92-20813) (8/14/92)
 - 223 In re UNIFIED COMMERCIAL CAPITAL, INC., §548, Reasonable contractual interest received by innocent investor lenders from bankrupt entity engaged in Ponzi scheme is not recoverable under §548 (98-23908/AP 2206) (3/29/01); 260 B.R. 343 (Bankr. W.D.N.Y. 2001); **AFFIRMED No. 01-MBK-6004L (W.D.N.Y. June 21, 2002)** [PDF - USDC Decision]
 - 225 In re UNIFIED COMMERCIAL CAPITAL, INC., §548, Reasonable contractual interest received by innocent investor lenders from bankrupt entity engaged in Ponzi scheme is not recoverable under §548 (98-23908/AP 00-2205) (5/2/01); **AFFIRMED No. 01-MBK - 6005L (W.D.N.Y. June 21, 2002)** [PDF - USDC Decision]
 - 226 In re UNIFIED COMMERCIAL CAPITAL, INC., AMERICAN FREEDOM SECURITIES, INC., BLOCH INDUSTRIES, INC., FIRST AMERICAN RELIANCE, INC., MONEY MANAGERS, INC., QUAKER MAID/BLOCH INDUSTRIES, INC., THE SCHOOLHOUSE GROUP OF COMPANIES, INC., WEALTH & SECURITY PLANNING, INC., §330, §327, Attorney for Trustee and Special Counsel awarded reasonable attorneys fees based upon lodestar approach. No fee enhancement or common fund analysis was appropriate (98-23909, 98-24376, 98-23906, 98-23907, 98-2400, 98-24377, 98-23908, 98-24100) (5/31/01)
 - 241 In re URBAN, §362, Execution and delivery of deed by County did not

violate the automatic stay because Debtor had no interest in the property and foreclosure deed was valid and enforceable since it conveyed the exact same property (SDNY 91-B-15142PCB/AP 91-6570A) (WDNY AP 00-2180) (4/25/02); [AFFIRMED 02-CV-6329L \(W.D.N.Y. May 22, 2003\) \[PDF - USDC Decision\]](#); [AFFIRMED 2nd Cir. Feb. 2005 \(03-5046\) \[PDF - Circuit Decision\]](#)

- [203 In re VALERINO CONSTRUCTION](#), §§547 & 548 - NY Lien Law Article 3-A; Article 3-A trust funds are not property of the estate that a trustee can recover as a preference or a fraudulent conveyance (97-20881/AP 99-2153 and 99-2155) (6/23/00); 250 B.R. 39 (Bankr. W.D.N.Y. 2000)
- [240 In re VALERINO CONSTRUCTION](#), RPAPL §§1371(2), (3), Rule 3002 (c), Bar date in a Chapter 7 case can not be extended, therefore, second bar date notice inadvertently sent out by Clerk's Office is a nullity; Mortgagee must file a protective proof of claim prior to bar date, to be amended after State Court establishes deficiency judgment (97-20881) (4/9/02); 275 B.R. 684 (Bankr. W.D.N.Y. 2002)
- [154 In re CHATMAN/In re VAN MANEN](#), §507(a)(8), §523 (a)(1), NYS Tax §659 - Dischargeability - Tax Claim Priority; Report of Federal Tax Assessment (96-21185/AP 96-2225) (96-23980/AP 97-2011) (9/5/97); [AFFIRMED No. 97-CV-6495L and No. 97-CV-6496L \(W.D.N.Y. March 16, 1998\) \[PDF - USDC Decision\]](#)
- [198 In re VARGESON](#), § 547(c)(1) Recording of mortgage eight months after it was signed is not a contemporaneous exchange and creditor cannot be subrogated to prior mortgage because no intent to subrogate (99-21163/AP 99-2282) (3/21/00)
- [217 In re WACKERMAN](#), §523(a)(2)(B); §727(a)(4)(A) - Dischargeability of Debt and Denial of Discharge (99-20709/AP 99-2307) (11/27/00)
- [252 In re WACKERMAN](#), §327 - Approval of Employment Application on nunc pro tunc basis (99-20709) (9/19/02)
- [11 In re WADE](#), §501(a) & Bankruptcy Rule 3001(f) Objection to Claim (91-20164) (6/3/92)
- [232 In re WADSWORTH d.b.a. WADSWORTH SERVICE STATION f.d.b.a. WADSWORTH GARDEN CENTER](#), §704, §726(a), Debtors required to turn over future annuity payment to the Trustee for administration and distribution and standard forms used by Chapter 7 Trustees must include provision for tardily filed claims to be allowed (97-23388) (11/29/01)
- [166 In re WAKE](#), §327(a), §503(b) - Employment of Professionals; Disinterested Persons; Administrative Expense (97-21365) (6/23/98); 222 B. R. 35 (Bankr. W.D.N.Y. 1998)
- [46 In re WALKER](#), §105(a) Power of the Court - Failure to Appear at §341 Meeting (90-21863) (6/29/93)
- [31 In re \(John S.\) WALSH](#), §509 Subrogation (90-20621/AP 92-2024) (12/21/92)
- [31 In re \(Suzanne M.\) WALSH](#), §509 Subrogation (90-20494/AP 92-2031) (12/21/92)
- [277 In re \(Susan\) WALSH](#), Sections 107; 303 Court dismissed an Involuntary Petition filed a pro se petitioner where there was a finding of bad-faith. (04-20240) (3/8/04); 306 B.R. 738 (2004)
- [67 In re WARREN](#), §362(a), §362(h) Automatic Stay; Willful Violation of Automatic Stay - Actual and Punitive Damages (93-21940) (2/4/94)
- [227 In re WEALTH & SECURITY PLANNING, INC./In re MONEY MANAGERS, INC./ In re FIRST AMERICAN RELIANCE, INC.](#), Ponzi Scheme - Proximate Cause & Damages (98-23907/98-23906/98-24100/AP 00-2243) (6/8/01)
- [226 In re WEALTH & SECURITY PLANNING, INC., AMERICAN FREEDOM SECURITIES, INC., BLOCH INDUSTRIES, INC., FIRST](#)

- AMERICAN RELIANCE, INC., MONEY MANAGERS, INC., QUAKER MAID/BLOCH INDUSTRIES, INC., THE SCHOOLHOUSE GROUP OF COMPANIES, INC., UNIFIED COMMERCIAL CAPITAL, INC., §330, §327, Attorney for Trustee and Special Counsel awarded reasonable attorneys fees based upon lodestar approach. No fee enhancement or common fund analysis was appropriate (98-23909, 98-24376, 98-23906, 98-23907, 98-2400, 98-24377, 98-23908, 98-24100) (5/31/01)
- 276 In re WEEDEN, Sections 523(a)(5), 727(a)(4)(A) and 544(b). Child support determined to be a nondischargeable debt. Discharge denied based on Debtor's false oath in failing to disclose material assets. Debtor's fraudulent conveyance of real property with actual intent to defraud creditors gave rise to attorneys fees under NYS DCC 276. (02-23812 / AP 03-2002, 03-2003 and 03-2049) 2/17/04; **Appeal on AP 03-2049 voluntarily discontinued by appellants. Order dismissing case signed on 11/18/05**[\[PDF Decision USDC\]](#)
 - 82 In re WEEKS, §506(d), Bankruptcy Rule 3012, Bankruptcy Rule 7001 - Lien Stripping in Chapter 7 - Automobile; Valuation of Secured Lien; Adversary Proceedings - Avoidance of Lien (94-20983) (7/11/94)
 - 85 In re WELCHER INDUSTRIES, Bankruptcy Rule 7056 - Summary Judgment (92-21616/AP 93-2074) (9/14/94)
 - 93 In re WELCHER INDUSTRIES, Bankruptcy Rule 7012, 18 U.S.C. §1964 (c) - Dismissal in Adversary Proceeding; Racketeer Influenced and Corrupt Organizations Act (RICO); Accountant Malpractice (94-21616/AP 94-2027) (12/30/94)
 - 4 In re WELLINGTON, Bankruptcy Rule 8005 Stay Pending Appeal (92-20550) (3/3/92)
 - 174 In re WHITEHEAD, §522(f)(1)(A), §522(f)(2)(A), CPLR 5206(a) - Federal definition of impairment of an exemption - a debtor does not need equity above unavoidable liens to utilize Section 522(f)(1). (97-24673) (11/9/98); 226 B.R. 539 (Bankr. W.D.N.Y. 1998)
 - 9 In re WIGGINS, NYS Debtor & Creditor Law §282 & CPLR §5206, Bankruptcy Rule 4003 Homestead Exemption; Objection to Exemption (89-21053) (5/6/92)
 - 231 In re WILLIAMS, §523(a)(6), Potential judgment for causes of action in State Court proceeding for malicious prosecution (00-23211/AP 01-2018) (11/20/01)
 - 129 In re WYNN, §105(a), §363(a), §362(d) - Power of Court; Automatic Stay; Annuling, Modifying and Conditioning the Stay. (94-22611) (9/20/96); **AFFIRMED No. 96-CV-6467L (W.D.N.Y. December 22, 1997.)** [\[PDF - USDC Decision\]](#)
 - 132 In re WYNN, §105, Federal Rules of Civil Procedure 60(b)(1), (6) - Motion to Correct Conditional Order (94-22611) (10/11/96); **AFFIRMED No. 96-CV-6512L (W.D.N.Y. December 18, 1997.)** [\[PDF - USDC Decision\]](#)
 - 133 In re WYNN, Stay Pending Appeal (94-22611) (10/21/96)
 - 136 In re WYNN, Stay Pending Appeal (94-22611) (11/7/96)
 - 137 In re WYNN, Stay Pending Appeal; 28 U.S.C. §1915 - In Forma Pauperis (94-22611) (11/25/96)
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- [278 In re YOUNG \(David A., Jr.\)](#), §523 (a)(4), The NYS Lien Law § 77(2) one year statute of limitations is not a defense to an action under 523 (a)(4) where there is an otherwise enforceable obligation, claim and debt based on any legal theory such as having an enforceable state court judgment, valid contractual obligation or written guaranty. However, when the only claim or cause of action a trust fund beneficiary claimant has against the debtor is for diversion of trust funds, and the statute of limitations provided for by Section 77(2) of the lien law has expired prior to the filing of the petition, the Court will not inquire into the other elements under §523 (a)(4) because there is no right to payment, enforceable claim or debt due. (03-22426/ AP 03-2161)(9/2/04) [APPEAL DISMISSED. 04-CV-6489 \(W.D.N.Y. Dec. 13, 2004\) Larimer, J. \[PDF - USDC Decision\]](#)
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