

The prevalence and utility of 'roadmap' decisions in bankruptcy mega-cases

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As the pace of Chapter 11 filings jumped in the aftermath of the 2008 financial crisis, bankruptcy courts found their resources increasingly stretched. The number of Chapter 11 'mega-cases' — that is, cases that involved \$100m or more in assets, over 1000 entities and/or a high degree of public interest — placed significant strain on the nation's bankruptcy courts. Many of these cases involve numerous creditors and, given the stakes, litigation that has the potential to drag on for years. Against this backdrop, bankruptcy judges have developed a variety of strategies to foster the efficient resolution of such cases. Mediation is becoming a regular feature of contentious mega-cases, and judges are frequently urging parties to resolve their disputes. Where a compromise is not possible and litigation is unavoidable, judges have increasingly issued 'roadmap' decisions that deny relief but provide a specific list of steps that need to be taken or changes to be made that will yield judicial approval. These decisions encourage parties to recalibrate their positions based on the court's views on the matter, engage in productive negotiations, and quickly come to an agreement on a proposal that the court has already indicated it will approve.

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