

Bankruptcy Court Decision May Impact Claims Trading and Plan Negotiation

September 13, 2011 | Articles & Books

On September 13, 2011, Judge Mary Walrath of the United States Bankruptcy Court for the District of Delaware surprised many parties in interest and observers of the case by issuing an opinion denying confirmation of the modified proposed plan of reorganization of Washington Mutual, Inc. (—WMI?) and its affiliated debtors. The modified plan incorporated certain changes Judge Walrath had indicated were necessary in a January 2011 opinion denying confirmation of a prior version of the plan, and many expected that these changes would be sufficient to ensure confirmation of the modified plan. Although the decision turned primarily on the rate of postpetition interest awarded to certain creditors of WMI, the Court's extensive discussion of allegations of —insider trading? raised against certain claims purchasers is likely to attract the most attention. Judge Walrath's findings on these allegations may have a significant impact on claims trading and negotiation dynamics in complex chapter 11 cases going forward.

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