
Recent Hertz Delaware Bankruptcy Court Decision Continues Uncertainty Around Make-Whole Premium Claims

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Over the past decade, there have been several court decisions on whether particular make-whole premiums should be allowed as part of a creditor's claim in bankruptcy, such as *Momentive*, *EFH*, *American Airlines*, and *Ultra Petroleum*. Although these decisions and others set forth the legal standards to be applied and resolved the specific claims at issue, the decisions provide little guidance or clarity on the allowability of make-whole claims in future cases. In a recent decision in the *Hertz* bankruptcy cases, the United States Bankruptcy Court for the District of Delaware allowed certain make-whole claims, but disallowed others, continuing this uncertainty for future situations.

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