
Ninth Circuit BAP Dresses Down Lienstripping

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Could This Be the Last Dance for 363 Sales?

A recent decision of the Bankruptcy Appellate Panel (BAP) for the U.S. Court of Appeals for the Ninth Circuit (BAP) could have a significant impact on bankruptcy sales. In *Clear Channel Outdoor*, the bankruptcy court had authorized a sale of real estate to a credit-bidding senior lienholder free and clear of claims held by an objecting junior lienholder on the basis that the lienholder's claim could be crammed down under a plan of reorganization. The BAP reversed, holding that the closing of the sale, even in the absence of a stay, did not moot the appeal with respect to the stripping of the junior liens, notwithstanding the good-faith purchaser protections afforded the senior lienholder, suggesting that the property could remain subject to the junior liens. The court remanded the case to the bankruptcy court for further proceedings.

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