

One Minute Memo®



How Sports Authority's Bankruptcy Filing Impacts Landlords and Trade Creditors, and Creates Opportunities for Retailers

By James B. Sowka and Edward M. Fox

On March 2, 2016, Sports Authority, Inc. ("Sports Authority") and six of its affiliates filed for Chapter 11 bankruptcy in Delaware. The filing will significantly impact Sports Authority's landlords and trade creditors. In a press release, Sports Authority stated that it intends to close or sell approximately 140 locations and two distribution centers in the coming months. The company is also seeking \$595 million in post-bankruptcy financing to continue operations. Sports Authority is a sporting goods retailer with 463 locations in 41 states and Puerto Rico.

Landlord Issues

Sports Authority's press release indicates that the majority of the 140 store closings will occur in the next 90 days. Key issues for landlords include determining whether any leased locations will be closed, if any rent will be paid, and when. Landlords should also promptly determine whether there are any pre-bankruptcy defaults under the lease, either monetary or non-monetary, and determine the damages. If a location is to be closed or sold, landlords need to be vigilant in enforcing lease restrictions with respect to going-out-of-business sales and the assignment of the lease to new tenants. Landlords may also request to be appointed to the official committee of unsecured creditors which represents the interests of all unsecured creditors in the bankruptcy case. One key benefit to participation on the official unsecured creditors' committee is that Sports Authority is obligated to pay the committee's legal and professional fees. Landlords also have the right to request the formation of an official committee of landlords to represent their narrower interests in the bankruptcy case.

Retailer Issues

While Sports Authority's bankruptcy filing may not directly impact other retailers, the anticipated store closings create opportunities for other retailers to acquire new leases directly from the bankruptcy on potentially favorable terms.

Trade Creditor Issues

Under the Bankruptcy Code, trade creditors only have 20 days to assert demands to reclaim goods shipped during the 45 day period before the bankruptcy filing, or to otherwise obtain allowance of administrative claims if such goods are not

recoverable. Regardless of any reclamation claim, trade creditors may still need to file proofs of claim for unpaid goods. Trade creditors may also need counsel to analyze and defend “preference” claims wherein the Bankruptcy Code authorizes Sports Authority to commence litigation to recover payments made to creditors during the 90 days prior to the bankruptcy filing. Finally, trade creditors can also request to be appointed to the official committee of unsecured creditors.

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