

874 F.3d 787, *, 2017 U.S. App. LEXIS 20596, **;
Bankr. L. Rep. (CCH) P83,176; 64 Bankr. Ct. Dec. 216

PRIOR HISTORY: [****1**] Three groups of creditors separately appeal a judgment of the United States District Court of the Southern District of New York (Bricetti, J.) affirming the confirmation of Debtors' Chapter 11 reorganization plan by the U.S. Bankruptcy Court (Drain, J.). The creditors argue that the plan improperly eliminated or reduced the value of notes they held. Debtors argue that the plan was properly confirmed and that these appeals should be dismissed as equitably moot. With one exception, we conclude that the plan confirmed by the bankruptcy court and affirmed by the district court comports with the provisions of Chapter 11. We remand so that the bankruptcy court can address the single deficiency we identify with the proceedings below which is the process for determining the proper interest rate under the cramdown provision of Chapter 11. We decline to dismiss these appeals as equitably moot.

U.S. Bank N.A. v. Wilmington Sav. Fund Soc'y (In re MPM Silicones, LLC), 531 B.R. 321, 2015 U.S. Dist. LEXIS 66420 (S.D.N.Y., May 4, 2015)

CASE SUMMARY:

OVERVIEW: HOLDINGS: [1]-A Chapter 11 bankruptcy plan that was proposed by a LLC had to be remanded for further proceedings because the bankruptcy court used a formula approach instead of a market rate approach to determine the interest rate the LLC was required to pay entities that held senior-lien notes; [2]-Although use of a formula approach was approved by a plurality of the U.S. Supreme Court in *Till v. SCS Credit Corp.*, *Till* did not preclude use of a market rate approach, and use of a market rate approach was preferable in cases where an efficient market existed; [3]-The note holders' appeal did not have to be dismissed under the doctrine of equitable mootness because they had attempted to stay implementation of the plan pending appeal and using the market rate approach would not significantly affect the amount of interest the LLC had to pay senior-lien note holders.

OUTCOME: The court of appeals affirmed the district court's judgment with respect to the priority of notes the LLC issued and the court's determination that senior-lien note holders' were not entitled to a make-whole premium, reversed the district court's judgment with respect to the method of calculating the interest rate on the senior-lien note holders' replacement notes, and remanded the case.

CORE TERMS: holder, subordinated, indenture, indebtedness, premium, senior, make-whole, interest rate, acceleration, subordinate, cramdown, replacement, plurality, maturity, formula, subordination, lender, redemption, equitable, market rates, collateral, automatic, default, reorganization plan, confirmation, optional, mootness, junior, unambiguously, quotation

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