

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

terms and exact terms are given greater weight than general language" (internal quotation marks omitted)).

3

Finally, the Senior-Lien Notes holders argue that the lower courts erred in disregarding their contractual right to rescind acceleration,¹⁶ a right that if invoked would have reinstated the original maturity date and thereby kept the Optional Redemption Clauses (and therefore the make-whole premium) in effect.

¹⁶ "Holders of a majority in principal amount of outstanding Notes by notice to the Trustee may rescind any such acceleration with respect to the Notes and its consequences." 15-1682 JA 2260.

AMR forecloses this argument as well. There, considering nearly identical indenture language, we concluded that a creditor's post-petition invocation of a contractual right to rescind an acceleration triggered automatically by a bankruptcy filing is barred because it would be "an attempt to modify contract rights and would therefore be subject to the automatic **[*804]** stay." 730 F.3d at 102; *see also id.* at 102-03 ("any attempt by U.S. Bank to rescind acceleration now--after the automatic stay has taken effect--is an effort to affect American's contract rights, and thus the property of the estate").

The Senior-Lien Notes holders again attempt to distinguish *AMR* by relying on the fact that the acceleration provision there, unlike the one here, expressly disavowed the make-whole premium. **[**34]** According to the 1.5-Lien Notes holders, our concern in *AMR* was therefore with not allowing the creditors "an end-run around their bargain by rescission." 15-1682 Br. of 1.5-Lien Appellant 45. This argument fails because, although the provisions at issue here do not expressly disallow the make-whole premium, the Optional Redemption Clauses, as we have seen, achieve this result. Therefore, just as in *AMR*, because the right to rescind acceleration here would serve as "an end-run around their bargain by rescission," the lower courts correctly concluded that the automatic stay barred rescission of the acceleration of the Notes.

V

Debtors seek dismissal of these appeals under **[HN12]** the principle of equitable mootness, a "prudential doctrine that is invoked to avoid disturbing a reorganization plan once implemented." *In re Metromedia Fiber Network, Inc.*, 416 F.3d 136, 144 (2d Cir. 2005).¹⁷ The doctrine "allows appellate courts to dismiss bankruptcy appeals 'when, during the pendency of an appeal, events occur' such that 'even though effective relief could conceivably be fashioned, implementation of that relief would be inequitable.'" *In re Motors Liquidation Co.*, 829 F.3d 135, 167 (2d Cir. 2016) (quoting *In re Chateaugay Corp.*, 988 F.2d 322, 325 (2d Cir. 1993) ("*Chateaugay II*"). The doctrine requires us to "carefully balance the importance of finality in bankruptcy proceedings against the appellant's right **[**35]** to review and relief." *R<2> Invs., LDC v. Charter Communs., Inc. (In re Charter Communs., Inc.)*, 691 F.3d 476, 481 (2d Cir. 2012). With these principles in mind, we decline to dismiss any of these appeals as equitably moot.

For internal use only
For internal use only