Insights: Publications

Dealing With Rejection: Are Arbitration Clauses Enforceable After the Underlying Contract is Rejected in Bankruptcy?

Credit Research Foundation 2Q 2022 Credit & Financial Management Review

July 18, 2022

"Arbitration provisions are material portions of a contract or purchase order that were bargained for by the parties and allow for a potentially cheaper and quicker resolution to contractual disputes as compared to protracted litigation in state or federal courts. However, what happens to an arbitration provision contained in a contract that was rejected by a contract counterparty that filed for bankruptcy? That is precisely the question that was addressed in a recent opinion from the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”) in the Highland Capital Chapter 11 case. This article will summarize the Bankruptcy Court's opinion in Highland Capital and discuss the import of whether an arbitration clause contained in a contract that was rejected by a debtor is enforceable."