

Insights: Publications

The Ninth Circuit Reins in the Equitable Mootness Doctrine

Lexology

November 17, 2015

Since the development of the doctrine of equitable mootness nearly a quarter century ago, courts have struggled to apply it in a way that strikes the appropriate balance between the need to ensure the finality and certainty of a chapter 11 plan for stakeholders, on the one hand, and the need to exercise the court's jurisdiction and honor the right to appellate review, on the other. In *JPMCC 2007-C1 Grasslawn Lodging, LLC v. Transwest Resort Props. Inc. (In re Transwest Resort Props., Inc.)*, 2015 BL 302540 (9th Cir. Sept. 15, 2015), the Ninth Circuit Court of Appeals curbed the application of the equitable mootness doctrine where the appellant diligently sought to stay consummation of the plan. The decision reflects broader concerns over the appropriateness of the doctrine, as well as the ongoing process of refining the circumstances under which it should be applied.