



LOWENSTEIN BANKRUPTCY LOWDOWN

Lowenstein Bankruptcy Lowdown Video 20 – Why New Jersey? Bankruptcy Filings in the Garden State

By [Nicole Fulfree](#) and [Brent Weisenberg](#)

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Brent Weisenberg: The [Lowenstein Bankruptcy Lowdown](#), coming from one of the hottest bankruptcy venues—the District of New Jersey—where we’ve seen a doubling of corporate filings over the past year with cases like WeWork, Rite Aid, Bed Bath & Beyond, and David’s Bridal. Indeed, the number of companies with funded debt over \$10 million that commence bankruptcy cases in New Jersey jumped from just four in 2022 to eight in 2023.

So, it's clear there's been a large uptick in bankruptcy filings in New Jersey over the past year. But the question is: why? Is it as simple as companies filing where they're located, or do you think there's something more going on, Nikki?

Nicole Fulfree: I don't think it's as simple as companies filing where they're located. You know, we've seen a number of New Jersey-based companies—Toys”R”Us is the first one that comes to my mind—that have in the past strategically chosen *not* to file in New Jersey, and it's no secret that large companies aren't shy about manufacturing venue in a particular court, so long as that venue is strategically the best option for that company.

Brent Weisenberg: I think that's right. I think probably there's more going on here than meets the eye. Most likely, what's taking place is practitioners are recognizing that New Jersey has a deep stable of bankruptcy judges who have been doing this a long time, and in my mind, probably to bring predictability, right?

Nicole Fulfree: Yeah, I think that's definitely true. There's no question that bankruptcy practitioners, especially debtors' counsel, see few things as more valuable than predictability and consistency. These attorneys want to file their cases in jurisdictions where they can tell their clients with some degree of certainty that they'll be able to achieve certain results when it comes to big ticket issues in Chapter 11 cases, such as a DIP lender's rollup of pre-petition debt, the payment of stub rent, and third-party releases.

Brent Weisenberg: Right, and we know third-party releases is on the tip of everyone's tongue these days with Purdue currently pending in the Supreme Court. But for the time being, the Third Circuit remains a debtor-friendly venue for third-party releases as opposed to in New York, where we know it's viewed

with a more critical eye. So, undoubtedly, I think that's probably something that's taking place in debtors' minds.

Nicole Fulfree: Yeah, for sure, that's a good point. In addition to that issue with Purdue and the questions it's raising around third-party releases, Judge Jones's recent resignation from the bench in the Southern District of Texas is another thing that leaves somewhat of a gap in jurisdictions that have been historic hotspots for bankruptcy filings.

Brent Weisenberg: And even more generally, our very own Judge Kaplan has made very clear that New Jersey is a debtor-friendly venue, and so we expect to see more filings in the future—selfishly, of course.

Until then, we'll keep an eye on that, and you keep an eye on us at the [Lowenstein Bankruptcy Lowdown](#).