



## E-ALERT

### Related Lawyers

Jesse N. Silverman

### Related Practices

Bankruptcy & Insolvency  
Litigation

### Media Contact

Peter Dunn  
Director of Client  
Relations and  
Communications  
Philadelphia, PA  
[pdunn@dilworthlaw.com](mailto:pdunn@dilworthlaw.com)

## LEADING EDGE LOGISTICS, LLC SEEKS TO RECOVER PAYMENTS FROM CREDITORS

5/26/2016

Leading Edge Logistics, LLC and certain affiliates (“Leading Edge”), provided non-asset based third party logistic services in the United States, Canada, Mexico and Puerto Rico. Leading Edge was a privately-held global logistics management company that provided truckload transportation, specialized heavy haul transportation, freight forwarding, international shipping, intermodal, air/ocean, contract carriage, and warehousing. On May 19, 2014 Leading Edge filed for protection under Chapter 7 of the Bankruptcy Code in the U.S. Bankruptcy Court for the District of Delaware.

Alfred Giuliano, the Chapter 7 Trustee for the bankruptcy estate of Leading Edge, recently filed approximately 86 preference action complaints in the Delaware Bankruptcy Court. The trustee filed these actions primarily against transportation companies that had served as interline or subcontracted carriers for Leading Edge in the period leading up to its bankruptcy.

Preference actions are authorized by a section of the United States Bankruptcy Code which permits a trustee to seek to recover certain payments that were made to a creditor within the 90 days immediately preceding a bankruptcy filing (or within one year if the creditor is an “insider”). The purpose of this provision is to achieve equal treatment of all similarly situated creditors of a bankrupt company, and ensure none are “preferred” by receiving payment of a greater percentage of their invoices than other creditors.

However, not all payments made within these time windows before a bankruptcy are recoverable by the trustee. There are a number of defenses that can, if applicable, reduce or eliminate the amount a creditor that received a payment must repay. Of particular relevance in this case, many carriers hired by Leading Edge had not been paid as of the date of the bankruptcy filing, and these unpaid invoices can sometimes “shield” payments that were received from later recovery in a preference suit by the trustee. While some of these invoices were ultimately paid after the bankruptcy filing under procedures adopted by the trustee to protect brokers from double payment, carriers should be aware that post-bankruptcy payment does not necessarily eliminate this defense, colloquially referred to as the “subsequent new value defense”.

Dilworth Paxson’s bankruptcy attorneys have handled hundreds of preference actions in the Delaware Bankruptcy Court and elsewhere, and can quickly and efficiently analyze them to determine if any defenses are applicable. If you have questions about preference actions in the Leading Edge bankruptcy or in any other matter, please feel free to contact Jesse Silverman at [jsilverman@dilworthlaw.com](mailto:jsilverman@dilworthlaw.com), or any other member of Dilworth’s bankruptcy group.