

2026 Bankruptcy Code Manual Highlights

BANKRUPTCY CODE:

- This past year, Congress enacted legislation regulating stablecoins (a type of cryptocurrency). Titled the “GENIUS Act” (Guiding and Establishing National Innovation for U.S. Stablecoins Act), the law contains some provisions relating to insolvency, many of which amended the Bankruptcy Code, creating new sections: 101(40C), 362(a)(9), 362(d)(5), 507(e), 541(b)(11), and 1109(c). The effective date of the Act is the earlier of January 18, 2027, or the date that is 120 days after the date on which the federal banking regulators issue implementing regulations.
- Effective April 1, 2026, the Bankruptcy Administration Improvements Act of 2025 has increased the flat fee for Chapter 7 trustees for the first time since 1994. This change results in a doubling of the flat fee from \$60 to \$120—a development that is particularly significant in no-asset cases. Technically, the change was accomplished through an amendment to § 330(b)(1) that increases from \$45 to \$105 the portion of the trustee fee that comes from the bankruptcy filing fee. (The other component of the trustee’s flat fee—the \$15 appearance fee under § 330(b)(2)—remains as is.)

SUPREME COURT:

§ § 106(a) and 544(a)

The Supreme Court, in the recent *Miller* case, addressed the § 106(a) waiver of sovereign immunity as applied to § 544(a), which allows the bankruptcy trustee to step into the shoes of a creditor to avoid certain transfers that would be “voidable under applicable law.” The Court ruled that the Bankruptcy Code abrogates sovereign immunity under § 106(a) only with respect to the *federal* cause of action created by § 544(a), but not with respect to the underlying state-law claims that supply the “applicable law” for that federal claim. Explaining that § 106(a) operates like any other waiver of sovereign immunity and is merely jurisdictional, the Court concluded that § 106(a) does not establish any substantive rights against the government by providing a waiver of immunity that would not otherwise exist under the external source of “applicable law.” *United States v. Miller*, 604

U.S. 518, 527, 145 S. Ct. 839, 849, 221 L. Ed. 2d 373, 74 Bankr. Ct. Dec. 91, 2025 Daily Journal D.A.R. 2607, 30 Fla. L. Weekly Fed. S 790, 2025 WL 906502 (2025).

CIRCUIT COURTS:

§ 362(b)(1)

Addressing § 362(b)(1), which ensures that the automatic stay does not stop the prosecution of criminal offenses, the Court of Appeals for the Fifth Circuit ruled that a creditor's report of potential criminal activity to law enforcement officials concerning a debt owed to the creditor may be an activity protected by law and therefore not a stay violation. Here, a secured creditor's report about the Chapter 7 debtor's suspected violation of state law relating to the whereabouts of farm equipment collateral did not contravene the automatic stay or the discharge injunction; the report triggered a "safe harbor" provision of a federal money laundering act that shielded financial institutions from liability for reporting suspicious transactions. *Matter of Kerns*, 130 F.4th 455, 74 Bankr. Ct. Dec. 93, 2025 WL 651459 (5th Cir. 2025).

§ 524(a)(2)

The Court of Appeals for the Ninth Circuit has held that a debtor need not resort to administrative remedies before reopening a bankruptcy proceeding based on a creditor's alleged violation of the discharge injunction. *Cooper v. Soc. Sec. Admin.*, 131 F.4th 995, 1018, 74 Bankr. Ct. Dec. 101, 2025 Daily Journal D.A.R. 2352, 2025 WL 866003, at *15 (9th Cir. 2025).

§ 1112(b)(1)

Section § 1112(b)(1) of the Bankruptcy Code provides that, except in narrow circumstances, on request of a party in interest, and after notice and a hearing, the court must dismiss a case under Chapter 11 for cause, which typically includes such things as "gross mismanagement of the estate," "failure to comply with an order of the court," and "material default by the debtor with respect to a confirmed plan." However, cause may include a debtor's lack of proper authority to commence the bankruptcy proceeding. The Court of Appeals for the Third Circuit ruled that although the debtor lacked such authority, and thus the bankruptcy court had no alternative but to dismiss the case, the court was not thereby stripped of subject-matter jurisdiction. In *re Whittaker Clark & Daniels Inc.*, 152 F.4th 432, 2025 WL 2611753 (3d Cir. 2025).

§ 1192(2)

The Court of Appeals for the Ninth Circuit adhered to the prevailing view that the § 523(a) exceptions to discharge as applied in a Subchapter V bankruptcy apply to both individual and corporate debtors. In *re 2 Monkey Trading, LLC*, 142 F.4th 1323,

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74 Bankr. Ct. Dec. 193, 31 Fla. L. Weekly Fed. C 98, 2025 WL 1892380 (11th Cir. 2025).

OTHER COURTS:

§ § 327 and 1107

Two bankruptcy courts have ruled that compensation from estate funds for professional activities that solely benefit the debtor is inappropriate in Chapter 11 cases—in contrast to Chapters 12 and 13. *In re Schlomer*, 672 B.R. 915, 919, 74 Bankr. Ct. Dec. 84, 2025 WL 553042 (Bankr. W.D. Tex. 2025); *In re: PHILIP VON BACKSTROM*, Debtor., No. 25-11125-CGB, 2026 WL 59377, at *3 (Bankr. W.D. Tex. Jan. 7, 2026).