

Second Circuit Orders Refund of Unconstitutional Quarterly Fee Overpayment

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Many practitioners have been speculating as to how courts will address the potential remedy for the unconstitutional U.S. trustee fees imposed against Chapter 11 debtors pending in U.S. trustee districts under the 2017 amendment to 28 U.S.C. Section 1930 (the 2017 amendment). In June 2022, the U.S. Supreme Court in *Siegel v. Fitzgerald*, 142 S. Ct. 1770 (2022), held that the 2017 amendment was unconstitutional because it violated the uniformity requirement of the bankruptcy clause of the U.S. Constitution due to the discriminatory higher fees being imposed against Chapter 11 debtors with cases pending in districts administered by the Office of the United States Trustee as opposed to those debtors with cases filed in judicial districts administered by bankruptcy administrators. The Supreme Court in *Siegel*, however failed to identify a remedy, rather remanding such determination to the lower courts.

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