

Anthony Cali Examines Ambiguity in Recovery in Fraudulent Transfer Cases in *ABI Journal*

In the News

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Stinson LLP Partner [Anthony Cali](#) authored an article for the *ABI Journal*, "Does § 550 Cap Recoveries in Fraudulent-Transfer Proceedings?" The article explores the ambiguity surrounding the recovery of fraudulent transfers in bankruptcy proceedings.

Cali says the Bankruptcy Code leaves room for interpretation regarding the recovery of fraudulent transfers, as Section 550 allows a trustee to recover property or its value for "the benefit of the estate;" however, many courts disagree over the meaning of the phrase, leading to uncertainty regarding who ultimately benefits from recovered funds.

The debate centers on whether "benefit of the estate" extends beyond creditors to include potential benefits for equity holders. Cali says some argue recovered funds can exceed creditor claims to benefit the estate's overall financial health, while others argue recovery should be capped at the amount owed to the creditors, prioritizing their interests.

"Given the high stakes and costs often involved in fraudulent-transfer litigation, the proper distribution scheme should depend on more than a court's feelings toward particular litigants or beneficiaries," Cali writes. "Thus, Congress should clarify § 550 to make it clear that parties other than unsecured creditors comprise part of the bankruptcy estate for whom a fraudulent transfer may be recovered."

Cali practices in the areas of corporate restructuring and complex insolvency and represents clients from a broad spectrum of industries, including charter airlines, real estate developers, homeowners' associations, government agencies, commercial real estate owners and developers, retailers and manufacturers. He also has extensive experience in litigation related to fraudulent transfer, preference and breach of fiduciary duty.

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