

Stinson Attorneys Win Tenth Circuit Appeal on Constitutionality of Non-Uniform Bankruptcy Law

Press Release

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Stinson attorneys [Nicholas Zluticky](#), [Zach Hemenway](#), Michael Pappas, and [Nicci Warr](#) achieved a significant victory in the Tenth Circuit Court of Appeals on Oct. 5, 2021, when the Tenth Circuit [reversed](#) the Bankruptcy Court for the District of Kansas, held that a portion of the Bankruptcy Code is unconstitutional, and directed the Bankruptcy Court to order the refund of more than \$2.5 million in quarterly fees to the firm's clients, the John Q. Hammons Trust and its associated debtors, that had been paid to the U.S. Trustee under the unconstitutional statute.

The Stinson team [successfully argued](#) that a 2017 amendment to a statutory fee provision violated the Uniformity Clause of the Constitution by charging higher fees to chapter 11 debtors solely in the 48 states within the U.S. Trustee system. The Tenth Circuit [found](#) that treating debtors differently based on the state in which they filed their cases was "constitutionally nonuniform," disagreeing with the Fourth and Fifth Circuits, which had upheld the statute. This is one of several victories the Stinson team has achieved in appeals of multiple issues in the John Q. Hammons Trust bankruptcy cases before both the Tenth Circuit Court of Appeals and the Bankruptcy Appellate Panel for the Tenth Circuit Court of Appeals.

Learn more about the firm's [bankruptcy](#) experience.

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