**1 Bankruptcy Law Manual § 2:50 (5th ed.)**

**Bankruptcy Law Manual** | December 2022 Update

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**Chapter 2. Jurisdiction; Venue; Procedure; Jury Trials; Standing; Appeals**

# § 2:50. Appeals—The standing requirement

References

**West's Key Number Digest**

West's Key Number Digest, Bankruptcy 2041.1
West's Key Number Digest, Bankruptcy 3761

**Treatises and Practice Aids**

Steinberg, Bankruptcy Litigation § 9:10 (2d ed.)
Drake, Bankruptcy Practice for the General Practitioner § 4:17 (3d ed.)
Williams, Bankruptcy Practice Handbook § 19:8 (2d ed.)

Any party who seeks to appeal an order, judgment, or decree of a bankruptcy court, as in any other civil matter, must have standing to pursue the appeal.[1] Only an aggrieved party, meaning one who has a financial stake in the lower court's order, has standing to appeal.[2] The "person aggrieved" requirement for standing to appeal from a bankruptcy court decision is even more stringent than the doctrine of Article III case or controversy standing, which does not require that the appellant have a financial interest and merely requires that the appellant's injury be fairly traceable to the alleged illegal action.[3] The standing requirement in bankruptcy appeals is more restrictive than the case or controversy standing requirement of Article III because the challenged order must directly and adversely affect the appellant's pecuniary interests.[4] That is, the person aggrieved test for standing to appeal bankruptcy court decisions demands a higher causal nexus between the act and the injury, and the appellant must show that it was directly and adversely affected pecuniarily by the order from which an attempted appeal is taken.[5]

The Chapter 7 debtor rarely has a pecuniary interest in the outcome of an appeal because, no matter how the estate's assets are disbursed by the trustee, usually no assets will revert to the debtor, except in a surplus case.[6] Thus, Chapter 7 debtors do not have standing, for example, to appeal from the court's decision on allowance of a claim, allowance of the sale of nonexempt assets of the estate, or a decision with respect to a preference. The exception to this rule is where there is a fair chance that

there will be a surplus in the case, in which case the debtor can show a pecuniary interest and the courts recognize the debtor's standing to appeal from rulings that will adversely affect the potential for a surplus.[7]

The factual contexts in which standing issues arise are endless and the cases are not always consistent. For example, courts have held that normally the case trustee, and not the debtor, has standing to appeal from a bankruptcy court order which confirms or rejects sales of property of the estate.[8] Attorneys who may be the target of avoidance actions were held to have standing to appeal a bankruptcy court order approving the trustee's assignment of such potential actions where the attorneys were creditors, transfer of rights left the estate without assets, and the transfer involved a release of rights and claims against the assignee.[9] A credit union was found to have standing to appeal a bankruptcy court's order regarding the debtor's reaffirmation of an agreement.[10] Also, a Chapter 7 debtor has been held not to have standing to appeal from a decision confirming the election of a trustee or from an order approving a sale unless there will be a distribution to the debtor.[11] A party in whose favor a judgment was rendered clearly has no standing to appeal.[12] Courts regularly hold that potential purchasers of debtor's assets lack standing to appeal.[13] Further, a creditor without an allowed claim has been held to lack standing to appeal confirmation of a Chapter 13 plan.[14] A former attorney of a creditors' committee was found to lack standing to appeal dismissal of a Chapter 11 case before attorney was paid when the attorney failed to appear at the dismissal hearing to which he had received notice.[15] Out-of-the-money creditors have, however, been held to have standing to appeal the approval or denial of an order confirming a plan of reorganization.[16]



Footnotes

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1 See In re Refco Inc., 505 F.3d 109, 48 Bankr. Ct. Dec. (CRR) 254, Bankr. L. Rep. (CCH) P 81031 (2d Cir. 2007) (investors in a creditor of the debtor did not have standing to appeal an order approving a settlement between the creditor and the debtor); In re O'Brien, 184 F.3d 140, 34 Bankr. Ct. Dec. (CRR) 836 (2d Cir. 1999) (appellant must have standing to appeal); Depoister v. Mary M. Holloway Foundation, 36 F.3d 582, 31 Collier Bankr. Cas. 2d (MB) 1525, Bankr. L. Rep. (CCH) P 76101 (7th Cir. 1994) (in order to appeal a bankruptcy court order, the appellant must have standing, meaning appellant is directly and adversely affected pecuniarily by the decision); Fox Valley AMC/Jeep, Inc. v. AM Credit Corp., 836 F.2d 366 (7th Cir. 1988) (only the trustee has standing to appeal an order granting judgment against the estate).

On the issue of standing generally, see § 2:46. See also Sprint Communications Co., L.P. v. APCC Services, Inc., 554 U.S. 269, 128 S. Ct. 2531, 171 L. Ed. 2d 424 (2008) (assignee for purposes of collection had constitutional standing to bring a collection action; agreement provided that plaintiff would remit all proceeds minus costs of collection); W.R. Huff Asset Management Co., LLC v. Deloitte & Touche LLP, 549 F.3d 100 (2d Cir. 2008) (assignee lacked constitutional standing); LPP Mortg., Ltd. v. Brinley, 547 F.3d 643, 60 Collier Bankr. Cas. 2d (MB) 1848, Bankr. L. Rep. (CCH) P 81364, 72 Fed. R. Serv. 3d 66 (6th Cir. 2008) (assignee of judgment creditor had standing to file motions to preserve the estate's position with respect to an avoided or available lien; case discusses elements of standing in a civil case under Article III); In re CBI Holding Co., Inc., 529 F.3d 432, 50 Bankr. Ct. Dec. (CRR) 23 (2d Cir. 2008) (disbursing agent under confirmed plan has standing to pursue adversary proceeding against debtor's prebankruptcy independent auditors; debtor's agent was successor to debtor's claims under the plan).

2 See, e.g., In re Young, 416 Fed. Appx. 392 (5th Cir. 2011) (creditor had standing as a "person aggrieved" to challenge bankruptcy court's order releasing funds being held in the court registry without determining whether creditor had an ownership interest in the funds); Greater Southeast Community Hosp. Foundation, Inc. v. Potter, 586 F.3d 1, 52 Bankr. Ct. Dec. (CRR) 78 (D.C. Cir. 2009) (officer of corporate debtor lacked standing to appeal bankruptcy order approving settlement; officer met requirements of "party in interest" under § 1109(b), but that section only covers proceedings in bankruptcy courts, not appeals therefrom); In re Combustion Engineering, Inc., 391 F.3d 190, 43 Bankr. Ct. Dec. (CRR) 271, Bankr. L. Rep. (CCH) P 80206 (3d Cir. 2004), as amended (Feb. 23, 2005) (a person is aggrieved if the order below has a direct, adverse pecuniary effect on the appellant; since appellants were not aggrieved by the bankruptcy court order, they could not appeal from the modification to the plan made by the district court); Matter of DuPage Boiler Works, Inc., 965 F.2d 296 (7th Cir. 1992) (debtor's former employee, who served sentence for participating in scheme to defraud debtor, was not "a person aggrieved" with standing to appeal from bankruptcy court order approving debtor's settlement of claims); In re Atlas IT Export, LLC, 491 B.R. 192, 57 Bankr. Ct. Dec. (CRR) 237 (B.A.P. 1st Cir. 2013) (dismissing appeal of creditor where creditor was not "person aggrieved" with standing to appeal from order modifying automatic stay to allow Chapter 7 debtor to continue to pursue its Puerto Rican action against the creditor and creditor to pursue creditor's counterclaims); In re Lacy, 335 B.R. 729, 45 Bankr. Ct. Dec. (CRR) 248 (B.A.P. 10th Cir. 2006) (appeal by potential claimant to funds from bankruptcy court order requiring deposit of funds into court registry was premature until the funds had actually been deposited because until then potential claimants had no pecuniary interest in the appeal); In re Salant Corp., 176 B.R. 131 (S.D. N.Y. 1994) (official committee of equity security holders did not have a sufficient pecuniary interest to have standing to appeal an order authorizing a Chapter 11 debtor to pay certain compensation to a chief executive officer; although the committee was clearly a "party in interest" under § 1109(b) of the Code, that status alone is not sufficient to give a party standing to appeal an order of the bankruptcy court); In re Central Ice Cream Co., 62 B.R. 357 (N.D. Ill. 1986) (shareholders not "persons aggrieved" by approval of settlement so as to be entitled to appeal under Bankruptcy Act).

The rules are different with respect to a U.S. Trustee in a Chapter 11 case. See, e.g., In re Revco D.S., Inc., 901 F.2d 1359, 20 Bankr. Ct. Dec. (CRR) 716, 22 Collier Bankr. Cas. 2d (MB) 1263, Bankr. L. Rep. (CCH) P 73345 (6th Cir. 1990) (U.S. Trustee had standing to appeal from a decision denying the U.S. Trustee's request for the appointment of an examiner in the Chapter 11 case even though the U.S. Trustee did not have a pecuniary interest in the matter). But see In re Attorneys at Law and Debt Relief Agencies, 353 B.R. 318 (S.D. Ga. 2006) (U.S. Trustee lacked standing to appeal entry of order excusing licensed attorneys from complying with the provisions of 11 U.S.C.A. §§ 525, et seq.; trustee may only be heard in a case or proceeding under Title 11).

Typically, a party cannot be a "person aggrieved" where the party did not respond to or otherwise defend. See, e.g., In re Wrightwood Guest Ranch, LLC, 896 F.3d 1109, 66 Bankr. Ct. Dec. (CRR) 5 (9th Cir. 2018) (because two law firms neither explicitly objected to a settlement agreement nor entered an appearance, and because the record evidence that the bankruptcy court and trustee understood the firms to be implicitly objecting was not clear enough to overcome those failures, the firms forfeited their objection to the settlement agreement); Matter of Schultz Mfg. Fabricating Co., 956 F.2d 686, Bankr. L. Rep. (CCH) P 74475 (7th Cir. 1992) (appellants did not qualify as "persons aggrieved" where they received proper notice of hearing authorizing debtor to sell grain elevator free and clear of all liens, but failed to enter appearance or present objections to bankruptcy court). But see In re Zahn, 526 F.3d 1140, 59 Collier Bankr. Cas. 2d (MB) 1110, Bankr. L. Rep. (CCH) P 81242 (8th Cir. 2008) (debtor qualified as an aggrieved party when debtor was required by the bankruptcy court to propose an amended plan over debtor's express objection); In re Commercial Western Finance Corp., 761 F.2d 1329, 13 Bankr. Ct. Dec. (CRR) 352, 12 Collier Bankr. Cas. 2d (MB) 1177, Bankr. L. Rep. (CCH) P 70575 (9th Cir. 1985) (attendance and objection are typically the prerequisites to fulfilling "person aggrieved" test; however, investors who did not appear and object to the plan at the confirmation hearing had standing to appeal where the trustee failed to give investors proper notice that the bankruptcy plan avoided their security interests); In re Walton, 391 B.R. 827, 828 (B.A.P. 8th Cir. 2008) ("Although there are cases in other jurisdictions applying the 'person aggrieved' standard in

  

this way, we opt for a more practical application of the concept that focuses impact of the judgment on the appealing party's interests rather than on the party's participation in the underlying proceedings.").

3 See, e.g., Lujan v. Defenders of Wildlife, 504 U.S. 555, 560–61, 112 S. Ct. 2130, 119 L. Ed. 2d 351, 34 Env't. Rep. Cas. (BNA) 1785, 22 Envtl. L. Rep. 20913 (1992) (to show Article III standing, a plaintiff has the burden of proving that the plaintiff suffered an injury-in-fact, a causal relationship between the injury and the challenged conduct, and that the injury will likely be redressed by a favorable decision); In re Westport Holdings Tampa, Limited Partnership, 2022 WL 964962 (11th Cir. 2022) (comparing and contrasting Article III and "person aggrieved" standing; appellant lacked both); In re Capital Contracting Company, 924 F.3d 890 (6th Cir. 2019) (law firm that withdrew its proof of claim as part of settlement of Chapter 7 trustee's legal malpractice claims against it did not have Article III standing to appeal bankruptcy court's order approving the trustee's final report); In re GT Automation Group, Inc., 828 F.3d 602, 62 Bankr. Ct. Dec. (CRR) 217, Bankr. L. Rep. (CCH) P 82974 (7th Cir. 2016) (asset purchaser against which law firm had prosecuted bidding collusion claims on trustee's behalf, and which, following decision in its favor, had become unsecured creditor of estate as result of bankruptcy court's $5,000 attorney fee award, failed to establish its Article III standing to appeal fee award subsequently entered in law firm's favor); In re Coho Energy Inc., 395 F.3d 198, 44 Bankr. Ct. Dec. (CRR) 1, Bankr. L. Rep. (CCH) P 80211 (5th Cir. 2004) ("case in controversy" requirement of Article III dictates that the harm be fairly traceable to the act complained of; person aggrieved test demands a high showing of causal nexus between act and injury); IPSCO Steel (Alabama), Inc. v. Blaine Const. Corp., 371 F.3d 150 (3d Cir. 2004) (bankruptcy pecuniary interest standing is more restrictive than Article III standing requirement); Spenlinhauer v. O'Donnell, 261 F.3d 113, 38 Bankr. Ct. Dec. (CRR) 86, 46 Collier Bankr. Cas. 2d (MB) 1215 (1st Cir. 2001) (person aggrieved paradigm for standing to appeal final order of bankruptcy case is even more stringent than doctrine of Article III standing); In re Cult Awareness Network, Inc., 151 F.3d 605, 32 Bankr. Ct. Dec. (CRR) 1199, 47 U.S.P.Q.2d 1631, Bankr. L. Rep. (CCH) P 77751 (7th Cir. 1998) (bankruptcy standing is distinct from Article III standing).

4 See, e.g., In re Knight-Celotex, LLC, 695 F.3d 714, 720, 56 Bankr. Ct. Dec. (CRR) 268, 68 Collier Bankr. Cas. 2d (MB) 258, Bankr. L. Rep. (CCH) P 82344 (7th Cir. 2012) ("Bankruptcy standing is narrower than constitutional standing and requires that a person 'have a pecuniary interest in the outcome of the bankruptcy proceedings.'" quoting In re Cult Awareness Network, Inc., 151 F.3d 605, 607, 32 Bankr. Ct. Dec. (CRR) 1199, 47 U.S.P.Q.2d 1631, Bankr. L. Rep. (CCH) P 77751 (7th Cir. 1998)); Spenlinhauer v. O'Donnell, 261 F.3d 113, 38 Bankr. Ct. Dec. (CRR) 86, 46 Collier Bankr. Cas. 2d (MB) 1215 (1st Cir. 2001) (for appellant to qualify as "person aggrieved" with standing to appeal bankruptcy court order, challenged order must directly and adversely affect appellant's pecuniary interests); Krebs Chrysler-Plymouth, Inc. v. Valley Motors, Inc., 141 F.3d 490, 32 Bankr. Ct. Dec. (CRR) 544 (3d Cir. 1998) (order must diminish the appellant's property, increase its burdens or impair its rights). See also In re Buscone, 634 B.R. 152 (B.A.P. 1st Cir. 2021) (Chapter 7 debtor lacked standing to prosecute an appeal from two bankruptcy court orders imposing liability for fees on her counsel; the orders in question sanctioned attorney, personally, and so debtor had no pecuniary or other sufficient interest in the award to confer standing to appeal).

5 See, e.g., Matter of Dean, 18 F.4th 842 (5th Cir. 2021) (Chapter 7 debtor was not "person aggrieved" by, and thus lacked standing to appeal, bankruptcy court's approval of trustee's litigation funding agreement with creditor, whereby trustee could pursue claims for the estate and potentially reclaim money for creditors, because approval of the agreement did not affect whether debtor's debts would be discharged, nor did it affect the creditor's related pending case in which it objected to debtor's bankruptcy discharge and to discharge of its claims against debtor); In re Crow, 987 F.3d 912, 69 Bankr. Ct. Dec. (CRR) 206 (10th Cir. 2021) (judgment creditor lacked standing to challenge the bankruptcy court's ruling that an adversary proceeding was required to determine the amount of joint debt held by Chapter 7 debtor and his wife before any portion of investment account held as tenancy by the entirety had to be turned over to trustee; judgment creditor made no effort to explain how it had been "aggrieved" by the transfer order, nor could it, as its own brief argued that trustee was entitled to turnover of funds in question, and because transfer order was entirely procedural, it made no substantive determination concerning any party's rights or interests, including those of judgment creditor); In re Bay Circle Properties, LLC, 955 F.3d 874 (11th Cir. 2020) (holder of an undefined "beneficial" interest in the debtor's foreclosed properties, and who claimed to be the guarantor of the underlying debt, lacked

  

standing to appeal, and was not a "person aggrieved," and therefore lacked standing to appeal); Matter of Technicool Systems, Incorporated, 896 F.3d 382, 65 Bankr. Ct. Dec. (CRR) 246, Bankr. L. Rep. (CCH) P 83268 (5th Cir. 2018) (owner of the debtor lacked standing to contest the trustee's application to employ a law firm where the owner could not show that he was "directly and adversely affected pecuniarily" by the bankruptcy court's order approving the law firm's appointment); Matter of Point Center Financial, Inc., 890 F.3d 1188, 65 Bankr. Ct. Dec. (CRR) 197, Bankr. L. Rep. (CCH) P 83259 (9th Cir. 2018) (parties' failure to attend hearing of which they had notice, at which bankruptcy court considered whether to grant Chapter 7 trustee's untimely motion to assume debtor's executory contract, and their failure to object to grant of motion had no bearing on whether assumption order directly and adversely affected their pecuniary interests and whether they had standing to appeal the order); In re Wigley, 886 F.3d 681, 65 Bankr. Ct. Dec. (CRR) 114, Bankr. L. Rep. (CCH) P 83233 (8th Cir. 2018) (nondebtor wife of Chapter 11 debtor-guarantor was not a "person aggrieved" by the orders of the bankruptcy court, which, among other things, which, inter alia, denied confirmation of debtor's second modified plan, including a proposed settlement contained therein, established deadlines for debtor to file a modified plan, confirmed debtor's fourth modified plan, and granted judgment creditor stay relief to exercise its rights and remedies against wife in state-court litigation, and this did not have standing to appeal those orders); In re Petricca, 718 Fed. Appx. 942 (11th Cir. 2018) (dismissal of the debtor's appeal for lack of standing was fitting where the debtor was not a "person aggrieved"); Opportunity Finance, LLC v. Kelley, 822 F.3d 451, 62 Bankr. Ct. Dec. (CRR) 166, 75 Collier Bankr. Cas. 2d (MB) 1157 (8th Cir. 2016) (lenders did not have standing as "persons aggrieved" to appeal bankruptcy court's substantive consolidation order; citing *Ernie Haire*); Providence Hall Associates Limited Partnership v. Wells Fargo Bank, N.A., 816 F.3d 273, 62 Bankr. Ct. Dec. (CRR) 85, 75 Collier Bankr. Cas. 2d (MB) 429 (4th Cir. 2016) (sale orders in debtor's prior Chapter 11 case for sale of estate property to satisfy debtor's obligations to lender were final orders on the merits); In re O & S Trucking, Inc., 811 F.3d 1020, 62 Bankr. Ct. Dec. (CRR) 26, Bankr. L. Rep. (CCH) P 82920 (8th Cir. 2016) (imprecise language in debtor' amended Chapter 11 plan, which provide that amount of creditor's secured claim was subject to adjustment, was insufficient, in absence of any objection by debtor to its amended plan, to permit debtor to appeal confirmation order as a "person aggrieved" by confirmation order); Fortune Natural Resources Corp. v. U.S. Dept. of Interior, 806 F.3d 363, 61 Bankr. Ct. Dec. (CRR) 217 (5th Cir. 2015) (percentage owner lacked standing to appeal bankruptcy court's final sale order); In re Dynegy, Inc., 770 F.3d 1064, 60 Bankr. Ct. Dec. (CRR) 53, 72 Collier Bankr. Cas. 2d (MB) 1119, 89 Fed. R. Serv. 3d 1722 (2d Cir. 2014) (lead plaintiff in a securities class action lacked standing to represent a class action in bankruptcy); In re Heyl, 770 F.3d 729 (8th Cir. 2014) (LLC's principal lacked standing to appeal bankruptcy court's order regarding LLC's claim; principal had no standing to litigate his derivative interest in LLC's claim where the proof of claim filed in debtor's bankruptcy case demonstrated that LLC had a claim against debtor's bankruptcy estate and the principal was simply trying to enforce it); In re Ernie Haire Ford, Inc., 764 F.3d 1321, 59 Bankr. Ct. Dec. (CRR) 261, Bankr. L. Rep. (CCH) P 82695 (11th Cir. 2014) (holding, as a matter of first impression, that for a person to be aggrieved, the interest that the person seeks to vindicate on appeal must be one that is protected or regulated by the Bankruptcy Code); In re Peoples, 764 F.3d 817, 124 Fair Empl. Prac. Cas. (BNA) 124 (8th Cir. 2014) (Chapter 7 debtor lacks standing to appeal an order approving a settlement where the debtor does not have a pecuniary interest in the bankruptcy court's order); In re Perez, 535 Fed. Appx. 731 (10th Cir. 2013) (an insolvent Chapter 7 debtor is not a person aggrieved by a bankruptcy court's decision to approve the trustee's application for compensation and thus lacks standing to appeal such a decision); In re Parker, 139 F.3d 668, 39 Collier Bankr. Cas. 2d (MB) 1068 (9th Cir. 1998) (the appellant must be a person who was directly and adversely affected pecuniarily by the order of the bankruptcy court). See also In re Wilson, 2021 WL 2816687 (10th Cir. 2021) (debtor lacked appellate standing to appeal judgment against trust into which debtor transferred assets to shield them from creditors); In re Troutman Enterprises, Inc., 286 F.3d 359, 364, 39 Bankr. Ct. Dec. (CRR) 66, 47 Collier Bankr. Cas. 2d (MB) 1620, 2002 FED App. 0092P (6th Cir. 2002) (shareholders lacked standing to appeal bankruptcy court decision where shareholders' interest in property of estate was indirect or derivative of debtors' interest); In re Murray Energy Holdings Co., 624 B.R. 606, 69 Bankr. Ct. Dec. (CRR) 207, 2021 Employee Benefits Cas. (BNA) 33204 (B.A.P. 6th Cir. 2021) (last signatory operator of coal mine that one of its related entities had sold to Chapter 11 debtor was not a "person aggrieved" by, and with standing to appeal, bankruptcy court's order approving settlement); In re Marshall, 611 B.R. 861 (B.A.P. 8th Cir. 2020) (Chapter 13 debtor did not show that she was a person aggrieved by the

  

bankruptcy court's order overruling her objection to the Trustee's Final Report and thus, lacked standing to appeal); In re Belew, 608 B.R. 206 (B.A.P. 8th Cir. 2019) (since there was not a reasonable possibility of a surplus in the case, debtor was not a "person aggrieved" with standing to appeal the bankruptcy court's sale order); Freeman v. Journal Register Co., 452 B.R. 367 (S.D. N.Y. 2010) (former stockholder of Chapter 11 debtor was not a person aggrieved by Chapter 11 plan and thus did not have standing to appeal confirmation order; to have standing to appeal a bankruptcy court order an appellant must be an aggrieved person).

6 See, e.g., In re Dugas, 428 Fed. Appx. 396 (5th Cir. 2011) (dismissing appeal where Chapter 13 debtors were not aggrieved by district court's order affirming bankruptcy court's decision that corporation willfully violated automatic stay and awarding debtors actual damages, and thus did not have standing to appeal); In re Stinnett, 465 F.3d 309, 38 Employee Benefits Cas. (BNA) 2770, Bankr. L. Rep. (CCH) P 80724, 2006-2 U.S. Tax Cas. (CCH) P 50587, 98 A.F.T.R.2d 2006-6915 (7th Cir. 2006) (Chapter 7 debtor lacked standing on appeal where debtor's liabilities exceeded assets so that debtor was unable to realize economic benefit from potential reversal); In re Cult Awareness Network, Inc., 151 F.3d 605, 32 Bankr. Ct. Dec. (CRR) 1199, 47 U.S.P.Q.2d 1631, Bankr. L. Rep. (CCH) P 77751 (7th Cir. 1998) (debtors, particularly Chapter 7 debtors, rarely have a pecuniary interest in bankruptcy orders because no matter how the estate's assets are distributed, no assets will revert to the debtor); In re Aja, 442 B.R. 857 (B.A.P. 1st Cir. 2011) (generally, an insolvent Chapter 7 debtor does not have standing to appeal if the appeal will not lead to any distribution of funds to either the debtor or effect discharge of debtor); In re Piccoli, 2006 WL 3371916 (Bankr. E.D. Pa. 2006) (citing *Cult Awareness*; debtors rarely have pecuniary interest because no assets will revert to debtor).

7 See, e.g., In re Cult Awareness Network, Inc., 151 F.3d 605, 32 Bankr. Ct. Dec. (CRR) 1199, 47 U.S.P.Q.2d 1631, Bankr. L. Rep. (CCH) P 77751 (7th Cir. 1998) (if a debtor can show a reasonable possibility of a surplus after satisfying all debts, the debtor has shown a pecuniary interest and has standing to object to a bankruptcy court order). But see In re Adams, 424 B.R. 434 (Bankr. N.D. Ill. 2010) (Chapter 7 debtors whose liabilities greatly exceeded the value of their assets lacked standing to object to price negotiated by trustee for sale of one such asset).

8 See, e.g., Spenlinhauer v. O'Donnell, 261 F.3d 113, 38 Bankr. Ct. Dec. (CRR) 86, 46 Collier Bankr. Cas. 2d (MB) 1215 (1st Cir. 2001) (normally it is trustee alone, as opposed to Chapter 7 debtor, who possesses standing to appeal from bankruptcy court orders which confirm or reject sales of property of estate).

9 See In re P.R.T.C., Inc., 177 F.3d 774, 34 Bankr. Ct. Dec. (CRR) 480, 42 Collier Bankr. Cas. 2d (MB) 269 (9th Cir. 1999) (attorneys for Chapter 7 debtor-corporations were aggrieved by, and thus had standing to appeal, bankruptcy court order approving trustees' assignment, to estates' largest creditor, of trustees' powers to sue various parties, including attorneys, and rights to avoid certain transactions). But see In re LTV Steel Co., Inc., 560 F.3d 449, 51 Bankr. Ct. Dec. (CRR) 112 (6th Cir. 2009) (distinguishing its prior decision in In re Trailer Source, Inc., 555 F.3d 231, 51 Bankr. Ct. Dec. (CRR) 46, Bankr. L. Rep. (CCH) P 81415 (6th Cir. 2009), court holds that potential defendants have no standing to appeal from an order granting the creditors' committee authority to commence an action against officers and directors for corporate waste and mismanagement and stating that most courts hold that a bankruptcy court order that merely exposes a party to the risks of litigation does not produce the requisite direct and adverse pecuniary impact to bestow standing); In re Kreutzer, 344 B.R. 634 (N.D. Okla. 2006), order aff'd, 249 Fed. Appx. 727 (10th Cir. 2007) (a doctor/potential defendant lacks standing to appeal a bankruptcy court order permitting reopening of the case to allow pursuit of a malpractice action against doctor).

10 In re Parker, 139 F.3d 668, 39 Collier Bankr. Cas. 2d (MB) 1068 (9th Cir. 1998), superseded on other grounds by In re Dumont, 581 F.3d 1104, Bankr. L. Rep. (CCH) P 81577 (9th Cir. 2009) (credit union had standing to appeal bankruptcy court order refusing to approve reaffirmation agreement).

11 See Spenlinhauer v. O'Donnell, 261 F.3d 113, 38 Bankr. Ct. Dec. (CRR) 86, 46 Collier Bankr. Cas. 2d (MB) 1215 (1st Cir. 2001) (debtor did not have standing to object to sale where creditors would not be paid a 100% dividend); In re Midwest Agri Development Corp., 387 B.R. 580, 49 Bankr. Ct. Dec. (CRR) 258 (B.A.P. 8th Cir. 2008) (citing *Electrical Fittings*, but noting that a trustee may assert alternative grounds for

  

a decision, and the appellate court may affirm a bankruptcy court decision on any basis supported by the record); Troy Plastics v. North Hills II, 129 B.R. 473 (E.D. Mich. 1991) (a debtor lacks standing to object to order confirming election of Chapter 7 trustee). See also In re Bear Creek Trail, LLC, 35 F.4th 1277 (10th Cir. 2022) (debtor LLC's former management and attorney lacked authority to challenge, on debtor's behalf, bankruptcy court's order converting Chapter 11 proceeding to Chapter 7 liquidation and appointing trustee; once the court converted the case to Chapter 7 and appointed trustee, only the trustee could appeal on debtor's behalf, and it was immaterial whether debtor's manager supported or objected to the Chapter 7 conversion); In re Neira, 14 F.4th 60 (1st Cir. 2021) (in case converted from Chapter 13 to Chapter 7, debtor failed to establish that he was "person aggrieved" with standing to appeal bankruptcy court order overruling his objection to proof of claim related to mortgage deficiency; when case was converted and a Chapter 7 trustee appointed, debtor lost all right, title, and interest in nonexempt property of the estate, and debtor failed to meet either exception for appellate standing in Chapter 7 cases, as he made no argument, much less established, that reversal of order would generate assets in excess of liabilities, entitling him to a distribution of surplus once his case was closed, the record instead showed that order concerned a claim of $893,620.55 and that claims discharged without payment amounted to over $1.4 million, such that even if order were reversed there was no possibility of a surplus, and debtor also did not argue, let alone establish, that order adversely affected the terms and conditions of his discharge); In re Sandhurst Securities, Inc., 96 B.R. 451, 19 Bankr. Ct. Dec. (CRR) 251, 20 Collier Bankr. Cas. 2d (MB) 1174 (Bankr. S.D. N.Y. 1989) (candidate for election to trusteeship in Chapter 7 case lacked standing to bring motion to resolve election; candidate was not party to bankruptcy and was not "interested" in conduct of case).

12 See Electrical Fittings Corporation v. Thomas & Betts Co., 307 U.S. 241, 242, 59 S. Ct. 860, 83 L. Ed. 1263, 41 U.S.P.Q. 556 (1939) ("[A] party may not appeal from a judgment or decree in his favor, for the purpose of obtaining findings he deems erroneous which are not necessary to support the decree."); In Re Shkolnikov, 470 F.3d 22, 24, 47 Bankr. Ct. Dec. (CRR) 100 (1st Cir. 2006) ("It is an abecedarian rule that a party cannot prosecute an appeal from a judgment in its favor."); In re Porter, 375 B.R. 822, 825, 101 Fair Empl. Prac. Cas. (BNA) 1067, Bankr. L. Rep. (CCH) P 81018 (B.A.P. 8th Cir. 2007), judgment aff'd, 539 F.3d 889, 50 Bankr. Ct. Dec. (CRR) 124, 60 Collier Bankr. Cas. 2d (MB) 580, 104 Fair Empl. Prac. Cas. (BNA) 343, Bankr. L. Rep. (CCH) P 81308 (8th Cir. 2008) ("That the bankruptcy court ruled in favor of [plaintiff] on grounds other than she desired does not allow us to review the bankruptcy court's findings on the request of the prevailing party."). But see In re Zahn, 526 F.3d 1140, 59 Collier Bankr. Cas. 2d (MB) 1110, Bankr. L. Rep. (CCH) P 81242 (8th Cir. 2008) (debtor may appeal from bankruptcy court order granting confirmation of the plan debtor proposed after bankruptcy court denied confirmation of debtor's first plan debtor preferred; BAP's reliance on First Circuit's decision in *Shkolnikov* was misplaced; court refuses to revisit long-standing Eighth Circuit precedent to the effect that denial of confirmation of a plan absent a corresponding order to dismiss is not a final order).

13 See, e.g., In re Moran, 566 F.3d 676, 51 Bankr. Ct. Dec. (CRR) 188, Bankr. L. Rep. (CCH) P 81491 (6th Cir. 2009) (co-owner of closely held company lacked appellate standing to appeal order selling property to a creditor); In re Squire, 282 Fed. Appx. 413 (6th Cir. 2008) (frustrated bidders do not have standing to object to sale of property); In Re Shkolnikov, 470 F.3d 22, 47 Bankr. Ct. Dec. (CRR) 100 (1st Cir. 2006) (potential purchasers of debtor's rights against insurers lacked standing to appeal decision denying motion to compel the sale); Krebs Chrysler-Plymouth, Inc. v. Valley Motors, Inc., 141 F.3d 490, 32 Bankr. Ct. Dec. (CRR) 544 (3d Cir. 1998) (petitioner not a "person aggrieved" because they had failed to show how its interests would be affected under the buy-sell agreement or under an auction); In re Reserve Golf Club of Pawleys Island, LLC, 428 B.R. 678, 63 Collier Bankr. Cas. 2d (MB) 1480 (Bankr. D. S.C. 2010) (disappointed bidder has no standing to object to property sale). But see Gulf States Reorganization Group, Inc. v. Nucor Corp., 466 F.3d 961, 2006-2 Trade Cas. (CCH) ¶ 75442 (11th Cir. 2006) (would-be competitor that wished to business market, by acquiring assets of bankrupt steel producer at auction conducted in its Chapter 7 case, made sufficient showing to establish its Article 3 standing; causal connection between competitor's injury in failing to acquire the debtor's assets and being denied entry into the market and alleged antitrust violations of dominant producer of particular business market, in funding the bid of entity which submitted high bid);

  

Wallach v. Kirschenbaum, 2011 WL 2470609 (E.D. N.Y. 2011) (an unsuccessful bidder may have standing to challenge a bankruptcy sale that was tainted by fraud, bad faith, collusion, or deceit).

14 See In re Schachtele, 343 B.R. 661 (B.A.P. 8th Cir. 2006) (creditor with unfiled claim at time of confirmation hearing did not have standing to object to confirmation under "best efforts" test of 11 U.S.C.A. § 1325(b)(1)).

15 In re Ray, 597 F.3d 871, 52 Bankr. Ct. Dec. (CRR) 245, Bankr. L. Rep. (CCH) P 81704 (7th Cir. 2010) (former attorney for committee of creditors lacked standing to appeal bankruptcy court order dismissing Chapter 11 cases, where attorney failed to appear or object to requested dismissal; former member of firm, who substituted as counsel for the committee, never submitted appearance on behalf of former firm, and did not advocate on former firm's behalf).

16 See In re DBSD North America, Inc., 634 F.3d 79, 65 Collier Bankr. Cas. 2d (MB) 201, Bankr. L. Rep. (CCH) P 81933 (2d Cir. 2011) (out-of-money creditors have standing to appeal confirmation orders as standing does not depend on valuation, nor on the merits of a claim; junior creditor had standing to appeal).

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