March 2026

Ch. 11 Bankruptcy Venue Reform

The Bankruptcy System Needs Venue Reform

Rampant forum and judge shopping of chapter 11 bankruptcy cases hurts creditors' and other stakeholders' interests, including local businesses, and adds millions in legal fees and other costs that decreases amounts available to pay creditors, and threatens the integrity of the courts.[1]

A loophole in federal law has allowed a large number of companies based in other states to file for bankruptcy almost anywhere they want. When these businesses file bankruptcy in their favored districts, creditors' and stakeholders' interests are often ignored, harming local business, employees, retirees, and communities. Why? Because having far away courts with no local connections to hear bankruptcy cases hinders access, increases costs, diverts economic activity away from the debtors' home states,[2] and thwarts development of bankruptcy law. Permitting debtor companies to pick their forums and judges erodes public confidence in the courts and is bad for the bankruptcy system and the country. Venue shopping also places unfair pressure on bankruptcy judges to rule in ways to encourage professionals to file future cases in their district.[3]

The Bipartisan Solution: Close the Loophole & Require Filing Chapter 11 Cases in Local Bankruptcy Courts

Local creditors and stakeholders expect companies to reorganize/liquidate companies where they are located, not in a distant court chosen by select insiders. Eliminating the state of incorporation for venue and making sure that subsidiaries follow the parent company into bankruptcy would solve the problem, as described in the following **bipartisan** bill from the last Congress: https://www.congress.gov/bill/118th-congress/house-bill/1017/text

[1]Further analysis and forum-shopped cases data (detailing hundreds of shopped cases, the billions of dollars of assets, debts, and millions of jobs and creditors impacted) available at https://clla.org/venue-reform-workroom/

[2] Local economies lose over $4.5 million per chapter 11 case filed in remote districts from lost restaurant, hotel, and professional fee revenue. Large cases often generate tens of millions in related fees and hospitality revenue.

[3]"When you have bankruptcy judges, according to academics, tilting their rulings to give more money to big law firms and to give sweetheart deals to the corporate [debtors]…in order to induce these filings for whatever reason…, if we're serious about forum shopping, we're serious about forum selling, we should focus our energies and our attentions where the problem is greatest." (*Advisory Opinions*: Live From The Dispatch Summit: Judge James Ho, 5th Cir. Court of Appeals, Nov 14, 2024)

RELATED CASES

Sysorex Government Services

The Debtor filed in Manhattan even though the company was incorporated in Virginia where it had its principal place of business. The Debtor's connection to venue was a retainer paid to its New York lawyers. The court rejected the U.S. Trustee's position that venue was improper.

Sorrento

Venue shopped case where the debtor was a dormant company with no connections to the bankruptcy court's judicial district except for a last-minute bank deposit.

iRobot Corporation

This maker of the Roomba robotic vacuum cleaner "operates and maintains" its headquarters in Massachusetts. It re-incorporated in Delaware some years after its founding and filed chapter 11 in Delaware at the end of 2025. Despite its lack of other contacts with Delaware, the filing appears to fit within the loose bankruptcy venue rules.

SUPPORT

- 163 current or former judges
- 43 current or former bipartisan state Attorneys General
- 22 law professors
- Along with various state and local attorney bar associations, industry and trade groups.

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This is a joint project of the Commercial Law League of America and the National Bankruptcy Venue Reform Committee, along with hundreds of bankruptcy judges, Attorneys General, law professors, bankruptcy practitioners and other interested parties located throughout the country.

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AVOIDING IMPUTING NONDISCHARGEBALITY TO INNOCENT CO-DEBTORS IN BANKRUPTCY

In *Bartenwerfer v. Buckley*, 598 U.S. 69 (2023), the United States Supreme Court reaffirmed that scienter for fraud may be imputed from the actual wrongdoer to an innocent/non-acting partner or agent debtor. This ruling went on to establish not only joint liability on the underlying debt but also joint nondischargeability under Section 523(a)(2)(A). While consistent with historical partnership liability principles, the decision creates broader exposure for individuals who neither participated in nor knew of fraudulent conduct.

The concurring opinion in *Bartenwerfer* correctly raised concerns regarding expansion of nondischargeability through evolving liability theories. Post-Bartenwerfer case law shows early signs of expansion. In In re *Hann (Kahkeshani v. Hann)*, 2023 WL 6803541 (5th Cir. October 16 2023) the court extended imputation concepts to an alter ego relationship despite the absence of a traditional agency or partnership relationship. Conversely, in *In re Del Rosario*, 668 B.R. 618 (9th Cir 2025) the court declined to expand imputation to Section 523(a)(6), emphasizing statutory language limiting nondischargeability to acts committed "by the debtor," reflecting Congressional intent to require direct debtor misconduct for nondischargeability. We also believe that the situation is ripe for expansion of nondischargeability with respect to larceny and embezzlement situations. See, *Corwin v. Countrywide Home Loans*, 864 F.3d 344 (5th Cir. 2017) and therefore an amendment should also cover Section 523(a)(4).

Scholarly commentary highlights risks in domestic and marital contexts. Recent law review analysis discussing coerced debt scenarios notes that innocent spouses may face nondischargeable debt exposure despite lacking meaningful participation in fraudulent conduct, raising fairness and equity concerns, particularly in community property jurisdictions.[1]

Without statutory clarification, courts may continue expanding nondischargeability through imputation doctrines, subjecting non-acting debtors to financial liability based solely oassociation with wrongdoers. This conflicts with the bankruptcy principle of providing honest but unfortunate debtors a fresh start.[2]

PROPOSED LEGISLATIVE SOLUTION: The following revisions to Sections 523(a)(2)(A) & (a)(4):

§ 523. Exceptions to discharge

(a) A discharge under section 727, 1141, 1192, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt—

(2) for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by—

(A) the debtor's false pretenses, ~~a~~ false representations, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition.

...

(4) for:

(A) fraud or defalcation by the debtor while acting in a fiduciary capacity,

(B) embezzlement~~,~~ by the debtor; or

(C) larceny by the debtor.

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[1] Littwin, Adams & Kennedy. *Bartenwerfer V. Buckley and Coerced Debt*. 99 Amer. Bank. Law Jour. 3 (Issue 1, 2025)

[2] chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://nbconf.org/wp-content/uploads/2026/02/NBC-Letter-January-2026-re-Bartenwerfer.pdf (Letter by the National Bankruptcy Conference, dated January 28, 2026, arguing for the same amendment to Sections 523 (a)(2) and (a)(4) in order to reverse the result of Bartenwerfer).

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