ALM Law Journal Newsletters
The Bankruptcy Strategist Newsletter

Delaware Bankruptcy Court Crafts Test Concerning Post-Confirmation 'Related-To' Jurisdiction

By Daniel A. Lowenthal
November 1, 2026

The filing of a Chapter 11 bankruptcy case creates an estate consisting of the debtor's legal and equitable property. The estate will continue until the debtor's confirmed plan of reorganization or liquidation goes effective. It will then terminate, and the property will either revest in the reorganized debtor or be transferred to another entity such as a post-confirmation liquidation trust.

Now and then, bankruptcy judges face this issue: after plan confirmation, when can a liquidation trustee assert state law claims in a lawsuit filed in the bankruptcy court?

In terms of a bankruptcy court's subject matter jurisdiction, the question is this: when can a bankruptcy court have post-confirmation related-to jurisdiction over such claims under 28 U.S.C. section 1334? (Related-to jurisdiction is part of a bankruptcy court's non-core jurisdiction. When a court has jurisdiction over non-core claims, it can issue proposed findings of fact and conclusions of law to the federal district court, which can issue a final judgment.)

A bankruptcy judge recently "wrest[ed] for several months over the puzzle of post-confirmation related-to jurisdiction under 28 U.S.C. §1334(b)." *In re Simply Interior Homes*, No. 26-10922 (CTG), 2026 Bankr. LEXIS 2385 (Bankr. D. Del. Sept. 22, 2026). The debtors had a home textile and decor business that was created in 2025 when it was spun off, or "carved out" of, another company. The debtors had cash-flow issues from the outset. In June 2026, they filed Chapter 11 in Delaware. In that proceeding, they sold assets and confirmed a plan that set up a liquidation trust.

The debtor's plan enabled the liquidation trustee to bring lawsuits related to the carve-out transaction. The plan stated that those state law claims would remain property of the bankruptcy estate and give the liquidation trustee authority to litigate those claims on behalf of the estate. The question before the bankruptcy court was whether it had subject matter jurisdiction over those claims.
The court noted that the Third Circuit had addressed this question in *In re Resorts Int'l*, 372 F.3d 154 (3d Cir. 2004). In that case, a post-confirmation liquidation trustee had sued the debtor's accounting firm for malpractice in the bankruptcy court.

The Third Circuit observed that "[a]fter confirmation of a reorganization plan, retention of jurisdiction [by a bankruptcy court] can be problematic." 372 F.3d at 164-65. The appellate court added that "where there is a close nexus to the bankruptcy plan or proceeding, as when a matter

affects the interpretation, implementation, consummation, execution, or administration of a confirmed plan or incorporated litigation trust agreement, retention post-confirmation bankruptcy court jurisdiction is normally appropriate." *Id.* at 168-69.

But the Third Circuit ruled that the bankruptcy court lacked jurisdiction over the malpractice claims. This was because those claims did not have a "close nexus to the bankruptcy plan or proceeding and affect[] only matters collateral to the bankruptcy process." *Id.* at 169. Accordingly, those claims could not "find a home in the Bankruptcy Court." *Id.* at 170.

In *Simply Interior Homes,* the bankruptcy court said the Third Circuit's "close nexus" test could be hard to apply. "The Resorts opinion itself does not quite come out and say what counts as a 'close nexus.'" 2026 Bankr. LEXIS 2385, at *8.

The court noted that it had surveyed how other courts have approached the issue and concluded that the answer was "unfortunately . . . rather messy." *Id.* at *10. In some cases, the nexus was obvious. A lawsuit might be a debtor's most valuable asset, and recoveries would "fund creditor recoveries." *Id*. At the other extreme would be a case to recover "an ordinary receivable." There would be no justification for a court to exercise post-confirmation jurisdiction over such a claim.

The court also observed that any court's analysis and conclusion about subject matter jurisdiction should not be messy and complicated. The bankruptcy court referred to the Supreme Court's statement that "administrative simplicity is a major virtue in a jurisdictional statute." *Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010).

To craft a meaningful test in light of the Third Circuit's "close nexus" standard, the bankruptcy court in *Simply Interior Homes* started with the language of Bankruptcy Code section 1141(b): "except as otherwise stated in the plan or the order confirming the plan, the confirmation of a plan vests all property of the estate in the debtor."

This language, the court observed, showed an intent by Congress to allow "a specified cause of action to remain estate property after the effective date." In "limited circumstances," the court added, "a plan may depart from §1141(b)'s ordinary revesting rule . . . ." 2026 Bankr. LEXIS 2385, at *4.

The court's test is intended to help determine when a bankruptcy court can maintain post-confirmation related-to jurisdiction:

"[T[he court will consider whether the [plan] proponent has established, on notice and an adequate evidentiary record, that (1) the causes of action are identified with sufficient specificity; (2) the causes of action bear a material connection to the debtor's financial distress, plan consummation, or anticipated recoveries; (3) retaining the causes of action as estate property is necessary to the plan's implementation, rather than serving merely as a means of selecting a litigation forum; and (4) the plan or confirmation order limits the exception to the identified claims." *Id.* at *4-5.

With direction from the court, the debtors submitted a confirmation order that satisfied the test. This approach enabled the parties to know at confirmation that the court would exercise post-confirmation related-to jurisdiction over the claims concerning the "carved out" transaction.

And although proceeding this way is not "required by the Bankruptcy Code," the court concluded that it "is an appropriate and helpful practice." *Id.* at *17. It is a practice that "does not change the substance of the analysis. Rather it accelerates the decision to the time at which the plan is confirmed. Resolving the issue at confirmation is intended to create greater clarity for the parties, thus permitting them to devote more resources to litigating the merits of those claims and fewer resources to litigating the forum in which they should proceed." *Id.* at *19 (Bankruptcy Code section 1123(b)(3)(B) enables a post-confirmation liquidation trustee to serve as the "representative of the estate" to bring litigation claims.).

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