

Insights



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3rd Circ.'s New Damages Formula for Entireties Fraud Cases

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In a Feb. 20, 2019, opinion in *In re Titus*,^[1] the U.S. Court of Appeals for the Third Circuit, in an opinion authored by Judge Thomas Ambro, announced a new test for calculating damages in fraudulent transfer actions involving tenancy by the entireties transfers.

Facts

This case involved Paul Titus, a partner in a law firm, who was saddled with millions of dollars of liability for his guarantee of the dissolved firm's lease. While working at a new firm, he became subject to a multimillion-dollar judgment in favor of the landlord.

To avoid having income from his new firm garnished, he directed the firm to deposit his income directly into an entireties account in his name and his wife's. Because his wife was not liable on the judgment, the landlord could not attach the joint bank account.

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The judgment later forced the partner into bankruptcy. During the bankruptcy, the trustee sued the debtor and his wife to recover fraudulent transfers under the Pennsylvania Uniform Fraudulent Transfer Act.

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