**Title:** Paying the Piper (Part 1 of 2)

**Subtitle:**

**Meta Description:** Paying the Piper

**Date:** 11-3-2011

**Author:** Joel R. Glucksman

**Formatted Content:**

**Raw Content:** <div dir="ltr" style="text-align: left;">
<div class="separator" style="clear: right; float: right; margin-bottom: 1em; margin-left: 1em; text-align: center;"><img alt="" src="http://3.bp.blogspot.com/-W1X1vqEiug8/TvH5RGQSpaI/AAAAAAAAAKE/p2iHXRogApQ/s320/3325190264\_d8eff11f8f.jpg" width="320" height="213" border="0" /></div>
<div style="text-align: left;"><span class="Apple-style-span" style="font-family: Georgia, 'Times New Roman', serif; font-size: large;">The Hot Topic of Severance Pay in Bankruptcy </span></div>
<span class="Apple-style-span" style="font-family: Georgia, 'Times New Roman', serif;">The status of severance pay in bankruptcy is a hot topic – especially when it comes to deciding whether claims severance pay are distributed ahead of payments for general unsecured claims. This posting, and a subsequent one this week, will discuss a recent federal appellate ruling – the first of its kind – that may give terminated employees at least some rights in bankruptcy.</span>
<div><span class="Apple-style-span" style="font-family: Georgia, 'Times New Roman', serif;"> </span></div>
<div><span class="Apple-style-span" style="font-family: Georgia, 'Times New Roman', serif;">First – some background: When it comes to honoring creditor claims in bankruptcy, there is a structure and an order to what happens. At the top of the heap are creditors holding secured claims. When a bankrupt’s assets are distributed, secured creditors generally will get their collateral – or its value – turned over to them before anyone else gets paid. At the bottom of the heap are the owners of the debtor – shareholders, partnership interest holders, and the like. They don’t get a penny unless and until everyone else gets paid in full. In the middle are unsecured creditors -- usually trade creditors and others who supplied goods and services to the debtor before the bankruptcy. They get paid before the owners but after the secured creditors.</span>
<div><span class="Apple-style-span" style="font-family: Georgia, 'Times New Roman', serif;"> </span></div>
<div><span class="Apple-style-span" style="font-family: Georgia, 'Times New Roman', serif;">Also in the middle – and important for our purposes -- are certain priority creditors. These are accorded priority by the Bankruptcy Code. They include vendors selling to the debtor after the date that the bankruptcy begins, certain tax claims, and others to whom Congress has ordained that they receive priority in the distribution of debtor assets. The importance to this priority is that they get paid after secured creditors but before unsecured creditors and owners. Priority creditors thus stand a better chance than unsecured creditors of getting at least something back on their claims.</span></div>
<div><span class="Apple-style-span" style="font-family: Georgia, 'Times New Roman', serif;"> </span></div>
<div><span class="Apple-style-span" style="font-family: Georgia, 'Times New Roman', serif;">One such class of priority creditors are individuals who are owed wages, salaries, commissions, vacation pay, sick leave, and related claims – as well as severance pay, for the time before the debtor filed its bankruptcy.</span></div>
<div><span class="Apple-style-span" style="font-family: Georgia, 'Times New Roman', serif;"> </span></div>
<div><span class="Apple-style-span" style="font-family: Georgia, 'Times New Roman', serif;">In my next post, I’ll discuss their treatment in bankruptcy and how a recent appellate level case has perhaps changed their status.</span></div>
</div>
</div>