

Practice Update

Landmark Delaware Court Decision Extends Stay to U.S. Cannabis Subsidiaries

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In March 2026, a Delaware bankruptcy court temporarily extended stay protection to the U.S. subsidiaries of The Cannabist Company Holdings Inc., a Canadian operator currently undergoing restructuring under Canada’s Companies’ Creditors Arrangement Act (CCAA). Cannabist, along with its U.S. subsidiaries, is involved in the direct cultivation, manufacturing, and retail of cannabis products.

The Canadian parent company initiated insolvency proceedings under the CCAA and then sought Chapter 15 relief in the U.S. Bankruptcy Court for the District of Delaware. The main parties in this case include Cannabist as the foreign debtor, its U.S. affiliates (which are not debtors in these proceedings), and the U.S. trustee. The U.S. trustee objected to the requested stay, arguing that the Bankruptcy Code does not permit such relief for non-debtors, and raised concerns about the adequacy of notice.

The Delaware court responded to Cannabist’s request by issuing a provisional stay order, effectively halting actions against its U.S. affiliates while asset sales and wind-down efforts continue. The court relied on precedent to extend protections similar to those available in the Canadian CCAA case, highlighting the importance of harmonizing cross-

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border insolvency regimes and recognizing the unique challenges presented by cannabis-related operations.

Historically, U.S. companies directly involved with marijuana — so-called “plant-touching” businesses — have been excluded from federal bankruptcy protection because cannabis remains a Schedule I controlled substance. Courts have generally dismissed bankruptcy cases filed by these businesses, citing the federal prohibition and the difficulty of administering assets tied to illegal activities. This decision by the Delaware court marks a significant shift: it is the first time that stay protection has been extended to U.S. subsidiaries in connection with a Canadian restructuring that involves plant-touching cannabis operations. The case underscores the unique cross-border context and represents a notable departure from previous practice.

In granting provisional relief, the Delaware bankruptcy court acknowledged that Cannabist’s U.S. subsidiaries are engaged in federally prohibited cannabis activities but nevertheless extended stay protection under Chapter 15 principles of comity and value preservation pending the Canadian CCAA restructuring.

Cannabist commenced CCAA proceedings and promptly sought Chapter 15 relief to stay actions against its non-debtor U.S. affiliates while asset sales and wind downs proceeded. Over the U.S. trustee’s objections concerning non-debtor stays and notice, the court relied on precedent permitting provisional relief aligned with protections available in foreign proceedings. At this stage, the court concluded that federal illegality alone did not bar relief, leaving open whether full recognition would be denied as manifestly contrary to U.S. public policy—a question that Chapter 15, unlike traditional bankruptcy cases involving cannabis operators, squarely presents.

Key Issues to Monitor

- Whether the Canadian proceeding will be formally recognized under Chapter 15
- How the court will address arguments related to U.S. federal cannabis laws and public policy
- Whether provisional stay protection will be extended or narrowed as the case progresses
- The impact of asset sales on creditor pressure and court oversight

Our Cannabis Practice will continue to track the development of this case and its impact on the wider industry, and our team remains available to assist both plant-touching and ancillary service providers in their endeavors.

Disclaimer:

Possessing, using, distributing, and/or selling marijuana or marijuana-based products is illegal under federal law, regardless of any state law that may decriminalize such activity under certain circumstances. Although federal enforcement policy may at times defer to states' laws and not enforce conflicting federal laws, interested businesses and individuals should be aware that compliance with state law in no way assures compliance with federal law, and there is a risk that conflicting federal laws may be enforced in the future. No legal advice we give is intended to provide any guidance or assistance in violating federal law.

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