

## Dana Maneuvering Around New Bankruptcy Law

*Friday, March 17, 2006* --- Beleaguered auto parts manufacturer Dana Corp. has sought a court order that would prevent members of its creditors committee from sharing private information with creditors they represent—a move seen as an attempt to navigate around a new stipulation of the Bankruptcy Code.

Dana's efforts are in response to a new provision in the Bankruptcy Abuse Prevention & Consumer Protection Act, which states that creditor committees are to give creditors they represent "access to information."

The Toledo, Ohio-based company filed court documents on Wednesday arguing that it was unclear whether the new law could require a creditors committee to share confidential data with any creditor in its constituency, as part of its information-sharing duties.

According to court papers, the company maintains that if it were forced to share private information with every creditor involved in its bankruptcy proceedings, it would, among other things, eventually discourage Dana from sharing materials with the official committee.

"This is a problem for Dana," said Ken Yager, a managing consultant with Morris-Anderson. "It's not a good-faith negotiation process."

Yager noted that attempts by creditors committees to access confidential information undermined the disclosure process between bankrupt companies and the creditors committees.

The committees, Yager explained, are set up because they're a small, select group of members that struggling companies can negotiate with and not necessarily have to worry about sensitive information being broadcast to outside parties—such as potential competitors and rivals.

Yager said that forcing companies to share their confidential information with every creditor involved was "pretty blatantly dangerous."

Dana contends that business rivals could gain access to data made public as a result of information disclosures, adversely affecting whatever competitive edge the company still retains.

The company also said that the information dispute would hamper the creditors committee in its attempts to recoup losses on behalf of its creditors, preventing it from fulfilling its obligations under the Bankruptcy Code.

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Attorneys representing the creditors committee were unavailable for immediate comment.

Several other companies that have plunged into bankruptcy, including Refco Inc., Amcast Industrial Corp. and G+G Retail Inc., have looked to the bankruptcy court for direction on how to proceed regarding information-sharing issues.

In every case the court has agreed with these companies, saying that they should not be compelled to share confidential information.

Over the past year, U.S. auto suppliers have been struggling with the burden of high labor costs, tumbling production at domestic auto makers and high raw materials prices.

Bankruptcy began hitting the auto sector hard in 2005, when number-one U.S. parts maker Delphi Corp. filed for Chapter 11 protection from creditors in October.

In 2005 alone, Delphi, Universal Automotive Industries, Collins & Aikman and Tower Automotive all filed for Chapter 11, dominating the list of last year's biggest bankruptcy filings.

The case is Dana Corp., bankruptcy petition number 06-10354-brl, in the U.S. Bankruptcy Court for the Southern District of New York.

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