

## Del. Bankruptcy Court Discusses Whether It Can Amend Bankruptcy Petition to 'De-Designate' a Subchapter V Case

Mark Felger and Simon Fraser discuss whether a bankruptcy court has the authority to “de-designate” a subchapter V case to a regular Chapter 11 case in the *Delaware Business Court Insider*. In the article, Mark and Simon analyze *In re ComedyMX*, a subchapter V case in which the debtor was deemed unfit to serve as a fiduciary to the bankruptcy estate, and a creditor moved to “de-designate” the case and then appoint a chapter 11 trustee.

“One difference between subchapter V and the “ordinary” Chapter 11 process is that Section 1104 does not apply to a debtor under subchapter V, meaning that the bankruptcy court does not have the ability to appoint a Chapter 11 trustee,” they explain.

After analyzing the issue, the Delaware bankruptcy court ultimately declined to rule on whether it has the authority to “de-designate” a subchapter V case in order to then appoint a chapter 11 trustee. However, the court noted that if it did have such authority, this remedy should only be used as a last resort.

To read the full article, [click here](#).

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