UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

Harbinger Motors, Inc. v. Jeoffrey L. Burtch, as Chapter 7 Trustee for the Bankruptcy Estate of Canoo, Inc., et al.

Harbinger Motors · No. C.A. No. 25-461 (MN) · Decided March 17, 2026

SUMMARY

The United States District Court for the District of Delaware affirmed the Bankruptcy Court’s order approving the sale of Canoo, Inc.’s assets under an asset purchase agreement. The court held that 11 U.S.C. § 363(m) did not bar review because effective relief could potentially be fashioned without invalidating the sale. It further held that the Chapter 7 trustee properly negotiated and obtained approval of an agreement requiring mutual consent to settle litigation involving Harbinger Motors, Inc.

CASE DETAILS

COURT	United States District Court for the District of Delaware
JURISDICTION	United States District Court for the District of Delaware
DECIDED	March 17, 2026
DOCKET	C.A. No. 25-461 (MN)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Harbinger appealed the Bankruptcy Court's order approving a Chapter 7 trustee's asset purchase agreement that included a mutual-consent provision requiring the trustee and buyer to consent to any settlement of litigation involving Harbinger.
STANDARD OF REVIEW	De novo review applied to the legal question whether the Bankruptcy Court erred in approving the sale subject to the challenged APA provision. The underlying approval of a sale outside the ordinary course is governed by the business-judgment test, requiring a sound business purpose.
PRECEDENTIAL VALUE	Unknown
PARTIES	Harbinger Motors, Inc. v. Jeoffrey L. Burtch, as Chapter 7 Trustee for the Bankruptcy Estate of Canoo, Inc., et al.

TOPICS

bankruptcy chapter 7 appellate procedure standard of review trade secrets

PRACTICE AREAS

bankruptcy bankruptcy asset sales appellate procedure commercial litigation trade secrets

QUESTIONS PRESENTED

1. Whether 11 U.S.C. § 363(m) barred appellate review because the sale was not stayed and the buyer was deemed a good-faith purchaser.
2. Whether the Bankruptcy Court properly approved an asset purchase agreement requiring the Chapter 7 trustee and buyer to mutually consent to any settlement of estate-owned litigation.
3. Whether the mutual-consent provision impermissibly delegated the trustee's fiduciary duty to monetize estate assets and settle litigation in the best interests of the estate and its creditors.

HOLDINGS

1. Section 363(m) did not bar review because it was at least feasible to fashion relief concerning the challenged settlement-consent provision without affecting the validity of the completed sale.
2. The Bankruptcy Court properly approved the asset purchase agreement, including the provision requiring mutual consent to settlement of the Harbinger Matter.

KEY QUOTATIONS

> *"Stated another way, so long as we can 'grant effective relief,' § 363(m) doesn't bar appellate review."* (Section III.A)

> *"The Trustee has reduced the unknown value of these litigation rights to a known sum, and, in approving the APA, the Bankruptcy Court has determined that the Trustee demonstrated a sound business justification for doing so based on that known sum, separate and apart from any additional monetary recovery that may (or may not) be obtained."* (Section III.B)

FACTUAL BACKGROUND

Canoo Technologies, a Chapter 7 debtor, had pending trade-secret litigation against Harbinger seeking monetary and injunctive relief. The trustee negotiated a sale of the debtors' business and litigation rights to WHS Energy Solutions for more than $17 million, while retaining for the estates the balance of monetary recoveries and granting the buyer 10% of net recovery. The asset purchase agreement also required the trustee and buyer to mutually consent to any settlement, and Harbinger challenged that provision as an impermissible delegation of the trustee's fiduciary settlement authority.

PROCEDURAL HISTORY

Canoo and its affiliates filed Chapter 7 petitions on January 17, 2025. The Bankruptcy Court approved the trustee's sale of estate assets to WHS Energy Solutions, Inc. under an asset purchase agreement, including the sale of the estate's litigation rights against Harbinger and a provision requiring mutual consent to settlement.

Harbinger objected to the consent provision but not to the sale of its 10% interest in net recovery, and the Bankruptcy Court overruled the objection. Harbinger timely appealed without obtaining a stay, and the District Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Culp, 550 B.R. 683, 691 (D. Del. 2015)
- City of Rockford v. Mallinckrodt PLC (In re Mallinckrodt PLC), 2022 WL 906458, at *6 (D. Del. Mar. 28, 2022)
- In re Energy Future Holdings Corp., 949 F.3d 806, 821 (3d Cir. 2020)
- Krebs Chrysler-Plymouth, Inc. v. Valley Motors, Inc., 141 F.3d 490, 498-99 (3d Cir. 1998)
- In re ICL Holding Co., 802 F.3d 547, 554 (3d Cir. 2015)
- Cinicola v. Scharffenberger, 248 F.3d 110, 128 (3d Cir. 2001)
- Pittsburgh Food & Beverage, Inc. v. Ranallo, 112 F.3d 645, 651 (3d Cir. 1997)
- In re Edison Mission Energy, 610 B.R. 871, 878 (Bankr. N.D. Ill. 2020)
- United States v. Michigan, 940 F.2d 143, 165 (6th Cir. 1991)
- In re Thompson, 965 F.2d 1136, 1145 (1st Cir. 1992)
- In re Culp, 545 B.R. 827, 844 (D. Del. 2016)
- Computer Sales Int’l, Inc. v. Federal Mogul (In re Federal Mogul Global, Inc.), 293 B.R. 124, 126 (D. Del. 2003)