

Avoiding Subordination of Secured Debt After TPC Decision

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Following a July 6 memorandum opinion from the U.S. Bankruptcy Court for the District of Delaware, lenders and noteholders risk subordination of their liens absent explicit language prohibiting such subordination in their respective debt documents.

U.S. Bankruptcy Judge Craig T. Goldblatt's decision in *In re: TPC Group Inc.* upheld a prepetition uptier transaction challenged by two leapfrogged minority noteholders in the context of TPC Group's proposed debtor-in-possession financing.

The bankruptcy court's decision highlights the importance of fortifying debt documents by explicitly delineating tiers of consent rights related to lien subordination.

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