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Gregory Ewing and McKay Holley Examine AI Company Bankruptcies in Journal of Bankruptcy Law

Spencer Fane attorneys Greg Ewing and McKay Holley authored the article The New Distressed Asset: Navigating the Unique Complexities of AI Company Bankruptcies, recently published by the *Journal of Bankruptcy Law*.

In the article, originally a firm blog post, the team discusses the emerging legal challenges surrounding AI company bankruptcies as distressed assets increasingly include valuable data repositories, trained AI models, and complex intellectual property rights. They explore key issues involving privacy obligations, data sales in bankruptcy proceedings, copyright risks, licensing restrictions, and the challenges buyers and investors may face when acquiring AI-related assets. The team also provides strategic considerations for companies, investors, and distressed asset buyers to address these risks through proactive data governance, due diligence, and transaction planning.

"The opportunity in distressed AI assets is real; so is the risk. Buyers who understand the layered legal complexity – and who conduct genuinely rigorous diligence rather than relying on the protection of a sale order they assume to be broader than it is – will be the ones who can transact efficiently and confidently," the team wrote. "Those who do not will discover that the Bankruptcy Code, for all its power, was not written with large language models in mind."

At the firm, Greg represents clients in complex and high-profile cybersecurity, privacy, blockchain, artificial intelligence, and other technology-related litigation and arbitration matters with a focus on resolving disputes as early as possible through a mix of practical legal acumen and technical fluency. A diligent counselor, he also guides strategic business operations and best practices, developing sophisticated

cybersecurity policies, privacy compliance programs, licensing frameworks, and technology contracts.

McKay is a dedicated business attorney representing creditors, receivers, trustees, and other clients in bankruptcy, restructuring, and non-bankruptcy insolvency matters. He has a strong background in commercial litigation, adeptly handling legal matters related to business transactions, contracts, and commercial disputes.

Read the team's full article here.