

A New Playing Field For Distressed Municipalities

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Special counsel [Benjamin Feder](#) authored the *Law360* article "A New Playing Field For Distressed Municipalities." The article discusses the impact of a ruling in the Chapter 9 bankruptcy case of Stockton, California. An important question has been whether state laws protecting public employee pension obligations are protected under the 10th Amendment, or are preempted and superseded by Congress' Article I, Section 8 authority to establish uniform laws regarding bankruptcy.

The Stockton case involved a plan set up by the city of Stockton and the California public employee pension system (Calpers'), which sought to pay the pension obligations owed to Calpers in full while paying virtually nothing to Franklin Investments, a major bondholder. Calpers argued that the disparity in treatment between Calpers' claim and the claim of Franklin Investments is permissible, because the preference under California law for public employee pension obligations is protected under the 10th Amendment. Franklin objected, contending that California law regarding public employee pension obligations is preempted by the supremacy clause of the Constitution, and subject to Congress' bankruptcy power. In Judge Christopher Klein's two-part ruling he agreed with Franklin that the supremacy clause overrides state law, but also approved the Stockton plan, holding that sufficient differences exist between the nature of public pension obligations and the debt evidenced by the city's bonds to justify the disparate treatment. Notwithstanding the approval of the Stockton plan, Ben believes that the first part of Judge Klein's ruling, together with a similar ruling early in the City of Detroit's bankruptcy case, will provide significant leverage to parties in other distressed municipalities that wish to impair pension obligations.