

It's Time to Bury Clear Channel (And Certainly Not to Praise It)

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The article examined the decision in a recent highly publicized bankruptcy sale case: *Clear Channel Outdoor Inc. v. Knupfer (In re PW LLC)*. In *Clear Channel*, the Ninth Circuit Bankruptcy Appellate Panel failed to protect a good-faith purchaser of assets under Section 363 of the Bankruptcy Code. The article explores how the decision in *Clear Channel* would diminish the “efficacy of one of the key remaining devices for realizing value from distressed enterprises.” It contends that the *Clear Channel* case was wrongly decided, and predicts that it is well on its way to joining two other infamous exemplars of inexplicable commercial law decision making - *Twist Cap v. Southeast Bank*, and *Octagon Gas Sys. v. Rimmer*. In *Twist Cap*, a bankruptcy court restrained a third-party draw on a letter of credit; in *Octagon Gas*, an appeals court ruled that accounts sold by a debtor prior to its bankruptcy were still property of the debtor’s bankruptcy estate. The article argues that the rulings in all three cases “ran counter to nearly universally understood law and practice”.