

Law360 Quotes Special Counsel Benjamin D. Feder on GM Bankruptcy 'Shield'

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Special counsel [Benjamin D. Feder](#) was quoted in the *Law360* article "GM 'Shield' Poses Moral Quandary To 2nd Circ." According to the article, the Second Circuit will soon address whether the bankruptcy sale that propelled General Motors Co. out of Chapter 11 shields the automaker from as much as \$10 billion in ignition-switch defect liability, raising moral questions over whether bankruptcy protections that give debtors a fresh start should trump plaintiffs' rights. An appeal was filed after Judge Robert Gerber's April ruling that the 2009 sale of GM's assets to a new entity, General Motors LLC, protects that new entity from successor liability, including ignition-switch defect claims. The outcome of the Second Circuit appeal could have broad implications on how and to what extent debtors are required to notify potential creditors of an asset sale under Section 363.

Aside from the Second Circuit appeal, other issues bankruptcy court must address include to what extent the 140 class actions estimated at between \$8-\$10 billion and \$10 billion are tied to the old GM entity or the new GM entity, said Benjamin Feder, special counsel at Kelley Drye & Warren LLP. Kelley Drye represents major creditors of the old GM entity but is not involved in issues related to the appeal.

"The battle is just beginning as to determining what constitutes wholly independent claims against new GM as opposed to ignition switch claims arising under old GM," Feder said.

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