

**BANKRUPTCY**

By: Keith Langley



When a bankruptcy is involved carefully read what is sent, even if required, magic approach procedural notice is not provided. While specific notice was not provided, due process rights were not violated where actual notice (by carefully reading) was provided of a third party release. *Jackson v. Le Ctr. on Fourth, LLC* 2021 U.S. App. LEXIS 33845 (11th Cir. 2021).

The two main points addressed here were the notice issue and the indemnity provision. Actual notice was found satisfying due process requirements even though Bankruptcy Rule 2002 (c)(3) states that an injunction against conduct not otherwise enjoined under the Bankruptcy Code must be made conspicuously, briefly describing the nature of the injunction and the identity of the entities that would be subject to the injunction.

The debtor Le Centre was required to indemnify parties for all losses related to claims arising from its management of the Embassy Hotel. Here the personal injury claim lawsuit by the third party would trigger the indemnity provision requiring Le Centre to indemnify the lessee of the hotel and the owners of Le Centre.



Texas • Florida  
Oklahoma • Arkansas

**Texas (Dallas Area)**

8813 N. Tarrant Parkway  
Suite 224  
North Richland Hills, TX 76182  
(214) 722-7160

**Florida (Miami Area)**

P.O. Box 654303  
Miami, Florida 33265

info@l-llp.com

www.langley.law

To "Go Green", our firm uses recy-  
clable paper or ceramic cups and  
no longer uses Styrofoam cups. In  
addition, we have adopted a  
less-paper office environment.

We hope that these changes make  
big differences in the future.

*Well done is better than well said.*

- Benjamin Franklin



State of \_\_\_\_\_

**GENERAL RELEASE**

---

This General Release ("Release") is made on \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ between:

Releasor: \_\_\_\_\_ of \_\_\_\_\_ (Address)  
("Releasor") and

Releasee: \_\_\_\_\_ of \_\_\_\_\_ (Address)  
("Releasee").

1. Releasor and anyone claiming on Releasor's behalf releases and forever discharges Releasee and its affiliates, successors, officers, employees, representatives, partners, agents and anyone claiming through them (collectively, the "Released Parties") in their individual and/or corporate capacities from any and all claims, liabilities, obligations, promises, agreements, charges, demands, damages, causes of action of any nature and kind, known or unknown, which Releasee has or ever had or may in the future have against Releasee or any of the Released Parties arising out of or relating to \_\_\_\_\_ ("Claims").
2. In exchange for the release of Claims, Releasee will provide Releasor a payment: (Check one)
  - In the amount of \$ \_\_\_\_\_
  - Of \_\_\_\_\_ (Item description).

In consideration of each payment, Releasee agrees to accept the payment as full and complete settlement and satisfaction of any present and prospective claims.
3. This Release shall not be in any way construed as an admission by the Releasee that it has acted wrongfully with respect to Releasor or any other person, that it admits liability or responsibility of any time for any purpose, or that Releasee has any rights whatsoever against the Releasee.
4. This Release shall be binding upon the parties and their respective heirs, administrators, personal representatives, executors, successors and assigns. Releasee has the authority to release the Claims and has not assigned or transferred any Claims to any other party. The provisions of this Release are severable. If any provision is held to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision. This Release constitutes the entire agreement between the parties and supersedes any and all prior oral or written agreements or understandings between the parties concerning the subject matter of the Release. This Release may not be altered, amended or modified, except by a written document signed by both parties. The terms of this Release shall be governed by and construed in accordance with the laws of the State of \_\_\_\_\_.
5. Both parties represent they fully understand their right to review all aspects of this Release with attorneys of their choice, that they have had the opportunity to consult with attorneys of their choice, that they have carefully read and fully understand all the provisions of this Release and that they are freely, knowingly and voluntarily entering into this Release.

While the plaintiffs sought to proceed in name only against the defendants relief was denied by the 11th Circuit Court which found that the indemnity provision could economically disadvantage the debtor by imposing an economic burden on the debtor.

The take away, be attentive regarding what you receive. Consider the issues and rights that may be implicated. Let's be careful out there!

Keith A. Langley is a Partner at Langley LLP and may be contacted at klangley@l-llp.com or mobile (214) 207-5324.

This publication is for information purposes only and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without consulting a lawyer.