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BANKRUPTCY

Companies From Afar Tap Houston Bankruptcy Court Despite Minimal Local Ties

For overseas debtors looking to file for bankruptcy in the U.S., ‘basically a dollar is enough’ to show a business presence

By Alicia McElhaney

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A Northvolt factory in Skelleftea, Sweden. PHOTO: MARIE MANNES/REUTERS

Companies are tapping Houston’s bankruptcy court by setting up minimal business ties, such as a co-working address or hastily formed entities, to capitalize on debtor-friendly laws.

In November, two Swedish companies—debt collector Intrum and electric-vehicle battery maker Northvolt—filed for bankruptcy in Houston, seeking to access the benefits of chapter 11. The Houston bankruptcy court in the Southern

District of Texas is particularly attractive because of the predictability of judicial assignments, with complex cases assigned to one of two judges.

Both Intrum and Northvolt filed in the Texas court after consequential rulings upholding Houston bankruptcy cases filed by companies with no operations in the state. In March, San Diego-based [Sorrento Therapeutics](#)'s chapter 11 was allowed to [remain in Houston](#), a filing based on a local bank account and a UPS mailbox set up just days earlier. And the court in September ruled New Jersey-based [Johnson & Johnson](#) could keep its [bankruptcy case in Houston](#). J&J created a Texas entity, Red River Talc, to carry most of its personal-injury claims, leading to some claimants opposing the Houston filing, calling it the "poster child for abusive forum shopping."

It takes very little for a business to establish its eligibility to file bankruptcy in the U.S., said Robert Drain, a former bankruptcy judge for the Southern District of New York who is now of counsel at Skadden, Arps, Slate, Meagher & Flom. "You can be a foreign company, not only foreign by country of incorporation but also headquartered in a foreign state with your primary assets in a foreign state," Drain said. "You just need property in the United States, and that's been defined very broadly. Basically, a dollar is enough."

Just before filing for bankruptcy in October, Stockholm-based Intrum established an office at Starhub Houston, a co-working space offering virtual addresses for as little as \$29 a month. Intrum used this address as the basis to file for chapter 11 in Houston the following month, seeking to restructure about \$4.6 billion in debt.

A group of Intrum's creditors opposed the filing, claiming that Intrum wasn't in financial distress and that it didn't operate in the U.S. Intrum [nevertheless won confirmation](#) of its bankruptcy plan in December. Creditors are appealing the decision.

"The idea of a foreign company filing in the United States is not unusual, it's not extraordinary, and frankly, it's not something to be discouraged," Milbank attorney Andrew Leblanc said during his closing arguments on behalf of Intrum.

Northvolt, meanwhile, set up a Texas entity called NV Texas LLC three days [before it filed](#) for bankruptcy in Houston in November, court papers show.

“It goes further than any other case I’ve heard of in creating venue out of nothing,” said Lynn LoPucki, a law professor at the University of California, Los Angeles.

Northvolt and Intrum declined to comment for this article.

Picking where to file for bankruptcy, or even steering cases to one or two particular judges, isn’t new. In the past, companies employed a similar approach by leasing short-term office spaces to file for chapter 11 in White Plains, N.Y., where Drain used to be the sole bankruptcy judge. New York courts have since started assigning large bankruptcy cases to judges at random, effectively ending that practice.

Houston remains one of the most favored jurisdictions for large debtors with over \$10 million in liabilities or more than 50 creditors in so-called complex cases. These cases are typically assigned to one of two judges, offering a degree of certainty about who will oversee the proceedings.

Intrum won confirmation of its bankruptcy plan last month. PHOTO: PAUL HANNA/BLOOMBERG NEWS

For years, that often meant appearing before former Chief Judge David R. Jones, until his resignation in late 2023 following revelations of an undisclosed romantic relationship with a lawyer whose former firm filed high-profile bankruptcy cases in his court.

Following [an initial drop in Houston filings after Jones's departure](#), activity has started to pick up again. In the second half of 2024, as many as 14 companies with more than \$100 million in liabilities filed in the district, accounting for roughly a quarter of bankruptcy cases filed nationwide in the second half of last year, according to data from BankruptcyData.com.

Intrum's lawyers cited the Sorrento and J&J bankruptcies as reasons to keep its case in Houston, arguing that the court said Sorrento's similar prebankruptcy planning was "certainly not new or unique in this district."

Intrum also pointed to Scandinavian Airlines' 2022 chapter 11 case in New York, despite lacking a New York address or U.S.-issued debt. SAS cited a \$50,000 account held by its New York attorney as a reason for filing in New York instead of New Jersey, where it had a subsidiary. The company has said that U.S. proceedings gave it time and flexibility to reorganize its capital structure while allowing its board to continue operating the company.

Recent changes to Sweden's restructuring laws also resulted in uncertainty about how local judges will interpret the new code. Instead of navigating untested rules at home, some companies are choosing to file in the U.S., where they believe the interpretation of the law is clearer.

"If you're counsel to the debtor, it's another tool in the toolbox," said Johan Lundberg, a transaction finance attorney at Swedish law firm Re:Fi Sthlm. "Lenders to Swedish businesses, even those with little business in the U.S., now must account for how a U.S. bankruptcy filing would affect their interests."

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