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*PEM Entities LLC v. Levin*, No. 16-492

When a small business is teetering on the brink of insolvency, the owner of the business will sometimes infuse the business with cash, characterizing the transaction as a loan to be repaid when the business rebounds. If the business ends up in bankruptcy, however, there will sometimes be a dispute as to whether the infusion was truly a loan or was instead a contribution to equity. The Supreme Court is set to decide whether a rule of federal law governs recharacterizations of debt as equity—or whether bankruptcy courts must consult state law for the rule of decision. The Court’s decision will likely impact the willingness of business owners to provide infusions to financially troubled companies.