

The Concept of *Actio Pauliana* Creditor Law Bankruptcy Boedel Dispute Process to Achieve Substantive Justice

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Abstract

Actio pauliana is a lawsuit that aims to establish the validity of the debtor's legal actions in cases where they might harm the creditor. *Actio Pauliana* is a crucial instrument in bankruptcy law for ensuring the best possible implementation of substantive justice, especially for creditors. This research aims to analyze the substantive justice aspects of *actio pauliana* in the field of bankruptcy law. This research constitutes normative legal research by prioritizing conceptual and statutory approaches. The findings of the study validate that the fundamental purpose of *actio pauliana* in bankruptcy cases is to safeguard the rights of creditors, particularly in situations where debtors may take legal action that could be detrimental to creditors. This is how substantive justice views *actio pauliana* in bankruptcy disputes. Apart from that, *Actio Pauliana* also emphasizes the restitutive aspect as per the substantive justice concept, namely being able to declare the debtor's actions to have no legal force if the action is detrimental to the debtor and reduces the number of bankruptcy debts as has been determined. In its development, the *actio pauliana* lawsuit in bankruptcy represents the fairness aspect as a manifestation of substantive justice, meaning that in the future, the *actio pauliana* lawsuit will encompass potential losses, that directly harm creditors. In addition, factual losses can be demonstrated fairly and appropriately.

Keywords: *Actio Pauliana*; Boedel Bankruptcy; Substantive Justice.

1. INTRODUCTION

Generally speaking, bankruptcy refers to a circumstance in which the debtor is unable to fulfill his commitments to creditors by paying debts.¹ Referring to Article 1 number 1 of Law 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (*Bankruptcy Law*) confirms that bankruptcy is a general confiscation relating to the debtor's assets, the management of which is carried out by a curator with supervision from a supervisory judge. It is clear from the preceding reference to Article 1 Point 1 of the Bankruptcy Law that bankruptcy is connected to the debtor's assets, which are susceptible to universal curator confiscation. In the context of bankruptcy, general asset confiscation is

¹ Ariza Umami dan Iskandar Samsul Arifin, "Perlindungan Hukum Terhadap Pihak Ketiga Akibat Adanya Pemberlakuan *Actio Pauliana* Dalam Hukum Kepailitan," *Justice Law: Jurnal Hukum* 2, no. 2 (2022): 1–9, <http://scholar.ummetro.ac.id/index.php/hukum/index>.

implemented because the debtor is unable to satisfy his debts to creditors.² One of the rights related to bankruptcy and which has relevance to the duties of court institutions is *actio pauliana*. *Actio pauliana* is generally understood as the right of an individual to request a statutory order from a court institution about the cancellation of any action carried out by a debtor relating to their assets which the debtor considers to be harmful to the creditor.³

The orientation of *actio pauliana* is to protect the rights of creditors, especially related to the right not to be harmed by an action that cannot be legally justified. Juridically, *actio pauliana* is regulated in Articles 41-50 of the Bankruptcy Law. Based on these provisions, the curator is appointed by the court chosen by the court to handle and settle bankruptcy cases as they arise. This emphasizes that if the court decides on bankruptcy, the curator's power requests the cancellation of all forms of actions that could be detrimental to creditors.⁴ However, there is a maximum deadline of one year before obtaining a bankruptcy decision, if the status has not been bankrupt yet. If analyzed carefully, the *actio pauliana* provisions in the Bankruptcy Law reflect aspects of substantive justice. Substantive justice in this case refers to the attempt to assert substantive rights that are connected to physical aspects, as well as human existential aspects.⁵

The idea of substantive justice in *Actio Pauliana* has relevance in efforts to create a healthy, proportional, and fair business climate. With this *actio pauliana*, creditors can claim their rights substantively from debtors.⁶ Apart from that, *Actio Pauliana* also emphasizes the substantive role of court institutions to participate in realizing substantive justice as well as appointing a curator to manage the debtor's assets. This research aims to address two legal issues, namely: First, what constitutes *actio pauliana* in bankruptcy boedel disputes as viewed from the substantive justice perspective, and second, how the *actio pauliana* is conceptualized in bankruptcy boedel disputes as viewed from the substantive justice aspect and the fairness perspective in business. Research related to *actio pauliana* in bankruptcy has been carried out by various previous researchers. These three studies include: first, research conducted by Panatagama (2020) which discusses *actio pauliana* which exceeds ten years.⁷

The novelty of this research is that the *actio pauliana* element in bankruptcy has an alternative character and the practice is carried out by the curator. Further research was conducted by Hasanah (2022) who examined legal protection for creditors in the

² Ruth Irene Saurmauli, "Legal Certainty of *Actio Pauliana* Decision in Bankruptcy Cases," *Locus Journal of Academic Literature Review* 1, no. 7 (2022): 386–93, <https://doi.org/10.56128/ljoalr.v1i7.92>.

³ David Tan, "Kajian Hukum Kepailitan Di Indonesia: Studi Putusan Nomor 36/Pdt.Suspailit /2020/ Pn Niaga Jkt.Pst," *Maleo Law Journal* 6, no. 1 (2022): 105–16.

⁴ Samsul Arifin, "Perlindungan Hukum Terhadap Pihak Ketiga Akibat Adanya Pemberlakuan *Actio Pauliana* Dalam Hukum Kepailitan."

⁵ Elizabeth Shaw, "Justice Without Moral Responsibility?," *Journal of Information Ethics* 28, no. 1 (2019).

⁶ Aida Nur Hasanah, "Perlindungan Hukum Bagi Kreditor Pada Gugatan *Actio Pauliana*," *Politica: Jurnal Hukum Tata Negara Dan Politik Islam* 9, no. 2 (2022): 26–37, <https://doi.org/10.32505/politica.v9i2.4574>.

⁷ Alfatra Panatagama, "*Actio Pauliana* Dalam Kepailitan Yang Melebihi Jangka Waktu Satu Tahun," *Jurist-Diction* 3, no. 4 (2020): 1249, <https://doi.org/10.20473/jd.v3i4.20205>.

Actio Pauliana lawsuit.⁸ The innovative findings of this study validate that all creditors, including favored, separatist, and concurrent creditors, should have legal protection; also, debtors who knowingly commit crimes may face criminal penalties. Further research was conducted by Syahrial, et al. (2023) which discusses third parties who deserve legal protection in *Actio Pauliana* lawsuits.⁹ The novelty of research conducted by Syahrial, et al. (2023) emphasized that the legal protection that a third party should receive in an *Actio Pauliana* lawsuit is in the form of proportional replacement of the value of the goods received from the debtor.

Regarding the three previous studies above, it can be concluded that this research is original since it specifically discusses *actio pauliana* from the perspective of substantive justice. This research is normative legal research with a focus on analysis in the form of legal theory and statutory regulations.¹⁰ The primary legal materials in this research are the Bankruptcy Law and the Civil Code. Secondary legal materials include journal articles, books, and research results discussing *actio pauliana* lawsuits and bankruptcy. Non-legal materials are legal dictionaries. The approach used in this research is conceptual and statutory.

2. ANALYSIS AND DISCUSSION

2.1. The Essence of *Actio Pauliana* in the Boedel Bankruptcy Dispute Viewed from the Aspect of Substantive Justice

Bankruptcy is actually a phenomenon that occurs in the business world. Verifying that the rights of creditors and debtors are proportionate is one of the factors that must be taken into account before filing for bankruptcy.¹¹ In particular, it is an effort to protect the rights of creditors, where in this context bankruptcy can be considered weaker. The weak position of creditors in the context of bankruptcy is because the creditor is the party whose rights must be fulfilled by the debtor.¹² However, debtors often experience problems paying their debts, so in this situation, assurances of creditors' rights must be protected during bankruptcy. To give creditors a guarantee of certainty of rights, efforts have been directed towards the Bankruptcy Law, which is regulated in such a way that a curator is in charge of managing bankruptcy assets. Article 1 number 5 of the Bankruptcy Law confirms that the curator is a person or employee of the Inheritance Property Office, and is appointed by the court to carry out settlement and management of the debtor's assets.

⁸ Hasanah, "Perlindungan Hukum Bagi Kreditur Pada Gugatan *Actio Pauliana*."

⁹ Irta Windra Syahrial Albertus Hansen Setyabudi, Sylvia Janisriwati, "Perlindungan Hukum Terhadap Pihak Ketiga Dalam *Actio Pauliana*," *Argumentum* 9, no. 1 (2023): 119-27.

¹⁰ Peter Mahmud Marzuki, *Penelitian Hukum*, 13th ed. (Jakarta: Kencana, 2017).

¹¹ Naeli Umniati Hartati Rismauli, "Diskrepansi Sita Umum Kepailitan Dengan Sita Pidana Dihubungkan Dengan Pemberesan Harta Pailit Yang Mengandung Unsur Pidana," *Jurnal Pendidikan Dan Konseling* 4, no. 5 (2022): 1349-58.

¹² Putu Indri Sri Giyanthi et al., "Status Hukum Harta Perkawinan Jika Terjadi Kepailitan Suami/Istri Tanpa Adanya Perjanjian Kawin," *Jurnal Preferensi Hukum* 3, no. 1 (2022): 37-41, <https://doi.org/10.22225/jph.3.1.4621.37-41>.

The management of the debtor's assets by the curator is intended to ensure certainty for creditors, especially regarding the payment of debts that are the creditor's rights. One of the legal protection efforts in the Bankruptcy Law for debtors is through *actio pauliana*. *Actio pauliana* is a right from the Bankruptcy Law which is given to individuals to request an annulment from the court regarding any actions carried out by debtors which are detrimental to creditors.¹³ Sutan Remy Sjahdeini emphasized that *actio pauliana*, as part of legal protection, no party is harmed in the bankruptcy process.¹⁴ The phrase "Ubi ius Ibi Remidium" alludes to the legal maxim that, if a right is infringed, there has to be a process in place for filing demands to bestow the right upon the party who is legally entitled to it.¹⁵ Referring to the adage "Ubi ius Ibi Remidium" above, *actio pauliana* is part of the concept of this legal adage to open up space for creditors to obtain their rights in the bankruptcy process. *Actio pauliana* is essentially related to bankruptcy cases. Bankruptcy boedel is part of the debtor's assets when declared bankrupt or insolvent by law.¹⁶

The Bankruptcy Law's declaration of insolvency or bankruptcy is thereafter validated by a court ruling indicating the state of bankruptcy. In the management process, bankruptcy proceedings are carried out when the debtor is unable to make payments to creditors, especially after a court declaration of bankruptcy.¹⁷ To manage the bankruptcy case, the curator has the role and authority under the provisions of Article 100 of the Bankruptcy Law. Based on their authority, the curator records bankrupt cases no later than two days after receiving the decision to appoint him as curator. A number of prerequisites must be satisfied to satisfy the requirements for bankruptcy bonds. These prerequisites include: first, referring to the provisions of Article 1131 of the Civil Code, which stipulates that bankruptcy bonds may only be used for legitimate, legally verifiable movable and immovable objects.

That further emphasizes that the debtor must be able to prove that this bankruptcy boedel is his property and is legally valid. The consequence is that the bankrupt boedel must be returned to its original owner if it cannot be verified. Second, the bankrupt entity must comply with the provisions of Article 1365 Civil Code. In Article 1365 of the Civil Code which discusses Unlawful Acts, there must be compensation if the property as a bankrupt boedel is proven to have occurred in an Unlawful Act.¹⁸ This indicates that every asset that is considered bankrupt must be able to confirm that it does not

¹³ Rai Mantili, "Actio Pauliana Sebagai Upaya Perlindungan Bagi Kreditor Menurut Kitab Undang-Undang Hukum Perdata Dan Undang-Undang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang (Pkpu)," *Adhaper: Jurnal Hukum Acara Perdata* 6, no. 2 (2021): 21, <https://doi.org/10.36913/jhaper.v6i2.127>.

¹⁴ Sutan Remy Sjahdeini, *Sejarah, Asas, Dan Teori Hukum Kepailitan* (Jakarta: Prenada Media Group, 2016).

¹⁵ Faizal Kurniawan et al., "The Principle of Balance Formulation as the Basis for Cancellation of Agreement in Indonesia," *Lex Scientia Law Review* 6, no. 1 (2022): 121–56, <https://doi.org/10.15294/lesrev.v6i1.55468>.

¹⁶ P Purwanto, "Subyek Hukum Korporasi Dalam Permohonan Kepailitan Di Indonesia," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 6, no. 4 (2022): 2231–38, <https://doi.org/10.36312/jisip.v6i4.3637/http>.

¹⁷ Devi Eriyanti and Fully Handayani Ridwan, "Peranan Notaris Dalam Kepastian Hukum Akta Kuasa Menjual Terhadap Objek Jual Beli Yang Pailitkan," *Jurnal Usm Law Review* 5, no. 1 (2022): 253, <https://doi.org/10.26623/julr.v5i1.4873>.

¹⁸ Rizky Reza Pahlevi, Zulfi Diane Zaini, and Recca Ayu Hapsari, "Analisis Perbuatan Melawan Hukum (On-rechtmatigedaad) Terhadap Sengketa Kepemilikan Hak Atas Tanah," *Pagaruyuang Law Journal* 5, no. 1 (2021): 18–28, <https://doi.org/10.31869/plj.v5i1.2826>.

fulfill the elements of an Unlawful Act. Third, the bankruptcy court must comply with Article 1320 Civil Code. Article 1320 Civil Code is in principle related to the conditions for the validity of an agreement where an agreement must comply with the standards as stipulated in Article 1320 Civil Code. This implies that the agreement may be deemed null and void and voidable and may be canceled if it does not adhere to the terms of Article 1320 Civil Code. This can be demonstrated in the bankruptcy context by the acts of a debtor who transfers some or all of his rights, knowing that doing so will result in his declaration of bankruptcy and potentially harming his creditors. In this regard, as long as a debtor's actions harm the creditors, the creditor has the right to proclaim that the action is void and without legal standing.

Referring to the three conditions for bankruptcy procedures above, it is also necessary to note that *actio pauliana* is specifically regulated in Articles 41 to 50 of the Bankruptcy Law. Article 41 of the Bankruptcy Law confirms that the court, in this case, the Commercial Court, can declare a debtor's legal action to be detrimental to creditors before being declared bankrupt. About the *actio pauliana*, the curator must prove the requirements of the *actio pauliana* which include¹⁹: (i) there is a legal act carried out by the debtor, (ii) the debtor is not obliged to carry out the act, (iii) from the debtor's act there is a loss experienced by the creditor, and (iv) when carrying out the act, the debtor, according to reasonable reasoning, knows that the impact of his act will be detrimental to creditors. Referring to the description above, it can be seen that there is a difference between *actio pauliana* carried out based on the provisions of Article 1341 of the Civil Code and *actio pauliana* carried out based on the provisions of the Bankruptcy Law.

In general, the creditor, acting on behalf of the injured party, submits an *actio pauliana* immediately to the District Court following the terms of Article 1341 of the Civil Code. This is of course different from *actio pauliana* which is conducted based on the provisions of the Bankruptcy Law which highlights the significance of the curator's role in providing evidence regarding debtor actions that are harmful to creditors. Apart from that, the primary distinction between *actio pauliana* based on the Bankruptcy Law and *actio pauliana* based on Article 1341 of the Civil Code is that the former is executed through the Commercial Court, while the latter is executed based on the provisions of the Bankruptcy Law. *Actio pauliana* in bankruptcy based on the description above, has at least several objectives.²⁰ *First*, in the bankruptcy process, *Actio Pauliana* is intended as a means of providing legal protection for creditors. This needs to be understood because, in the bankruptcy process, there are creditor rights that must be paid by the debtor. *Second*, When a debtor engages in behavior that harms a creditor, the *actio pauliana*

¹⁹ IGKD Putra and K A Sudiarawan, "Pengaturan Upaya Perdamaian Oleh Debitor Pailit Setelah Adanya Putusan Pernyataan Pailit: Perspektif Hukum Kepailitan Indonesia," *Acta Comitatus* 7, no. 1 (2022): 166-78, <https://ojs.unud.ac.id/index.php/ActaComitatus/article/download/85662/44375>.

²⁰ Bionda Johan Anggara and Warsifah Warsifah, "Penerapan Hukum Kepailitan Dalam Kaitannya Kedudukan Otoritas Jasa Keuangan (OJK) Sebagai Institusi Pengatur Dan Pengawas Perusahaan Asuransi Negara (Contoh Kasus PT. Asuransi Jiwasraya)," *JiIP - Jurnal Ilmiah Ilmu Pendidikan* 5, no. 4 (2022): 1250-59, <https://doi.org/10.54371/jiip.v5i4.555>.

in bankruptcy cases has a restitutive character, which indicates that the *actio pauliana* seeks to recoup losses from the creditor.

Third, Actio Pauliana in the field of bankruptcy is also an effort to guarantee legal certainty for creditors, especially regarding the certainty of the number of bankruptcy debts. This is to ensure that, if the debtor's activities negatively impact creditors, there is no reduction in bankruptcy debt. Based on its objectives, it can be seen that *actio pauliana* has relevance to the conception of substantive justice. The term substantive justice itself is a term that is often associated with the division of two types of justice, namely formal justice and substantive justice. Formal justice is justice that is based on an agreement or is based on a formulation or formula in a statutory regulation.²¹ Formal justice is generally uniform and does not prioritize a particular context which makes the concept of justice different. This understanding of formal justice is certainly different from the view of substantive justice. The emphasis in substantive justice is on the idea of providing or restoring rights in a proportionate way, which goes beyond just referring to and being predicted on the creation of statutory regulations. In addition to emphasizing the context of the issue, Substantive justice also raises the possibility of a non-uniform restoration or compensation process since it is tailored to the context and proportionality of losses experienced.²²

Referring to the view of substantive justice above, this has relevance to *actio pauliana* in the field of bankruptcy. In principle, *actio* is not only aimed at protecting and ensuring legal certainty for creditors. The *Actio Pauliana* also aims to ensure that every act of the debtor that is detrimental to the creditor must be declared invalid. This orientation has two relevances to the conception of substantive justice, namely: first, by stating that every act of the debtor that is detrimental to the creditor must be declared invalid, this is a progressive orientation that is relevant to the conception of substantive justice. This confirms that the *actio pauliana* process in the bankruptcy domain does not only prioritize compensation but also includes cancellation if the debtor's activities pose a risk to creditors. Second, the *Actio Pauliana* also emphasizes the process of ensuring legal certainty regarding bankruptcy cases so that once the number of bankruptcy cases has been determined, there should not be any reduction due to the debtor's actions which can lower the number of cases.

This is actually by the conception of substantive justice which emphasizes the protection of one party for another, especially when there is the potential for rights to be violated. The aforementioned analysis's findings suggest that the fundamental goal of *actio pauliana* in bankruptcy boedel disputes is to protect creditors' rights, particularly in situations where debtors' legal actions could jeopardize those rights. This perspective is known as substantive justice. In addition, *Actio Pauliana* also emphasizes the restitutive aspect as per the substantive justice concept, which is the ability to declare the debtor's

²¹ Ignacio Oltra Gras, "Online Courts: Bridging the Gap Between Access and Justice," *Journal of Law and Jurisprudence* 10, no. 1 (2021), <https://doi.org/10.14324/111.444.2052-1871.1214>.

²² I Dewa Gede Atmadja, "Legal Ideology on Social Justice Perspective," *Journal Equity of Law and Governance* 1, no. 2 (2021): 158-63, <https://doi.org/10.55637/elg.1.2.4345.158-163>.

actions to be unenforceable if they hurt the debtor and reduce the amount of debts as has been decided by bankruptcy.

2.2. The Concept of *Actio Pauliana* in Boedel Bankruptcy Disputes Viewed from the Aspect of Substantive Justice and Fairness Aspects in Business

Actio pauliana as part of efforts ensuring legal protection and certainty regarding rights is a step that has the dimension of substantive justice. Understanding substantive justice in legal thinking must also be understood comprehensively. It can be seen that substantive justice is not an independent concept.²³ In the field of legal science, substantive justice must refer to and adapt to the field of legal science, be it civil, administrative, or criminal. This suggests that substantive justice is applied following the characteristics of each existing law. However, in principle, substantive justice has three basic principles that can be applied in various fields of legal science. The three basic principles of substantive justice are: first, substantive justice emphasizes the proportionality of the rights and obligations of the parties.²⁴ This highlights the need to determine if a right that has been violated is proportionate, to the obligations that have been fulfilled. If a right or obligation has been violated, reparations must be provided in a manner that is consistent with the concept of substantive justice.

Second, substantive justice emphasizes the restitutive element or return and restoration of violated rights.²⁵ Substantive justice in this context highlights its restorative element, meaning that recovery in the form of proportionate and commensurate restitution is required if a right has been violated. Third, substantive justice also emphasizes the aspects of proportionality and fairness as a basis for viewing violated rights and the potential for returning and restoring these rights. In substantive justice, the principles of proportionality and fairness serve as the foundation to ensure that the compensation awarded is substantively acceptable and suitable for the party whose rights have been infringed, rather than merely compensating for what has already happened. Referring to the three basic principles of substantive justice above, in fact, in the context of bankruptcy, which is in the field of civil law, substantive justice has relevance to the aspect of fairness in business. The aspect of fairness or appropriateness is an important aspect that must be considered in the context of bankruptcy. In bankruptcy, fairness is a basic value so that there is a harmonious relationship between debtors and creditors.

This harmonious relationship is realized when each of the rights of both debtors and creditors is guaranteed legal certainty and protection.²⁶ There are three main ways to view the fairness element of bankruptcy: First, the interaction between debtors and creditors demonstrates equity in bankruptcy. If we refer to the sociological basis for

²³ Wita Setyaningrum Ilham Yuli Isdiyanto, "Providing Judges Decisions Based On Justice That Live In Society (Study Of Living Law In Society)," *Komunikasi Hukum* 9, no. 1 (2023): 687–703.

²⁴ Zhong Xing Tan, "The Proportionality Puzzle in Contract Law: A Challenge for Private Law Theory?," *Canadian Journal of Law & Jurisprudence* 33, no. 1 (2020): 219.

²⁵ Daniel Butt, "Restitution Post Bellum: Property, Inheritance, and Corrective Justice," *Journal of Applied Philosophy* 36, no. 3 (2019): 360.

²⁶ Mohamad Ismed Karunia Fitriadi, Khalimi, "Perlindungan Hukum Debitur Dalam Keadaan Kepailitan Pada Perikatan Utang Piutang," *Cakrawala Ilmiah* 1, no. 11 (2022): 2807–12.

the formulation of the Bankruptcy Law, it can at least be concluded that the issue of debts in bankruptcy is the basis for the formulation of the Bankruptcy Law. In short, the Bankruptcy Law seeks to provide an orientation towards legal certainty in debtor and creditor relations, especially concerning each right which should be accepted proportionally. Second, fairness in bankruptcy can also be seen from the authority of the court (*in this case the Commercial Court*) and the curator. The role of the Commercial Court here is related to granting a bankruptcy decision while managing the assets is the next task for the curator. The role of the Commercial Court and curator here must be seen in the realm of “intermediary parties” when a bankruptcy decision occurs which has implications for the relationship between debtors and creditors. In this context, the fairness aspect is seen through the role of the Commercial Court and curator.

Third, fairness in bankruptcy can also be seen from the *actio pauliana*. By focusing on the *actio pauliana* component, it becomes clear that the goal of *actio pauliana* is to stop any debtor lawsuit that would be harmful to creditors. This indicates that *actio pauliana* seeks to realize fairness in its relevance to the rights of creditors who are harmed by certain actions carried out by debtors. Referring to the three aspects of fairness in bankruptcy, it can be seen that fairness occupies an important orientation as a manifestation of substantive justice in the field of bankruptcy. Fairness is a substantive dimension of the field of civil law that seeks to lay down rights and obligations proportionally and without interfering with developing business practices. It is understandable that in general, civil law is related to business and economic realities which emphasize rights that have implications for wealth. This is of course relevant to bankruptcy law which is the *lex specialist* of civil law. Substantive justice in the context of bankruptcy emphasizes the dimension of fairness. Fairness is what can be oriented as an effort in implementing *Actio Pauliana*.

It is vital to construct the losses suffered by creditors in the context of bankruptcy, citing the *actio pauliana* litigation in bankruptcy, which underlines that there needs to be an annulment if the debtor’s activities can hurt creditors. This is because to achieve substantive justice, the losses incurred by creditors must encompass not only factual losses but also potential losses that can be rationally and legally justified. By prioritizing this aspect of loss, it is hoped that the *Actio Pauliana* lawsuit in bankruptcy can reflect the fairness aspect as a manifestation of substantive justice. The aforementioned study leads to the conclusion that the notion of *actio pauliana* in bankruptcy conflicts is evaluated from both the perspective of substantive justice and the perspective of business fairness and that the concept of fairness serves as a manifestation of substantive justice in bankruptcy.

Fairness emphasizes harmonious relations, especially about the rights of creditors and debtors. In its development, the *Actio Pauliana* lawsuit in bankruptcy represents the fairness aspect as a manifestation of substantive justice. This needs to be reinforced by framing creditor losses in the *Actio Pauliana* litigation not only as current losses

but also as prospective losses that could directly injure creditors' rights and that can be credibly and fairly demonstrated.

3. CONCLUSION

From the perspective of substantive justice, the main goal of *actio pauliana* in bankruptcy disputes is to safeguard creditors' rights, particularly in situations where debtors are pursuing legal proceedings that could jeopardize creditors' interests. In addition, *Actio Pauliana* highlights the restitutive element following the substantive justice idea, which is the ability to declare the debtor's activities to be without legal effect if they are harmful to the debtor and decrease the total amount of payments as decided by bankruptcy. The concept of *actio pauliana* in bankruptcy disputes is viewed from the substantive justice aspect as well as the fairness aspect in business, that substantive justice in bankruptcy is manifested in the concept of fairness. Fairness emphasizes harmonious relations, especially concerning the rights of creditors and debtors. In its development, the *Actio Pauliana* lawsuit in bankruptcy represents the fairness aspect as a manifestation of substantive justice. This needs to be strengthened by the orientation of creditor losses in the *Actio pauliana* lawsuit not only as factual losses but also including potential losses which directly harm creditors and can be proven fairly and appropriately.

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