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Restructuring Department Bulletin

Paul, Weiss Receives Prestigious *Law360* "Bankruptcy Group of the Year" Award
Paul, Weiss has been honored with the coveted "2023 Bankruptcy Group of the Year" recognition by *Law360*. This prestigious award acknowledges the firm's outstanding achievements and significant contributions in the restructuring industry during the past year, highlighting its role in major deals and litigation victories.

Restructuring Partners Alice Eaton, Brian Hermann and Bob Britton Addressed Key Topics at 2024 Wharton Restructuring and Distressed Investing Conference
Restructuring partners Alice Eaton, Brian Hermann, and Bob Britton participated in key panel discussions at the 2024 Wharton Restructuring and Distressed Investing Conference on February 23 in New York City. Topics included creditor/debtor tactics, the impact of CLOs on restructurings, and restructurings in the power/renewable energy markets.

Restructuring Partner Brian Hermann Discussed Nuances of Uptier & Dropdown Transactions at the Fifth Circuit Bankruptcy Bench-Bar Conference
Restructuring partner Brian Hermann participated as a panelist at the 2024 Fifth Circuit Bankruptcy Bench-Bar Conference in New Orleans on March 7. His panel, "Lender-on-Lender Violence," explored prepetition uptier and drop-down transactions, state court litigation, and how these issues are treated in Chapter 11 bankruptcy cases.

Motions to Transfer Venue Filed More Than a Year Postpetition and after Chapter 11 Plan Confirmed Deemed Untimely
In *Sorrento Therapeutics*, Judge Christopher Lopez denied as untimely the motions filed by the U.S. Trustee and a pro se shareholder to transfer venue or dismiss the chapter 11 cases. Chapter 11 venue properly lies where a debtor has its "principal place of business" or "principal assets" in the U.S. for 180-days immediately preceding the petition date, or "for a longer portion of such [180-day] period" than they were located in any other district. 28 U.S.C. § 1408. The movants claimed that the debtors had no legal basis for venue in Texas because their only connection to the state was a rented P.O. box obtained the night before the filing, and $60,000 in a bank account opened three days earlier.

In his oral ruling, Judge Lopez denied the motions as "untimely" under both the plain meaning and common sense understanding of the phrase. Rule 1014(a) of the Federal Rules of Bankruptcy Procedure governs a motion to change venue and requires that such motion be "timely." The court took issue with, among other things, the fact that the chapter 11 petition was filed over a year ago during which time a chapter 11 plan was confirmed, multiple asset sales had been completed and over sixty orders had been entered finding venue proper. Moreover, the existence of the P.O. box and the bank account were disclosed from the start of the cases. Had the case remained dormant for over a year, or if the motions were brought at the outset, Judge Lopez said he may have considered the matter differently. But, given the evidence, the court found that the motions were untimely, could not be considered and the movants had waived their right to challenge venue. (*See In re Sorrento Therapeutics, Inc.*, Ch. 11 Case No. 23- 90085 (Bankr. S.D. Tex. Feb. 13, 2024).)

DID YOU KNOW...

In a case of particular relevance to mass tort bankruptcies, the Supreme Court recently heard oral argument in *Truck Insurance Exchange* v. *Kaiser Gypsum Co.* (In re Kaiser Gypsum Co.), 60 F.4th 73 (4th Cir. Feb. 14, 2023) to determine who may object to plan confirmation. The Fourth Circuit had held that the asbestos debtors' insurer lacked standing to object to its treatment under the plan because (a) it was "not a party in interest" within the meaning of section 1109 of the Bankruptcy Code given the plan did not affect its rights under the subject policies; and (b) its status as a creditor did not confer constitutional standing under Article III because it suffered no injury in fact given the plan fully satisfied its claims. The Supreme Court is expected to hand down its ruling in late June.

Questions? Please contact any of our Restructuring Partners to discuss these or other topics in greater depth.


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