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Restructuring Department Bulletin

Paul, Weiss Restructuring Practice Top-Ranked by *Chambers* and *Legal 500*

Paul, Weiss was recognized as a leading restructuring law firm in the 2024 editions of *Chambers USA* and *The Legal 500*. Chambers ranked the firm as top tier and recognized seven different partners nationwide and in New York in the "Bankruptcy/Restructuring" practice area. *The Legal 500* rated Paul, Weiss as top tier in the "Restructuring (Including Bankruptcy): Corporate" practice area and spotlighted 14 different Paul, Weiss partners across its "Hall of Fame," "Leading Lawyers," "Next Generation Partners," "Rising Stars" and "Recommended" categories.

Seventeen Paul, Weiss Partners Named to *Lawdragon*'s Top 500

Lawdragon named 17 Paul, Weiss partners to its 2024 "500 Leading Bankruptcy & Restructuring Lawyers" list. Among those named are restructuring partners Jacob Adlerstein, Paul Basta, Lauren Bilzin, Brian Bolin, Robert Britton, Alice Eaton, Joe Graham, Brian Hermann, Christopher Hopkins, Kyle Kimpler, Elizabeth McColm, Sean Mitchell, Andrew Parlen, Andrew Rosenberg, John Weber and Ken Ziman; and litigation partner William Clareman.

DID YOU KNOW...

- In a 5-4 decision, the Supreme Court held in *Harrington v. Purdue Pharma, L.P.*, that the Bankruptcy Code does not authorize bankruptcy courts to approve releases in favor of nondebtor third parties without the consent of the releasing parties.
- In a 6-3 decision, the Supreme Court in *Office of the U.S. Trustee v. John Q. Hammons Fall 2006, LLC* held that "prospective parity" is the appropriate remedy for the "short lived" and "small" overpayment of fees under a 2017 amendment to the bankruptcy fee statute it previously ruled unconstitutional. Debtors that filed for chapter 11 during January 2018 through April 2021 and paid unconstitutional fees are therefore not entitled to a refund of their overpayments. Instead, the amended fee statute that provides for equal fees for otherwise identical chapter 11 debtors on a go-forward basis provides their sole remedy. While the dissent argued that due process requires a refund, the majority found the estimated $326 million cost would "undermine Congress's goal of keeping the U.S. Trustee Program self-funded" by creating an "enormous bill for taxpayers."
- As described in our recent client memo, the U.S. Bankruptcy Court for the Southern District of Texas issued a decision in *In re Robertshaw* finding that the debtor breached its credit agreement by incurring unauthorized indebtedness in connection with a recent liability management transaction, but limited the remedy to monetary damages, denying equitable relief.

"Insurance Neutrality" Doctrine Rejected as Basis for Denying Standing to Insurers with Financial Responsibility for Claims

In *Truck Ins. Exchange v. Kaiser Gypsum Co., Inc.*, the Supreme Court unanimously held that an insurer with financial responsibility for bankruptcy claims is a "party in interest" that may object to a chapter 11 plan. The Court reversed the Fourth Circuit which had relied on the "insurance neutrality" doctrine to conclude that the insurer lacked standing. Under this doctrine, an insurer is not a "party in interest" if a plan does not increase the insurer's prepetition obligations or impair its contractual rights under its insurance policies. The Court rejected the doctrine as conceptually wrong because it conflates the merits of an objection with the threshold section 1109(b) inquiry. Section 1109(b) of the Bankruptcy Code permits any "party in interest" to "raise" and "be heard on any issue" in a chapter 11 case. The Court held that this "capacious" language covers anyone directly and adversely affected by the reorganization. The decision affects insurers and debtors, particularly in mass tort cases that rely on channeling injunctions and claims trusts partly funded by insurance policies. It clarifies that insurers with "financial responsibility" for claims in a chapter 11 case can be heard on any issue, regardless of whether the plan itself is "insurance neutral."

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

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