

Restructuring Department Bulletin

***Business Insider* Names Paul Basta and Kelley Cornish Among the Nation's Go-To Restructuring Lawyers**

Restructuring partners [Paul Basta](#) and [Kelley Cornish](#) are featured in a *Business Insider* article highlighting 16 restructuring attorneys who are the nation's go-to lawyers amid an expected surge in bankruptcies. The article notes Paul, Weiss's work on the Revlon bankruptcy, among the largest bankruptcies so far this year, and Paul and Kelley's decades-long experience representing companies, creditor groups and buyers in mega-bankruptcies including Sears, SPARC Group and Caesars Entertainment, to name a few. [» read the article](#)



DID YOU KNOW...

Deciding an issue on which no other circuit court has yet ruled, the **Ninth Circuit Court of Appeals** held that under the long-standing "solvent debtor exception," unsecured creditors have an equitable right to receive postpetition interest at the contractual or default state law rate, subject to any other equitable considerations, before surplus value from a debtor's estate is returned to the bankrupt debtor. [Ad Hoc Comm. of Holders of Trade Claims v. Pac. Gas and Elec. Co. \(In re PG&E Corp.\), 2022 WL 3712478 \(9th Cir. Aug. 29, 2022\)](#). The court further held that a failure to compensate unsecured creditors according to this equitable right as part of a chapter 11 plan renders such creditors impaired within the meaning of section 1124(1) of the Bankruptcy Code.

Bankruptcy Court Denies Debtors' Motion to Enjoin Mass Tort Claims Against Non-Debtor Parent, 3M Corporation

The U.S. bankruptcy court for the Southern District of Indiana denied a preliminary injunction motion filed by Aearo Holding LLC and its co-debtors ("Aearo") to stay mass tort litigation pending against Aearo's non-debtor parent, 3M Corporation ("3M") arising from allegedly defective earplugs (the "Pending Actions"). [3M Occup'l Safety LLC v. Parties Listed on App. A \(In re Aearo Tech. LLC\), 2022 WL 3756537 \(Bankr. S.D. Ind. Aug. 26, 2022\)](#). Among other things, the bankruptcy court concluded that Seventh Circuit precedent governing a bankruptcy court's authority to enjoin pending actions against non-debtors requires a focus on the actual economic effect that continuation of such actions would have on a debtor's bankruptcy estate, and ultimately, its distribution to creditors. Concluding that 3M's existing funding agreement with Aearo pursuant to which 3M agreed to fund Aearo's chapter 11 filing amounted to an uncapped, non-recourse commitment from 3M to fund *all* of Aearo's liabilities arising from the Pending Actions, the court concluded that the continuation of the Pending Actions would have no effect on Aearo's bankruptcy estate. As a result, the court was unable to conclude that an injunction of the Pending Action was either necessary or appropriate, given the lack of evidence that 3M was unable or unwilling to honor its commitment under the funding agreement. Aearo moved to certify the court's order for direct review by the Seventh Circuit Court of Appeals. Its motion remains pending.

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



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