

Restructuring Department Bulletin

Paul, Weiss Helps NYC Taxi Drivers Restructure Debt to Keep Their Medallions

Spearheaded by partners Elizabeth McColm and Christopher Hopkins, 13 Paul, Weiss restructuring attorneys, among others, recently participated in loan closings as part of the Taxi Advocacy Project—a New York Legal Assistance Group (NYLAG) initiative to help alleviate the burden of existing debt for New York City taxi medallion owners. The *pro bono* project is part of New York City’s Taxi Medallion Owner Relief Program and Loan Guaranty Program (MRP+), and provides much-needed assistance to taxi medallion owners who are facing debt and other civil legal issues stemming from ownership of taxi medallions by restructuring their loans on those medallions.



DID YOU KNOW...

On October 5, 2022, the Ninth Circuit Court of Appeals **denied** Pacific Gas & Electric Company’s petition seeking rehearing *en banc* of its decision in [*Ad Hoc Comm. of Holders of Trade Claims v. Pac. Gas & Elec. Co. \(In re PG&E Corp.\)*, 46 F.4th 1047 \(9th Cir. 2022\)](#) reversing two lower courts which had held that a solvent debtor need only pay its unsecured creditors postpetition interest at the federal statutory rate for judgments. As discussed in our [Client Alert](#), the **Ninth Circuit Court of Appeals** held that in a solvent debtor case, unsecured creditors have an equitable right to postpetition interest at the applicable contractual or state law rate in order to be deemed unimpaired.

District Court Affirms Section 546(e) “Safe Harbor” Applies to Avoidance Claims Under Foreign Law in Chapter 15

The District Court for the Southern District of New York affirmed that the safe harbor for avoidance claims in section 546(e) of the Bankruptcy Code applies in a Chapter 15 case and will apply extraterritorially to the same extent as the foreign representative’s Chapter 15 avoidance powers. A foreign representative in a Chapter 15 case can only bring avoidance claims under foreign (not U.S.) law. This allows the foreign representative to avoid extraterritorial transfers by bringing an action in a U.S. bankruptcy court. The court found that the safe harbor accordingly also applies to extraterritorial transfers in Chapter 15 cases. The court reasoned that a foreign representative should not benefit from the domestic forum Chapter 15 creates for foreign law claims as a matter of comity, while simultaneously avoiding the safe harbor limitations that Chapter 15 imposes on their power to bring such claims. [*Krys v. Citibank, N.A. London \(In re Fairfield Sentry Ltd.\)*, 2022 WL 4355126 \(S.D.N.Y. Sept. 20, 2022\)](#)

Supreme Court Vacates Second Circuit Judgment Directing Refund of Unconstitutional Chapter 11 US Trustee Fees

On October 11, 2022, the Supreme Court vacated and remanded the [*In re Clinton Nurseries, Inc.*, 998 F.3d 56 \(2d. Cir. 2021\)](#) judgment in which the Second Circuit awarded the debtors a refund of chapter 11 statutory fees that it had found unconstitutional. The Supreme Court remanded for further consideration in light of its ruling in [*Siegel v. Fitzgerald*, 142 S.Ct. 1770 \(2022\)](#), also finding the fee statute at issue unconstitutional but declining to rule on the appropriate remedy. This leaves determination of the appropriate remedy open for further adjudication by the lower courts. Click the links to read our prior Client Alerts discussing these issues in [*Clinton Nurseries*](#) and [*John Q. Hammons Fall 2006, LLC*, 15 F.4th 1011, \(10th Cir. 2021\)](#).

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



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