

OCTOBER 2023

Restructuring Department Bulletin

Paul, Weiss Named Bankruptcy Law Firm of the Year by Chambers USA

Paul, Weiss was recently recognized in the “Bankruptcy Law Firm of the Year” category of the 2023 Chambers USA Awards, which take into account the achievements of law firms in the United States over the past 12 months. The publication highlighted our track record of leading involvement in some of the market’s most sophisticated Chapter 11 filings, including in the Revlon, Mallinckrodt, Talen Energy and Intelsat restructurings, noting that “for restructuring, one client simply says: “Paul Weiss is always my first phone call.”

Eighteen Paul, Weiss Restructuring Partners Named in Lawdragon’s Top 500

Eighteen Paul, Weiss partners were named among *Lawdragon’s* “500 Leading Bankruptcy & Restructuring Lawyers 2023,” which recognizes the top U.S. attorneys helping companies navigate ailing economies and uncertain times. Among those named were restructuring partners [Jacob Adlerstein](#), [Paul Basta](#), [Brian Bolin](#), [Robert Britton](#), [Kelley Cornish](#), [Alice Eaton](#), [Brian Hermann](#), [Christopher Hopkins](#), [Kyle Kimpler](#), [Elizabeth McColm](#), [Sean Mitchell](#), [Andrew Parlen](#), [Andrew Rosenberg](#), [John Weber](#), [Ken Ziman](#) and of counsel [Alan Kornberg](#); litigation partner [William Clareman](#); and finance partner [Paul Sandler](#).

Bankruptcy Court Reinstatement Decision Certified for Direct Review by the Second Circuit

On July 31, 2023, the Bankruptcy Court for the Southern District of New York held that, to cure and reinstate a loan under its plan of reorganization, a debtor must pay default interest and fees triggered by a monetary default as required by its loan agreement and state law. To reach this conclusion, the Bankruptcy Court undertook a comprehensive analysis of three interrelated Bankruptcy Code provisions (sections 1123(d), 1124(2)(A) and 365(b)(2)(D)). The Bankruptcy Court expressed surprise at the underdeveloped state of the case law on this issue and noted that, in today’s rising interest rate environment, it is particularly important: if the interest rate on a debtor’s prepetition debt is more favorable (i.e., lower) than the current prevailing rate, a debtor may seek to retain/lock in the lower rate by reinstating the debt. The debtor is appealing the decision. In late September, the Bankruptcy Court certified its decision for direct review by the U.S. Court of Appeals for the Second Circuit. Shortly thereafter, the debtor and trustee for the outstanding mortgage loans at issue agreed to mediate the issues raised in the Bankruptcy Court’s decision. [In re Golden Seahorse LLC, 652 B.R. 593 \(Bankr. S.D.N.Y. 2023\)](#).

DID YOU KNOW...

- As described in our recent [client memo](#), the Second Circuit issued its highly anticipated decision in *Kirschner v. JPMorgan Chase Bank, N.A. et al.*, affirming the long-standing view that syndicated bank loans are not “securities” and, therefore, not subject to applicable state and federal securities laws.
- The Supreme Court will take up the issue of nonconsensual nondebtor releases during the December 2023 argument session after accepting the U.S. Trustee’s petition for *certiorari* for review of the Second Circuit’s decision in *Purdue Pharma’s* bankruptcy cases. The Second Circuit previously upheld a bankruptcy court’s ability to approve such releases.
- The Third Circuit will hear oral argument in connection with the makewhole and postpetition interest appeals pending in *Hertz’s* chapter 11 cases in October. The opinions, which were certified for direct appeal to the Third Circuit from the Delaware bankruptcy court, disallowed noteholder claims for both makewhole premiums and postpetition interest.

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



Jacob A. Adlerstein
+1-212-373-3142
[Email](#)



Paul M. Basta
+1-212-373-3023
[Email](#)



Brian Bolin
+1-212-373-3262
[Email](#)



Robert A. Britton
+1-212-373-3615
[Email](#)



Kelley A. Cornish
+1-212-373-3493
[Email](#)



Alice Belisle Eaton
+1-212-373-3125
[Email](#)



Brian S. Hermann
+1-212-373-3545
[Email](#)



Christopher Hopkins
+1-212-373-3334
[Email](#)



Kyle J. Kimpler
+1-212-373-3253
[Email](#)



Elizabeth R. McColm
+1-212-373-3524
[Email](#)



Sean A. Mitchell
+1-212-373-3356
[Email](#)



Andrew M. Parlen
+1-212-373-3141
[Email](#)



Andrew N. Rosenberg
+1-212-373-3158
[Email](#)



John Weber
+1-212-373-3656
[Email](#)



Ken Ziman
+1-212-373-3733
[Email](#)