

MARCH 2024

## Restructuring Department Bulletin

### Restructuring Department Welcomes Partner Lauren Bilzin

Lauren Bilzin, a specialist in distressed investments and liability management transactions, joined the Restructuring Department and Hybrid Capital & Special Situations practice on February 20, as a partner.

### Paul Basta Honored as 2024 *Lawdragon* Legend

*Lawdragon* named restructuring partner Paul Basta a “2024 *Lawdragon* Legend,” a list recognizing lawyers who have appeared at least 10 times on its Top 500 list.

### M&A Advisor Recognizes Paul, Weiss for Restructuring Achievements

Paul, Weiss earned *M&A Advisor*’s “Chapter 11 Reorganization of the Year (\$500M-\$1B)” and “Telecommunication Services Deal of the Year” recognitions for advising on Party City’s and QualTek’s reorganizations, respectively.

### Turnarounds & Workouts Recognizes 26 Paul, Weiss Restructuring Matters

Paul, Weiss played key roles in 26 restructuring matters spotlighted by *Turnarounds & Workouts* in its “Successful Restructurings of 2023” and “Largest Chapter 11 Cases of 2023” lists.

### Delaware Law Does Not Preclude Derivative Standing for Creditors’ Committee to Pursue LLC’s Causes of Action

The Bankruptcy Court in *Pack Liquidating, LLC*, No. 22-10797 (Bankr. D. Del. 2022) [Dkt. No. 1231] held that the Delaware Limited Liability Company Act (the “Delaware LLC Act”) does not preclude granting a creditors’ committee standing to pursue estate causes of action if the standards for granting standing are otherwise met. Derivative actions are typically asserted by shareholders.

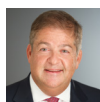
The Delaware Supreme Court, however, has recognized that creditors can replace shareholders in the event of insolvency—as the residual beneficiaries of corporate value—and may have derivative standing to enforce an insolvent company’s directors’ and officers’ obligations to a corporation. The Delaware Supreme Court has nevertheless held that the Delaware LLC Act, by its terms, bars creditors from bringing the same kind of derivative action.

Relying on these state law principles, certain defendant directors and officers in *Pack Liquidating* objected to the official committee of unsecured creditors’ motion for standing to pursue claims for breach of fiduciary duty on behalf of the estates. They argued that because the debtors are Delaware limited liability companies, only the **members** (not the creditors) of the LLC or the debtors’ assigns may be given standing to act on behalf of the company. Acknowledging the existence of other nonbinding Delaware bankruptcy court opinions to the contrary, the Bankruptcy Court overruled the objection. It held that, consistent with Third Circuit precedent, the Bankruptcy Code—not state law—vests the court with authority to grant a committee derivative standing, and that this federal remedy preempts state law.

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



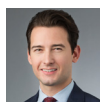
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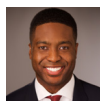
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### DID YOU KNOW...

The Delaware Bankruptcy Court declined to grant foreign main or non-main Chapter 15 recognition in favor of a Canadian CCAA proceeding to three U.S.-incorporated subsidiaries of a 12-debtor consolidated publishing business with offices and primary operations in both the U.S. and Canada. Sustaining the Pension Benefit Guarantee Corporation’s objection to recognition, the court found insufficient evidence to conclude such entities had a center of main interest in Canada for recognition purposes simply because, among other things, they were “part of a larger group of subsidiaries that also operate independently but are held by a Canadian holding company.” See *In re Black Press Ltd.*, No. 24-10044 (Bankr. D. Del. Feb. 8, 2024).