

FEBRUARY 2024

Restructuring Department Bulletin

Paul, Weiss Wins *Law360* “Bankruptcy Group of the Year” Recognition

Paul, Weiss won *Law360* “2023 Bankruptcy Group of the Year” recognition for its achievements in the restructuring industry. The annual practice-focused awards honor the firms behind the legal industry’s biggest deals and litigation victories in the past year.

Sean Mitchell to Discuss 2024 Restructuring Outlook at Expert Webcast Event

Restructuring partner Sean Mitchell will participate in a webinar, “Outlook for Bankruptcy & Restructuring 2024,” hosted by Expert Webcast. The panelists will explore what lies ahead this year for bankruptcy and restructuring, examining the 2024 outlook by industry and geography. They will also cover available in- and out-of-court options, capital availability, risk mitigation and performance improvement strategies, and the duties of officers and directors in distress. The webinar will take place on March 12 at 1 p.m. ET.

Third Circuit Denies Boy Scouts of America’s Motion to Dismiss Confirmation Order Appeals as Moot

The Third Circuit recently denied, without discussion, the Boy Scouts of America’s (“BSA”) and certain insurers’ (collectively, the “Appellees”) motions to dismiss the pending appeals challenging BSA’s confirmed chapter 11 plan as equitably and statutorily moot.

The equitable mootness doctrine permits dismissal when, even though effective relief could be granted, doing so would be inequitable. Courts consider whether a plan has been substantially consummated and whether granting the relief requested on appeal will (a) fatally scramble the plan and/or (b) significantly harm third parties who have justifiably relied on the plan’s confirmation. The Appellees argued these standards were met and that “chaos” would result if the appeals were granted. The Appellees also argued that section 363(m) of the Bankruptcy Code mooted the appeals because the asset sales funding the plan recoveries had been approved and no stays pending appeal had been obtained.

The Third Circuit noted that the appeals were being briefed on their merits and that an outstanding motion to stay was also pending, leaving it unpersuaded that equitable or statutory mootness applied in the “particular circumstances” and at this “preliminary stage” of the case. See *In re Boy Scouts of Am. & Delaware BSA LLC*, No. 23-1664 (3d Cir. Dec. 14, 2023).

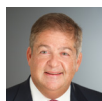
DID YOU KNOW...

In *In re South Coast Supply Co.*, 2024 WL 222992 (5th Cir. Jan. 22, 2024), the Fifth Circuit joined the Eighth and Ninth Circuits in finding that section 547 preference actions “plainly fit the statutory definition of ‘property of the estate’ and may validly be sold” under section 363(b) of the Bankruptcy Code. In reaching this conclusion, the Fifth Circuit also held that “[t]here is no additional requirement on the purchaser of a preference claim to qualify as a representative of the estate” and, thus, that “the purchasers of [such] preferences claims have standing to pursue them.”

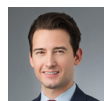
Questions? Please contact any of our Restructuring Partners to discuss these or other topics in greater depth.



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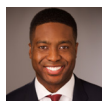
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