

Third-Party Releases Headed to SCOTUS on Rocket Docket Following Rare Civil Stay of Purdue Pharma Plan Confirmation

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The Purdue Pharma bankruptcy case is going to Washington.^[1]

In a rare civil stay ruling from the highest court in the land, the United States Supreme Court stayed the recent decision of the Second Circuit Court of Appeals, *In re Purdue Pharma LP et al.*, Case Number 22-110 (2nd Cir. 2023), that upheld third-party releases, granted certiorari and leap-frogged many older cases to hear oral argument on the issue in December 2023 – right before its Fall term ends.

The order provides:

"The parties are directed to brief and argue the following question: Whether the Bankruptcy Code authorizes a court to approve, as part of a plan of reorganization under Chapter 11 of the Bankruptcy Code, a release that extinguishes claims held by nondebtors against nondebtor third parties, without the claimants' consent.

The Clerk is directed to establish a briefing schedule that will allow the case to be argued in the December 2023 argument session. The stay shall terminate upon the sending down of the judgment of this Court."

The Second Circuit's decision on May 30, 2023 to reverse the SDNY decision and uphold the Bankruptcy Court approval of non-consensual third-party releases in Purdue Pharma's Chapter 11 plan teed up this issue to be resolved definitively by the Supreme Court.

No doubt there will be numerous requests for permission to file Amicus briefs – perhaps hundreds – to the Supreme Court on the Purdue Pharma case. Will the final chapter on third-party releases soon be written? Stay tuned.

For a copy of the Supreme Court order or Second Circuit decision or more information, please contact Christopher F. Graham (grahamc@whiteandwilliams.com: 212.714.3066).

^[1] Please see "Third-Party Releases Possibly Headed to SCOTUS Following Purdue Pharma Plan Confirmation," Christopher F. Graham, 6.6.23.

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