

Purdue Pharma Restructuring Plan Effectively Blocked...For Now

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On May 7, 2021, we issued a client alert regarding the Purdue Pharma case and the possibility that the bankruptcy case could include a release of individual non-debtor members of the Sackler family. At that time, a plan which contained terms that would effectively extend the automatic stay protections was confirmed by Judge Robert D. Drain, who presided over the bankruptcy case in the Southern District of New York.

As promised, we are issuing an updated alert here. To read the original alert [click here](#).

Not unexpectedly, following Judge Drain's approval of the plan, the United States Trustee, eight states, the District of Columbia, and approximately 2,000 individuals immediately appealed the decision to the federal district court.

The appellants asserted that Judge Drain lacked the authority to circumvent each state's ability to pursue the Sacklers under their own civil consumer protection laws.

That the proposed restructuring plan included a settlement term which released the individual company owners - members of the billionaire Sackler family - from individual liability in civil opioid-related cases, was a source of controversy. Ordinarily, third parties are not released from possible liability.

Additionally, the fact that the plan allowed the Sacklers effectively to receive the benefits of bankruptcy without having to file their own bankruptcy cases was raised, as was the fact that the settlement portion of the plan strips victims of the opioid crisis of their due process right to commence civil action against the Sacklers.

Taking all of this into consideration, Judge Colleen McMahon of the U.S. District Court for the Southern District of New York issued a decision on December 16, 2021, which effectively blocks the part of a restructuring plan approved in September by bankruptcy Judge Drain.

Purdue and counsel for other parties in favor of the plan's approval continue to argue that the bankruptcy code, as well as precedent from the Second Circuit, provided authority for Judge Drain to grant such relief to the Sacklers.

Judge McMahon's opinion is being lauded by many. However, anyone monitoring the action should know that the final determination on this issue has yet to be made. As expected, Purdue immediately said it would be appealing this decision.

Moreover, the December 16 opinion seems to beg the United States Court of Appeals to weigh in on the issue of corporate debtors' owners' ability to receive protections from liability without having to personally file bankruptcy.

We will keep you apprised of developments in this very interesting case.

Please note that this is a general overview of developments in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and recipient. If you have questions regarding these provisions, or any other aspect of bankruptcy law, please contact [Michael Traison](#) at 312.860.4230.

Practices

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