

Unpacking Purdue: The Second Circuit's Recent Opinion on Allowability of Nonconsensual Third-Party Releases

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On May 30, 2023, the Second Circuit released the latest opinion on nonconsensual third-party releases, reversing the District Court's vacatur of the Bankruptcy Court's confirmation of a plan that approved such releases. *Purdue Pharma, L.P. v. City of Grande Prairie (In re Pharma L.P.)*, Case No. 22-110-bk (L), 2023 U.S. App. LEXIS 13236 (2d Cir. May 30, 2023) (the "**Second Circuit Opinion**"). This alert provides: (i) an overview of the Second Circuit Opinion and the history of the Purdue Pharma cases leading to the appeal; (ii) key takeaways from the Second Circuit Opinion, and (iii) the current state of the Circuit Court split on this issue.

Procedural History of the Releases in Purdue

On September 15, 2019, Purdue Pharma L.P. and certain affiliates ("**Purdue**") voluntarily sought bankruptcy protection by filing chapter 11 cases (the "**Purdue Bankruptcy Case**") under chapter 11 of the Bankruptcy Code. Owned and operated by the Sackler Family, Purdue produced the opioid OxyContin. Through the Purdue Bankruptcy Case, Purdue sought to address a "veritable tsunami" of tort suits related to its production of opioids. *In re Purdue Pharma, L.P.*, 635 B.R. 26, 34 (S.D.N.Y. 2021) (history omitted) ("**District Court Opinion**"). To do so, Purdue constructed a plan to fund creditor and abatement trusts to resolve the tort claims, in exchange for nonconsensual third-party releases of liability against non-debtors, including the Sackler Family (herein, the "**Third-Party Releases**").

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