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3 Notable Developments In Ch. 15 Bankruptcy This Year

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Chapter 15 of the U.S. Bankruptcy Code, designed to provide an efficient, coordinated framework for handling cross-border insolvency cases, is a very specific and powerful tool for insolvency professionals.

Enacted in 2005, it incorporates the United Nations Commission on International Trade Law's Model Law on Cross-Border Insolvency, aiming to promote cooperation between U.S. courts and foreign courts when a debtor's financial affairs span multiple countries. At its core, it ensures that cross-border proceedings are administered in a fair and orderly fashion, while protecting creditors, debtors and other stakeholders, primarily through the recognition of orders issued by foreign tribunals.

Chiefly through its recognition framework, Chapter 15 promotes international cooperation, encourages consistent rulings across jurisdictions, and reduces duplicative or conflicting litigation.

Several notable decisions and trends flowing from Chapter 15 warrant review before turning the page to 2026. In 2025, courts issued decisions that clarified the framework of Chapter 15 following a landmark U.S. Supreme Court decision in Harrington v. Purdue Pharma LP, reinforced the principles of a debtor's center of main interest in the face of extensive mass tort litigation, and analyzed synthetic cross-border proceedings.

1. Recognition of Third-Party Releases Under Chapter 15

Nonconsensual third-party releases developed over a period of more than 40 years, arising from asbestos litigation and settlement trusts and expanding more broadly into mass tort matters and beyond. Prior to June 2024, although not without controversy, courts in some jurisdictions authorized and enforced nonconsensual third-party releases as part of restructuring plans. Leading up to the Supreme Court's 2024 decision in Purdue Pharma, nonconsensual third-party releases had both strong advocates and critics.[1]

The Supreme Court ultimately provided clarity to this decades-long dispute in Purdue, rejecting nonconsensual third-party releases. In doing so, the court's analysis chiefly focused on two findings: (1) Section 1123(b)(6) of the Bankruptcy Code cannot be broadly interpreted to allow a nonconsensual release of a nondebtor, and (2) the availability of a discharge and nonconsensual releases under the Bankruptcy Code have historically only been reserved for a debtor, not third parties.

Recent decisions from bankruptcy courts in the Southern District of New York and District of Delaware in Chapter 15 cases addressed the potential applicability of the Purdue decision outside the Chapter 11 context.

In In re: Credito Real SAB de CV, the U.S. Bankruptcy Court for the District of Delaware found on April 1 that the nonconsensual third-party releases ordered by a foreign court were enforceable.[2]

Similarly, in In re: Odebrecht Engenharia e Construcao SA, Chief U.S. Bankruptcy Judge Martin Glenn of the U.S. Bankruptcy Court for the Southern District of New York **held** on April 21 that recognition was appropriate and enforcement of the foreign court order granting nonconsensual third-party releases was consistent with Chapter 15.[3]

Both opinions focused on two issues: whether the plain statutory text of Chapter 15 addressed nonconsensual third-party releases and whether granting recognition of a foreign order containing such releases would violate U.S. public policy.

First, focusing on the overall purpose of Chapter 15's statutory regime, each bankruptcy court noted that the purpose of the statute is to allow a court to provide a foreign representative with "appropriate relief" and "additional assistance" through the bankruptcy court's granting of comity to foreign court orders.

The Credito Real court further noted that the plain statutory language of Chapter 15 did not address nonconsensual third-party releases, finding that comity is the keystone of Chapter 15 and distinctions between relief available under Chapter 15 and Chapter 11 are entirely appropriate. That is, the Purdue decision does not alter the statutory text of Chapter 15 and that such statutory text does not explicitly exclude the recognition of foreign orders granting nonconsensual third-party releases that may otherwise be questioned under Chapter 11.

Second, and illustrative of just how powerful a tool Chapter 15 is for distressed companies, each court addressed the public policy component of Chapter 15 and concluded it presented no bar to enforcing the foreign orders.

Section 1506 of the Bankruptcy Code provides that recognition should be denied if doing so is manifestly contrary to public policy. This exception, however, is narrowly construed.

The Credito Real court focused its public policy analysis on the procedural safeguards and fairness afforded to parties by the foreign proceeding. For example, it acknowledged that U.S. courts have frequently recognized similar Mexican concurso plans "as being the product of a fair process" and the embodiment of "arms'-length agreements and conform[ing] to the general distribution priorities established in the Bankruptcy Code."

Further, the Credito Real court clarified that nonconsensual releases are not per se prohibited under the Bankruptcy Code as against public policy — to the contrary, they are expressly permitted in the context of asbestos cases. As such, the court concluded there was no reason to deny recognition on public policy grounds.

The Odebrecht court conducted a similar analysis and reached the same conclusion, also noting the Bankruptcy Code does authorize nonconsensual third-party releases in certain contexts and that "[l]ongstanding precedent holds that bankruptcy courts can strip U.S. parties of rights they have under the laws of the United States."

These two decisions, from the leading bankruptcy venues for complex Chapter 15 filings, suggest that Purdue presents no impediment for the recognition and enforcement of nonconsensual third-party releases that have been authorized in foreign proceedings.

These 2025 holdings provide a clear path, although perhaps a long one, for multinational debtors to achieve nonconsensual releases for their directors, officers, insiders and lenders that would not be available to them in a Chapter 11 case: (1) establish a non-U.S. jurisdiction as their center of main interest, (2) file an insolvency proceeding there, (3) obtain the desired releases, and (4) seek recognition in the U.S. under Chapter 15.

Now that this blueprint has been established, debtors with a non-U.S. footprint — particularly those with mass tort liabilities — will need to think carefully about where, and under which insolvency regime, their liabilities can best be restructured.

On Dec. 1, the U.S. District Court for the Southern District of New York **overturned confirmation** of the Chapter 11 plan of reorganization of Brazilian airline Gol Linhas Aereas Inteligentes on the basis that the bankruptcy court improperly found creditor silence on the plan's third-party releases constituted consent. The decision in In re: Gol Linhas Aereas Inteligentes SA highlights the potential importance of this issue.[4]

2. The Recognition of So-Called Synthetic Cross-Border Proceedings

In February, in In re: Mega Newco Ltd., U.S. Bankruptcy Judge Michael E. Wiles of the U.S. Bankruptcy Court for the Southern District of New York **recognized** the U.K. Scheme of Arrangement of Mega Newco as a foreign main proceeding.

Mega Newco was a recently created English subsidiary of the Mexican debtor entity Operadora de Servicios Mega SA de CV, which had undergone its own Mexican restructuring in late 2024.[5]

Mega Newco was created, and the U.K. scheme was undertaken, primarily to restructure approximately $351 million in note debt governed by New York law, which Operadora could not achieve through its Mexican restructuring. With the full support of the participating noteholders, Mega Newco was able to successfully effectuate the restructuring of the New York debt that Operadora was not able to achieve itself. Thereafter, Mega Newco pursued recognition of the U.K. scheme under Chapter 15 of the Bankruptcy Code.

Writing for the court, Judge Wiles quickly dismissed any contention that Mega Newco's U.K. scheme could be recognized as a foreign nonmain proceeding — noting that the limited restructuring activities of Mega NewCo (i.e., the U.K. Scheme) were insufficient to qualify as economic-facing activities that were regularly conducted in the United Kingdom.

Turning to whether the U.K. scheme could be recognized as a foreign main proceeding, he looked to whether the U.K. was the "center of main interests" for Mega NewCo. The presumption under Section 1516(c) of the Bankruptcy Code that an entity's center of main interest, or COMI, is the location of its registered office, coupled with the lack of any objections to the recognition or the U.K. scheme, was pivotal to his analysis.

While Judge Wiles noted the form over substance in recognizing the synthetic recognition, he pointed to the openness of the U.K. proceeding and the U.S. recognition process to lessen concerns.

The Mega NewCo ruling provides another road map for distressed companies to gain the benefits offered by the Bankruptcy Code without necessarily needing to incur the extensive costs associated with a full Chapter 11 filing. Rather, a debtor may consider initiating foreign proceedings, or multiple foreign proceedings, and subsequently seek recognition through expedited proceedings in the U.S. and ultimately achieving the full force and effect of the restructuring within the U.S. and directly affect U.S.-governed debt.

3. The Nonimpact of Mass Tort Litigation on COMI

The intersection of the Bankruptcy Code and mass tort litigation is not novel. There is an extensive history of companies facing substantial liabilities leveraging the protections of the Chapter 11 of Bankruptcy Code to obtain necessary breathing room to effectuate holistic restructurings.

It follows, then, that a foreign company undergoing foreign restructuring proceedings for similar reasons might seek to avail itself to the protections of Chapter 15. However, the requisite Chapter 15 analysis for such companies laden with mass torts, including that entity's COMI, may not be as clear as one would initially believe.

Asbestos Corp. Ltd., a Canadian corporation founded in 1925 and headquartered in Quebec, historically operated large chrysotile-asbestos mines and shipped asbestos worldwide. Over several decades, ACL faced tens of thousands of asbestos personal injury lawsuits in the U.S., with the company's defense and indemnity costs governed by an interim settlement agreement administered by a third-party administrator on behalf of certain London insurers.

However, ACL took the position that a court-appointed receiver could not act on its behalf, resulting in numerous default judgments against the company and a material risk to the company's balance sheet.

This prompted the initiation of a Canadian insolvency proceeding on May 5, 2025, and, shortly thereafter, a Chapter 15 petition in the Southern District of New York seeking recognition of the Canadian proceeding as a foreign main proceeding, entrustment of U.S. assets to the foreign representative, and extension of the automatic stay to nondebtor parties.

In response, a group of U.S. asbestos claimants objected on three principal grounds:

- ACL's COMI was allegedly the U.S., not Canada.
- Even if the COMI was not the U.S., ACL allegedly lacked any nontransitory business activity in Canada sufficient to recognize a foreign nonmain proceeding.
- Extending stay protections under Section 362 to nondebtors, e.g., insurers, would allegedly prejudice U.S. claimants, violate Section 1522's "sufficient protection" requirement, and be manifestly contrary to U.S. public policy under Section 1506.

Writing for the court's Oct. 29 decision, Judge Martin Glenn found that the settled Fairfield Sentry factors (e.g., location of headquarters, management and primary assets) clearly supported the conclusion that Quebec, Canada, was the COMI of ACL and that no case law supported shifting a debtor's COMI solely because litigation occurs in another jurisdiction — even if numerous tort creditors were based in the U.S. and asserted litigation claims pursuant to U.S. law.

Additionally, the bankruptcy court noted that ACL clearly had “establishments under Section 1502(2) as it conducted ongoing and non-transitory economic activity in Canada as well.”

Finally, Judge Glenn rejected the claimants’ contentions that they were not sufficiently protected and that recognition was contrary to public policy. Specifically, he noted that arguments on the sufficiency of protections were premature until a plan was finalized in the Canadian proceedings, and the public policy exception is extremely narrow and to deny recognition on that basis would contradict extensive precedent in which the U.S. bankruptcy court has recognized Canadian insolvency proceedings.

The ACL decision underscores that the situs of litigation — even mass tort litigation — does not shift the COMI when the debtor maintains genuine headquarters functions abroad. That is, debtors with extensive U.S. litigation exposure can still obtain foreign-main recognition if their operational center remains abroad.

The decision should provide comfort to foreign debtors that collateral attacks by tort claimants on the recognition of foreign proceedings will not be entertained by U.S. bankruptcy courts — provided that all other requirements for Chapter 15 recognition are satisfied.

Closing Thoughts

Chapter 15 remains an important facet of the Bankruptcy Code and a valuable tool for distressed companies and creditors alike.

The notable Chapter 15 decisions rendered in 2025 underscore how complex restructurings in jurisdictions foreign to the U.S. are still subject to the rule of law in the U.S. bankruptcy courts, but that the principles of Chapter 15 stand steadfast against putative challengers. That is, foreign court orders will be enforced in the U.S., provided the well-structured standard of Chapter 15 is met and recognition of such an order is manifestly contrary to the public policy of the United States.

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[1] Harrington v. Purdue Pharma L.P., 603 U.S. 204 (2024).

[2] In re Crédito Real, S.A.B. de C.V., SOFOM, E.N.R., 670 B.R. 150 (Bankr. D. Del. 2025).

[3] In re Odebrecht Engenharia e Construção S.A., 669 B.R. 457 (Bankr. S.D.N.Y. 2025).

[4] In re Gol Linhas Aéreas Inteligentes S.A., No. 25-cv-4610 (DLC) (S.D.N.Y. Dec. 1, 2025).

[5] In re Mega NewCo Limited, No. 24-12031 (Bankr. S.D.N.Y. Feb. 24, 2025).

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