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Purdue Pharma and the Nonconsensual Release of Direct Claims Against Non-Debtors

Norton Annual Survey of Bankruptcy Law

WRITTEN BY

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Los Angeles Locke Lord Partner **David Kupetz** authored an article in the Norton Annual Survey of Bankruptcy Law outlining the high-profile appellate decision vacating Purdue Pharma's confirmed Chapter 11 bankruptcy plan of reorganization and discusses whether a bankruptcy court (or any other court) has statutory authority to grant non-consensual releases of third-party claims against non-debtors. Kupetz notes the Circuit Courts have been split for decades on the question of the validity of nonconsensual non-debtor releases under a Chapter 11 plan.

"Both the Purdue Pharma and Mahwah decisions vacated bankruptcy court plan confirmation orders imposing nonconsensual non-debtor releases, but for different reasons," Kupetz adds. "While Purdue Pharma was based on a lack of statutory authority, Mahwah focused on constitutional defects, including a lack of due process in purporting to obtain consent to third-party releases."

Read Kupetz's article in the Norton Annual Survey of Bankruptcy Law.

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