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Third Circuit Permits Reopening of Reorganization Case to Enforce Debtor's Purchase Option in Real Estate Lease

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The U.S. Court of Appeals for the Third Circuit has ruled that a reorganized Chapter 11 debtor could reopen its closed case, enabling the debtor assignee to enforce a purchase option in a real property lease despite the lease's "anti-assignment provisions." Agreeing with the Delaware bankruptcy court, but reversing the district court, the court of appeals held that "the anti-assignment provision [in the lease] was unenforceable [under Bankruptcy Code § 365 (f)(3)] and that [the landlord's] refusal to honor the purchase option violated" a separate court-approved "Settlement Agreement" between the parties. In this article, SRZ business reorganization partners Michael L. Cook and Lawrence V. Gelber discuss the Third Circuit's ruling.

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