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Second Circuit Reverses District Court in *Marblegate*, Making It Easier to Restructure Bonds Out of a Chapter 11 Case

The Bankruptcy Strategist

March 2017

On Jan. 17, 2017, in a closely watched dispute surrounding Section 316(b) of the Trust Indenture Act of 1939, the U.S. Court of Appeals for the Second Circuit issued its long-anticipated decision in *Marblegate Asset Management, LLC v. Education Management Finance Corp.*, No. 15-2124-CV(L), 2017 WL 164318 (2d Cir. Jan. 17, 2017). In a 2-1 ruling reversing the district court, the court of appeals construed Section 316(b) narrowly, holding that it only prohibits “non-consensual amendments to an indenture’s core payment terms” and does not protect noteholders’ practical ability to receive payment. In this article, partner Ronald Risdon and former Schulte lawyers Alan Glickman, David Hillman and Minji Reem discuss the Second Circuit’s rejection of the district court’s broad reading of Section 316(b) and how the decision will affect the restructuring of bonds.

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