GIBSON DUNN

Gibson Dunn achieves seminal win in the United States Bankruptcy Court in Serta Simmons Bedding dispute

Accolades | June 7, 2023

Gibson Dunn achieved a sweeping victory at trial in the United States Bankruptcy Court for the Southern District of Texas, validating a market-leading transaction that provided Serta Simmons Bedding with new liquidity and capital structure relief in order to ensure its survival during the early days of the COVID-19 pandemic. The trial — where we successfully represented an ad hoc group of lenders including **Eaton Vance**, **Invesco**, **Barings**, and **Credit Suisse Asset Management**—was closely watched in the financial world and represents a seminal decision related to position enhancement transactions—financial transactions undertaken between a borrower and certain of its creditors outside of a bankruptcy proceeding to restructure a borrower's debt—that have become common in the market in recent years. The trial court ruled in our clients' favor on all claims, concluding that the transaction was expressly permitted under the credit agreement at issue, complied in all respects with the credit agreement, and that our clients acted in good faith. The trial court further acknowledged that the transaction was undertaken defensively, to stop a competing group of lenders from implementing their own position enhancement transaction, even indicating that the competing group acted with an objective lack of good faith. The Gibson Dunn litigation team includes Houston partner Gregg Costa, New York partners C. Lee Wilson and Orin Snyder, Washington, D.C. partner Helgi Walker, New York partner Amanda Aycock, New York of counsel Alison Wollin and Michael Nadler, and New York associate Alexandra Perloff-Giles. The bankruptcy team includes New York partners Scott Greenberg, Steven Domanowski and Jason Zachary Goldstein, New York of counsel Christina Brown, Los Angeles associate Michelle Choi, and New York associate Alex Xiao.

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Related Capabilities

Business Restructuring and Reorganization

Litigation

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