

Insolvency and Restructuring Update - December 1, 2009

December 1, 2009 | Client Update

On November 24, 2009, Judge James M. Peck of the United States Bankruptcy Court for the Southern District of New York issued a significant decision [1] in the ION Media Networks, Inc. bankruptcy case regarding the interpretation and enforceability of certain waivers of rights by second lien lenders in an intercreditor agreement. In upholding the waivers, Judge Peck held that the objecting second lien lender lacked standing to challenge the liens and priority of the first lien lenders or to object to the Debtors' plan of reorganization. The court also suggested that the objecting lender may well be liable for damages for breaching the intercreditor agreement, in the amount of the increased administrative expenses caused by its persistent and unsuccessful litigation tactics.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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