

Second Circuit Holds that Premiums Payable to PBGC after Termination Not Dischargeable

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In an important decision published recently, *Pension Benefit Guaranty Corp. v. Oneida Ltd.*, 2009 WL 929528 (2d Cir. April 8, 2009), the Second Circuit Court of Appeals reversed a decision by the U.S. Bankruptcy Court for the Southern District of New York, which held that “termination premiums” payable to the Pension Benefit Guaranty Corporation (PBGC) following the termination of a pension plan are dischargeable as unsecured prepetition claims in bankruptcy. Adopting reasoning advocated by PBGC, the court held that the termination premiums are not claims in the terminating employers’ bankruptcy cases, but instead become obligations of the employers only upon their emergence from bankruptcy or case dismissal.

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