

Second Circuit Holds that PBGC Pension Termination Premiums are Non-Dischargeable in Bankruptcy

April 13, 2009 | Client Update

In an important decision published last week, the Second Circuit reversed a decision by the Southern District of New York Bankruptcy Court, which had held that premiums payable to the Pension Benefit Guaranty Corporation following the termination of a pension plan are dischargeable as unsecured pre-petition claims in bankruptcy. The Second Circuit is the first court of appeals to address this issue since a 2005 statute implemented the so-called “termination premiums,” and its decision gives effect to Congress’s apparent intent, which was to make it significantly more expensive for debtors to terminate pension plans.

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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