
WilmerHale Victory For Securities Trade Associations Helps Protect Vibrant Secondary Market In Distressed Debt

2007-08-27

A team of WilmerHale bankruptcy and appellate lawyers won an important victory for the Loan Syndications and Trading Association (LSTA), the Securities Industry and Financial Markets Association (SIFMA) and the International Swaps and Derivatives Association (ISDA), when District Judge Shira A. Scheindlin of the US District Court for the Southern District of New York reversed a bankruptcy court decision that threatened to cause massive disruption in the secondary markets for trading bank debt, bond debt and other claims against a debtor in bankruptcy.

Recognizing that its decision would have “serious ramifications well beyond the parties involved,” the district court held that equitable subordination and disallowance are “personal disabilities” that do not transfer with claims when they are sold to good faith purchasers on the open market. The district court noted that the bankruptcy court’s contrary conclusion “threatened to wreak havoc on the markets for distressed debt. That result has now been avoided.”

The decision was a victory for the trade associations that WilmerHale represented, as *amici curiae*, in this appeal. In their *amici* brief, the associations apprised the court of the substantial market disruption caused by the bankruptcy court’s decision.

The WilmerHale team representing the *amici curiae* trade associations included [Seth Waxman](#), [Louis Cohen](#), [Craig Goldblatt](#) (who argued on behalf of the trade associations before the district court), [James Millar](#), and [Amy Oberdorfer Nyberg](#).