Delaware Bankruptcy Court Recognizes Crédito Real's Prepacked Plan, Including Nonconsensual Third-Party Releases Allowed Under Mexican Law

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In a case of first impression since the U.S. Supreme Court rendered its decision in *Purdue* prohibiting nonconsensual third-party releases, the U.S. Bankruptcy Court for the District of Delaware granted recognition of Crédito Real's prepacked plan, which contains nonconsensual third-party releases approved by a Mexican court. In overruling the objection of the U.S. International Development Finance Corp. (DFC), which argued that the Mexican plan would be contrary to U.S. public policy and the court lacked authority to recognize the plan in light of *Purdue*, Judge Thomas M. Horan found that "*Purdue* only goes so far," its holding is limited to Chapter 11, and it "does not create an impediment" to recognition. Emphasizing that "comity is key," the court found that Crédito Real's "plan does not implicate the public policy exception."

It will be interesting to observe what broader or long-term implications, if any, the court's decision will have. Will debtors attempt to utilize Chapter 15 as a vehicle to circumvent *Purdue* to gain approval in the U.S. of nonconsensual third-party releases allowed under the laws of foreign jurisdictions, or is the court's ruling limited to the facts of this case? The answer to this question is unclear at the moment. Following his ruling, Judge Horan acknowledged that this is an "issue of significance" and indicated that he will write an opinion on his ruling in short order. Stay tuned!