

News



Many of our engagements involve matters in which our clients face significant public attention. The following is a list of news stories about the firm, our clients, cases and the results we have achieved.

NY Court Rules that BFAM and Other Offshore Bondholders Can Sue Bond Issuers Directly Without Trustee

March 15, 2024

In an important ruling that makes it easier for global bondholders unilaterally to sue issuers and guarantors in New York for nonpayment without a trustee, a New York court has allowed a lawsuit brought by BFAM and other global bondholders against Chinese property developer Glory Health to move forward.

On March 11, New York Supreme Court Justice Joel Cohen denied a motion filed by Glory Health and other defendants to dismiss a lawsuit brought by bondholders over the company's default on over US \$334 million in high-yield notes. The defendants had argued that the plaintiffs lacked standing to bring the claims because they are not the trustee or holders of the notes.

But Justice Cohen sided with BFAM and the other plaintiffs, represented by Kobre & Kim, which argued that the bondholders had received authorization to bring the lawsuit from Euroclear Bank SA/NV, the clearing system for the notes.

"New York courts are a global center for emerging market company debt, including PRC and Indian companies. This ruling puts global bondholders squarely in the driver seat. The implication is that, post-maturity, bond investors may no longer need to form groups to take action and can make and quickly execute on strategic decisions without going through a bond trustee, which may have very different views and approach. Bond issuers could see the speed of response by creditors to defaults decrease from, in some cases, years to months or even weeks. Many of the collective action barriers to enforcement simply go away," said Kobre & Kim attorney John Han. "It could make New York bonds more easily enforceable as a general matter, which could even impact pricing."

In addition to Mr. Han, the Kobre & Kim team includes Geoffrey Derrick and Leif Simonson.