

## Bankruptcy Group Of The Year: Latham

By Josh Liberatore

*Law360 (February 9, 2023, 2:03 PM EST)* -- Latham & Watkins LLP helped drugmaker Mallinckrodt PLC resolve thousands of opioid lawsuits, glassmaker Owens-Illinois get out from under 40 years of asbestos claims and Chinese company Huachen Energy strike a landmark \$500 million deal under Chapter 15, earning it a spot as one of Law360's 2022 Bankruptcy Groups of the Year.

For Latham's restructuring and special situations practice, made up of 92 attorneys across 30 global offices, 2022 was a year of firsts. Among them, the firm steered Mallinckrodt through Chapter 11, making the pharmaceutical giant the first company to permanently resolve current and future opioid claims.

According to Latham's restructuring practice leaders, George Davis and Jeff Bjork, the firm's success was due in large part to its approach of getting creditors and other stakeholders on board with Mallinckrodt's plan before filing, and limiting litigation.

"We've developed a good relationship as a firm with the plaintiffs' bar," Bjork said. "We know how to negotiate, and we know what issues they care a lot about."

Mallinckrodt entered Chapter 11 in October 2020 with the approval of 50 states and territories that had opioid claims against the company, as well as the majority of guaranteed unsecured bondholders.

That helped the drugmaker avoid protracted litigation despite being embroiled in a sprawling restructuring that involved more than 3,000 opioid-related claims from public and private entities, as well as a host of separate issues including antitrust litigation related to Mallinckrodt's Acthar Gel product.

"I can't think of the last time you had a bankruptcy case that involved an antitrust trial in the middle of the confirmation hearing," Davis said of the deal's high level of complexity. "We had 40,000 asbestos claims filed in the case. It was pretty much everything you can think of."

Mallinckrodt emerged from Chapter 11 in July, getting relatively swift approval on a plan that set up a \$1.7 billion litigation settlement to resolve opioid claims and deleveraged \$1.3 billion of the company's more than \$5 billion in debt.



That same collaborative approach paid dividends in another mass-tort restructuring, where Latham represented Owens-Illinois as the glass manufacturer struck a \$610 million deal that put an end to several decades' worth of asbestos litigation stemming from pipes it made in the 1940s and 50s.

After first devising an innovative spinoff transaction under Delaware law that funneled all of Owens-Illinois' asbestos-related liabilities into a newly created subsidiary, Paddock, the Latham team went to work in getting the approval of tort claimants on a Chapter 11 plan.

Negotiations were successful, with 99.99% of voting creditors supporting the company's plan to settle with asbestos claimants. The bankruptcy court approved Paddock's plan in June, around two and a half years after the subsidiary filed for Chapter 11.

Bjork said the firm didn't put any pressure on the asbestos claimants to litigate, instead prioritizing transparent negotiations and an open exchange of information to come to a deal.

"I think us taking that approach created a good-faith atmosphere," he said. "It allowed both sides to more or less stop with the posturing and be commercial."

In another first-of-its-kind deal, Latham helped Huachen Energy secure Chapter 15 recognition of its plan to restructure \$500 million in New York-law governed senior notes, which was part of the Chinese power company's larger bankruptcy plan approved by the People's Republic of China.

It marked the first time a U.S. bankruptcy court has recognized a PRC court's reorganization plan.

"No one had even attempted that before, but we pulled it off," said Howard Lam, a restructuring partner in Latham's Hong Kong office who led the deal.

Latham designed the plan from the start with an eye toward eventually obtaining Chapter 15 approval, Lam said. That included preparing multiple sets of documents to satisfy the demands of courts in China and the U.S., as well as obtaining the approval of international investors.

Lam called the Huachen deal a "game changer" for bankruptcy cases that involve Chinese and American financial interests, noting that "there are trillions of dollars of U.S. dollar debt issued by Chinese companies."

"There is recognition now by the U.S. courts of how things are done under the bankruptcy reorganization process in China," he said.

Bjork believes Latham is in a prime position to capitalize on the growing trend of cross-border restructurings, in China and elsewhere.

"There's only a few firms that can really handle that," he said. "The fact that we have such a strong restructuring presence in Asia, on the continent [in Europe], and in the U.K., it allows us to really service the globe."

--Editing by Nicole Bleier.