Proskauer

Proskauer Prevails at Eighth Circuit on Behalf of ARKK Food Company

September 5, 2023

NEW YORK, September 5, 2023 – Leading international law firm Proskauer prevailed at the Eighth Circuit on behalf of its client, ARKK Food Company ("ARKK"), a food products supplier, on an important question of first impression at the circuit-level in bankruptcy – whether avoidance actions constitute "property of the estate" that can be sold by the trustee.

The U.S. Court of Appeals for the Eighth Circuit held earlier this week that avoidance actions are property of the estate and affirmed the bankruptcy court's order approving the sale and finding it in the best interests of the estate.

Proskauer handled all aspects of the appeal, including the briefing and oral argument. As part of its support for ARKK, Proskauer pioneered a strategy whereby the client exchanged its claim for 85% ownership of the estate's estimated $100+ million in avoidance actions, drastically increasing ARKK's prospective recovery. This strategy catapulted ARKK's position from a creditor originally holding a $7 million claim against an insolvent entity to owning more than an estimated $100 million in claims against numerous non-debtor entities.

The Proskauer team was led by partner Todd Ohlms (Litigation) and associate Daniel Desatnik (Bankruptcy) and included partner John Roberts and associate Shiloh Rainwater (Appellate); partner Ehud Barak and associate Max Greenberg (Bankruptcy); and senior counsel Jordan Leader and associate Javier Sosa (Litigation).

About Proskauer

We are 800+ lawyers serving clients from 12 offices located in the leading financial and business centers in the Americas, Europe and Asia. We work with asset managers, private equity and venture capital firms, Fortune 500 and FTSE companies, major sports leagues, entertainment industry legends and industry-redefining companies.

Since 1875, Proskauer has been devoted to our clients' successes. Our lawyers are known for their unusually high accessibility, responsiveness and attentiveness. We go the extra mile to understand a client's business — and think like savvy businesspeople in the process.

Proskauer has a full-service litigation practice with extensive trial experience in virtually every major forum across the globe. We take a collaborative approach to representing defendants and plaintiffs, multinationals, middle-market and small-cap businesses, financial institutions, partnerships and individuals, with one thing in mind – driving successful outcomes for our clients.

We win make-or-break cases, change laws and establish precedents. Our litigators cover the full spectrum of complex commercial litigation practice areas and handle the complete range of sophisticated litigation, trial, appellate and counseling, as well as government contractor issues and investigations.

Our prowess in the field consistently earns the highest accolades, receiving a top-tier rankings in *Chambers* and recognized as leaders by *The Legal 500* and *Benchmark Litigation*, among others.

Related Professionals

- **Todd J. Ohlms**
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