



Continuing Legal Education Webinar

Make-Whole after Ultra: Key Take-Aways from the Fifth Circuit’s Decision in Ultra

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Summary: The panel will provide an overview of the unique facts in the Ultra case, and a summary of the Noteholder Group’s litigation with the Debtors over make-whole and post-petition interest. Additionally the panel will provide an analysis of the Fifth Circuit’s decision, as well as focus on how this impacts current deals and strategy and the private placement market going forward.

- I. Ultra Background and Key Facts
- II. Pre-Ultra State of the Law Regarding Make-Whole
- III. Bankruptcy Court Litigation
 - a. Claim Debtors’ Claims Objections and Noteholder Group’s Arguments in Support of Make-Whole and Post-petition Interest
 - i. Unimpairment under the Bankruptcy Code
 - ii. Solvent Debtor Rule
 - iii. Liquidated Damages v. Unmatured Interest under Section 502(b)(2)
 - b. Bankruptcy Court Decision
- IV. Fifth Circuit Decision
 - a. Decisions versus issues on remand
- V. Take-aways
 - a. Considerations in current matters
 - b. Review of the NPA
- VI. Questions