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Empty Bankruptcy Win For Commercial Landlord

The Bankruptcy Strategist

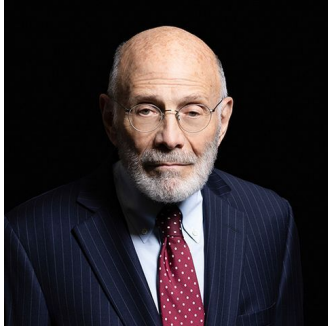
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In his latest article for *The Bankruptcy Strategist* titled, “Empty Bankruptcy Win For Commercial Landlord,” Schulte Roth & Zabel of counsel Michael L. Cook explores the third Second Circuit decision that ended a multi-year litigation covering an improper lease assignment resulting in three earlier district court rulings and another from the US Supreme Court. The most recent ruling affirmed the district court’s decision that the shopping center landlord’s appeal was “moot for lack of a remedy because, although [that] court [had properly] vacated the assignment and assumption of the lease ..., the lease would not revert to [the landlord under Bankruptcy Code] §365(d)(4), and that [the landlord] had no alternative remedy.”

The entire litigation, Michael shows, was an empty victory for the landlord. Although it had many legal victories in the appellate courts, the landlord was still unable to recapture the leased premises. According to the Second Circuit, a landlord cannot “improve [its] position simply because a tenant seeks bankruptcy relief.”

Read the article.

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