

Litigator of the Week Runners-Up and Shout-Outs

By Ross Todd

January 9, 2025

► First up are Emil Kleinhaus of Wachtell, Lipton, Rosen & Katz, who represented Mitel Networks, and Elliot Moskowitz of Davis Polk & Wardwell, who represented lenders who participated in the Canadian telecommunication company's 2022 out-of-court debt restructuring via a so-called "liability management" or "uptier" transaction—a type of deal dubbed by detractors as "lender-on-lender violence." After Kleinhaus and Moskowitz handled arguments at New York's Appellate Division, First Department in October, the court handed their clients a win on New Year's Eve. The appellate court upheld the dismissal of certain breach-of-implied-covenant claims brought by minority lenders that did not participate in the deal. It also reversed the lower court by dismissing the plaintiff's express contract claims outright. A team at Orrick, Herrington & Sutcliffe led by Richard Jacobsen represented Credit Suisse, which acted as agent for the lenders in the underlying deal, and a team at **Latham & Watkins** led by **Christopher Harris** represented Searchlight Capital Partners, Mitel's equity owner. Last week's decision also upheld the dismissal of tortious interference claims against their clients. The Wachtell team on the matter for Mittel included Michael Cassel, Mitchell Levy, Lauren Kofke and Kate Waldock. The Davis Polk team representing the participating lenders also included counsel Marc Tobak and associate Adam Greene.

► A **Latham & Watkins** team secured an important ruling for Serendia LLC at the U.S. International Trade Commission concerning four patents related to radio frequency microneedling medical devices used for dermatological treatments. In an initial determination issued last month, Administrative Law Judge Mary Joan McNamara found that multiple companies infringed upon the patents and recommended a limited exclusion order and cease and desist order against the last of the 10 original respondents remaining in the case. The others agreed to take a license to the asserted patents prior to the decision. The Latham team includes partners **Kevin Wheeler, Charles Sanders, Michael David, Cecilia Peniza** and **Gabriel Bell**, associates **Bradley Hyde, Benjamin Behrendt, Hannah Fan, Franco Benyamin** and **Nicole Elena Bruner** and patent litigation attorney **Daniel Ripley McNeely**.