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David Mawhinney Writes “What Sun Capital Can Teach About Controlled Group Liability and Pension Fund Fights to Come” for the American Bankruptcy Institute Journal

BY DAVID A. MAWHINNEY • SEPTEMBER 15, 2020

The *American Bankruptcy Institute Journal* has published “What Sun Capital Can Teach About Controlled Group Liability and Pension Fund Fights to Come” co-written by David Mawhinney. The article focuses on private equity funds and pension liability while it takes an in depth look at one union’s decade-long campaign to hold private equity liable for millions of dollars in pension plan withdrawal liability after a Rhode Island-based manufacturing company that the fund owned went out of business. Below are excerpts from the article:

Portfolio managers and labor and pension professionals should become familiar with Sun Capital, as the coronavirus recession is likely to have a significant impact on businesses that sponsor and participate in pension plans.

On the issue of “common control,” the First Circuit’s decision in favor of Sun Capital gives no comfort to either side. Under slightly different facts, a court could easily rule against an equity owner in the future.

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