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Thelen files for bankruptcy

By Amanda Royal

RECORDER STAFF WRITER

Thelen LLP filed for Chapter 7 bankruptcy in the Southern District of New York on Thursday night, almost a year after the firm voted to dissolve.

The move was the only way to be fair to all unsecured creditors, said David Graybeal, a member of Thelen's dissolution committee.

"The trendline on the collections efforts was declining month to month, as you'd expect, and the ability to assure fair treatment of all the unsecured creditors becomes increasingly difficult in that circumstance when judgments have been entered against the firm," Graybeal said. "We really feel there was no alternative."

Thelen was facing a \$25 million judgment granted to a New York landlord in Los Angeles County Superior Court in June.

The firm had 90 days to void the judgment with a bankruptcy or face paying the landlord ahead of other unsecured creditors.

A similar judgment forced Heller into bankruptcy last December.

Thelen's employees now have some pri-



David Graybeal

The dissolution committee member says filing Chapter 7 was the failed firm's only option.

ority over the landlords in the bankruptcy. They may receive at least \$10,950 each before other unsecured creditors, if they had accrued that much in unpaid wages or vacation.

"We were trying all along to achieve a result for all of our unsecured creditors, including the employees, in the fairest way," Graybeal said.

Kimberly Cooley, who managed paralegals from Thelen's San Francisco office, said employees had been expecting the bankruptcy, but don't expect to see money for years to come.

"People think that if they do get it, it's going to be a long time. It's going to be years, if there is anything," Cooley said. "Honestly, I think this is going the way of most lawsuits.

People are very gung-ho in the beginning, and then the nature of lawsuits is that by the time you are well into it, you say, 'I just want to get it over with and I'll take anything.'"

The bankruptcy shows the firm has given up hope of collecting most of its \$35 million in stale accounts receivable. The firm's only secured creditor, Citibank, is also no longer willing to pay staff to collect the money, according to a court filing.

To pay creditors, law firm bankruptcies often lead to litigation against former partners or the firms that hired them.

But such suits are not inevitable, said Scott McNutt, a San Francisco bankruptcy attorney.

"It's not even clear that there are legitimate causes of action in these situations," McNutt said. "In the past, these actions [fraudulent conveyance claims against partners] have all been resolved through settlement. They've never gone to judgment."

McNutt said it's often better to focus on reducing creditors' claims than on seeking new dollars from new defendants.

"There are two ways to get money: One is to get money, the other way is to reduce claims," McNutt said.

Thelen owes creditors about \$64 million altogether. It owes Citibank about \$7 million. Its landlords have asserted claims of about \$50 million, according to Thelen's bankruptcy counsel, Peter Gilhuly at Latham & Watkins.

And it owes about 680 other creditors, including employees, about \$7.5 million. The bankruptcy filings do not peg an amount owed to the landlords because those claims are contingent on factors such as whether the landlords have subleased the properties.

Thelen subleased its San Francisco office space to Reed Smith in May, and suits in San Francisco Superior Court with that landlord were dismissed.

Many predicted a bankruptcy was inevitable after the New York landlord received the writ of attachment. Three creditors could have forced an involuntary bankruptcy to void the writ. Craig Collins at litigation bou-



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LAST RESORT: Almost a year after partners voted to dissolve the flagging firm, stalled collections and an impatient bank helped lead the cleanup crew to file for bankruptcy.

tique Blum Collins, which represents Thelen employees in a class action seeking unpaid wages and vacation pay, had threatened to file an involuntary petition this week.

Thelen voted to dissolve last October, after merger talks failed with Nixon Peabody. After the collapse, Nixon took on 60 of Thelen's 400 attorneys.

Thelen, a California limited liability partnership, filed the bankruptcy in New York because that's where its assets and major creditors are located, Gilhuly said in an e-mail.

Graybeal, Douglas Davidson and Thomas Hill, the three members of Thelen's administrative committee charged with winding

down the firm, authorized the Chapter 7 petition on Sept. 11, according to a bankruptcy filing.

Former Thelen Chairman Stephen O'Neal declined to comment.

Reporter Amanda Royal's e-mail address is amanda.royal@incisivemedia.com.



188 The Embarcadero, Ste. 800

San Francisco, CA 94105

Tel: (415) 995-8475