

CASE STUDY

Tenacity and Persistence in Litigating a Reorganization

“I am absolutely elated to see Congoleum’s plan confirmed at last. It has been a long, difficult journey out of the complicated asbestos and insurance litigation we faced nearly nine years ago. I could not be happier about putting this chapter of our history behind us.”

—Roger S. Marcus, Chairman of the Board



Client:	Congoleum
Industry:	Flooring
Area of Law:	Insolvency and restructuring
Venues:	Third Circuit, U.S. District Court for the District of New Jersey; U.S. Bankruptcy Court for the District of New Jersey
Result:	Helped the client reorganize its business and channel its asbestos liability to a court-approved trust fund resolving the company’s substantial asbestos liability exposure from tens of thousands of pending lawsuits and threatened claims



Over the last decade, as companies sought to address their massive claims for asbestos liability by restructuring under special provisions of Chapter 11 of the Bankruptcy Code, they typically faced highly contested court proceedings before a confirmable plan could be achieved. But Pillsbury attorneys needed truly extraordinary persistence and resourcefulness to prevail in what ultimately became a six-year battle on behalf of our client Congoleum Corporation.

Tens of thousands of lawsuits had been filed against the company alleging asbestos injuries from flooring made years earlier. Congoleum’s insurers declined to provide defenses to the claims. In December 2003, Congoleum filed for bankruptcy protection, proposing a pre-packaged plan seeking an expeditious exit from bankruptcy. Over the course of the case, however, Congoleum’s pre-petition agreements with representatives of the asbestos claimants were challenged, and applicable bankruptcy principles evolved, requiring wholesale reconsideration of the company’s restructuring efforts.

When Pillsbury took over as lead debtor counsel for Congoleum in late 2004, we worked closely with Congoleum’s management to formulate a comprehensive plan that would be acceptable to the company’s creditors, and would satisfy an array of complicated requirements pertaining to asbestos reorganization plans. Pillsbury also worked collaboratively to achieve insurance settlements of approximately \$235 million to fund a trust to benefit asbestos claimants.

With Pillsbury’s help, Congoleum successfully overcame intense scrutiny, as well as a challenging economy, to successfully emerge from Chapter 11—allowing the company to again focus on, and sustain, its core business.