

# Creditors' Rights and Bankruptcy

## Overview

Our extensive insolvency, reorganization, and restructuring practice includes the representation of foreign and domestic commercial lenders, creditors' committees, unsecured creditors, Chapter 11 and Chapter 7 trustees, court-appointed receivers, assignees, landlords, bondholders, and purchasers of assets of bankruptcy estates. We have also represented debtors in possession in several large Chapter 11 cases.

Our attorneys have wide-ranging experience with loan workouts, debt restructuring, federal bankruptcy matters, state court insolvency proceedings, and all related litigation and transactional matters, including Chapter 15 proceedings, Section 363 sales, post-petition lending, contested confirmation hearings and objections to discharge. We have defended some of the largest and most complex director and officer claims in Florida and elsewhere, and have prosecuted and defended significant preference and fraudulent transfer claims. Our attorneys have also represented creditors and assignors in many of the most complex assignments for the benefit of creditors around the country.

Members of our group include a SIPC liquidation trustee, business bankruptcy attorneys board certified by the American Board of Certification, and former presidents and board members of local bankruptcy bar associations.

## Experience

### **Creditor Representation**

- Represented Blackstone Group subsidiary in negotiation of Section 365 assumption and modification of multimillion-dollar, multiyear lease with data solutions provider TLO, and assignment to TransUnion in connection with \$154 million Section 363 sale.
- Restructured \$200 million in loans to significant commercial real estate developer.
- Represented a national financing company and plan proponent in the Optical Technologies Chapter 11 bankruptcy cases. The client financed thousands of equipment leases pre-petition and provided post-petition financing. We also represented the financing entity post-confirmation in liquidating their portfolio.

- Represented secured lenders in major condominium project bankruptcy case resulting in lender's full payment.
- Represented secured lender in bankruptcy case of QOC I LLC, a \$138 million viatical bankruptcy case.
- Represented landlord in negotiated assignment of multimillion-dollar lease to national credit bureau in connection with buyer's \$154 million purchase of assets from national data solutions provider Chapter 11 bankruptcy estate.
- Represented secured lender group owed more than \$500 million in the Ginn-LA St. Lucie Ltd. LLLP bankruptcy case, resulting in sale of assets securing lending group's claims.
- Represented several nationwide landlord entities regarding various tenant issues in bankruptcy including expediting recovery of leased premises, managing negative impacts resulting from tenant's liquidation, recovery of administrative expenses, and preparation of proofs of claim.

### **Chapter 15 and Other International Insolvency**

- Defended several major insurers in negotiations with and action brought by the Liquidating Trustee in the Hovensa LLC bankruptcy proceeding in the U.S. Virgin Islands, the largest bankruptcy filed in that district.
- Represented Brazilian clients in significant Chapter 15 proceedings in Florida. Our representation in part helped define the scope and limits of such proceedings in the United States.
- Represented multinational entity in connection with Caribbean insolvency dispute involving intersection of secured creditor and landlord rights.

### **Bankruptcy Sales**

- Represented stalking horse bidder and successful buyer of publicly traded e-commerce company in Southern District of Florida proceeding.
- Represented stalking horse bidder of large health services provider in New Hampshire bankruptcy proceeding.

### **Trustee and Fiduciary Representation**

- Represented assignee in the liquidation of Butler & Hosch, one of the country's largest residential foreclosure law firms, with 16 affiliates spanning 26 offices nationwide and claims in excess of \$100 million.

- SIPC liquidation trustee in North American Clearing Inc. liquidation.
- Represented Chapter 7 trustee in liquidation of Shells Seafood Restaurant chain.

### **Director and Officer Representation**

- Defended former officers and directors and negotiated multiparty settlement with Chapter 7 trustee and term lenders in connection with failed \$2.9 billion Fontainebleau Las Vegas project.
- Defended six former officers of publicly traded company Avantair Inc. against claims for breach of fiduciary duty, among other things, asserted by Chapter 7 bankruptcy trustee and others in multi-claimant proceedings.
- Defended board of not-for-profit in multiparty dispute and settlement in connection with failed high-profile charity.
- Represented general partner in the Kaiser Aluminum Corp. Chapter 11 proceedings in the District of Delaware wherein we preserved a right of first refusal relating to the auction of a \$331 million partnership interest.

### **Insurance Industry Representation**

- Our group is particularly experienced in navigating insolvency-related issues impacting the insurance industry. We have represented insurers and insureds throughout the country in complex bankruptcy disputes involving coverage, claims administration, officer and director liability, and warranty matters.
- Defended several major insurers in negotiations with and action brought by the liquidating trustee in the Hovensa LLC bankruptcy proceeding in the U.S. Virgin Islands, the largest bankruptcy filed in that district.
- Represented insurance company in TOUSA, Taylor Bean & Whitaker Mortgage Corp., Gulfstream International Group, and GunnAllen Financial Inc. bankruptcy cases.
- Negotiated assumption and assignment of administration agreement between RadioShack and extended service contracts provider in connection with \$26 million Section 363 sale of 1,743 RadioShack stores and related assets to Standard General subsidiary.

## **Insights**

11.14.2022

Imperfect Perfection: Florida Has Zero Tolerance for Creditors Who Misname Debtors in UCC-1 Financing Statements

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10.19.2022

Litigating D&O Claims in the Modern Age: What's the Difference Between a Breach of Fiduciary Duty and Doing Your Job Really, Really Badly?

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05.06.2022

Why Every State Should Require Financial Literacy Education, as Florida Does

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02.04.2022

New Amendments to the Southern District of Florida Local Rules

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05.12.2021

Food for Thought: Can the Small Business Reorganization Act Be a Path for Restaurant Franchises?

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05.06.2021

Certain Debtors Are Now Eligible to Apply for PPP Loans

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03.17.2021

The Appropriations Act – Changes Regarding Commercial Leases in Bankruptcy

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01.22.2021

Can Doing Nothing as a Creditor Get You Sanctioned – In re Fulton Part II

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10.26.2020

Florida's Uniform Commercial Real Estate Receivership Act

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08.31.2020

Bar Orders Must Be Integral To Settlement in Order To Be Essential

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07.24.2020

Florida's New Receivership Act Offers Some Clarity for Commercial Real Estate Stakeholders

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05.14.2020

Lessons Learned: Receiverships

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04.24.2020

Reducing Hospital Regulatory Burdens Through Bankruptcy Sales

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04.23.2020

Economic Impact Payments Authorized by the CARES Act Are Not Exempt From Garnishment in Florida

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04.02.2020

Bankruptcy Provisions in the CARES Act

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03.31.2020

COVID-19: What a Lender Can Do to Prepare for the Inevitable Defaults Part 2

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03.28.2020

CARES Act Provides Payment Protection and Potential Loan Forgiveness to Small Businesses

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03.26.2020

Loan Restructuring and Forbearance Agreements in the Face of COVID-19 – The Hotel Borrower's Perspective

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03.21.2020

Can Governments Commandeer Your Property During COVID-19? California Says Yes

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03.20.2020

COVID-19 and Credit Facilities

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Loan Restructuring and Forbearance Agreements in the Face of COVID-19 – The Lender’s Perspective

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COVID-19: What a Lender Can Do to Prepare for the Inevitable Defaults

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COVID-19: What Can a Lender Do to Prepare for the Inevitable Defaults?

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02.10.2020

Big Changes for Small Business Bankruptcies

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01.25.2020

Can Doing Nothing as a Creditor Get You Sanctioned?

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11.07.2019

Deciding When a Misstatement to a Court Makes a Mockery of the Judicial System

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06.12.2019

Supreme Court: Trademark Owner in Bankruptcy Can’t Cancel Its Trademark Licenses

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12.01.2016

Treating Creditors as Shareholders: Fiduciary Duties of Directors and Officers of Insolvent Corporations in Florida

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10.07.2016

Surrendering Your Property in Bankruptcy Means You Must Actually Surrender It

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06.11.2016

Recognition of Foreign Insolvency Proceedings under Chapter 15 of the Bankruptcy Code

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06.07.2016

Why Banks Should Pay Attention to the Payday Rule

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05.03.2016

The New Roadmap for Proceedings Supplementary in Florida

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03.30.2016

New Statute Clarifies Florida's Judgment Execution Law

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09.28.2015

Florida District Court Affirms Bankruptcy Court Bar Order In Favor Of Former Ds & Os

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03.25.2015

Stripping of Unsecured Second Mortgages in Chapter 7 Bankruptcies in the Crosshairs

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09.12.2014

Deficiency Liability of Commercial Loan Guarantors: A Comparison of California, Florida, Georgia, Illinois, and New York Law

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04.22.2014

Deal carefully with bitcoins until legislation catches up

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02.06.2012

A Non-Debtor's Intellectual Property Rights In Light of A Licensor's Declaration of Bankruptcy

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12.29.2011

Defending Against Preference Avoidance Actions

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12.29.2011

Critical Dates to Consider in Bankruptcy

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09.20.2011

Q&A With Carlton Fields' Alan Rosenthal

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06.01.2009

Concerns for Lenders on Florida Condominium Projects: New Triggers for Turnover and Some Considerations on Successor Developer Liabilities

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03.01.2009

When Projects Go Bad: Bankruptcy Issues for the Construction Industry

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12.08.2008

New Statutory Requirements Triggering Condominium Association Turnover

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07.01.2007

Florida Tax Deed Sales are Getting Risky

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03.01.2006

The Roles of a Bankruptcy Lawyer

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02.16.2006

Recent Changes to the United States Bankruptcy Code – What Construction Lawyers Should Know and the Potential Impact Such Changes may have on Construction Projects

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05.11.2005

Bankruptcy Practice Pointer May 2005

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01.01.2005

Confusion of Source

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12.11.2002

Collier Bankruptcy Practice Guide

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12.11.2002

Environmental Law for the General Practitioner in Florida

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12.11.2002

Hazardous Waste Liability: The Emerging Problem for Lenders

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12.11.2002

Chapter 11 Theory and Practice

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12.11.2002

Judicial Lien Enforcement

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01.01.2002

After the Bubble's Burst: Bankruptcy in the High Tech World

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05.01.1997

A Comparative Analysis of Reorganizations Under the United States Bankruptcy Code and Administrations Under the English Insolvency Act

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04.01.1997

The New Value Exception: Critique of Another Perspective

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04.01.1997

The Problem: Successor Liability - A Solution: Channeling Injunctions

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11.01.1996

The Continuing Controversy: Jurisdiction of Bankruptcy Court to Enter Money Judgments in Dischargeability Actions

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01.01.1996

Chapter 11 Bankruptcy

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01.01.1994

UCC Article 9: 1994 Survey of Florida Law

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01.01.1990

Vol.7 West Florida Legal Forms, Creditors' Remedies and Debtors' Rights

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## Related Practices

- Banking, Commercial, and Consumer Finance
- Construction
- Crypto Insolvency and Fiduciary Practice
- Distressed Asset and Workout
- Distressed Health Care
- Insolvency-Related Directors and Officers (D&O) Litigation
- Litigation and Trials

- Real Property Litigation
- Alternative Dispute Resolution Services
- Family Law
- Consumer Finance
- Insolvency-Related Directors and Officers (D&O) Litigation

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- Construction