

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

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?

05.06.2022

Why Every State Should Require Financial Literacy Education, as Florida Does
Tampa Bay Business Journal

02.04.2022

New Amendments to the Southern District of Florida Local Rules
Daily Business Review

05.12.2021

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

05.06.2021

Certain Debtors Are Now Eligible to Apply for PPP Loans

03.17.2021

The Appropriations Act – Changes Regarding Commercial Leases in Bankruptcy

01.22.2021

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

10.26.2020

Florida's Uniform Commercial Real Estate Receivership Act

08.31.2020

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

07.24.2020

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

05.14.2020

Lessons Learned: Receiverships

04.24.2020

Reducing Hospital Regulatory Burdens Through Bankruptcy Sales

04.23.2020

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

04.02.2020

Bankruptcy Provisions in the CARES Act

03.31.2020

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

03.28.2020

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

03.26.2020

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

03.21.2020

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

03.20.2020

COVID-19 and Credit Facilities

03.19.2020

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

03.19.2020

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

03.17.2020

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

02.10.2020

Big Changes for Small Business Bankruptcies

01.25.2020

Can Doing Nothing as a Creditor Get You Sanctioned?

11.07.2019

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

06.12.2019

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

12.01.2016

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

10.07.2016

Surrendering Your Property in Bankruptcy Means You Must Actually Surrender It

06.11.2016

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

06.07.2016

Why Banks Should Pay Attention to the Payday Rule

05.03.2016

The New Roadmap for Proceedings Supplementary in Florida

03.30.2016

New Statute Clarifies Florida's Judgment Execution Law

09.28.2015

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

03.25.2015

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

09.12.2014

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

04.22.2014

Deal carefully with bitcoins until legislation catches up

02.06.2012

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

12.29.2011

Defending Against Preference Avoidance Actions

12.29.2011

Critical Dates to Consider in Bankruptcy

09.20.2011

Q&A With Carlton Fields' Alan Rosenthal

06.01.2009

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

03.01.2009

When Projects Go Bad: Bankruptcy Issues for the Construction Industry

12.08.2008

New Statutory Requirements Triggering Condominium Association Turnover

07.01.2007

Florida Tax Deed Sales are Getting Risky

03.01.2006

The Roles of a Bankruptcy Lawyer

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

05.11.2005

Bankruptcy Practice Pointer May 2005

01.01.2005

Confusion of Source

12.11.2002

Collier Bankruptcy Practice Guide

12.11.2002

Environmental Law for the General Practitioner in Florida

12.11.2002

Hazardous Waste Liability: The Emerging Problem for Lenders

12.11.2002

Chapter 11 Theory and Practice

12.11.2002

Judicial Lien Enforcement

01.01.2002

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

05.01.1997

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

04.01.1997

The New Value Exception: Critique of Another Perspective

04.01.1997

The Problem: Successor Liability - A Solution: Channeling Injunctions

11.01.1996

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

01.01.1996

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01.01.1994

UCC Article 9: 1994 Survey of Florida Law

01.01.1990

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Related Capabilities

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

Industries

- Banking, Commercial, and Consumer Finance
- Construction

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