



## David L. Gay

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## Overview

David Gay focuses his practice on bankruptcy and creditors' rights, corporate reorganizations and restructurings, and commercial litigation. He represents debtors, creditors, financial institutions, trustees, and creditors' committees in Chapter 11 reorganizations and Chapter 7 liquidations, as well as in fraudulent transfer actions, preference actions, and litigation against directors and officers. His practice has most recently included representation of various parties in health care and cryptocurrency-related restructurings as well as commercial loan workouts and litigation focusing on the hospitality industry in various districts throughout the country.

As an experienced litigator in federal and state courts, David is known for his strategic approach throughout all phases of commercial litigation, from pre-litigation consulting to post-judgment collection to appeals. He also has significant experience in business planning and advisory matters, insolvency and restructuring matters, shareholder and partnership disputes, real property disputes, and collection matters.

David is an active member of the Business Law Section of the Florida Bar, serving on a number of committees, including the committee studying revisions to Florida's Uniform Fraudulent Transfer Act.

Prior to attending law school, David served as a military intelligence officer in the U.S. Army.

## Experience

- Counsel to senior secured lenders in enforcement proceedings in state and bankruptcy court for multiple hotel properties in South Florida and Georgia.
- Represented creditors in Delaware restructuring proceedings for cryptocurrency trading platform.
- Counsel to creditors in managed care facility and related entity restructuring proceedings in Washington state and Delaware.
- Counsel to a leading nationwide ground lessor in movie theater company restructuring cases.
- Represented litigation creditor in physician practice restructuring proceedings in Delaware, including successful challenges to post-petition lending facility and subsequent plan confirmation.
- Counsel to creditors in the LAN/LATAM and Avianca airline restructuring cases in the Southern District of New York.
- Counsel to the trustee in the Universal Health Care bankruptcy in the Middle District of Florida in a multimillion-dollar breach of fiduciary duty and avoidance litigation against a private equity sponsor.
- Representation of leading national automotive floor plan lender in bankruptcy case of exotic car dealership in the Southern District of Florida resulting in conversion of bankruptcy case and authorization to take possession and auction vehicle inventory.
- Counsel to principal owner and director of Turnberry and Fontainebleau entities in officer/director and related litigation.
- Counsel to international fuel services company in the bankruptcy cases of marine fuel supply companies and related adversary proceedings.
- Lead trial and appellate counsel to real estate purchaser regarding enforcement of purchase and sale agreement, including obtaining a judgment for specific performance, equitable accounting, and an award of all fees and costs, and the successful defense of an appeal of the judgment and subsequent bankruptcy proceedings, resulting in the client obtaining possession of the real property.
- Counsel to leading credit reporting and data company in enforcement action regarding \$154 million purchase of intellectual property in bankruptcy case in the Southern District of Florida.
- Counsel to the liquidating trustee in TOUSA Homes Inc. and its affiliated debtors regarding successful resolution of more than \$100 million dollars in claims.
- Counsel to leading regional hotel management and hospitality company regarding various governance, litigation, and transactional matters.
- Counsel to unsecured creditors' committee in bankruptcy case of a five-star hotel and residential condominium complex located in South Florida, including the successful challenge to a proposed reorganization plan.
- Trial counsel to regional energy power company in trial and post-appellate proceedings involving complex tax credit programs regarding alternative fuels.

- Counsel to national clothing store company and affiliates in bankruptcy cases, including resolution of various leasing and litigation issues.
- Counsel to regional footwear and apparel chain in bankruptcy case.
- Counsel to international finance company in replevin and enforcement action.
- Counsel to senior living facility operator regarding enforcement of covenants and related agreements.
- Counsel to defendants in fraudulent transfer litigation involving complex trust and related issues and resulting in favorable ruling on a matter of first impression in Florida bankruptcy courts.
- Counsel to a regional senior living facility owner and operator regarding litigation and debt restructuring matters.
- Counsel to the plan proponent in the reorganization of the largest hotel in Pittsburgh, involving \$80 million in claims and contested matters against the secured lender, a global hedge fund.
- General counsel to the receiver and trustee in the Rothstein, Rosenfeldt, Adler, P.A. Ponzi scheme case, reported to be the largest in Florida history, involving more than 100 adversary proceedings and related litigation and resulting in recoveries sufficient to pay all general unsecured claims in full.
- Counsel for Winn-Dixie and 23 affiliated companies in the successful restructuring of more than \$2 billion in liabilities.

### Significant Reported Decisions

- *In re Chariots of Palm Beach, Inc.*, No. 9:17-bk-19455, 2019 WL 4744900 (Bankr. S.D. Fla. Sept. 27, 2019)
- *D & E Real Estate, LLC v. Vitto*, 260 So. 3d 429 (Fla. 3d DCA 2018)
- *In re Universal Health Care Grp., Inc.*, 560 B.R. 594 (Bankr. M.D. Fla. 2016)
- *In re TLFO, LLC*, 572 B.R. 391 (Bankr. S.D. Fla. 2016)
- *In re Tabor*, No. 9:14-bk-20731, 2016 WL 3462100 (Bankr. S.D. Fla. June 17, 2016)
- *In re Rothstein Rosenfeldt Adler, P.A.*, 464 B.R. 465 (Bankr. S.D. Fla. 2012)
- *In re Winn-Dixie Stores, Inc.*, 356 B.R. 239 (Bankr. M.D. Fla. 2006)

## Areas of Focus

### Practices

- Creditors' Rights and Bankruptcy
- Insolvency-Related Directors and Officers (D&O) Litigation
- Crypto Insolvency and Fiduciary Practice

### Industries

- Banking, Commercial, and Consumer Finance

- [Banking, Commercial, and Consumer Finance](#)
- [Litigation and Trials](#)
- [Distressed Asset and Workout](#)
- [Distressed Health Care](#)

## Insights

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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06.24.2020

The Coming Storm: DeFi and Bankruptcy Courts

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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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05.01.2017

Equitable Lien on Homestead Upheld

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10.01.2016

Court Upholds Judgment Creditor's Execution on Rarely Sought Asset – a Judgment Debtor's Interest in an Unrelated Lawsuit

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## News

08.30.2022

Carlton Fields Post-Judgment Enforcement Team Obtains \$1.5M Settlement in Complex Asset Protection Scheme

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05.06.2019

Carlton Fields Adds Experienced Bankruptcy Attorney in Miami

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05.02.2019

Prominent Bankruptcy Attorney David L. Gay Joins Carlton Fields in Miami

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## Recognition

- *The Best Lawyers in America*, Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, Commercial Litigation, Litigation – Bankruptcy (2017–2024)
- Florida Super Lawyers, *Super Lawyers Magazine* (2013–2023)
- Florida Rising Stars, *Super Lawyers Magazine* (2009, 2011–2012)

## Professional & Community Involvement

- American Bankruptcy Institute
- Bankruptcy Bar Association of the Southern District of Florida
- The Florida Bar
  - Subcommittee on Revisions to Florida's Uniform Fraudulent Transfer Act, Business Law Section
  - Member and Chair, Eleventh Circuit Grievance Committee (2016–2019)
- Dade Legal Aid Put Something Back Pro Bono Project
- Credit Abuse Resistance Education (CARE) Training Program

- Graduate, Leadership Miami

## Speaking Engagements

- "Chapter 11 Workshop and Practice Update," Alexander L. Paskay Memorial Bankruptcy Seminar, Tampa, FL (March 30, 2022)
- "Dude, Where's My Bitcoin," The Florida Bar Business Law Section CLE (2021)
- "How to Have Your Evidence Admitted," American Bankruptcy Institute, Southeast Virtual Bankruptcy Workshop (July 24, 2020)
- "[Trademarks and Bankruptcy: A Conundrum](#)," Celesq-West LegalEdcenter IP Master Series (September 18, 2019)
- "Driving Change: A Discussion on Car Dealerships and Financing Turnarounds," Turnaround Management Association Florida Winter Conference (2019)
- "Avoiding Collateral Damage: An In-Depth Look at Article 9 of the Uniform Commercial Code," The Florida Bar Continuing Legal Education Seminar (2018)
- "ESI and Discovery in Commercial Fraud Cases," American Bankruptcy Institute (2017)
- "Mastering the Deposition: A Critical Skills Workshop," The Florida Bar Continuing Legal Education Seminar (2017)
- "Debtor, Creditor, and Bankruptcy Law," The Florida Bar Continuing Legal Education Seminar (2016)

## Credentials

### Education

- University of Florida College of Law (J.D., cum laude)
  - Moot Court Board
- University of Florida (B.S.)

### Bar Admissions

- Florida

### Court Admissions

- U.S. Supreme Court
- U.S. Bankruptcy Court, Middle District of Florida
- U.S. Bankruptcy Court, Southern District of Florida
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida

## Background

- Berger Singerman LLP
- Smith Hulse & Busey
- Captain, Military Intelligence, U.S. Army