



David L. Gay

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Overview

David 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. 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.

David has been consistently selected by his peers for recognition in *The Best Lawyers in America* and *Super Lawyers Magazine*.

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

Experience

- 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.
- Counsel to principal owner and director of Turnberry and Fontainebleau entities in officer/director and related litigation involving the Fontainebleau Las Vegas Hotel and Casino.
- 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 World Fuel Services in bankruptcy cases of marine fuel supply companies and related adversary proceedings.
- Counsel to TransUnion Risk and Alternative Data Solutions in enforcement action regarding \$154 million purchase of intellectual property in Section 363 sale resulting in favorable verdict at trial, including costs.
- Counsel to the trustee in the Universal Health Care bankruptcy in a multimillion-dollar breach of fiduciary duty and avoidance litigation against a private equity sponsor.
- 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 the Elcom Hotel & Spa LLC bankruptcy case involving a five-star hotel and residential condominium complex located in Bal Harbour, Florida, now known as One Bal Harbour, including the successful challenge to a proposed reorganization plan at a contested confirmation hearing following the examination of numerous witnesses.
- Trial counsel to Duke Energy 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.
- Representation of partner in dispute involving a signature Northeast Florida waterfront retail center.
- Representation of lenders in loan workout, modification, and enforcement proceedings.

Significant Reported Decisions

- *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 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)

All Insights

- 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
-
- 06.24.2020 The Coming Storm: DeFi and Bankruptcy Courts
-
- 02.10.2020 Big Changes for Small Business Bankruptcies
-
- 01.24.2020 Can Doing Nothing as a Creditor Get You Sanctioned?
-
- 05.01.2017 Equitable Lien on Homestead Upheld
-
- 10.01.2016 Court Upholds Judgment Creditor’s Execution on Rarely Sought Asset – a Judgment Debtor’s Interest in an Unrelated Lawsuit

All News

- 05.06.2019 Carlton Fields Adds Experienced Bankruptcy Attorney in Miami
-
- 05.02.2019 Prominent Bankruptcy Attorney David L. Gay Joins Carlton Fields in Miami

Recognition

- *The Best Lawyers in America*, Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, Litigation – Bankruptcy (2017–2022)
- Florida Super Lawyers, *Super Lawyers Magazine* (2013–2021)
- 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 Training Program
- Coach/Judge, Duberstein Bankruptcy Moot Court Competition
- Graduate, Leadership Miami
- iPrep Academy Parent Teacher Association

Speaking Engagements

- "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
 - Co-Founder and Vice President, University of Florida Association for Law & Business
- 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

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

Areas of Focus

PRACTICES

- Creditors' Rights and Bankruptcy
- Crypto Insolvency and Fiduciary Practice
- Distressed Asset and Workout
- Distressed Health Care
- Litigation and Trials

INDUSTRIES

- Banking, Commercial, and Consumer Finance