



Bankruptcy – Creditor Representations

Our lawyers have substantial experience in advising secured and unsecured creditors and Creditors Committees seeking to enforce their rights and protect their claims in bankruptcy proceedings as well as out-of-court restructurings and liquidations. We help secured and unsecured creditors file and recover their claims in the bankruptcy proceedings. We also help secured creditors protect their collateral from a diminution in value or waste, and/or obtain relief from the automatic stay in order to exercise their rights and remedies by foreclosing on, or taking possession of, their collateral. We also monitor the progress of the bankruptcy proceedings to advise our clients if any proposed plan of reorganization, or other relief sought during the bankruptcy proceeding, might adversely affect their claim, collateral or rights and help them take appropriate action to mitigate such risks.

Our group also represents shopping center/mall owners, property receivers and other landowners in bankruptcy cases filed by national and regional retail tenants. We protect their client-landlord's rights during the tenant's bankruptcy proceeding. This includes, moving to compel payment of post-petition administrative rent or to obtain relief from the automatic bankruptcy stay to evict the tenant; objecting to motions to extend the time to assume or reject leases, or to assume and assign leases and proposed cure amounts; objecting to store closing, going out of business or lease assumption/rejection procedures motions; objecting to motions to sell assets and assume and assign related leases; or filing proofs of claim for landlords to recover lease rejection damage claims.

To the extent that the debtor, or a trustee appointed to represent the estate of a bankrupt entity, seeks to sell assets that serve as collateral for our client's claims, we participate in that process on behalf of our clients by either objecting to the sale or making sure that the terms of the sale are satisfactory to our clients. We help ensure the price is satisfactory, that our clients receive all of the net proceeds to which they are entitled and that any administrative expenses incurred in connection with the disposition of the collateral are minimal and reasonable to our clients.

Related Practices

Financial Restructuring and Bankruptcy

Representative Matters

- Served as Delaware counsel for the administrative agent on a \$325 million revolving credit facility for the debtors in the WCI Communities, Inc. Chapter 11 bankruptcy, and the pre-petition lender in connection with its \$75 million term loan with the WCI debtors
- Obtained summary judgment in favor of petitioning creditor in involuntary bankruptcy proceedings in which putative debtor sought compensatory damages of nearly \$30 million plus punitive damages
- Represented purchaser of all assets of a Chapter 11 debtor engaged in the business of designing, fabricating and promoting commercial exhibits at conventions
- Represented numerous secured creditors in prosecuting motions for relief from the automatic stay in Chapter 7 liquidation proceedings and Chapter 11 reorganization proceedings so that the secured creditor could foreclose upon its collateral
- Filed hundreds of general unsecured claims and represented the clients in those instances where the debtor or trustee objects to the claim, including litigating the claims objections in the Bankruptcy Court
- Represented secured creditor of a bankrupt men's clothing retail business by negotiating the terms of a cash collateral order to successfully maintain and protect the secured creditor's collateral position with the ultimate liquidation of the debtor and the secured creditor being paid in full all of its principal, interest, attorneys' fees and early termination fees
- Successfully objected to confirmation of numerous plans of reorganization that sought to impermissibly release guarantors or did not adequately protect the interest of secured creditors; likewise, we have successfully objected to plans of reorganization that did not treat the claims of unsecured creditors in accordance with the provisions of the Bankruptcy Code or that sought to provide for a payment or distribution to equity holders before paying unsecured creditors in full
- Represented landlords and property receivers in numerous retail bankruptcy cases such as The Great Atlantic & Pacific Tea Company (A&P), Athlete's Foot, Bally Total Fitness of Greater New York, Boscov's, Carmike Cinemas, Norstan Apparel t/a Fashion Cents, Footstar, KB Toys, Musicland, Phar-Mor, Inc. and Sun Apparel
- Represented utility companies in numerous bankruptcy cases, including Accuride, Chrysler, Crucible Metals, General Motors, Linens Holdings, Jevic Transportation, MR Wind Down, Owens Corning, Pacific Energy Resources, PPH Holdings, SemCrude, Smurfit Stone Container and Universal Auto Parts
- Represented aircraft component suppliers in aviation-related bankruptcy cases such as EOS Airlines, Eclipse Aviation, MaxJet Airways and Sky King

Publications

Delaware Bankruptcy Court Dismisses Fraudulent Conveyance Claims for Transfers Made More Than Two Years Before Bankruptcy

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