

Bankruptcy & Creditors' Rights

Saiber's Bankruptcy and Creditors' Rights practice combines the firm's expertise in a wide variety of legal specialties such as litigation, corporate, real estate, lending, environmental, finance and taxation with a thorough understanding of the Bankruptcy Code and State Insolvency Laws allowing a variety of options such as assignments for the benefit of creditors and receiverships to achieve the best possible outcome for our clients. Our Bankruptcy and Creditors' Rights practice group has the litigation skills, transactional background and bankruptcy expertise necessary to understand the interplay of these disciplines in insolvency matters. We are sensitive to the challenges facing both large and small businesses in an uncertain, volatile economy, and are always in continual contact with our clients to ensure that matters are resolved in an efficient and cost effective manner.

In addition to our experience working with businesses in financial distress, our lawyers primarily focus on aggressive creditor representation. Our clients include all types of businesses that are both secured and unsecured creditors in insolvency proceedings, such as local and multi-state commercial banks and thrifts, out-of-state banks with operations in New Jersey, major life insurance companies and other financial institutions, landlords, and vendors supplying goods and services. We engage in the creative restructuring of existing lending facilities and in all phases of creditor/debtor litigation. We oversee an active practice in the bankruptcy courts, as well as other federal and state courts where related issues, such as mortgage foreclosures and lender liability, must be resolved. We aggressively defend our clients against preference and fraudulent transfer claims.

The issues regularly covered by Saiber include:

Asset Recovery and Foreclosure

We represent secured creditors in all aspects of asset recovery. We take advantage of specialized techniques to locate, seize and sell personal property with a concentration in recovery of accounts receivable proceeds, inventory and equipment. We similarly maintain an ongoing real estate foreclosure practice and take pride in the utilization of procedures to minimize delays and costs in enforcing our clients' rights against real property. We are active in bankruptcy courts seeking relief from stays, enforcing liens against collateral and defending against proposed "cram-down" plans.

Landlord Representation

We have extensive experience in representing landlords involved in litigation with debtor tenants seeking to assume or reject leases, particularly shopping center leases, through the bankruptcy court. We also aggressively defend landlords in preference and fraudulent transfer litigation.

Loan Restructuring

We represent lenders in resolving their loan workouts with restructuring geared to the needs of these transactions. We take particular pride in our ability to find creative solutions in situations where the parties have otherwise reached an impasse. We have experience with a wide variety of sophisticated techniques, including participation and revenue sharing arrangements, conditional deeds in lieu of foreclosure, entity restructurings with third party turnaround experts, assets swaps and security enhancement. Our counseling takes into account the consequences of potential bankruptcies and applicable lender concerns related to fraudulent conveyances, preferences, lender liability and foreclosure, among other issues.

Creditors' Defense Representation

We maintain an active representation of secured and unsecured creditors in responding to lender liability, preferential transfer and fraudulent transfer actions. We understand the frustration of our clients who receive letters from debtors or trustees demanding the return of payments the client received for supplying goods and services to a business that subsequently files a bankruptcy or assignment for the benefit of creditors. We work aggressively to help these clients keep the payments they have received.

Collection and Judgment Enforcement

Collections and judgment enforcement has been an important part of the firm's practice for many years. Employing a combination of legal expertise, online data services and, where appropriate, forensic accountants and private investigators, we have enjoyed a high degree of success in helping clients recover losses in a timely and cost-efficient manner. We are also adept at enforcing judgments obtained in New Jersey and domesticating and enforcing foreign judgments on both the state and federal level. We know the steps to take to position our clients for the best possible outcome.

Trustee and Assignee Representation

Saiber represents financial institutions who act as fiduciaries in bankruptcy matters. For example, we counseled a New Jersey bank acting as trustee for a multi-million dollar bond issue secured by the sale and leasing of a fleet of over 60 aircraft. In that bankruptcy case, we worked in conjunction with a proposed buyer/plan proponent to obtain confirmation of a reorganization plan over the objections of various parties, including the debtor and another proposed purchaser.

We also represent assignees in assignments for the benefits of creditors.