

► **Eric A. Rosen**
SHAREHOLDER

Palm Beach
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Practice

Bankruptcy, Creditors' Rights &
Business Restructuring
Commercial Litigation

Areas of Concentration

Bankruptcy

Admissions

Florida

New York

U.S. District Court and U.S.
Bankruptcy Court
Middle District of Florida
Southern District of Florida
Eastern District of New York
Southern District of New York

U.S. Court of Appeals
Eleventh Circuit

Education

California Western
School of Law, J.D.

Editor

*California Western International
Law Journal*

Columbia University, B.A.

Professional Honors

AV® Preeminent™ Peer Review
Rated, *Martindale-Hubbel*

Eric Rosen chairs the firm's Bankruptcy, Creditors' Rights & Business Restructuring Practice Group. Over the course of 35 years, he has represented institutional and individual lenders, investors, mortgagees, venture capitalists, publishers, landlords, credit card processors, sellers, purchasers, homeowners' associations and employees, among others, as secured and unsecured creditors in cases under Chapters 11 and 7 of the Bankruptcy Code.

He also has extensive experience representing publicly held and privately owned companies, as well as individuals, as debtors and debtors-in-possession in all phases of liquidation and reorganization cases under Chapters 7 and 11 of the Bankruptcy Code, from inception through confirmation and consummation of court approved plans of reorganization. He has obtained court approval of "pre-packaged" plans of reorganization and has successfully represented proponents of competing plans of reorganization in Chapter 11 cases. He has participated in a number of well known bankruptcy cases, such as R. H. Macy & Co., Inc., Drexel Burnham Lambert Group, Inc., Super Glue, Calumet Farm and The New York Post.

Practice Focus

During his career, Eric has obtained substantial experience representing lenders providing post petition financing to debtors-in-possession, factors who lend against or purchase accounts receivable of debtors in cases under Chapter 11 of the Bankruptcy Code, and holders and purchasers of distressed real estate mortgages and loan portfolios. He has served as counsel to petitioning creditors and alleged debtors in contested involuntary bankruptcy cases, official creditors' committees and creditors' committee members in Chapter 11 cases, and court-appointed trustees in cases under Chapters 7 and 11 of the Bankruptcy Code. He has also participated in cases under Chapter 15 of the Bankruptcy Code.

Eric has participated in a number of out of court restructurings and liquidations on behalf of both debtors and creditors, as well as judicial enforcements of lien rights on behalf of institutional and individual lenders. He has represented court-appointed Receivers in large scale shopping center, mixed use property, single family housing development and multi-unit condominium cases throughout Florida. He has also represented assignors, assignees and creditors in Assignment for the Benefit of Creditors cases.

Originally trained as a civil litigator, Eric has worked on a wide variety of bankruptcy-related issues, including preference and fraudulent conveyance actions, the sufficiency of due diligence materials, good faith of purchasers, credit bidding and collusive bidding issues in connection with sales of assets, relief from the automatic stay, the extension of the automatic stay to non-debtors, the applicability of the absolute priority rule and the sufficiency of new value in reorganization cases, motions to appoint Chapter 11 trustees, substantive consolidation (of debtors with other debtors and debtors with non-debtors), motions to dismiss based upon alleged bad faith in the filing of a case, and contested plan confirmation hearings. He has also litigated cases, through trial and appeal, in which creditors and trustees have objected to the discharge of all debts of individual debtors, and has represented creditors, through trial, who have objected to the discharge of specific debts of individual debtors.

Practice Focus (Continued)

In addition to his insolvency-related litigation experience, Eric has been and remains involved in a broad spectrum of commercial litigation matters. He has served as lead counsel - and won - at every stage of litigation, before juries in federal court, judges and appellate panels in state court, and various industry-specific arbitration tribunals. He has participated in a substantial number of cases ranging from small arbitration proceedings, to bench trials and appeals in state court, to multi-week jury trials in federal court involving more than \$35,000,000.

Eric regularly represents lenders in commercial and residential mortgage foreclosure cases. He has represented various clients, including lenders and law firms, in the defense of claims brought under the Florida Consumer Collection Practices Act, the Fair Debt Collection Practices Act and the Telephone Consumer Protection Act. He continues to litigate a wide variety of business-related issues, including misappropriation of corporate assets, shareholder/partnership disputes, Petitions for the dissolution of entities and the appointment of Receivers and/or Custodians, obtaining temporary restraining orders, preliminary injunctions and permanent injunctions, requests for the imposition of equitable liens and constructive trusts, the enforcement of confidentiality and non-compete agreements, indemnification and contribution claims, and the enforcement of judgments.

Eric has authored chapters in leading publications pertaining to the treatment of secured creditors in bankruptcy cases, problems in determining disposable monthly income in bankruptcy cases and out of court restructuring of real estate loans. He regularly lectures on bankruptcy, insolvency and litigation-related issues.

Representative Legal Matters

- *Summerlin Asset Mgmt. V Trust v. Jackson*, 2015 WL 4065372 (S.D. Fla. 2015).
- *Cadle Co. of Connecticut, Inc. v. Benevento (In re Benevento)*, 2012 WL 3475163 (Bank. S.D. Fla. 2012) aff'd 2013 WL 5408527 (S.D. Fla. 2013.)

Professional Associations and Memberships

- The Florida Bar
 - Member, Business Law Section (2007- Current)
 - Bankruptcy/UCC and Bankruptcy Judicial Liaison Committees (2007- Current)
- Palm Beach County Bar Association (2007- Current)
 - Chairperson, Bankruptcy CLE Committee (2016-2017; 2018-2019)
 - Member, Professionalism Committee (2012- Current)
 - Member, The North County Section (2007- Current)
 - Member, Board of Directors (2012-2014)
- Bankruptcy Bar Association of the Southern District of Florida (2007- Current)
 - Member, Board of Directors (2011-2014; 2017-2020)
 - Chairman, Pro Se Clinic Division – West Palm Beach Section (2011-2015)
- The Federal Bar Association (2016-Current)
 - Member, Palm Beach Chapter
 - Member, Bankruptcy Section
- The Commercial Law League of America (2016-Current)
 - Member, Bankruptcy Section
- Florida Atlantic University Honors College
 - Judge, National Moot Court Competition Team, (2013-2015)
 - Lecturer, Law in the Real World, Bankruptcy Section (2013-2015)

Speaking Engagements

- Moderator, "We Have to Give Them What?" Palm Beach County Bar Association, Bankruptcy CLE Committee, March 2019
- Speaker, "The Interaction Between Bankruptcy and State Court Practice; Exceptions to Discharge Under 11 U.S.C. Section 523(a)(6)", Palm Beach County Bar Association, December 2017
- Speaker, "Strategies For Complex Bankruptcy Cases," National Business Institute, July 2017
- Moderator, "From the Horse's (Er, Judge's) Mouth: An Afternoon With the Honorable Erik P. Kimball," June, 2017
- Presenter, "Bankruptcy Litigation: 6 Strategies You Need to Know", National Business Institute, March, 2017
- Speaker, "Staying Up to Speed- Current Substantive and Procedural Issues in Bankruptcy Cases," Palm Beach County Bar Association, November, 2016
- Speaker, "The New Bankruptcy Forms, Petitions, Schedules, and SOFAs," Palm Beach County Bar Association, June, 2016
- Speaker, "Consumer Bankruptcy From Start To Finish," National Business Institute, February, 2015 and June, 2014
- Speaker, "Protecting The Creditor's Rights During Bankruptcy Cases," National Business Institute, December, 2010
- Speaker, "Post Confirmation Modification of Plans in Chapter 13 Cases," National Business Institute, November, 2010
- Speaker, "Ethical Obligations of Debtor's Counsel," National Business Institute, August, 2009
- Speaker, "What Every Collection Lawyer Needs to Know About Bankruptcy," Palm Beach County Bar Association, 2009
- Speaker, "Crossroads, the Intersection of Real Estate and Bankruptcy Law in Chapter 11 Cases," Palm Beach County Bar Association, 2008

Publications

- Author, "The Reason Bankruptcy Venue Is Needed Now," Commercial Law World Magazine, July/August/September 2021, pp. 12-15
- Author, "Do You Need To Collect Outstanding Accounts Receivable? Be Very Careful With The Debtor's Information," Fowler White Burnett Client Alert, May 2021
- Co-Author, "Six Important Questions on PPP Loan Forgiveness," Daily Business Review, June 2020
- Author, "Business Restructuring Client Alert: Workouts - No, Not The Physical Kind," Fowler White Burnett Client Alert, April 2020
- Author, "Fowler White Business Restructuring Client Alert: Haste Makes Waste - Now Is The Time To Prepare," Fowler White Burnett Client Alert, April 2020
- Author, "Climbing Out of the Rabbit Hole: The Evolving Analysis of Bankruptcy Code Section 523(a)(6) in Financial Harm Cases," Commercial Law World Magazine, Jan./Feb./Mar. 2018, pp. 6-9
- Author, "Buyout Agreements, Line By Line, A Detailed Look at Buyout Agreements and How to Change Them to Meet Your Clients' Needs," 2011, published by Aspatore Books, a Thomson Reuters Business
- Author, "Trends In Chapter 13 Cases: Challenges In Determining Disposable Monthly Income Under BAPCPA and The Use Of Lien Stripping In The Age of Multiple Mortgages" *Inside the Minds, Best Practices for Filing Chapter 13*, 2011 ed. published by Aspatore Books, a Thomson Reuters Business
- Author, "Handling Residential Loan Workouts in a Challenging Environment" *Inside the Minds, Negotiating Mortgage Modifications*, 2010 ed. published by Aspatore Books, a Thomson Reuters Business

In the News

- "Flooring Supplier With Over \$10M in Sales Files Chapter 11", *South Florida Business Journal*, June 2016
- "Two Palm Beach County Retail Plazas Sold Out of Bankruptcy Auctions", *South Florida Business Journal*, April 2013