

## Bankruptcy & Creditors' Rights

Trenam Law's Bankruptcy & Creditors' Rights Group has a clear distinction as a market leader because of our practical approach in finding realistic and creative solutions for our clients. Our reputation for excellence is due to our diligent preparation, extensive and varied courtroom experience, and in-depth knowledge of the law. Many of our attorneys are board certified in business bankruptcy and have worked as judicial law clerks to bankruptcy judges in our district. Our follow-through and constant communication with clients allows us to focus on business-oriented solutions. Trenam's breadth and depth of experience among attorneys in other practice areas of the firm allows us to utilize a variety of tools to meet our clients' needs.

Our group represents a variety of participants in Bankruptcy and Creditors' Rights matters. We invite you to explore our representative matters and to review the biographies of our attorneys to learn more about our practice and how we can best serve your needs.

### **Representative Matters:**

#### **Financial Institutions**

Trenam represents financial institutions in complex foreclosures, workout and restructuring matters, defense of lender liability and consumer collection practice claims, and a variety of bankruptcy related actions.

##### • **Commercial Foreclosures**

- Represented lender in contested commercial foreclosure of a \$34 million mortgage covering a luxury condominium development.
- Represented lender in complex foreclosure of partially built 7,500 seat multi-purpose arena, resulting in foreclosure sale.
- Represented lender in tri-county commercial foreclosure action; obtained dismissal of chapter 11 filing based upon bad faith.

##### • **Lender Liability Claims**

- Defended lender against lender liability claims in two companion chapter 11 cases of an individual debtor and his import/export business, resulting in consensual resolution and dismissal of claim with prejudice.

Defended commercial bank in multiple adversary proceedings alleging damages of over \$150 million for fraudulent transfers, aiding and abetting, and breach of fiduciary duty claims brought by two chapter 7 trustees.

##### • **Consumer Finance Claims**

- Represented credit union in defense of class action alleging violation of the Florida Consumer Collection Protection Act.
- Represented payday lender in defense of claims of violation of Fair Debt Collection Practices Act, Florida Consumer Collection Protection Act, and Telephone Consumer Protection Act.

#### **Court Appointed Official Committees**

Trenam represents official committees in chapter 11 cases involving debtors engaged in manufacturing, construction, real estate, and health care.

- Represented the Official Committee of Unsecured Creditors in the chapter 11 case of a Puerto Rican telecommunications company.
- Represented Official Committee of Equity Holders in the chapter 11 of a publicly traded biopharmaceutical company.
- Represented the Official Committee of Unsecured Creditors in the chapter 11 case of a senior care holding company and six related senior care facilities.

#### **Chapter 7 and 11 Trustees/Receivers**

Trenam represents fiduciaries in maximizing recoveries for creditors of the estate and allocating meaningful distributions.

##### • **Chapter 7 Trustees**

- Represented chapter 7 trustee in selling individual debtor's membership interest in corporate entity which owned commercial property in Indiana, yielding over \$10 million for the debtor's interest at auction.
- Represented chapter 7 trustee of international online travel service provider, involving foreign defendants and cross-border insolvency issues.
- Represented chapter 7 trustee in obtaining fraudulent transfer action against Debtor's former counsel.
- **Chapter 11 Trustees**
- Represented chapter 11 trustee in case involving liquidation of medical practice and sale to complimentary hospital provider.
- Represented chapter 11 trustee for parent company providing health and managed care services for several regulated subsidiaries.
- Represented chapter 11 trustee for real estate developer involving complex insider disputes.
- **Receivers and other Fiduciaries**
- Represented receiver for several travel agencies and businesses.
- Represented independent fiduciary in chapter 11 case of employee benefits trust.

### **Avoidance Litigation**

Trenam represents both plaintiff and defendants in hundreds of preference and fraudulent transfer actions in districts around the country.

- Represented chapter 11 trustee of failed health care company in over 100 avoidance actions against various targets.
- Defended financial institution against fraudulent transfer, aiding and abetting, and breach of fiduciary duty claims brought by chapter 7 trustee of temporary labor staffing companies.
- Defended office and furniture supply company against fraudulent transfer claim brought by supplier in Federal District Court.

### **Appellate Experience**

Trenam represents a variety of parties in appeals before the federal and state courts of appeals.

- Secured affirmance of settlement agreement reached by chapter 7 trustee with primary creditor over debtor's objection. *Daughtrey v. Rivera (In re Daughtrey)*, 2015 WL 5604764 (M.D. Fla. 2015).
- Secured a reversal on behalf of chapter 7 trustee before the Eleventh Circuit Court of Appeals, clarifying when an equitable lien may be placed on homestead property as a result of a fraudulent transfer. *LaMarca v. Jansen (In re Bifani)*, 580 F. Appx. 740 (11th Cir. 2014).
- Secured affirmance for chapter 11 trustee before the Eleventh Circuit Court of Appeals, holding 11 U.S.C. Ss 506(a) does not provide for automatic bifurcation of IRS secured claims *United States v. Oscher (In re J.H. Inv. Servs.)*, 452 Fed. Appx. 858 (11th Cir. 2011).
- Secured reversal on behalf of chapter 7 trustee before the Eleventh Circuit Court of Appeals which more clearly established the requirement of good faith when asserting the mere conduit defense. *Martinez v. Hutton (In re Harwell)*, 628 F. 3d 1312 (11th Cir. 2010).
- Secured affirmance before Second District Court of Appeals of judgment in favor of creditor for fraudulent transfer of assets from judgment debtor to his wife.

### **Assignments for the Benefit of Creditors (ABC)**

Trenam navigates ABC cases to ensure secured creditor's claims survive the ultimate sale of companies' assets without diminution to clients' claims.

- Represented secured creditor in a substantively consolidated assignment for the benefit of creditors of eight related companies that was in the business of marketing and selling flavored vodka, manufacturing and distilling spirits, and bottling for its customers.
- Represented purchaser of assets in assignment for the benefit of creditors of a surface coating manufacturing company located in Pinellas County, Florida. Negotiated favorable terms to realize a distribution for the creditors of the assignor while ensuring client's main goal of the acquisition at a fair price.

### **Purchasers of Assets**

Trenam navigates the purchase and sale of distressed assets both in and out of bankruptcy.

- Represented successful purchaser of a tank transport services provider primarily transporting petroleum-related products, such as gasoline and jet fuel, from terminals to retail and commercial sites.

- Represented purchaser as successful bidder at bankruptcy sale yielding \$6 million for purchase of food processing facility.
- Represented restaurateur in bidding on purchase of assets of failed single location full-service restaurant.

### **Creditors and Landlords**

Trenam navigates chapter 7 and 11 bankruptcy cases around the country on behalf of creditor and landlord clients.

- Represented secured creditor in obtaining payment involving Princess Diana dress collection.
- Represented subcontractor in obtaining dismissal of chapter 11 of general contractor for bad faith filing.
- Successfully litigated issues of lien validity, amount of indebtedness, cash collateral, and confirmation on behalf of a factoring company in chapter 11 case.
- Represented union health and benefits plans as unsecured creditors in large chapter 11 bankruptcy cases.
- Represented approximately 15 different airports (both individually and as consortiums) in the bankruptcies of Northwest Airlines Corp. and Delta Air Lines, Inc.
- Represented a landlord in Payless Shoe Source's chapter 11 bankruptcy.
- Represented a landlord in Radioshack's chapter 11 bankruptcy.
- Represented judgment creditor in domestication and pursuit of FINRA judgment, resulting in client being paid in full.
- Represented Dutch judgment creditor in domestication of multi-million foreign judgment.
- Represented financial institution in obtaining both single and continuing garnishments against judgment debtor; prevailed on exemption defenses.

### **Debtor Representations**

Trenam represents debtors in complex chapter 11 bankruptcies.

- Confirmed chapter 11 plan for largest Waffle House franchisee with 146 locations throughout Florida, Georgia, and Virginia.
- Confirmed chapter 11 plan for Optical Technologies a seller of electronic advertising boards to pharmacies, with more than 24,000 creditors and over \$250 million in claims.
- Confirmed chapter 11 plan for a Class A motor coach resort valued at \$20 million.

For more information please contact [Lara Fernandez](#), Practice Group Leader.

[Please click here to view news and publications related to our Bankruptcy & Creditors' Rights Practice.](#)