

DAVID R. WEINSTEIN
dweinstein@weinsteinlawfirm.net
(747) 233-3653

Summary

I have been a bankruptcy practitioner for almost 35 years, representing clients across the entire spectrum of bankruptcy, reorganization and work-out practices. These include debtors, trustees, creditors' committees, individual secured and unsecured creditors, asset purchasers, partners and spouses of debtors and more. I am frequently called upon to represent other lawyers in bankruptcy cases that affect them and I have particularly extensive experience in complex bankruptcy litigation and appeals.

Professional Affiliations and Engagements:

January 2014-Present. Founder, Weinstein Law Firm, a Professional Corporation.

Returned to small firm, boutique practice as solo practitioner, focusing on strengths of experience, combining broad experiences with personalized touch.

April 2010 – December 2013. Partner, Bryan Cave LLP/Holme Roberts & Owen LLP, Los Angeles and Santa Monica, California.

Joined HRO to reinvigorate the bankruptcy and reorganization practice of this regional, full service firm. HRO combined into Bryan Cave in January 2012 and I have served as lead bankruptcy partner for lender proceedings in Delaware, Northern and Southern California and as special litigation counsel for a trustee in Oregon, while continuing to represent trustees, debtors and creditors' committees in litigation and reorganization proceedings I brought to the firm.

July 2008 – April 2010. Partner, Richardson & Patel LLP, Westwood, California.

Led combination of boutique bankruptcy firm into securities boutique. Maintained and expanded "boutique" practice while consulting on securities transactions, wind-down of fund investments and general litigation matters.

June 1992 – July 2008. Founding and Managing Partner, Weinstein, Weiss & Ordubegian LLP, Century City, California.

Founded bankruptcy "boutique" practice with strong emphasis on litigation, appeals and work-outs. Represented debtors, affiliates of debtors, trustees and creditors' committees. Supervised all aspects of firm administration, including lease negotiations, office design, employee relations and engagement of associates. Grew boutique from two to nine lawyers.

July 1979 – June 1992. Partner, Danning, Gill, Diamond & Kollitz LLP, Century City, California.

Rose from associate to partner. Chaired department of approximately ten lawyers representing bankruptcy trustees. Gained extensive experience representing bankruptcy trustees, debtors and

creditors' committees in connection with chapter 11 plans, avoidance and contract litigation and appeals.

Bar Activities and Professional Community.

American Bar Association ("ABA"). Member of Business Bankruptcy Committee (Business Law Section) continuously since 1986. Chaired, co-chaired and actively engaged with numerous substantive subcommittees including Chapter 11, Trustees and Examiners, Appeals and Small Business subcommittees. Former chair of Bankruptcy Litigation Committee (Section of Litigation) the Task Force on Affiliated Entities. Former member of Judicial Conference and regular participant and speaker at national and regional conferences on all aspects of bankruptcy law and practice ranging from ethics to appeals. Authored numerous articles and papers (additional detail available on request).

In 2013, I was appointed by the Business Bankruptcy Committee as a special bankruptcy consultant to the Uniform Law Commission to assist with bankruptcy issues arising in drafting a uniform Series LLC statute.

American Bankruptcy Institute ("ABI"). Active member continuously for over two decades. Author of numerous articles published in American Bankruptcy Journal (additional detail available on request).

Los Angeles Bankruptcy Forum/California Bankruptcy Forum. Active member of local and state forums for three decades.

County Bar and Local Associations. Regular member, participant, author and occasional speaker at Los Angeles County Bar, Bench & Bar conferences and similar local forums.

Publications and Speaking Engagements.

Available on request.

Education and Bar Admissions.

Admitted to California bar 1978.

Admitted to Ninth Circuit, Federal Circuit, all district courts in California, U.S. Supreme Court.

Juris Doctor: University of Southern California (1978).

Bachelor of Science: Syracuse University (1974, magna cum laude).

RESUME SUPPLEMENT

Clients for whom I have served as lead counsel in bankruptcy matters have included: EFG-Campus Bay, a lender specializing in loans for the remediation contaminated real estate; Pacific Coast Bankers Bancshares and Redwood Capital Bank in relation to bankruptcy cases of bank holding companies; bidders and purchasers of assets in the Louise's Restaurants, Egghead Software and Pleasant Care Nursing Home chapter 11 cases; voluntary debtors including real estate syndication companies managed by Kenneth Hayashi, Clothestime Stores, Inc., California Psychiatric Management Services; and involuntary debtors in the R2D2 and Thinkfilm group of cases and the C&C Jewelry Mfg. cases, major

unsecured creditors in the Daewoo Motors, SonicBlue, Super Shops and Sizzler Restaurant cases; landlords in chapter 11 cases of retailers and office tenants in Los Angeles and New York; indenture trustees; a labor union in the Orange County bankruptcy case; bankruptcy trustees presiding over the estates of restaurants, airlines, automobile dealerships, loan companies, a munitions manufacturer, a hazardous waste disposal company and mining interests; committees of creditors in successive cases of the Steakhouse Partners chain of steak and chop houses, BMK, Inc., a national merchandiser of consumer goods, Scour, Inc., an early stage internet leader in peer-to-peer communications, Urjet Backbone Network, the owner of network installations for the provision of telecommunications to users in the west; Flashcom, Inc. and Fastpoint Communications, Inc., both early stage DSL providers, and Energy Development Corp., a private oil and gas production company; and a variety of high-income, high visibility individuals such as medical doctors, real estate syndicators, art publishers and entertainers reorganizing their business affairs in chapter 11 or who find themselves entangled in others' cases. I also frequently represent other lawyers and law firms' own interests in bankruptcy cases.

Select Representations.

EFG-Campus Bay. Represent lender to affiliate of Astra-Zeneca, the owner of contaminated shore-front property on San Francisco Bay. Successfully resisted use of cash collateral and gained litigated dismissal of borrower's chapter 11 case.

Redwood Capital Bank. Represented largest creditor in Home Valley Bank liquidation. Negotiated administrative loan and became trustee's special counsel for litigation with FDIC over \$2M-plus tax refunds.

Pacific Coast Bancshares. Represented PCBB in connection with enforcement of rights and obligations imposed on the debtor by the plan. Successfully resisted sale free-and-clear of client's lien and negotiated significant payoff in conventional sale.

Petaluma-Greenbriar Investments. Represented Westamerica Bank with respect to mortgage rights in garden apartment complex. Negotiated retention of pre-petition receiver over apartment buildings during chapter 11 proceedings and addressed revival of foreclosure rights, abstention, and dismissal of chapter 11 cases in view of property value erosion.

Gary Schaffel, Schaffel Development Co. Represent developer of condominium projects who suffered reversals in 2007-09. Defended guarantee litigation in state court and negotiated discounted settlements of four loan guarantees originally totaling over \$9 million.

Ultimate Escapes. Represented former equity holder of luxury destination resort company in chapter 11. Negotiated resolution of allegedly avoidable mortgage debt and consulted on the disposition of properties bearing mortgage debt jointly owed by chapter 11 debtor and former equity holder.

Asylum Visual Effects. Represented landlord of commercial premises occupied by graphics and special effects company in bankruptcy. Resolved competing rights of equipment lessors, landlord and bankruptcy estate in litigation before the bankruptcy and state courts.

Rancho Topanga Development Land Co. Represent chapter 11 debtor owning large parcel of land in Malibu, California zoned for luxury residential development. Negotiated complex settlement with up-

land dominant tenement owner and adjoining land owners for resolution of disputed obligation to construct access road and with land purchaser relative to sale agreement left unresolved for five years.

Hayashi Asset Management; Hayashi Syndication Holdings. Represented managing members of real estate investment companies in chapter 11. Confirmed plan that protected net realizable value in apartment buildings from individual creditor seizure and facilitated property sales in distressed market, triggering dividends to creditors and investors.

Downey Regional Medical Center. Represented secured creditor in reorganization of non-profit hospital. Addressed and resolved lien priority dispute and achieved full, upfront payout.

Flashcom, Inc. Represent liquidating trustee in \$9,000,000 preference and fraudulent transfer action. Prosecuted eight-day trial and pending appeals involving former founder and venture capital funds.

Alpine Investments LLC and RFB Cellular, Inc. Represented liquidating trustee in fraudulent transfer action. Negotiated settlement of disputed \$15,000,000 claims for \$4,000,000.

SS Blue Sky dba Human Bean. Represent guarantor of two development loans to franchisee of drive-through coffee shop chain in franchisee's chapter 11 case. Successfully negotiated consensual plan of reorganization that provides 100% creditor payments and enabled client to take ownership of chain upon confirmation of chapter 11 plan.

R2D2, ThinkFilm and Related Entities. Represented alleged debtors in the film finance and distribution industry in defense of involuntary petitions. Developed strategies for cooperative interaction with trustee while working to preserve going concern value against disputed involuntary bankruptcy petitions.

C&C Jewelry Manufacturing. Defended and defeated involuntary petition against profitable jewelry manufacturer and distributor, including defense of appeal by involuntary petitioners and dispute over recoupment of attorneys' fees and costs. Obtained appellate reversal in related case where involuntary petition was improvidently allowed.

Robert Bane/Bane Ltd. Represent art publisher in asserting fresh start rights against pre-petition judgment arising out of failed art marketing agreements. Defended exemption rights and prosecuted bankruptcy appeals in coordination with appeals of state law claims and successfully negotiated clients' settlements with bankruptcy trustee and pre-petition adversary.

AFI Holdings, et al. Represented liquidation trustee in complex "Ponzi Scheme" litigation, including multiple, overlapping appeals to Bankruptcy Appellate Panel, United States District Court and Ninth Circuit Court of Appeals.

Steakhouse Partners. Represented creditors' committee of steakhouse chain and currently represent creditors' agent who became major secured creditor in second chapter 11 filing by restaurant chain. Facilitated restaurant sales, settled "surcharge" litigation over proceeds and enabled client to recover significant distributions out of second chapter 11 proceeding for payment to creditors of first case.

Rodeo Canon Development Corp. Represented real estate partner of debtor-developer in complex litigation concerning fraud on the court, federal subject matter jurisdiction and "property of the

bankruptcy estate" issues. Case included two appeals to the Ninth Circuit Court of Appeals and five intermediate appeals involving disputes with corrupt bankruptcy trustee, client's former partners, purchaser of assets and bonding companies for corrupt trustee.

Queens Seaport Development (Queen Mary). Represented sublessee before Ninth Circuit and obtained emergency stay of \$41,000,000 sale of leased premises that would have improvidently extinguished leasehold. Convinced Ninth Circuit Court of Appeals to rule contrary to prior opinion of Seventh Circuit.

Pleasant Care Nursing Homes. Represented co-chair of creditors' committee and purchaser of nursing home assets in connection with recovery of promised compensation for having relieved bankruptcy estate of troubled care homes and in defense of claims wrongfully asserted against purchaser.

Steven H. Stern. Defended movie producer in Chapter 7 against trustee's efforts to seize pension and retirement assets. Representation culminated in published opinion, *Gill v. Stern (In re Stern)*, 345 F.3d 1036 (9th Cir. 2003).

SonicBlue. Represented indenture trustee, gaining recovery exceeding \$1,000,000 for bondholders previously said to be "out of the money" for years, through deployment of creative litigation and settlement strategies.

Daewoo Motors. Represented largest creditor and chair of creditors' committee in connection with chapter 11 case of U.S. distributor of Korean automobiles and in defense of \$25,000,000 preference claims.

BMK, Inc. Represented creditors' committee of national merchandiser of "general store goods".

Donut Inn. Represented committee of franchisees in chapter 11 case of snack and coffee shop chain.

California Psychiatric Management Services. Represented healthcare provider that owned specialized hospitals and leased care wings in general hospitals in provider's chapter 11 case and in connection with failure of National Century Financial, a major financier of healthcare installations that collapsed under allegations of fraud in 2003.

Writings and Publications.

My writings appear often in regional and national publications concerning bankruptcy and commercial law, including law journals such as the California Bankruptcy Journal and the ABI Journal. I also frequently write original materials for MCLE and panel presentations. The following are representative examples:

"TOUSA Sets the Record Straight on Valuations in Avoiding Power Actions," 2010

"Going Concern", "Deathbed" and "Other Unfortunate Metaphors in Avoidance Litigation," 2010
Reachbacks, Statutes of Limitation and Deadlines: Demystifying the Avoiding Powers," ABI Journal, June 2007

Strategic Issues and Choices in Bankruptcy Appeals," ABA Section of Litigation, Bankruptcy Litigation Committee Newsletter, Fall 2006

"Bankruptcy and the Small Business Owner: Traps for the Greedy," ABA Section of Business Law, Small Business Committee, August 2005

"What's a BAP and Why Did I Go There? Strange and Wonderful Tales From the Bankruptcy Appellate System," ABA Section of Business Law, Business and Corporate Litigation Committee, August 2005

"Is Proving Disinterestedness Enough?" ABI Journal, 2005

"All You Wanted to Know About Avoidance Actions: Preferences, Fraudulent Conveyances, Post-Petition Transfers... And More!" ABA Section of Business Law, October 2004

"A Response to Curbing Abusive Preference Actions," ABI Journal, 2004

"Exemption Planning: Is There a Deadline for the Acquisition of Exempt Assets?" Business Law Today, September/October 2004

"Negotiating in the Zone of Insolvency," Tobacco Products Liability Project, Boston, September 2003

"Ponzi Scheme Litigation," ABA, Section of Business Law, 2003

"Debtors Going In and Out of Possession: Ethical Dilemmas Facing Counsel for Debtors Going In or Coming Out of Reorganization," ABA Section of Business Law, Business Bankruptcy Committee, March 2001

Panels, Presentations and Seminars.

I have been asked to speak before local and national groups concerning bankruptcy litigation, reorganization issues, and other topics relating to the bankruptcy process. This includes the American Bar Association's Sections of Business Law and Litigation, and numerous committees and subcommittees of both. I have also spoken before the American Bankruptcy Institute, the Financial Lawyers Conference, the Los Angeles County Bar Association and the Los Angeles Bankruptcy Forum. Representative speaking engagements include:

"Who's Your Client. . . The Debtor or the Estate?" ABA Section of Litigation, Bankruptcy & Insolvency Committee, New York, April 2010

"Ethically Advising the Troubled Business Client in Troubling Economic Times," ABA Section of Business Law, Vancouver, April 2009; Scottsdale, January 2009

"Bankruptcy & Divorce Law," Los Angeles County Family Law Mediators, June 2008

"Experts in Preference Litigation," ABA Section of Litigation, Bankruptcy Committee, August 2007

"Small Business Bankruptcy Proceedings," Local Network of Realty and Business Brokers, Los Angeles, May 2005

"Advising the Distressed Small Business," ABA Section of Business Law, Small Business Committee, August 2005

"First Day Motions," ABA Section of Business Law, Small Business Committee, Fall 2004

"Fiduciary Duties of Directors of Insolvent and Nearly Insolvent Corporations," ABA Section of Business Law, Philadelphia, March 2001