Bankruptcy and Creditors' Rights Law

GrayRobinson's bankruptcy and creditors' rights practice group offers experienced bankruptcy attorneys with diverse skills for clients with varying needs. When a business experiences insolvency, the consequences are far-reaching. For this reason, a skilled bankruptcy attorney must understand how other areas of the law might impact the strategy for that client. We are currently involved in some of the most complex and significant bankruptcy cases and state court actions in Florida. Our strength lies in our ability to attend to the full range of client needs when bankruptcy or insolvency arises.

Our bankruptcy attorneys have great depth in representing the interests of all constituents in a bankruptcy case: Creditors' Committees, Chapter 7 and 11 trustees, strategic asset purchasers, debtors, secured and unsecured creditors, and landlords and litigants in adversary proceedings. In addition, we are well-known counsel to receivers and all parties to Assignments for the Benefit of Creditors. We have particular experience handling multifaceted cases in the financial, healthcare, hospitality, airline, real estate (including condominiums, timeshares, and commercial), and electronics industries. In addition, we have experience in cross-border insolvency matters.

As the only firm with bankruptcy capacity in every major city in Florida, clients have access to boutique firm experience combined with all the additional support of a full-service law firm. We are well-positioned to effectively and efficiently assemble a team to assist with any bankruptcy issue as well as matters that arise related to the insolvency.

Loan Enforcement

Our bankruptcy attorneys get results for lenders statewide. We have represented many of our client financial institutions for more than a decade. Of approximately $285,000 spent on legal services by one of our larger institutional clients during the 12 months ending August 31, 2004, more than 90 percent of fees and costs were ultimately collected from the defaulting borrowers.

Debt Restructuring

Insolvency contexts often require loan modification transactions to be completed on an expedited basis in order to maximize the lender client's ability to expand the available pool of collateral and to avoid the consequences of certain bankruptcy laws that sometimes retroactively "undo" workouts. Our team appreciates the need for prompt, skillful service when a borrower is at the point of insolvency.

Lender Liability

Our bankruptcy attorneys have successfully defended financial institutions and other businesses from lender liability litigation, including class action litigation, usury claims, and "truth in lending" claims in both state and federal courts. Our team has also successfully prosecuted multimillion-dollar usury and other lender liability claims. These experiences enable us to better represent

both lenders and borrowers not only in the courtroom but also in the boardroom while analyzing legal rights and business options.

Complex Litigation

Bankruptcy is not only an area of specialization within the practice of law: it is also a forum uniquely suited to resolve many complex business disputes in a fast, efficient and fair manner. Disputes pertaining to corporate governance, misappropriation of business assets, landlord-tenant disputes, insurance coverage and other forms of sophisticated litigation can often be resolved most rapidly in bankruptcy court. While our litigators are experienced in all courts in the State of Florida, we have litigated complex disputes in every Florida division of the U.S. Bankruptcy Court as well as many bankruptcy courts throughout the country.

Sophisticated Collection Activities

Sometimes, obtaining a "money judgment" is the easiest part of litigation for a creditor. Our team has collected many millions of dollars using Florida's full range of collection remedies. In particular, we have experience in successfully utilizing Florida's enactment of the Uniform Fraudulent Transfer Act in state, federal and bankruptcy courts.

Defense Against Estate Claims

Sometimes bankruptcy debtors or fiduciaries for debtors bring claims under bankruptcy laws against third parties in order to accumulate assets for distribution to creditors. "Preference claims" are asserted by debtors or trustees against creditors who legitimately received payments shortly before bankruptcy. Our team successfully represents scores of creditors in preference litigation every year. We also defend other business clients against similar "estate claims."

Representation of Fiduciaries

Our bankruptcy attorneys represent fiduciaries in the full range of state and federal contexts. At any time, our teammates may represent a state court receiver, assignee for benefit of creditors, Chapter 7 trustee, Chapter 11 trustee or examiner, post confirmation disbursing agent, or other fiduciary. We develop insights from these representations that are beneficial for all of our clients.

Acquisitions

Willing buyers often find willing sellers in the halls of the U.S. Bankruptcy Court. During the past year, our bankruptcy attorneys have represented or counseled with numerous purchasers and prospective purchasers of various assets owned by business entities involved in insolvency proceedings.

Estate Planning

The firm's estate planning experience and insolvency experience combine to provide estate planning services in a range of contexts. Additionally, our team is experienced in the

representation of litigants in estate planning litigation and litigation involving family-owned business entities.

Real Estate and Corporate Finance

GrayRobinson's bankruptcy attorneys handle all types of commercial and residential real estate transactions in addition to representing companies seeking start-up or expansion financing. We work closely with banks and similar financial institutions, venture capitalists, securities underwriters and private sources. We view our banking relationships as a vital element of our success. In addition to performing legal services on behalf of our lending clients, we actively seek opportunities to refer our developer, landowner and corporate clients to appropriate sources of funding. Our goal is to deliver the highest level of client service. We are deal makers, not deal breakers. We read the fine print but also keep an eye on the big picture to provide the quickest turnaround possible. We understand the need for responsiveness. We are available at all times and will work around the clock to help achieve our clients' success.

Representative Experience

- Represented the official committee of unsecured creditors and liquidating trustee in one of the first mortgage banking failures in South Florida in a case where the debtor operated as a lender and servicer of loans in the U.S. market.
- Represented a national bank in litigation and loan restructuring involving cross-border issues relating to U.S. and Canadian property which constituted the bank's collateral.
- Represented the receiver of an insurance premium financing business regulated by the state in a piece of litigation resulting in payment to the lender of more than half of their outstanding loan due within the initial 45 days.
- Acted as lead counsel in cross-border insolvency matters involving 12 pending judicial proceedings in various countries throughout the Caribbean. Represented fiduciaries appointed as judicial managers and liquidators under foreign insolvency laws in seeking recognition under Chapter 15 of the U.S. Bankruptcy Code which led to published opinions on various emerging issues in Chapter 15 jurisprudence.
- Represented the assignee in an assignment for the benefit of creditors involving a national real estate company and 17 affiliates located throughout the U.S. which involved a sale of the corporate assets consisting of general intangibles in excess of $1 million.
- Represented a secured lender with mortgage debt in excess of $30 million where the case led to a contested confirmation hearing and an election under Section 1111(b) of the U.S. Bankruptcy Code. Also represented lender in companion actions on account of the guaranty against the principal/guarantors.
- Represented a national bank as a secured lender in Chapter 11 where the lender provided debtor in possession financing and was granted a priming lien during the course of the Chapter 11 in order to permit the debtor to continue operating its healthcare business and serving its patients.
- Represented the committee of unsecured creditors in complex sale transaction involving imaging centers located statewide; engagement included negotiating resolution of millions of dollars in capital leases, a plan which included the substantive consolidation of only certain of the debtors and extensive litigation concerning assumption and cure issues. We continue to represent the post-confirmation liquidating trustee.
- Represented the committee of unsecured creditors in complex and adversarial sale process, including both an equity auction and asset sale preceded by successful prosecution of examiner motion, expansion of chief restructuring officer's role and then

extensive negotiations with secured lender. We continue to represent the post-confirmation liquidating trustee in active litigation.

- Over a two year period, we represented a client in the restructuring and satisfaction of over $20 million of debt through the assistance of lawyers in four different offices and within multiple practice areas, including bankruptcy, labor and employment, ERISA, real estate and commercial litigation.
- Represented the purchaser that presented a competing plan of reorganization to buy an international cargo airline out of Chapter 11 in a hostile takeover. The value of the acquisition was in excess of $80 million.
- Represented the creditors committee in a case involving a regional passenger airline. The committee proposed a plan of reorganization which was confirmed in the Southern District of Florida which sold the airline to a large national airline carrier. We presently represent the liquidating trustee in the liquidation and distribution of assets to the general unsecured creditors.
- Represented the purchaser of a well-known art deco hotel in South Beach, Florida, which purchased the hotel in a 363 sale which culminated in a successful liquidation plan.
- Currently represent a debtor manufacturer of tablets and laptops with operations in China in a Chapter 11 case pending in the Southern District of Florida. The debtor markets and sells its products in Latin America.
- Represented a well-established developer in the business of building homes, country clubs and golf courses on a 700-acre tract of land in Central Florida. We restructured an out of court work-out with all of the secured and unsecured creditors.
- Represented the Chapter 7 trustee in the largest Ponzi scheme in Canadian history involving gold mining operations in the western United States and Latin America.
- Represented a five-bank group syndication as a secured creditor in the Chapter 11 filing of the parent company which owned a $1.2 billion multi-state Medicare HMO. The case involved the attempted sale of the regulated HMO entities, pursuit of an alleged defaulting buyer, and litigation with state insurance departments over tax refunds and tax sharing agreements, as well as issues surrounding the McCarran Ferguson Act.
- Represented a major bondholder in a real estate partnership filed in the Western District of Tennessee which led to the Seminole case on revocation of confirmation.
- Represented a national bank as a member of the official committee of unsecured creditors in the largest individual Chapter 11 filed in U.S. history, and was instrumental in recovering in excess of 40% of the unsecured debt.
- Represented the official committee of unsecured creditors in the Chapter 11 of a non-profit community hospital which led to the sale of the hospital for an amount in excess of $40 million, which in turn resulted in a significant return to the unsecured creditors.
- Represented a South Florida independent physicians association (IPA) in a Chapter 11 case which became insolvent because it was owed significant receivables as a result of at-risk contracts signed with several well-known HMOs.
- Appointed by the United States Trustees Office for the Middle District of Florida as the Patient Care Ombudsman in a skilled nursing facility (SNF) which was on the verge of being shut down by the Agency for Healthcare Administration (AHCA) for its failure to provide quality of care to over 20 ventilator patients. The SNF was reaccredited and the facility was sold.
- Represented the official committee of unsecured creditors, the homeowners association, and two secured creditors in four separate timeshare Chapter 11 bankruptcies, filed in the Middle District of Florida – Orlando Division, and the Southern District of Florida – Miami Division, which resulted in a successful return and recovery to the respective contingencies.

- Represented the official committee of unsecured creditors in a case filed in the Middle District of Florida – Tampa Division, involving a chain of steakhouses located in Virginia, Georgia, Nevada, Colorado and Texas. With the assistance of the U.S. Trustee, we convinced the court to provide the unsecured creditors with an equity auction and through extensive negotiations with the secured creditor was able to secure a significant carve-out for the unsecured creditors. We continue to represent the post-confirmation liquidating trustee in active litigation on the same case.
- Represented a national bank and several other secured creditors in three major condominium development failures, which subsequently filed for Chapter 11 and in each occasion, the secured creditor received a full recovery on its secured claim.
- Obtained $2 million alter ego judgment against operating affiliates of debtor on behalf of Chapter 7 trustee.
- Argued against attempted $2 million equitable subordination request in Chapter 11 on behalf of secured lender.
- Obtained dismissal of successive Chapter 11 case on behalf of secured lender holding $6.7 million note.
- Resolved a $19 million lender liability lawsuit concerning significantly distressed asset which resulted in payment of nearly $6 million to lender and dismissal of lawsuit with prejudice.
- Defeated a Chapter 11 cram down plan involving loan in excess of $10 million dollar resulting in the dismissal of the bankruptcy case and ultimate demise of the Chapter 11 debtor.
- Obtained one of the most expansive channeling injunctions, which enjoined all municipal and state taxing authorities from ever suing our clients without having to subject the clients to the bankruptcy process.