

Colin M. Bernardino

Partner

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Services

Bankruptcy & Financial
Restructuring
Complex Commercial Litigation
Directors & Officers Litigation
Lease Disputes & Restructuring

Industries

Lease Disputes & Restructuring

Colin Bernardino focuses his practice on bankruptcy and insolvency matters. Mr. Bernardino represents committees, creditors, debtors, and trustees in both workouts and bankruptcy proceedings. He frequently represents unsecured creditors committees in the Chapter 11 bankruptcy cases of hospitals as well as holding companies of financial institutions such as insurance companies.

Mr. Bernardino also represents receivers, trustees and other estate fiduciaries in fraud investigations and related litigation. He has counseled clients in all aspects of matters related to Ponzi schemes, including the representation of receivers, defrauded investors, and defendants in claw-back litigation. During his representation of a receiver appointed over a family of investment funds and after a consolidated trial against more than sixty defendants, Mr. Bernardino successfully obtained a determination that the funds had been operated as a Ponzi scheme. This determination was later affirmed on appeal. During his representation of the receiver, Mr. Bernardino has tried more than a dozen claw-back lawsuits and obtained judgments avoiding and recovering fraudulent transfers in each of them.

Mr. Bernardino was recognized in 2020, 2021 and 2022 by *The Best Lawyers in America*® for Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law.

Experience

Represented TaylorMade-adidas Golf Company in licensee's work-out, Article 9 purchase of licensee's inventory, and licensee's assignment for benefit of creditors.

Represented a national sporting goods retailer as a secured creditor in a Chapter 11 bankruptcy case of a major sporting goods supplier. Pursued claims against the debtor arising from client's pre-bankruptcy purchase of debtor's sporting goods business. Litigated claims and ultimately obtained a settlement to recover funds being

withheld by the debtor.

Represented the receiver and later Chapter 11 trustee and plan trustee in the Chapter 11 bankruptcy cases of International Management Associates LLC and its affiliated debtors. Assisted the trustee with investigation of a Ponzi scheme with losses of more than \$70 million. Obtained confirmation of the plan of liquidation resulting in appointment of the client as plan trustee. After evidentiary hearing, obtained an order resulting in substantive consolidation of debtors over objection of an investor, which order was affirmed after appeal by the investor. Obtained a determination that the investment funds had been operated as a Ponzi scheme, which determination was upheld on appeal. Obtained successful judgments after bench trials in more than a dozen claw-back lawsuits against recipients of fraudulent transfers. *In re International Management Associates, LLC*, Case No. 06-62966 (Bankr. N.D. Ga. filed March 16, 2006).

Represents financial institutions and special servicers in connection with distressed real estate loans and the disposition of commercial properties throughout the country. Counsels clients related to litigation and loan servicing matters relating to commercial mortgage-backed securities and bankrupt borrowers. This includes creditor representation related to non-performing commercial loans, involving the exercise of remedies, such as receiverships, judicial and non-judicial foreclosures, workouts, litigation and contested bankruptcy matters.

Represented the creditors' committee and now Chapter 7 trustee for OneStar Long Distance Inc. in connection with liquidation of assets of a large Midwestern long distance reseller with more than \$50 million in unsecured debt. *In re OneStar Long Distance, Inc.*, Case No. 03-72697 (Bankr. S. D. Ind. filed Dec. 31, 2003).

Represented the creditors' committee and then plan trustee for Vesta Insurance Group Inc. in connection with its liquidation. The firm assisted with reaching a complex multimillion dollar claim settlement with the Texas Insurance Commissioner. The plan trustee obtained a multimillion dollar settlement of a lawsuit handled by the firm against former officers for breach of fiduciary duties. *In re Vesta Insurance Group, Inc.*, Case No. 06-02517 (Bankr. N.D. Ala. filed July 18, 2006).

Represented Atlanta Habitat for Humanity Inc., on a pro bono basis, with regards to its status as a secured creditor in various bankruptcy proceedings.

Represented a domestic textile manufacturer, and its subsidiaries in their Chapter 11 bankruptcy cases. After less than one year in bankruptcy, the court confirmed a plan of reorganization that restructured a term loan and a revolving credit facility and senior notes, and allowed the reorganized debtors to restructure its operations in a more profitable fashion. The representation also involved significant litigation with trade creditors and the debtors' secured lenders.

Represented the creditors' committee in Chapter 11 proceedings pending in the Bankruptcy Court for the Western District of Missouri. The debtors in these cases are a network of 12 critical access hospitals located in the states of Kansas, Missouri, North Carolina, Oklahoma, and Tennessee. Protected interests of unsecured creditors by opposing onerous cash collateral conditions and insider dealing by debtors' principals and ultimately



reached agreement with debtors on plan. *In re HMC/CAH Consolidated, Inc.*, Case No. 11-44738 (Bankr. W.D. Mo. filed October 10, 2011).

Represented the creditors' committee in Chapter 11 proceedings pending in the Bankruptcy Court for the District of Puerto Rico. Hospital Damas, Inc. is a non-profit corporation that operates a general medical and surgical hospital in Ponce, Puerto Rico. In addition to protecting the interests of unsecured creditors during the bankruptcy case, initiated an adversary proceeding against the major secured creditor seeking avoidance of certain of its purported liens on the debtor's property. The secured creditor ultimately consented to a joint debtor/committee plan that provided substantial recoveries for unsecured creditors. *In re Hospital Damas, Inc.*, No. 10-08844 (Bankr. D.P.R. filed Sept. 24, 2010).

Representation of AT&T (f/k/a BellSouth Telecommunications Inc.) in Chapter 11 case pending in Dallas, Texas, of Vartec Telecom, Inc., a reseller of long distance service. The matter involved various complicated issues concerning setoff, telecom banking and bankruptcy law, and was consensually resolved after multi-party negotiations. *In re Vartec Telecom, Inc.*, No. 04-81694 (Bankr. ND Tex. filed Nov. 1, 2004).

Education

Emory University School of Law J.D. (1999) Managing Editor of *The Bankruptcy Developments Journal*
Dartmouth College A.B. (1996) History

Admissions

Georgia (2000)

Court Admissions

U.S. Court of Appeals for the Eleventh Circuit
U.S. District Court for the Middle District of Georgia
U.S. District Court for the Northern District of Georgia

Clerkships

U.S. District Court for the Middle District of Georgia - Honorable Wilbur D. Owens, Jr. (Aug 1999-Aug 2001)

Professional & Community Activities

W. Homer Drake, Jr. Georgia Bankruptcy Inn of Court, Barrister (2014-2015)
American Bankruptcy Institute, Member
Association of Insolvency and Restructuring Advisors (AIRA), Member
Atlanta Bar Association, Member



The Dartmouth Club of Georgia, President and Alumni Interviewer

Emory Bankruptcy Developments Journal, Advisory Board Member

Reaffirmation Project, United States Bankruptcy Court for the Northern District of Georgia

Insights

News Releases

Kilpatrick Townsend Attorneys Honored in the 2022 Edition of *The Best Lawyers in America*

August 19, 2021

News Releases

Record-Breaking Recognition for Kilpatrick Townsend in *The Best Lawyers in America*® 2021

August 20, 2020

Perspectives

7 Key Takeaways | Having the Right Legal Tools in Your Market Uncertainty Toolbox: Being Prepared to Succeed Notwithstanding Trade Wars and Possible Downturns

October 28, 2019

News Releases

Record-Breaking Recognition for Kilpatrick Townsend in *The Best Lawyers in America*® 2020

August 15, 2019

In The News

Kilpatrick Townsend's Media Report February 27-March 5, 2015

March 6, 2015

News Releases

Kilpatrick Townsend's Colin Bernardino Named to the W. Homer Drake, Jr. Georgia Bankruptcy American Inn of Court

January 8, 2015