

# Financial Restructuring

One of the largest and most active bankruptcy and creditors' rights legal practices in the Southwest and California, representing clients locally, regionally, and nationally.

Our financial restructuring, creditors' rights and bankruptcy attorneys represent a wide range of clients - financial institutions, secured and unsecured creditors, insolvency committees, municipalities, borrowers, debtors, bankruptcy trustees, landlords, owner associations, purchasers of financially distressed businesses. These default, insolvency and bankruptcy law representations take place in state and federal courts, Chapter 11 cases in bankruptcy courts, debt restructuring, liquidation cases, out-of-court workouts, asset recovery, foreclosure actions and other related proceedings. Together with attorneys from other disciplines in the firm, our financial restructuring, creditors' rights and bankruptcy lawyers plan and negotiate complex workouts and restructures.

## LEADERSHIP



FINANCIAL  
RESTRUCTURING

BUSINESS  
LITIGATION

**Anthony W.  
Austin**

Chair

Phoenix

PH 602.916.5347

FX 602.916.5547

[aaustin@fennemorela](mailto:aaustin@fennemorela)

[w.com](http://aw.com)



FINANCIAL  
RESTRUCTURING

BUSINESS &  
FINANCE

**Christopher V.  
Hawkins**

Vice Chair

San Diego

PH 619.595.3218

FX 619.231.4372

[chawkins@fennemorel](mailto:chawkins@fennemorel)

[aw.com](http://aw.com)

## BANKRUPTCY LAW

Our bankruptcy attorneys are visible in various local and state bar sections, national bankruptcy and turnaround groups, have written numerous articles on bankruptcy and creditors' rights topics for both state and national publications, and have participated and spoken at numerous local, state and national seminars. They also have established relationships with the Arizona, California, Nevada state and federal courts and court personnel.

Our attorneys provide advice and counsel in all areas of secured and unsecured financing and other contracts, including enforcement of creditor's rights under loan, security and assignment agreements. With vast experience in loan transactions, modifications and litigation, count on our

attorneys to help clients protect and enforce their rights in the most effective and efficient manner possible, including all phases of state, federal and bankruptcy court litigation.

**Bankruptcy Matters Handled (Partial List):**

The Unsecured Creditors' Committee in the Baptist Foundation of Arizona, Inc. (BFA) bankruptcies, which involves 101 debtor entities and \$640 million of liabilities, in Arizona. The BFA cases involved significant issues of investor and securities fraud by major non-profit corporations.

The pre-petition and post-petition lender in the MicroAge bankruptcies. The MicroAge case involved approximately \$600 million of liabilities.

A major pre-petition construction and acquisition and development lender and debtor-in-possession lender in the UDC Homes, Inc. bankruptcy in Delaware. The UDC case involved approximately \$400 million of real estate assets.

A major gasoline trade creditor that chaired the Unofficial Reclamation Creditors' Committee in the consolidated bankruptcies of a national convenience store chain, and was instrumental in formulating \$40 million of post-petition super priority trade credit, and purchased \$20 million of the company's Hawaii stores. This case involved approximately \$860 million in assets and \$1.5 billion in liabilities.

The indenture trustee of \$52 million of public bonds with liens on 80,000 acres of land in more than 50 separate Sun Valley Parkway bankruptcies.

A major post-petition administrative and pre-petition unsecured creditor, which was also a member of the Unsecured Creditors' Committee, in the consolidated bankruptcies of a convenience store chain in Texas. This case involved about \$260 million of assets and \$380 million in liabilities.

A significant supplier in the Einstein/Noah Bagel bankruptcy cases that involved approximately \$200 million in liabilities.

The indenture trustee of several public bond issuances in the bankruptcy of a major airline. This case involved assets and liabilities over \$1 billion.

The Chapter 11 trustee in seven interrelated health care bankruptcies, which involved several senior living facilities and the successful marketing and sale of approximately \$45 million of assets. The trustee cooperated in the criminal investigation of former principals by the FBI and State Attorney General that resulted in the three major principals pleading guilty to several felony charges.

The debtor, an electric utility and its subsidiaries, in the involuntary proceedings filed against them and in the related state court litigation regarding one of its leveraged leases, both of which were ultimately dismissed. The company had nearly \$1.5 billion in liabilities and assets.

The former owner of a petroleum refinery in the bankruptcy of an oil and gas firm. Significant environmental issues, equitable servitudes and covenants running with the land were litigated.

A secured construction lender in a major marina project in the Coastal Research and Development bankruptcy in New Jersey.

The pre-petition secured lender in the bankruptcy of a motorcycle manufacturer.

A major unsecured creditor in the Kroy, Inc. and Kroy (Europe) bankruptcies and a plaintiff in subsequent LBO litigation.

The Official Unsecured Creditors Committee in a refinery bankruptcy in Arizona.

Numerous life insurance companies and institutional lenders with secured and unsecured claims in a variety of shopping center, apartment and office building Chapter 11 cases in Arizona.

Numerous banks as secured and unsecured creditors in preference litigation, adversary proceedings, non-dischargeability proceedings, and single asset bankruptcy litigation.

Numerous commercial landlords in local and national cases.

Numerous potential purchasers submitting bids and negotiating agreements for the purchase of assets in bankruptcies.

The debtor, a restaurant chain, a publicly traded company, and its subsidiaries, which confirmed a Chapter 11 plan of reorganization.

The debtor, a lumber company, which confirmed a Chapter 11 plan and successfully addressed various environmental problems in its plan.

An individual debtor before the United States Supreme Court in a 1992 landmark case involving the exemption or exclusion of an ERISA qualified pension plan from the bankruptcy estate, wherein the Supreme Court overturned longstanding Ninth Circuit case law.

## **CREDITORS' RIGHTS & LENDER LEGAL SERVICES**

In addition to general experience required in large business and reorganization projects, our creditor attorneys' expertise also includes such areas as (i) fraudulent transfer analysis, (ii) negotiation and documentation of financing agreements, debt restructurings, loan workouts, cash collateral arrangements, and debtor-in-possession financing arrangements, (iii) complex bankruptcy litigation, (iv) counseling with respect to transfers of claims against or interests in bankrupt entities, (v) formulation, negotiation and promulgation of plans of reorganization and related documents, (vi) reviewing and issuing non-substantive consolidation opinions, and (vii) representing clients with environmental claims in bankruptcy cases.

Our debt collection law expertise also includes such areas as (i) deed of trust sales, (ii) foreclosures, (iii) deeds-in-lieu of foreclosure, (iv) appointment of receivers (v) replevin, garnishment and attachment proceedings, pre-judgment and post-judgment, (vi) collection actions, (vii) guaranty suits, (viii) Uniform Commercial Code issues and sales, and (ix) other commercial litigation matters.

### **Creditors' Rights Matters Handled (Partial List):**

A lender in the repossession of four television stations in Alaska, including the appointment of a receiver and the liquidation of the assets and the FCC licenses.

A lender in the repossession and liquidation of grocery stores in the Southeast, including the appointment of a receiver and suits on the guarantees.

A lender in the restructuring of a loan with a major railroad line.

A lender in the workout and restructuring of aircraft leases.

A lender in the replevin of an aircraft from a South American carrier.

A lender in the repossession and liquidation of a large conveyor manufacturing business located in the Southeast, including the appointment of a receiver and the liquidation of the assets.

A lender in the workout and restructure of a loan involving several radio stations in the Midwest.

A lender in the foreclosure of three mobile home parks in Florida and Arizona, together with two executive jet aircraft.

Lenders in foreclosing on hotel properties located in Arizona, including the appointment of receivers.

A lender in restructuring the working capital and term loan facility of an environmental remediation company located in the South.

A lender in the restructure and eventual orderly liquidation of interval ownership projects in the Southeast.

A lender in restructuring the working capital facility of a medium-sized Midwest telecommunications company.

A lender in the restructure of various loans and subsequent liquidation of collateral of a medical professional corporation specializing in radial keratotomy.

A lender in the restructure and eventual orderly liquidation of assets of a computer software company.

A lender in the workout and liquidation of a ski resort in Arizona.

A lender in the workout of a baseball stadium loan.

Lenders in foreclosures of major high-rise office buildings in Arizona.

Bankruptcy, insolvency, workout and creditors' rights matters require the legal services of debt lawyers in a multitude of substantive areas. With a wide range of bankruptcy legal services, we are uniquely suited to provide both general creditors' rights expertise and expertise specific to the needs of the client.