

David A. Wender

Partner

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David Wender is a partner with Alston & Bird's Financial Restructuring & Reorganization Group. David represents a variety of clients in complex bankruptcy cases, out-of-court workouts, debt restructurings, asset dispositions, and claims reconciliation procedures. He represents purchasers, sellers, and other parties in bankruptcy Section 363 sales; debtors in possession; secured and unsecured creditors; and creditor's committees.

David's diverse practice also includes the representation of financial institutions, officers, directors, and other entities in complex litigation and transactional engagements in state and federal courts throughout the U.S. Clients identified David as a 2021 Acritas Star for his outstanding service and professional excellence. In 2019 he was named a "Client Service All-Star" in BTI Consulting Group's annual survey where corporate counsel said he "defined the new standard in client service excellence." *Chambers USA: America's Leading Lawyers for Business* has recognized David for excellence in the area of Bankruptcy/Restructuring since 2016. David was also named to *The Best Lawyers in America*® for 2018–2022 in the area of Bankruptcy and Creditor Debtor/Insolvency and Reorganization Law.

Before joining Alston & Bird, David served as law clerk to the Honorable Mary F. Walrath, chief U.S. bankruptcy judge for the District of Delaware. He received his J.D. in 2003 from the Emory University School of Law and his B.S. in business administration from Washington University in St. Louis in 1998.

Representative Experience

Bankruptcy Secured Lender, Trustee, and Servicer Engagements

- Counsel to national banks, regional banks, and other financial institutions in contested bankruptcy filings, the enforcement of contractual remedies, and related litigation matters.
- Counsel to agents, trustees, collateral, and special servicers in complex domestic and international bankruptcy cases and related litigation.

Debtor Engagements

- Counsel to a pharmaceutical company in furtherance of its Chapter 11 filing and wind down of operations.
- Counsel to a Louisiana-based hospital in connection with its Chapter 11 bankruptcy filing and Section 363 sale of assets.
- Represented a Chapter 11 debtor airline as special counsel in pension plan and employee benefit issues.

Creditor Engagements

- Represented numerous creditors in the bankruptcy case of a leading global supplier of mobile electronics and transportation systems, with claims arising out of the company's failure to perform under an existing supply agreement and pending patent litigation.
- National bankruptcy counsel to a consumer products company.

Litigation

- Represented a Chapter 11 trustee in the investigation and pursuit of litigation claims arising out of multiple breaches of fiduciary duties on behalf of a bankruptcy estate.
- Primary litigation counsel for a Georgia-based company in collection and remedy enforcement matters.
- Represented national and regional banks in fraudulent conveyance litigation and related disputes.
- Represented an equity committee in a bankruptcy case in contested litigation concerning a multibillion-dollar valuation and potential recoveries.
- Represented the Official Committee of Unsecured Creditors in connection with breach of fiduciary duties and the misappropriation of a corporate opportunity litigation.
- Bankruptcy litigation counsel for companies and individuals dealing with director and officer claims and fraudulent conveyance litigation.
- Represented suppliers in commercial fraud cases.
- Represented defendants in connection with claims arising out of an alleged Ponzi scheme.

Transactional/Workouts

- Counsel to national and regional banks in secured and unsecured real estate transactions.
- Counsel to agents, trustees, collateral, and special servicers in secured and unsecured real estate transactions.
- Advised national banks, regional banks, and other parties in commercial transactions and bankruptcy implications.

Mergers & Acquisitions

- Represented a Georgia-based financial institution in its acquisition of assets from a bank spun off from a national retail operation.
- Counsel to a home-health-care operator in its acquisition of substantially all the assets of a debtor in bankruptcy.
- Represented a purchaser in the cross-board acquisition of manufacturing facilities pursuant to Section 363 and Chapter 15 of the Bankruptcy Code.
- Represented a national consumer products company in the acquisition of distressed assets.
- Represented a pharmaceutical company in its sale of assets pursuant to Section 363 of the Bankruptcy Code.

Publications & Presentations

Publications

- "Fifth Circuit Rules on Payment of a Make-Whole Premium and Post-Petition Default Interest," *Pratt's Journal of Bankruptcy Law*, June 2019.
- "With WARN Act and Bankruptcy, Better Think Inside the Box," *Law360*, March 13, 2019.
- "When Vendors Are Consigned to a Lower Authority," *Pratt's Journal of Bankruptcy Law*, June 2016.
- "Delaware Bankruptcy Court Allows Debtor to Sidestep 'Make-Whole' Payment," *Pratt's Journal of Bankruptcy Law*, November/December 2015.

- “Actions Speak as Loudly as Words in *Deprizio* Waivers,” *Pratt’s Journal of Bankruptcy Law*, September 2015.
- “Intercreditor Agreements in Bankruptcy.” *Westlaw Journal Bankruptcy*, December 4, 2014.
- “The Tale of Breadcrumbs: Eighth Circuit Finds Trademark Licence No Longer Executory,” *World Trademark Review Daily*, July 7, 2014.
- “A Must-Read for ‘Repo’ Counterparties,” *Law360*, April 19, 2013.
- “2nd Circ.’s Take on LBOs of Privately Held Securities,” *Law360*, August 7, 2013.

Presentations

- “The Best-Laid Plans...” American Bankruptcy Institute's 23rd Annual Southeast Bankruptcy Workshop, Amelia Island, FL, July 26-29, 2018.

Professional & Community Engagement

- American Bankruptcy Institute, Southeast board
- *Emory Bankruptcy Developments Journal*, board
- Homer W. Drake, Jr. Georgia Bankruptcy American Inn of Court, Barrister
- Hands On Atlanta, board
- Georgia Bar Association, Bankruptcy Section board
- Atlanta Contemporary, board

Education

- Emory University (J.D., 2003)
- Washington University in St. Louis (B.S.B.A., 1998)

Admitted to Practice

- Georgia
- Texas

Related Services

Financial Restructuring & Reorganization | Litigation | Corporate & Business Transactions | Commercial Real Estate Lending | Enforcement, Workouts & Foreclosures | Bankruptcy Litigation | Bankruptcy Transactions