



## James T. Bentley

Of Counsel

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**James focuses his practice on corporate restructuring and represents numerous constituencies in bankruptcy and out-of-court workouts.**

James represents hedge funds, private equity funds, alternative asset managers, trustees, secured and unsecured creditors, debtors, and other stakeholders in every aspect of the restructuring process. His experience with restructurings spans many industries including retail, automotive, energy, healthcare, restaurants, radio and television, real estate, and securities. James negotiates and litigates a range of complex issues including contested bankruptcy sales, plan confirmation, debtor in possession financing, cash collateral, fraudulent transfers, equitable subordination and recharacterization, and also advises clients about distressed investment strategies. He also works on a number of Article 9 foreclosures on unique collateral.

Additionally, James counsels international and domestic clients on insolvency-related issues associated with securitizations as well as public and private structured financings, including collateralized loan obligations. He also works with litigation funders on investments in distressed plaintiff-side litigation.

Prior to joining the firm, James clerked for the Honorable Carla E. Craig, Chief Judge of the U.S. Bankruptcy Court, Eastern District of New York, was an associate in the finance department of Otterbourg P.C., and was an Assistant Vice President in the Global Corporate Banking Group at Citigroup.

# Key Matters

*Some of the experience represented below may have been handled at a previous firm.*

## SECURED CREDITORS

- Lender in out of court restructuring and debt for equity exchange of several television stations.
- Ad hoc group of secured creditors in the out of court restructuring and debt for equity exchange of a defense manufacturer.
- Ad hoc group of secured creditors in the out of court restructuring and debt for equity exchange of provider of full-service turnkey communications solutions, electrical infrastructure design and construction services company.
- Secured creditor in the foreclosure of a multi-state dental service organization.
- TPG Specialty Lending, Inc., in its capacity as ABL Agent, in Chapter 11 case of *iHeartMedia, Inc., et al.*
- Burford Capital in connection with its investment in litigation being prosecuted by Motors Liquidation Company Avoidance Action Trust, in Chapter 11 case of *Motors Liquidation Company, f/k/a General Motors Corporation, et al.*
- TRGP in connection with its investment in intellectual property claims prosecuted by plaintiff against major retailer.
- Group of lenders in connection with the out-of-court restructuring of *EB Holdings II, Inc.* bond debt.
- Black Diamond and Spectrum Investment as prepetition first lien lenders and DIP lenders in Chapter 11 case of *Allied Systems Holdings Inc.*
- Wells Fargo Capital Finance, as secured lender in Chapter 11 case of *Oceanaire Restaurant Company.*
- Group of secured lenders in connection with Chapter 11 case of *Digital Domain Media Group*, featuring a roll-up DIP and 363 sale to a strategic purchaser.
- Counsel to secured creditor regarding the negotiation of the consensual use of cash collateral for an oil and gas company in Chapter 11 case of *Mahalo Energy (USA) Inc.*
- Goldman Sachs Special Situations, as secured creditor regarding the negotiation of the consensual use of cash collateral and exit financing for an oil and gas company in Chapter 11 case of *Osyka Corporation.*
- Numerous other secured creditors in out-of-court asset foreclosure.

## UNSECURED CREDITORS AND EQUITY HOLDERS

- Ad hoc group of unsecured creditors in the Chapter 11 cases of *Neiman Marcus Group Ltd. LLC, et al.*
- Unsecured creditor in the Chapter 11 case of *Bluestem Brands, Inc., et al.*
- Ad hoc group of hospitals in the Chapter 11 cases of *Purdue Pharma, L.P.*
- Several utility bond holders in Chapter 11 cases of *PG&E Corporation and Pacific Gas and Electric Company*
- Ad hoc group of unsecured creditors in the Chapter 11 cases of *Barneys New York, Inc.*
- Panasonic Corporation of North America in the Chapter 11 cases of *Dura Automotive Systems*
- Member of creditors' committee in Chapter 11 cases of *Caesars Entertainment Operating Company, Inc., et al.*
- Chair of creditors' committee in Chapter 11 cases of *Trump Entertainment Resorts, Inc., et al.*
- Chair of creditors' committee in Chapter 11 cases of *RIH Acquisitions NJ, LLC d/b/a The Atlantic Club Casino Hotel, et al.*
- Panasonic Corporation of North America in Chapter 11 cases of *TK Holdings, Inc., et al. (Takata).*

- Member of creditors' committee in Chapter 11 cases of *Angelica Corporation, et al.*
- Multiemployer benefit plan and 401(k) savings plan as members of creditors' committee in Chapter 11 cases of *HMX Acquisition, LLC, et al.* (Hartmarx)
- Represented equity sponsor in out-of-court reorganization of global operations for manufacturer of sealing systems for automotive applications.
- Significant unsecured creditor and trade vendor in the negotiation of post-bankruptcy trade terms and claim settlement in Chapter 11 cases of *Delphi Automotive, et al.*

## **DISTRESSED M&A**

- Affiliates of Murray Energy Corporation in connection with their acquisition of mining complexes in Chapter 11 case of *Mission Coal Company, LLC, et al.*
- Group of second lien bondholders in their credit bid acquisition of the assets of the largest casual Mexican food restaurant chain in the United States in Chapter 11 case of *Real Mex Restaurants, Inc.*
- Albertsons Companies as purchaser in Chapter 11 cases of *Haggen Holdings LLC et al.*
- Group of secured lenders in their credit bid acquisition of several television stations in Chapter 11 case of *Pappas Telecasting Inc.*
- Fortress as secured creditor, DIP lender and credit bid buyer in Chapter 11 cases of *Everything But Water.*
- Fortress, as credit bid buyer of several radio stations in Chapter 11 cases of *Millcreek Broadcasting et al.*
- Numerous credit bidding acquisitions on behalf of secured creditors.

## **HEALTH CARE**

- National Health Care, Inc., as purchaser of skilled nursing facility and real property in Chapter 11 cases of *Hebrew Health Care, Inc., et al.*
- Primary Care Development Corporation, as seller of a health clinic in Chapter 11 case of *Caritas Healthcare, Inc.*
- Advise numerous clients on acquisitions, claims trading and financing of government receivables in the healthcare industry.

## **DEBTORS**

- Counsel to the Debtors in the Chapter 11 cases of Fore Aero Holdings and its subsidiaries.
- Special Counsel to the debtors in Chapter 11 cases of *Bertucci's Holdings, et al.*
- Counsel to the foreign representative in the Chapter 15 cases of *Premium Point Master Mortgage Credit Fund, Ltd., Premium Point Offshore Mortgage Credit Fund, Ltd.; Premium Point ERISA Master Mortgage Credit Fund, Ltd.; Premium Point ERISA Offshore Mortgage Credit Fund, Ltd.; Premium Point Master New Issue Opportunity Fund, Ltd.; Premium Point Offshore New Issue Opportunity Fund, Ltd.; Premium Point Mini-Master New Issue Opportunity Fund, Ltd.;* and *PPI Acq, Ltd.*

## **LITIGATION**

- Defendant in connection with fraudulent transfer litigation in the *SunEdison* bankruptcy case.
- Wilmington Trust Co. in litigation to establish ownership of a \$400 million tax refund for the bankruptcy estate in the Chapter 7 case of *Downey Financial Corp.*
- Directors and officers seeking stay relief to access proceeds of a D&O insurance policy in Chapter 11 case of *Profile Technologies, Inc.*
- Defended numerous creditors in preference and fraudulent transfer actions.

## VARIOUS STRUCTURED FINANCE AND SECURITIES TRANSACTIONS

- Albertsons Companies in the issuance and sale of \$1.75 billion in convertible preferred equity of Albertsons Companies to a group of investors led by Apollo Global Management Inc.
- Counsel various parties in securitization and CMBS transactions. Provide advice in connection with bankruptcy-remote structures, true sale, nonconsolidation, and safe harbor opinions.

## PRO BONO

- Represented individuals seeking hardship discharges of their student debt obligations for the New York City Bar Association's Pro Bono & Legal Services Committee
- Coordinating attorney for task force of attorneys in partnership with CUNY Citizenship Now.
- Coordinating attorney for task force of attorneys in partnership with the Clemency Project.
- Counsel various indigent New Yorkers on behalf of the New York City Bankruptcy Assistance Project in connection with the preparation of Chapter 7 petitions.
- Represented individual in divorce by publication on behalf of Sanctuary for Families.

## Recent Experience

Triple-S Tube Supply Acquires Real Property and Improvements in Private Bankruptcy Sale

## Activities

James provides pro bono assistance to the New York Bankruptcy Assistance Project and serves as a panelist on the New York City Bar Association's Pro Bono & Legal Services Committee advising individuals about bankruptcy.

- Member, American Bankruptcy Institute
- Member, New York State Bar Association
- Member, Turnaround Management Association
- Member, Strafford Webinar Bankruptcy Law Advisory Board
- New York State Bar Association Empire State Counsel Honoree
- New York City Bankruptcy Assistance Project Pro Bono Leader

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## Credentials

### EDUCATION

James received his J.D., *cum laude*, from Brooklyn Law School and he earned his B.A. from Boston College.

### ADMISSIONS

- New York

### CLERKSHIPS

- USBC - Eastern District of NY for the Honorable Carla E. Craig

# Related Insights & News

James has authored dozens of articles on restructuring-related topics that have appeared in the New York Law Journal, the Norton Journal of Bankruptcy Law and Practice, Law 360, The Bankruptcy Strategist, and Bloomberg. In addition, James regularly speaks about various restructuring-related matters including recent decisions that affect secured creditor rights.

## Publications

### **Books**

- Bankruptcy Litigation Manual (rev. ed., Aspen Law & Business, 2023) (contributing author on chapters regarding the Retiree Benefits Bankruptcy Protection Act, and ERISA Related Claims in Bankruptcy )

### **Articles**

- “Bankruptcy Court Holds That Noteholders’ “Sacred Right” Was Not an Anti-Lien Subordination Provision in Permitting Uptier Transaction,” Winston & Strawn Alert, Aug. 10, 2022
- “COVID-19’s Continuing Effects On Health Care Economics,” Law360, Sept. 28, 2021
- “The CAA’s Impact on Commercial-Real-Estate Bankruptcies,” Winston & Strawn Alert, March 16, 2021
- “Liquidation Lessons From 11th Circ. Pension Plan Ruling,” Law 360, Jan. 20, 2021
- “Sell-Side Directors May Be Liable for Breach of Fiduciary Duty Claims for Failing to Investigate Company’s Post-Closing Solvency,” Winston & Strawn Alert, December 28, 2020
- “Bankruptcy Court Grants Tenant Partial Rent Abatement Under Force Majeure Clause (COVID-19),” SRZ Alert, June 29, 2020
- “Considerations for CLO Participants in Light of COVID-19,” Reorg, April 30, 2020
- “The Elegant Swan and Clumsy Duck: What is Recharacterization in Bankruptcy?” DailyDAC Distressed Asset Central, April 22, 2020
- “Lender Primes Trustee in Seventh Circuit,” SRZ Alert, Sept. 25, 2019; republished in Pratt’s Journal of Bankruptcy Law, January 2020
- “Lender Primes Trustee in Seventh Circuit,” SRZ Alert, Sept. 25, 2019 (co-author)
- “Contempt Standard for Chasing Invalid Debts Hangs on Intent,” Law360, May 3, 2019
- “Schools Suffer When Debtor Tuition Payments Are Recovered,” Law360, Dec. 20, 2018
- “Lower Courts Wrestle with Debtors’ Tuition Payments,” SRZ Alert, Dec. 12, 2018
- “Taberna Bankruptcy Ruling Brings Relief For CDO Investors,” Law360, Nov. 30, 2018
- “Two New Decisions Clarify Chapter 15 Requirements,” Law360, May 17, 2018
- “Rejecting Tuition Payment Clawback: A Logical Result,” Law360, Oct. 23, 2017
- “How Bankruptcy Can Maximize Health Care Businesses’ Value,” Law360, Oct. 4, 2017 (co-author)
- “Sale of Closed Hospital Could Avoid California Attorney General’s Conditions,” Bloomberg BNA - Health Law Reporter, May 25, 2017 (quoted)
- “Navigating the Bankruptcy Court’s Power to Modify a Secured Creditor’s Lien,” Equipment Leasing Newsletter, February 2017 (co-author); republished in The Bankruptcy Strategist, April 2017
- “Nursing Home Can’t Use Bankruptcy Court to Stop Provider Agreement Terminations,” Bloomberg BNA - Health Law Reporter, Jul. 14, 2016 (quoted)
- “3rd Circ. Grants More Flexibility to Section 363 Acquirers,” Law360, Sept. 23, 2015 (co-author)

- “Third Circuit Approves Use of Escrow Agreements Funded by Acquirers to Pay Junior Creditors Before Senior Creditors,” SRZ Alert, Sept. 21, 2015 (co-author)
- “Asset Sales: ABI Commission’s Recommendations Could Make Value Realization by Secured Creditors a Waiting Game of Diminishing Returns,” Bloomberg BNA – Bankruptcy Law Reporter, March 12, 2015 (co-author)
- “ABI Commission Report Recommendations on DIP Financing Would Eliminate Lender Protection,” SRZ Alert, Dec. 30, 2014 (co-author)
- “Litigation Involving Florida Nursing Home Exposes Bankruptcy, Health Law Tension,” Bloomberg BNA - Health Law Reporter, Dec. 11, 2014 (quoted)
- “Health Care Business Restructuring for Secured Lenders,” SRZ Guide, July 2014 (co-author); republished in Bloomberg BNA – Bankruptcy Law Reporter, Sept. 25, 2014
- “Sick Times in Healthcare,” The Daily Deal, Oct. 20, 2014 (quoted)
- “False Claims Act Debts Held Non-Dischargeable in Bankruptcy,” New York Law Journal, June 5, 2014 (co-author)
- “Credit Bid Buyers Beware: Delaware Bankruptcy Court Caps Credit Bid,” The Bankruptcy Strategist, May 2014 (co-author)
- “How Unsecured Creditors Push Ahead of Lenders Who in Fact Invested, Part III – Equitable Subordination vs. Re-characterization,” Commercial Bankruptcy Investor Blog, Jan. 23, 2014 (co-author)
- “How Unsecured Creditors Push Ahead of Lenders Who in Fact Invested, Part II – What is Recharacterization?” Commercial Bankruptcy Investor Blog, Oct. 28, 2013 (co-author)
- “How Unsecured Creditors Push Ahead of Lenders Who in Fact Invested, Part I – What is Recharacterization?” Commercial Bankruptcy Investor Blog, Oct. 3, 2013 (co-author)
- “Lehman Claims Update: LBI and LBIE Announce Agreement in Principle to Resolve All Claims,” SRZ Alert, Oct. 5, 2012 (co-author)
- “The Benefit of Whose Bargain? Courts Grapple with Administrative Expense Priority For Postpetition Withdrawal Liability Claims,” Norton Journal of Bankruptcy Law and Practice, Vol. 21, No. 4 (2012) (co-author)
- “Supreme Court Affirms Secured Creditors’ Credit Bid Rights Under Plan,” SRZ Alert, June 1, 2012 (co-author)
- “Reception Unclear: Media Company Restructurings Present Unique Issues,” Turnarounds & Workouts, February 2012 (quoted)
- “Must Credit Bidding Be Permitted In Plan Sales To Satisfy The Bankruptcy Code’s Fair And Equitable Standard?: How The Third And Seventh Circuits Reached Different Answers To The Same Question,” Norton Bankruptcy Law Adviser, December 2011 (co-author)
- “Restructuring Troubled Media Firms: Practical Tips for Creditors,” Troubled Company Reporter, Dec. 22, 2011 (co-author)
- “Secured Creditors’ Credit Bid Rights Under Cramdown Plan,” Equipment Leasing Newsletter, December 2011 (co-author)
- “Seventh Circuit Upholds Secured Creditors’ Credit Bid Rights Under Cramdown Plan,” The Bankruptcy Strategist, September 2011 (co-author)
- “Seventh Circuit Upholds Secured Creditors’ Credit Bid Rights Under Plan,” SRZ Alert, July 5, 2011 (co-author)
- “Camouflaged Collateral: ‘All Asset’ Liens May Not Include Proceeds of D&O Insurance Policies in Bankruptcy,” Bloomberg Bankruptcy Law Reporter, March 21, 2011 (co-author)
- “Not So ‘Silent’: Second Lien Creditor Allowed to Oppose Bid Procedures,” ABI Committee News, Secured Creditor Committee, December 2010 (co-author)
- “Third Circuit Refines Break-Up Standard,” SRZ Alert, Feb. 4, 2010 (co-author)

- “Florida Bankruptcy Judge Holds ‘Savings Clause’ Unenforceable When Voiding Guarantees as Fraudulent Transfers,” SRZ Alert, Oct. 30, 2009 (co-author)

### **Speaking Engagements**

- “Issues Impacting the Commercial Real Estate Market as it Recovers From the Pandemic,” Debtwired Podcast, September 1, 2021
- “Restructuring Issues in the Health Care Industry (panel moderator),” Winston & Strawn Health Care & Life Sciences Summit 2021, February 2, 2021
- “Small Business Bankruptcy,” City Bar Justice Center Webinar, November 19, 2020
- “CLO Considerations for Distressed Investors,” SRZ and Reorg Webinar, April 2020
- “Get a Fresh Perspective: Special-Purpose Entities and Single-Asset Real Estate Insolvencies,” ABI 25th Annual Rocky Mountain Bankruptcy Conference, January 2020
- Banking and Finance Panel, Columbia Law School, November 2019
- Strafford Fraudulent Transfer Claims After Merit Management v. FTI: Implications for Safe Harbor Litigation Webinar, January 2019
- “Section 363 Bankruptcy Sales: Key Considerations in the Auction Process, Private Sales, Due Diligence and Operations,” Strafford Webinar, May 2018
- “UCC Security Interests in Proceeds of Collateral: Perfection, Priority and Impact of Debtor’s Bankruptcy,” Strafford Webinar, March 2018
- “Equitable Subordination and Recharacterization of Loans: Avoiding Pitfalls for Lenders, Creditors and PE Sponsors,” Strafford Webinar, April 2017
- “UCC Security Interests in Proceeds of Collateral: Navigating Perfection, Priority and Impact of Debtor’s Bankruptcy,” Strafford Publications Inc. Webinar, October 2016
- “UCC Security Interests in Proceeds of Collateral: Navigating Perfection, Priority and Impact of Debtor’s Bankruptcy,” Strafford Publications Inc. Webinar, September 2014

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### **SEMINAR/CLE**

Winston & Strawn and Grant Thornton’s 2023 International Restructuring Conference

NOVEMBER 13, 2023

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### **RECOGNITIONS**

James T. Bentley Named Among City Bar Justice Center’s 2023 Outstanding Pro Bono Service Award Winners

OCTOBER 10, 2023

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### **NEWS**

2022 Pro Bono Impact Report

MAY 1, 2023

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### **SPONSORSHIP**

Winston & Strawn Sponsors the American Bankruptcy Institute’s Annual Spring Meeting

APRIL 20-22, 2023

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#### CLIENT ALERT

Bankruptcy Court Holds That Noteholders' "Sacred Right" Was Not an Anti-Lien Subordination Provision in Permitting Uptier Transaction

AUGUST 10, 2022

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#### ARTICLE

COVID-19's Continuing Effects On Health Care Economics

SEPTEMBER 28, 2021

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#### IN THE MEDIA

James Bentley Discusses the Commercial Real Estate Market on *DebtWired Podcast*

SEPTEMBER 1, 2021

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#### CLIENT ALERT

The CAA's Impact on Commercial-Real-Estate Bankruptcies

MARCH 16, 2021

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#### WEBINAR

Health Care & Life Sciences Summit 2021

FEBRUARY 2-4, 2021

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#### ARTICLE

Liquidation Lessons From 11th Circ. Pension Plan Ruling

JANUARY 20, 2021

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#### CLIENT ALERT

Sell-Side Directors May Be Liable for Breach of Fiduciary Duty Claims for Failing to Investigate Company's Post-Closing Solvency

DECEMBER 28, 2020

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#### IN THE MEDIA

James Bentley Discusses What's to Come in 2021 for Investment Professionals

DECEMBER 23, 2020

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## Capabilities

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Restructuring & Insolvency

Bankruptcy Litigation & Investigations

Transactions

Litigation/Trials

Automotive & Mobility

Energy

Financial Services

Health Care



