



## Jeffrey T. Kucera

### Partner

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### OVERVIEW

Jeffrey Kucera helps clients to enforce, interpret, restructure, and renegotiate lending arrangements. He is a litigator who focuses his practice on Bankruptcy, Debtors' and Creditors' Rights, and Commercial Litigation before U.S. District Courts and U.S. Bankruptcy Courts nationwide, as well as circuit courts throughout the state.

### BANKRUPTCY

Jeffrey has extensive experience representing parties in bankruptcy cases throughout Florida, Texas, Delaware, New York, and California. His clients have included:

- Debtors
- Secured creditors
- General unsecured creditors
- Mezzanine lenders
- Official committees of unsecured creditors
- DIP lenders
- Purchasers of estate property
- Mechanics' and materialmen's lienholders
- Lessees of real and personal property
- Financers of purchases through bankruptcy sales

He has been involved in a wide variety of contested matters, including cash collateral motions; sale motions; and contested confirmations.

### BANKRUPTCY LITIGATION

Jeffrey has represented parties in adversary proceedings in various courts, including:

- Defending preference and fraudulent transfer claims
- Defending general tort and contract claims brought by trustees and debtors in possession
- Claims litigation
- Relief from the automatic stay
- Motions to compel administrative and lease payments
- Administrative claim proceedings
- Assumption and rejection of executory contracts
- Claims by trustee in a fraud case against broker-dealer, including secondary claims against broker-dealer by investors filed in various state and federal courts
- Intercreditor agreements and disputes
- Withdrawal of the reference to the bankruptcy court

## CREDITORS' AND DEBTORS' RIGHTS LITIGATION

Jeffrey has extensive experience litigating creditors' and debtors' rights issues, and has represented:

- Borrowers
- Lenders secured by real estate
- Agricultural lenders
- Asset-based lenders
- Trade creditors
- Unsecured note holders
- Receivers
- Assignors for the Benefit of Creditors
- Participants and agents in syndicated loans
- Servicers and special servicers
- Issuers of credit default swaps
- Judgment creditors

These representations have involved a wide range of cases, including:

- Mortgage foreclosures and deficiency actions
- Prejudgment relief including writs of replevin and attachment
- Garnishment actions
- Appointment of receivers
- UCC Article 9 notices to account debtors
- UCC sales
- Judgment collection and enforcement
- Proceedings supplementary
- Discovery in aid of execution
- Mortgage lien defense against “sovereign citizen” claims

## GENERAL COMMERCIAL LITIGATION

Jeffrey has significant experience representing plaintiffs and defendants in state and federal court, including:

- Audit malpractice
- Prosecuting and defending business torts, including intentional interference with business arrangements
- Fraud, including Ponzi scheme cases
- Negligence and negligent misrepresentation
- Securities fraud
- Commodities market claims
- Defense of auditors in connection with Sarbanes-Oxley and securities laws
- TILA and RESPA defense
- Piercing the corporate veil

## PROFESSIONAL / CIVIC ACTIVITIES

- ABA Business Law Section, Business Bankruptcy Committee, co-vice-chair of Subcommittee on Bankruptcy Committees
- Chambers USA – America’s Leading Lawyers for Business for Bankruptcy/Restructuring (2011, 2012)
- Chambers USA – Bankruptcy/Restructuring in Florida 2011

- Listed in The Best Lawyers in America for Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law every year since 2015
- American Bar Association
  - Member, Real Property, Probate and Trust Law
  - Member, Business Law Section
  - Member, Litigation Section
- Bankruptcy Bar Association, Member, Southern District of Florida
- City Theatre
  - President of the Board of Directors (2005-2008)
  - Vice Chairman of the Board of Directors (2004-2005)
  - Member, Board of Directors (1999-Present)
- Dade County Bar Association
- Friends of Greyhounds (Volunteer)

## SPEAKING ENGAGEMENTS

- "Restructuring in the Oil and Gas Sector," Co-presenter, June 2016
- "No More Ad Lib: the Nuts and Bolts of *Ad Hoc* Bankruptcy Committees," Speaker, October 2014
- "Those Who Don't Know their Commercial Mortgage Litigation History are Bound to Repeat It," Panelist, October 9, 2015
- WPLG Channel 10, Miami, interview regarding suits brought by the Bankruptcy Trustee in the Scott Rothstein case, October 20, 2011
- Dubai International Financial Court, "Insolvency in the UAE and Across the World," Dubai, February 28, 2011
- "The Savings and Loan Crisis and Bankruptcy Litigation Ramifications – Are We Coming Full Circle?" Miami, April 7, 2010
- "Bankruptcy in Florida," Miami, March 19, 2009
- "Dentist in Local 10 Investigation Files for Bankruptcy," on-air interview by Julie Summers for WPLG Channel 10, June 30, 2008

## EDUCATION

- J.D., University of Miami School of Law, 1995 (*cum laude*)

- B.A., University of Pennsylvania, 1992

## ADMISSIONS

- Bar of Florida
- United States Bankruptcy Court for the Middle District of Florida
- United States Bankruptcy Court for the Northern District of Florida
- United States Bankruptcy Court for the Southern District of Florida
- United States Court of Appeals for the Eleventh Circuit
- United States Court of Appeals for the Ninth Circuit
- United States District Court for the Middle District of Florida
- United States District Court for the Northern District of Florida
- United States District Court for the Southern District of Florida

## THOUGHT LEADERSHIP POWERED BY HUB

- 3 November 2021, Litigation Minute: Obtaining Information After the Close of Discovery (*Alerts/Updates*)
- 4 December 2019, Distressed Solutions: Don't Get Lost in the Weeds in Agriculture Bankruptcies (*Podcast*)
- 23 September 2019, Small Business Debtor Reorganization: An Overview of Chapter 11's New Subchapter V (*Alerts/Updates*)
- 6 March 2019, Distressed Solutions: Insolvency Changes in Saudi Arabia and the UAE (*Podcast*)
- 20 February 2019, Legal Tropics: Changes to Judgment Enforcement in Florida (*Podcast*)
- 16 January 2019, Distressed Solutions: Energy Bankruptcies and the Intersection of Contract Rejection and FERC (*Podcast*)
- 15 January 2019, Distressed Solutions: The Global Reach of the US Bankruptcy Code and Litigation Between Financial Institutions (*Podcast*)
- 18 December 2018, Distressed Solutions: Preparing For and Dealing With Appeals (*Podcast*)
- 7 December 2018, Distressed Solutions: USA Gymnastics: A Brief Overview of the Bankruptcy Issues (*Podcast*)
- 28 November 2018, Distressed Solutions: The Ins and Outs of Receiverships (*Podcast*)
- 7 November 2018, Distressed Solutions: UK Insolvency Amendments (*Podcast*)
- 24 October 2018, Distressed Solutions: Representing Non-US Entities in US Bankruptcy Cases (*Podcast*)

## OTHER PUBLICATIONS

- "Bankruptcy Code Changes Offer Lifeline to Small Businesses," *Miami Herald*, 14 August 2020
- "No More Ad Lib: the Nuts and Bolts of Ad Hoc Bankruptcy Committees," Speaker, October 2014; *also an article published in Business Law Today*, December 2014
- "Curbside Consult – Sole Proprietor Subject to Liens Against Accounts Receivable," *Florida Medical Business*, June 24, 2003
- "Boardroom Bankruptcy Issues," *The Corporate Board*, May/June 2003
- "Hotel Industry Faces Need for Restructuring," *The National Law Journal*, February 10, 2003
- "Act Quickly to Cope With Deteriorating Financials," *South Florida Business Journal*, 2001
- "Bankruptcy Concerns for Hotels," *Florida Real Estate Journal*, 2001

## NEWS & EVENTS

- 19 August 2021, Nearly 300 K&L Gates Lawyers Named Among 2022 Best Lawyers in America, Ones to Watch (*Rankings & Recognitions*)
- August 2020, K&L Gates Lawyers Provide Insights on Impact of COVID-19 Across Various Industries (*Media Mention*)
- 6 August 2019, K&L Gates Continues to Assist in Recovery of Hundreds of Millions of Dollars Lost Through 1996 Failure of One of Ecuador's Largest Banks (*Noteworthy Work*)

## AREAS OF FOCUS

- Restructuring and Insolvency
- Complex Commercial Litigation and Disputes
- Professional Liability

## REPRESENTATIVE EXPERIENCE

- Counsel to a large black-box defense contractor in its negotiations involving licensing issues and potential bankruptcy ramifications of technology transactions with development-stage high-technology subcontractors and customers.
- Obtained \$4.3 million judgment in proceedings supplementary against fraudulent transferees of assets of judgment debtors by reverse-piercing the corporate veil.

- Counsel to Central Bank of Ecuador and affiliates in connection with bankruptcy and judgment enforcement issues in Florida arising from \$600 million judgment issued by The Judicial Committee of Her Majesty's Privy Council (UK).
- Local counsel for the debtor in *In re Premier Member Services, Inc.* Formulated strategies and negotiated with committee for attorneys' general for all fifty states and the Federal Trade Commission regarding marketing and credit-card issues; drafted and prosecuted plan of reorganization.
- Counsel to a stalking-horse bidder seeking to acquire the assets and operations of a toy-making company. Negotiated sale and purchase agreement, and represented client at auction sale.
- Counsel to the major secured creditor in *In re Aaction Tree Farm, Inc.*, where the collateral was agricultural timberland in Northern California. Assisted the client in negotiating sale of property to third party, and in obtaining protection for the collateral from diminution as a result of insect infestation, drought, and fire damage.
- *In re Feinstein Family Partnership* 247 B.R. 502 (Bankr. M.D.Fla. 2000).
- *Aldea Communications, Inc. v. Gardner* 725 So.2d 45b (Fla. 2nd DCA 1999).
- Counsel for the debtor in *In re VitalCare Group, Inc.* Formulated strategies regarding refinancing of bank debt, defended against various intellectual property claims, defended against pre-petition claims of contempt of court, and prosecuted plan of reorganization.
- Counsel to a major accounting firm in various matters, including litigation of professional negligence claims, Internal Revenue Service investigations and subpoenas, and bankruptcy issues.
- Counsel to Receiver in action to operate, market, and sell operating company.
- Counsel to broker-dealer in bankruptcy litigation arising from fraudulent enterprise providing non-recourse loans collateralized by publicly-traded securities.
- Counsel to secured lender in actions against various real estate developers, including workout and foreclosure suits.
- Counsel to secured lender in an action against a premium finance company; successfully obtained appointment of receiver and pre-judgment escrow of principal balance of loan.
- Counsel to major financial institutions for workout, creditors' rights, and bankruptcy matters including negotiation and drafting of forbearance agreements; suits to enforce notes, mortgages, security agreements, and loan documents.
- Counsel to equipment lessee in matters relating to oil and gas fields, and in bankruptcy relating to a trucking company.