

Donald R. Kirk

Donald R. Kirk has experience in bankruptcy and creditor's rights; commercial litigation; and contract disputes. His practice includes representation of businesses in all aspects of bankruptcy cases.

Representative Experience

- Represented secured lender in restructure of \$200 million of loans to significant commercial real estate developer.
- Represented Debtor in confirmed Ch. 11 case for 18 store fast food franchisee (Quick Service Foods - 08-02797).
- Represented Ch. 11 Trustee in Premier Mortgage Funding, Inc. Ch. 11 case (07-5713).
- Represented the Unsecured Creditors Committee and, post-confirmation, the Liquidation Trustee in the Tropical Sportswear Inc., et al. Ch. 11 cases (Lead Case No. 04-24134). The case involved the \$88.5 million sale of assets to Perry Ellis International.
- Represented the Ad Hoc Committee of 11% Senior Secured Noteholders and certain of those Noteholders providing DIP financing in the Anchor Glass Container Corporation Ch. 11 proceeding (Case No. 05-15606). The bondholders (approximately \$350,000,000.00) became the owners of the reorganized company.
- Represented the general partner in the Kaiser Aluminum Corp, et al Chapter 11 proceedings in the District of Delaware wherein we preserved a right of first refusal relating to the auction of a \$331 million partnership interest.
- Represented a national financing company and plan proponent in the Optical Technologies, et al Chapter 11 cases (Recomm) (Lead Case No. 96-00805). The client financed thousands of equipment leases pre-petition and provided post-petition financing. We have continued to represent the financing entity post confirmation in liquidating their portfolio.

Significant Reported Decisions

- In re Alvarez, 224 F.3d 1273, (11th Cir. (Fla.), 2000)
- Ferguson v. Credit Management Control, Inc., 140 F.Supp.2d 1293 (M.D.Fla. Mar 23, 2001)
- Gill v. Kostroff, 82 F.Supp.2d 1354, (M.D.Fla. Feb 08, 2000)
- In re J & D Sciences, Inc., 335 B.R. 791, (Bankr.M.D.Fla. Jan 03, 2006)
- In re TSLC I, Inc., 332 B.R. 476, (Bankr.M.D.Fla. Nov 01, 2005)
- In re Unger, 333 B.R. 461, (Bankr.M.D.Fla. Sep 21, 2005)
- In re Fultonville Metal Products Co., 330 B.R. 305, (Bankr.M.D.Fla. Sep 15, 2005)
- In re Eigsti, 323 B.R. 778, (Bankr.M.D.Fla. Feb 24, 2005)
- In re Tropical Sportswear Int'l Corp., 320 B.R. 15, (Bankr.M.D.Fla. Jan 28, 2005)

Presentations and Publications

Presentations

- "All You Could Ever Want to Know About the Receivership Process," Panelist, ICSC Tampa Next Generation, Tampa, FL, October 2010
- "What Happens When a Bank Fails?" Speaker, Washington, D.C., October 2010
- "Global Navigation Through the Uncertainties of Insolvency and Restructuring - Distressed M&A Issues," Speaker, Hong Kong, November 2009
- "New Solutions for Lenders to Know," Speaker, Jacksonville, FL, March 2009



**Shareholder
Bankruptcy and Financial
Restructuring Practice Group
Leader**

Tampa
(813) 222-2022
dkirk@fowlerwhite.com

Practice Areas

Bankruptcy and Financial Restructuring
Commercial Litigation

Industries

Banking and Financial Services

Education

J.D., With High Honors, University of
Florida Levin College of Law, 1996
(Order of the Coif)
B.A., University of Florida, 1993

Bar Admissions

Florida

Court Admissions

U.S. Courts of Appeals, Eleventh
Circuit
U.S. District Court, Middle District of
Florida
U.S. District Court, Northern District of
Florida
U.S. District Court, Southern District of
Florida

Donald R. Kirk

- "Subprime Mortgage Meltdown - Lawsuits, Defenses, Strategies, and Best Practices," Speaker, Mexico City, Mexico, September 2007
- "Florida Collections Law," Speaker, Tampa, FL, 2000-2001

Publications

- "Investing in State Tax Liens: Understanding the Mechanics of Acquisition," Co-Author, *The Journal of Corporate Renewal*, Vol.24, No.4, May 2011
- "The Impact of Changes in Bankruptcy Law," Author, *Aspatore Thought Leadership: Bankruptcy and Financial Restructuring Law 2010*, Aspatore Publishing, January 2010
- "Due Diligence Concerns in Loan Transactions," Co-Author, *Counsel to Counsel Magazine*, November/December 2009
- "Creditors' Rights in Chapter 11 Cases - Leading Lawyers on Navigating the Reorganization Process, Exercising Creditors' Rights, and Understanding the Impact of Current Developments," Co-Author, Aspatore, March, 2009
- "How to Prepare for Subprime-Related Litigation," Author, First Focus: The Subprime Crisis, A Thomson West Report, 2008
- "Application of Florida's Homestead Exemption to Citizens of Foreign Countries," Author, *Lawyer Magazine*, Vol. 12, No. 7, April 2002
- "Franchise Dual-branding: The Irony of Association," Author, 10 DePaul Bus. L.J. 1, Fall/Winter 1997

Professional Affiliations

- American Bankruptcy Institute
- American Bar Association: Business Law Section, Vice Chair, Use and Disposition of Property Subcommittee
- The Florida Bar: Business Law Section, Receivership Study Group, 2010
- Greater Tampa Chamber of Commerce, Leadership Tampa: Class of 2007
- Hillsborough County Bar Association: Board of Directors, Trial Lawyers Section
- Tampa Bay Bankruptcy Bar Association: President, 2008-2009; Treasurer, 2007-2008; Secretary, 2006-2007; Board of Directors, 2002-2007
- U.S. Bankruptcy Court Middle District of Florida: Chair, Local Rules Committee, 2011

Community Involvement

- Children's Dream Fund: Past President; Board of Directors, 2001-2006; 2009-present

Distinctions

AV Peer Review Rated by Martindale-Hubbell

The Best Lawyers in America, 2010-2012

Board Certified in Business Bankruptcy Law, American Board of Certification

Chambers USA, 2010-2011; listed as a leading Bankruptcy Lawyer in Florida

Florida Legal Elite, *Florida Trend Magazine*, 2009-2011; ranked in the top 2% of practicing Florida Bar Members

Florida Super Lawyers, 2008-2011; Listed as one of the Top 100 Florida Lawyers in 2011

Up-and-Coming Legal Elite, *Florida Trend Magazine*, 2006-2007