



Contact

**David M. Hillman**

**Partner**

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David M. Hillman is co-head of the Private Credit Restructuring Group and a member of the Business Solutions, Governance, Restructuring & Bankruptcy Group.

David has over 25 years of experience with an emphasis on representing private credit lenders, private funds, sovereign wealth funds and other alternative lenders and distressed investors in special situations and restructurings both in and out of court, whether the lender is secured or unsecured, unitranche or structured preferred. He has substantial experience in every phase of restructuring and distressed investing, including credit bid sales under section 363, debt-for-equity swaps, chapter 11 plans, out-of-court restructurings and foreclosures, as well as navigating inter-creditor issues involving the relative rights of majority and minority lenders. David also litigates the issues facing private credit lenders, including issues involving plan confirmation, solvency, valuation, inter-creditor disputes, financing and cash collateral disputes, fraudulent transfers, equitable subordination, recharacterization, breach of fiduciary duty and similar disputes.

David was listed as a “leading individual” in bankruptcy/restructuring by *Chambers USA*, which noted that interviewees praised him as “wonderful to deal with,” “very effective” and an “excellent litigator and strategist” who “thinks outside the box.” *Chambers* also noted that David is “an excellent counselor for distressed situations

with significant litigation elements” and “a terrific, conscientious and focused lawyer.” Additionally, he has been recognized as a leader in his field by New York Super Lawyers as well. A member of the American Bankruptcy Institute, David speaks frequently on bankruptcy-related topics including recent decisions affecting secured creditor rights and preparing creditors for bankruptcy risks.

## Matters

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### Private Credit Restructuring and Ad Hoc Groups

- Ad hoc group of private credit lenders holding first lien debt of roughly \$250 million in connection with a cross-border out-of-court restructuring of a sponsor-owned business in the financial services sector.
- First lien agent on behalf of lenders holding first lien debt of roughly \$200 million in connection with an out-of-court restructuring of a sponsor-owned health care services company.
- First lien agent on behalf of lenders holding first lien debt of \$200 million in connection with an out-of-court restructuring of a sponsor-owned oil field services company.
- Second lien lender and preferred equity holder in connection with an out-of-court restructuring of a sponsor-owned infrastructure services company.
- Ad hoc group of private credit lenders holding first lien debt of roughly \$275 million, as prepetition first lien lenders, DIP lenders and stalking horse credit-bidding buyer in connection with the chapter 11 case of exploration & production company Nine Point Energy.
- Ad hoc group of private credit lenders holding first lien debt of approximately \$75 million, as prepetition first lien lenders, DIP lenders and stalking horse credit-bidding buyer in connection with the chapter 11 case of stationary and gift retailer Paper Source, Inc.
- Fortress Capital Corp as first lien lender in connection with chapter 11 bankruptcy case of Alpha Media (radio broadcasting) involving a contested priming DIP dispute.

- Ad hoc group of cross-over holders holding first lien debt in excess of \$850 million in connection with an out-of-court restructuring of an international energy company.
- Private credit lender holding first lien claims in excess of \$200 million in connection with an out-of-court equity turnover from a private equity sponsor of a marketing and technology company.
- Ad hoc group of lenders holding first lien debt of \$280 million in connection with an out-of-court restructuring of a manufacturing company.
- New Mountain as 1L lender (holding more than \$200 million), DIP Lender and stalking horse credit bidding buyer in the chapter 11 case of Benevis, a dental service organization provide management services to 150 dental practices in 16 states.
- Second lien lenders holding more than \$300 million in connection with the out-of-court restructuring of IPC, a technology communications provider with roughly \$1 billion of total funded debt.
- Group of private credit lenders holding more than \$300 million of first lien term debt of Westmoreland Resource Partners LP, a coal mining company, in connection with its chapter 11 case, that featured a credit bid purchase with a strategic operating partner, the sale of other non-core collateral to third parties, significant litigation to address material legacy labor liabilities and a host of other environmental, surety, reclamation and regulatory issues.
- Lender holding a \$50 million first lien debt in connection with a contested cash collateral hearing and credit bid acquisition under Section 363 in connection with the chapter 11 case of Marshall Broadcasting Group, Inc.
- Private credit lender holding a \$100 first-out obligation under a \$150 million unitranche facility in connection with the chapter 11 case of RadioShack Corp., which involved bankruptcy court litigation to enforce an “agreement among lenders” between the first-out and last-out lenders.\*
- Group of private credit lenders holding term loans under \$265 million first lien facility in connection with the chapter 11 case of Allied Holdings, an automotive transport company, which featured an involuntary chapter 11

filing, a credit bid acquisition and significant intra-lender litigation stemming from the equity sponsor's purchase of a majority of the first lien debt and its actions as the alleged "requisite lender."\*\*

- Group of private credit lenders holding more than \$80 million of first lien term debt in connection with the chapter 11 case of Global Geophysical, a company providing seismic data solutions to the global oil and gas industry, which involved litigation over a heavily-contested priming DIP loan from a group of unsecured bondholders leading to a refinancing at par plus a make-whole premium.\*
- Private credit lender under \$140 million first lien facility in the chapter 11 case of Milagro Oil & Gas, Inc. resulting in a 100% distribution under a reorganization plan.\*
- Private credit lender holding more than \$200 million of first lien term debt in connection with an out-of-court restructuring of a privately owned information technology software company.\*
- Group of private credit lenders holding first lien debt of \$35 million in connection with chapter 11 case of Digital Domain Media Group, featuring a roll-up DIP and 363 sale to a strategic purchaser.\*
- Group of private credit lenders holding approximately \$140 million of second lien notes in connection with the chapter 11 case of Real Mex Restaurants Inc., which featured litigation from a creditors' committee to challenge an ultimately successful credit bid to acquire the business involving nearly 200 restaurants and nearly 11,000 employees.\*
- Numerous other first and second lien private credit lenders in connection with chapter 11 restructurings (including Everything But Water, Highway Technologies, CRS Reprocessing, Global Motorsports) and private credit lenders in connection with out of court restructurings, Article 9 asset and equity foreclosures.\*
- Ad hoc group of second lien lenders in connection with an out-of-court restructuring of a sponsor-backed portfolio company with approximately \$1 billion of funded debt.
- Blue Torch Capital as a first lien lender in connection with the chapter 11

restructuring of PHI, Inc.

\*at prior firm

## Company-Side and Other Restructurings

- Murray Metallurgical Coal Holdings, LLC, a metallurgical coal mining company, in connection with its restructuring of approximately \$270 million of debt through their chapter 11 bankruptcy cases, which involves an expeditious section 363 sale of one coal mine and a contemplated credit bid sale of another pursuant to a plan of reorganization, as well as roughly \$69 million in senior and junior DIP facilities (mining).
- Creditors' Committee in Maxus Energy Corp. bankruptcy cases (energy).\*
- Ad hoc group of equity holders in Republic Airways Holdings, Inc. (regional airline).\*
- Ad hoc group of unsecured bondholders of Seventy Seven Energy Group (oil & gas).\*
- Ad Hoc group of bondholders in chapter 11 case of GSI Group, Inc. et al. (manufacturing).\*
- Creditors' committee in Global Power Equipment Group et al. (manufacturing).\*

\*at prior firm

## Distressed M&A\*

- Affiliates of Murray Energy Corporation in connection with its acquisition of assets from chapter 11 debtor Mission Coal Company (energy).
- Murray Energy Corporation in connection with its acquisition of assets from chapter 11 debtor Armstrong Energy Corporation (energy).
- A bidder for 21 skilled nursing facilities in chapter 11 cases of 4 West Holdings, Inc., et al. (healthcare).

- Albertsons Companies as stalking horse bidder in chapter 11 cases of Central Grocers Inc. (supermarkets).
- Albertsons Companies as purchaser in chapter 11 cases of Haggen Holdings LLC et al. (supermarkets).
- Numerous credit bidding acquisitions on behalf of secured creditors.

\*at prior firm

## Bankruptcy-Related Litigation\*

- Numerous defendants in connection with fraudulent transfer litigation in Boston Generating LLC (energy).
- Cerberus Partners LP, Lubert-Adler and Klaff Realty LP in \$1 billion fraudulent transfer action in connection with the chapter 11 bankruptcy case of Mervyn's LLC (retail).
- Cerberus Partners in connection with fraudulent transfer in connection with chapter 11 case of Residential Capital (financial).
- Equity Sponsor litigation in connection with chapter 11 case of KB Toys (retail).
- Equity Sponsor litigation in connection with chapter 11 case of Twinlab (retail).
- Representing independent director in connection with chapter 11 restructuring of Hollander Sleep Products, including investigation of potential claims against sponsor.

\*at prior firm

### Practices

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Private Credit Restructuring, Business Solutions, Governance, Restructuring & Bankruptcy, Structured Capital

### Education

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Albany Law School of Union University, J.D.

State University of New York College at Oneonta, B.A.

#### **Admissions & Qualifications**

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New York

#### **Court Admissions**

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U.S. Court of Appeals, Second Circuit

U.S. Court of Appeals, Sixth Circuit

U.S. Court of Appeals, Third Circuit

U.S. District Court, New York, Southern District

U.S. District Court, New York, Eastern District

#### **Memberships**

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American Bankruptcy Institute

New York City Bankruptcy Assistance Project (Steering Committee)

VALCON Advisory Board

#### **Awards & Recognition**

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Chambers USA

New York Super Lawyers 2011-2021

The Legal 500 United States: Restructuring (including Bankruptcy): Corporate 2020-2022