

Creditor Representation

Protecting lenders, indenture trustees, landlords, franchisors & other creditors



When you need help with

- asserting your rights in bankruptcy court
- practical and business-oriented representation on behalf of banks, creditors' committee, individual creditors and indenture trustees
- obtaining relief from the automatic stay to reclaim real estate or other property
- regaining control of intellectual and other property from a defaulting franchisee as well as the enforcement of franchise requirements

Nelson Mullins' bankruptcy practice group's experience, knowledge, and skills are broad and deep.

We help you manage

- Protecting the value of your investment
- Time-sensitive filings
- Navigating bankruptcy situations that often involve multiple legal disciplines, such as real estate, tax, ERISA, labor and employment, intellectual property, securities, public finance and more

Decades of assertive and focused representation experience of creditors and creditor groups

- Attorneys on our team serve as trustees selected and supervised by the United States Department of Justice or a bankruptcy court administrator, including one attorney who has served in this capacity for 25+ years
- Balanced perspectives and practical advice from attorneys with experience serving as bankruptcy trustees
- Multidisciplinary corporate trust team
- Access to broader Nelson Mullins platform, with 500+ attorneys and other professionals practicing in more than 100 practice area disciplines

Related Practice Areas

Bankruptcy & Insolvency Related Litigation

Bankruptcy, Creditors' Rights & Restructuring

Debtor Representation

E-Discovery - Encompass

E-Discovery & Information Governance

Employment & Labor

Executive Compensation, ERISA, Employee Benefits

Franchise & Distribution - Corporate

Litigation

Public Finance

Real Estate

Tax Lien Resolution & Litigation

Trustee, Receivership Practice & Representation

Related Industries

Banking & Financial Services

Consumer Products & Retail

Real Estate

Diverse group of creditor and creditor committee clients

Our frequent and effective representation of diverse creditor groups enables us to help clients maximize stakeholder recoveries and bridge gaps among diverse constituencies.

- Committees of unsecured creditors and equity holders
 - Bondholders
 - Banks and lending institutions
 - Indenture trustees
 - Landlords
 - Trade creditors
 - Franchisors
 - Unofficial creditor groups
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Creditor representation services

Banks and Secured Creditors – we represent a host of financial institutions, including some of the largest in the nation as well as smaller community banks in connection with

- Loan workouts and restructurings
- Defense of consumer claims
- Default enforcement and credit recovery
- Cash collateral disputes
- Lien issues
- Debtor-in-possession financing
- Automatic stay litigation
- Claim objections

Creditors' Committees – we represent creditors and groups of creditors in bankruptcy cases around the nation, including

- Official committees of unsecured creditors
- Other committees including equity holders
- Ad hoc creditor groups

Indenture Trustee Representation – Nelson Mullins has assembled a multidisciplinary corporate trust team to address the full range of issues confronted by indenture trustees, including serving as counsel to trustees as members of creditors' committees. We offer

- Support with debt origination

- Indenture interpretation
- Default and dispute resolution
- Public finance experience
- Transactional and securities experience

Landlord and Property Owner Representation – special rules often apply when a tenant seeks protection under the bankruptcy laws. We offer

- Specific knowledge and understanding of the special rules pertaining to commercial and residential landlord's rights in bankruptcy
- Intimate understanding of the financial issues that come into play in bankruptcy landlord/tenant matters
- Specific experience dealing with issues concerning security deposit application and letters of credit

Franchise System Representation – our work for major franchise systems and manufacturers, including automotive, restaurants, hospitality includes

- Protecting the franchised brand
- Proper application of the special provisions of the law that exist to protect franchisors, including their trademarks, trade dress, and other intangible property
- Wide ranging experience handling sale, assignment and right of first refusal disputes

Why Nelson Mullins?

- Zeal, assertiveness and depth of capability
- Practitioners who are certified by various state courts and bar associations. (See the individual lawyer bios in this practice group for specific certifications.)
- Focused business intelligence enables negotiating from position of strength
- Business experience that is vital to good outcomes

Experience

Following is a selected sampling of matters and is provided for informational purposes only. Past success does not indicate the likelihood of success in any future matter.

Creditors Rights/Creditor Committee Representations

- Represented lenders in numerous single-asset real estate chapter 11 cases and developed strategy to avoid bankruptcy cram-down through client's purchase of the debtor's equity at "new value" auction.

- Represent lenders in numerous cases concerning alleged violations of the automatic stay and other bankruptcy law edicts.
- Represented the creditors' committee and later the liquidating trustee in case where total liabilities exceeded \$100 million.
- Represented an indenture trustee for approximately \$825 million in debt instruments in cases involving prominent global risk and information services company serving commercial customers and government entities.
- Represented the official committee of unsecured creditors for clothing retailer and wholesaler employing more than 8,500 employees worldwide. Debtors listed approximately \$200 million in assets and \$398 million in liabilities as of the petition date. As a result of our efforts, we were able to secure a significant distribution for our clients, who were unsecured vendors in the Carolina Investors case.
- Represented an indenture trustee holding \$148 million in debt instruments in cases involving prominent broadcasting company. Indenture trustee sat on the creditors' committee appointed in the cases and the court confirmed a joint plan of reorganization fewer than six months after the petition date.
- Represented one of the largest noteholders in bankruptcy of bank holding company. Regularly consulted with committee and post-confirmation trustee on various issues, including tax refund ownership dispute.
- Represented an ad hoc committee of member/owners that was recognized by the court and succeeded in negotiating significant distribution terms on their behalf.
- Served as counsel to a major foreign unsecured creditor and succeeded in obtaining a significant repayment dividend that exceeded amounts distributed to other unsecured constituencies.
- Represented a number of lease counterparties in a major restaurant chain bankruptcy.
- Represented an owner in the successful reorganization and sale of the company as going concern.
- Represented major creditor constituents in substantial bankruptcy fraud case related to a Chapter 11 case.
- Represented official committee of unsecured creditors in major chapter 11 case involving 26 golf resorts around the country; the case paid a 100% dividend to unsecured creditors.
- Represented the official committee of unsecured creditors and later the liquidating supervisor in connection with the liquidation of a bank holding company.
- Represented major creditors in the liquidation of an evangelical television ministry.
- Represented 17 Indian human trafficking plaintiffs, including member of creditors' committee, in bankruptcy cases filed by defendant oil rig repair and manufacturing companies. Obtained consents of 17 plaintiffs to pre-petition plan support agreement providing for aggregate payment (to them and other similarly situated trafficking victims) of between \$20 million and \$22 million.
- Represented the creditors' committee and later plan trustee in connection with the sale of a hospital facility with over \$30 million in secured and unsecured debt. The firm commenced litigation against the secured creditor for avoidance of liens incurred in connection with bond financing and negotiated a favorable settlement pursuant to which a substantial portion of such creditor's claim was deemed unsecured, thereby resulting in a substantial distribution to unsecured creditors.
- Represented a large noteholder in cases involving the holding company for the largest bank failure in United States history, with more than \$7 billion in unsecured debt.
- Represented the official committee of unsecured creditors in the chapter 11 bankruptcy case of a major hospital based in Washington, D.C.
- Served as counsel to the official committee of unsecured creditors in a case in the Middle District of North Carolina.
- Represented large unsecured creditors in the filing of an involuntary petition in the Western District of North Carolina. The trustee prevailed in lien avoidance actions that resulted in a significant dividend to unsecured creditors.

- Represented one of the largest unsecured creditors and member of the official committee of unsecured creditors of a retailer in Virginia.
- Represented the chair of the official committee of unsecured creditors in the chapter 11 case of a major national furniture retailer.
- Represented the ad hoc mid-level carrier group of independent local exchange carriers with combined debt of several hundred million dollars.
- Represented the ad hoc committee of noteholders in the chapter 11 cases of companies engaged in sales of flooring products throughout North America.
- Representing the official committee of unsecured creditors in the chapter 11 cases of a firearms manufacturer with more than \$100 million of secured debt and \$250 million of unsecured debt.
- Represented the major aircraft insurer in airline chapter 11 reorganization cases.
- Represented a major coal lessor.
- Represented a major municipality in connection with a natural gas supply contract in the Enron bankruptcy.
- Represented a state and its departments and agencies in connection with bankruptcy matters.

Indenture Trustee Representation

- Represented an indenture trustee for approximately \$290 million in debt instruments in cases involving prominent educational publishing companies.
- Represented an indenture trustee for approximately \$825 million in debt instruments in cases involving prominent global risk and information services company serving commercial customers and government entities.
- Represented an indenture trustee for approximately \$148 million in debt instruments in cases involving a nationally prominent broadcasting company.
- Represented an indenture trustee for approximately \$8 million in debt instruments in cases involving insolvent provider of workers' compensation insurance products and services.
- Represented an indenture trustee for approximately \$92 million in debt instruments in case involving an insolvent bank holding company for a failed bank.

Franchise System Representations

- Represented national quick service restaurant chain/franchisor in connection with the bankruptcy filing of major franchisee with 165 restaurants in multiple states, overseeing a successful sale of the restaurants and a significant recovery of the client's claims.
- Represented national fried chicken quick service restaurant chain/franchisor in connection with franchisee bankruptcies, receiverships and workouts.
- Represented hotel franchisor in the successful restructure of its franchisee debtor.