



Gary M. Kaplan

Partner

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Gary Kaplan is chair of Farella's Restructuring, Insolvency and Creditors Rights practice group. He has decades of experience representing debtors, creditors, creditors' committees, trustees, and receivers in a wide range of bankruptcy and nonbankruptcy matters. Gary's practice includes both out of court and Chapter 11 restructurings, and advising clients regarding pre- and post-bankruptcy strategy, debt collection, judgment enforcement, and provisional remedies. He represents lenders and borrowers in a wide range of financing transactions, including debtor-in-possession financing, as well as lease and guaranty matters. He also has extensive litigation experience in bankruptcy and non-bankruptcy courts, at trial and appellate levels, including in the U.S. Supreme Court.

Gary counsels companies and individuals experiencing financial and operational challenges in myriad industries. Much of his work involves managing events that lead to financial distress. Gary bases his strategic approach on each client's particular circumstances, considering their business goals, market trends, and potential outcomes. He helps clients restructure their finances, build and negotiate sustainable workout plans with creditors, and develops other creative solutions to avoid bankruptcy, including refinancings, divestitures, joint ventures, and licensing deals. Gary also has expertise in buying and selling distressed businesses and assets in a range of industries, including wineries, hospitality, and alternative energy.

Gary represents both secured and unsecured creditors, creditors' committees, landlords, and equity holders in creative recovery solutions in and outside of bankruptcy. He has proved adept at protecting landlord's rights in retailer bankruptcy cases nationwide through negotiation and litigation when necessary. He has extensive experience in insolvency-related litigation, including preference and fraudulent transfer claims, as well as defending guarantors, owners, directors and officers.

Gary is Board Certified in Business Bankruptcy Law by the American Board of Certification and a Certified Legal Specialist in Bankruptcy Law by the State Bar of California.

Distinctions

- Northern California *Super Lawyers* in Bankruptcy since (2004-2006, 2009-2022)
- "Recommended" in the San Francisco Bay Area by PLC's *The Restructuring and Insolvency Handbook*
- Corporate LiveWire Lawyer of the Year for 2014 in the category Bankruptcy & Restructuring - San Francisco
- Corporate LiveWire Global Awards in Insolvency Law Firm of the Year in 2017
- "Outstanding Volunteer in Public Service" award from the Bar Association of San Francisco (ten times)
- Certificate of Recognition as an "Outstanding Volunteer in Public Service" from the California State Senate based on his consumer bankruptcy work

Memberships and Affiliations

- Member, Commercial Transactions Committee, California Lawyers Association
- Member, Insolvency Law Committee, Business Law Section, California Lawyers Association
- Member, American Bankruptcy Institute

Services

- Bankruptcy Litigation
- Bankruptcy, Restructuring, and Creditors' Rights
- Business Transactions
- Banking
- Financial Services
- Real Estate
- Wine

Education

- University of California, Los Angeles School of Law (J.D., 1991)
- University of Pennsylvania, Wharton School of Business (B.S., 1986)
magna cum laude

Bar Admissions

- California
- District of Columbia

Court Admissions

- U.S. Supreme Court
- 9th U.S. Circuit Court of Appeals

- Past President, Board of Directors, Bay Area Bankruptcy Forum
- Past Chair, Bankruptcy Law Advisory Commission, California State Bar (2013-2014)
- Past member, Insolvency Committee, California State Bar
- Past chair, Legislative Subcommittee, California State Bar
- Past chair, Bankruptcy Section, San Francisco Bar's Barristers Club
- Past member, Bench-Bar Liaison Committee, U.S. Bankruptcy Court (Northern District of California)

Experience

Bankruptcy Sales and Asset Purchases

Represented various purchasers of assets through bankruptcy or other distressed sales, including restaurant chain, \$100 million hotel property, and various intellectual property assets out of bankruptcy sales and auctions.

Landlords In Large National Bankruptcy Cases

Represented landlords in myriad large retail and other chain bankruptcy cases throughout the U.S., such as Toys "R" Us, GNC, Forever 21, Payless Shoes, Circuit City, Borders, 24 Hour Fitness & Shopko, including negotiating favorable sales or restructurings to continue leases and settlements of related substantial, complex claims.

Bankruptcy Litigation For Leading Payments Technology Company

Represented Visa in various litigation in bankruptcy cases throughout the U.S., including defending numerous preferential and fraudulent transfer claims in the Brookstone, American Apparel, Sears, Limited Stores, Gordmans and Charlotte Russe cases and defeating efforts to enjoin processing of large scale international transactions in the Galileo Learning and smarTours cases.

Bankruptcy Litigation For Leading Medical Device Company

Represented Intuitive Surgical in various litigation matters in bankruptcy cases throughout the U.S., including the Astria Health, Southern Regional Medical Center and Forest Park Medical Center bankruptcy cases.

International Food and Beverage Company Insolvency

Negotiated and documented complex multi-million dollar settlement for international food and beverage company.

Energy Company Bankruptcy

Represented First Solar, a major creditor in multi-billion dollar bankruptcy cases of FirstEnergy Solutions and affiliates, including complex litigation appealed to 6th Circuit Court of Appeal, leading to favorable settlements.

Lake Tahoe Resort Bankruptcy

Successfully foreclosed on resort development property in Lake Tahoe area, overcoming concerted legal actions by debtor and related parties, including multiple lawsuits and bankruptcy filing.

Transportation Company Bankruptcy

Represented Yellow Cab Company of San Francisco in their Chapter 11 bankruptcy case, including complex dealings with the Official Committee of Unsecured Creditors.

Ritz-Carlton Hotel - Lake Tahoe

Represented Court-appointed Receiver for the Ritz-Carlton Highlands Hotel and Residences at the Northstar Ski Resort in Lake Tahoe, including the proposed sale and disputes, construction and mechanics' liens, and various other litigation issues.

Real Estate Bankruptcy

Represented debtors in Chapter 11 bankruptcy case of real estate magnate overseeing mortgage investment funds with assets of hundreds of millions of dollars, including complex dealings with affiliated entities, the Official Committee of Unsecured Creditors and thousands of individual creditors, litigants and other interested parties in the bankruptcy case.

Investment Fund Bankruptcy

Represented the Official Committee of Unsecured Creditors in the Chapter 11 bankruptcy case of Cascade Acceptance Corporation, a mortgage investment company with more than \$100 million of assets and liabilities. Subsequent representation of Chapter 7 bankruptcy trustee in complex litigation against insiders and affiliates resulting in favorable settlements.

Loan Workouts

Represent numerous lenders and borrowers in the workout of various loans, often involving complex issues.

Publications

January 30, 2021

Alternatives to Bankruptcy in the Cannabis Sector

Marijuana Venture

January 14, 2021

Bankruptcy Provisions in COVID Relief Legislation Impacting PPP Loans, Commercial Leases and Preference Claims

December 28, 2020

What to Do When Commercial Leases End Up in Bankruptcy

Development Magazine

August 14, 2020

Protecting Suppliers and Customers of Insolvent or Bankrupt Companies

The Recorder

August 4, 2020

How Grape Growers Can Protect Their Interests When a Winery Approaches Insolvency

North Bay Business Journal

August 4, 2020

PG&E Bankruptcy: Lessons Learned and a Path Forward

Unplugged Renewable Energy Series

July 7, 2020

Treatment of Commercial Leases in Tenant Bankruptcy - The Basics

May 27, 2020

Hospitality Companies and Their Lenders: Preparing for Difficult Conversations

Lodging Magazine

April 24, 2020

Non-Residential Lease Default Workouts, Security Deposits and Bankruptcy

April 20, 2020

Questions Wineries Need to Answer Before Talking With Lenders About Coronavirus-Caused Financial Woes

North Bay Business Journal

April 2, 2020

Wine Businesses, Lenders, and Difficult Conversations

10/3/2017

Practical Law Guide for U.S. Bankruptcy Court, Northern District of California

9/8/2015

California's New Voidable Transactions Act

5/19/2014

Growers Can Lien on Distressed Wineries

4/26/2013

New Chapter in Municipal Bankruptcy

3/28/2013

Reducing Development Agreement Risks in Municipal Bankruptcies

2/4/2013

Insolvency Legislative Update

10/25/2012

Hidden Liability Traps in Real Estate Loans

6/6/2012

Opening the Doors to Receivership Success: A Roundtable Discussion

4/2/2012

Hot Topics in Insolvency Law: Alter Ego Claims

8/22/2011

Creative Use of Receiverships to Reposition and Resolve Problem Projects and Businesses

1/21/2011

Creative Use of Receiverships to Solve Environmental, Construction and Other Problems in Distressed Projects

10/21/2010

Employment Issues for Troubled Companies and Companies in Transition Webinar

8/1/2010

Lessor Update: What Commercial Landlords Should Understand About Bankruptcy

6/2/2010

Insurance in Bankruptcy: Preserving and Maximizing Insurance Assets of a Bankrupt Entity Webinar

5/19/2010

The Next Chapter (11) In Buying Distressed Hotels: Bankruptcy Sales

4/14/2010

Working Out Problem Hotel Loans Webinar

3/17/2010

Buying Hotels (and Other Commercial Real Estate) Out of Bankruptcy Webinar

Outside the Office

Gary is a regular ultimate Frisbee competitor and was a collegiate champion in the sport. He's an avid skier, cyclist and hiker. Beyond sports and the outdoors, Gary is a music lover, festival junkie and wine enthusiast.