



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 (2004-2006, 2009-2020)
- "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

- Advisors, Insolvency Law Committee, Business Law Section, California Lawyers Association
- Member, American Bankruptcy Institute
- Past President, Board of Directors, Bay Area Bankruptcy Forum

Services

- Bankruptcy Litigation
- Restructuring & Insolvency
- 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 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

Energy Company Bankruptcy

Representing major creditor in multi-billion dollar energy company bankruptcy, including complex litigation appealed to Federal Court of Appeal.

International Food and Beverage Company Insolvency

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

Lake Tahoe Resort Bankruptcy

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

Cascade Acceptance Corporation

Representing 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, pending in the U.S. Bankruptcy Court for the Northern District of California. Subsequently, we also represent the Chapter 7 trustee after conversion of the case in complex litigation against insiders and affiliates.

Ng Bankruptcy

Represent debtors in Chapter 11 bankruptcy case of real estate magnate who ran 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.

Ritz-Carlton Hotel

Representing Thomas Morone, the Court-appointed Receiver for the Ritz-Carlton Highlands Hotel and Residences at the Northstar ski resort in Lake Tahoe. Among other things, we have been assisting the Receiver with respect to issues regarding the proposed sale of the Hotel property, disputes involving the sale of a dozen penthouse condominium units, a number of construction and mechanics' lien matters and various other litigation issues.

Publications

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.