

TIMOTHY W. BRINK | PARTNER

Creditors' Rights and Restructuring



Tim focuses his practice on bankruptcy, restructuring, insolvency, and creditors' rights matters. He regularly represents banks; investment funds and non-traditional lenders; suppliers; customers; landlords; tenants and trade, and other unsecured creditors; official committees; debtors; and liquidating trustees in all aspects of reorganization and liquidation cases under the Bankruptcy Code.

Tim frequently advises clients in out-of-court workouts and distressed transactions. These have included sales under section 363 of the Bankruptcy Code and Assignments for the Benefit of Creditors; structuring transactions and enforcing creditors' rights under Articles 2 (Sales) and 9 (Secured Transactions) of the Uniform Commercial Code; and creditors' rights litigation, ranging from receivership, to replevin and judicial foreclosure, to commercial mortgage foreclosure litigation.

Tim also represents insurers, reinsurers, claims administrators, and premium financing lenders in policyholder bankruptcy cases and state court insolvency proceedings.

Before joining MPS, Tim was a partner at a global Am Law 100 law firm. Before that, he was a partner and member of the executive committee of another Am Law 100 law firm. Tim began his practice in California.

"There's no substitute for great attorneys. You either have them or you don't. We have them."

CONTACT

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EDUCATION

- J.D., University of Michigan Law School, 1991
- M.B.A., Stephen M. Ross School of Business, University of Michigan, 1991
- B.S.E., summa cum laude, General Motors Scholar, Mechanical Engineering, University of Michigan, 1987

ADMISSIONS

- Illinois
- California
- United States Court of Appeals for the Third Circuit
- United States Court of Appeals for the Ninth Circuit
- Bankruptcy Appellate Panel for the Ninth Circuit
- United States District Court for the Central District of California
- United States District Court for the District of Colorado
- United States District Court for the Northern District of Illinois
- United States District Court for the Central District of Illinois
- United States District Court for the Eastern District of Michigan
- United States District Court for the Western District of Michigan
- United States District Court for the Eastern District of Wisconsin
- United States District Court for the Western District of Wisconsin
- United States District Court for the Western District of Washington

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EXPERIENCE

- A commercial bank, as secured lender to a McDonald's franchisee, in the successful resolution of a lien priority dispute with several other secured lenders, leading to bankruptcy court approval of a multi-lender settlement recognizing the bank's senior liens and payment in full of the bank's claim, including attorney's fees and expenses, in connection with the franchisee's Chapter 11 bankruptcy and the sale of the franchisee's business under section 363 of the Bankruptcy Code.
- A private equity investor, as stalking horse bidder, in connection with a section 363 sale in the Chapter 11 bankruptcy of a custom plastic injection molding business, resulting in bankruptcy court approval — and payment to the client after being out-bid at the auction — of a break-up fee of nearly five percent of the amount of its stalking horse bid.
- A commercial bank, as secured lender to a plastics recycling business, in the successful public and private UCC Article 9 foreclosure sales of a custom polycondensation line and the business's other assets, in coordination with the assignee under an out-of-court assignment for the benefit of creditors proceeding initiated by the business to facilitate an orderly liquidation and sale process.
- A commercial insurer in the Chapter 11 bankruptcy of a major battery manufacturer, including negotiating an "accommodations" order authorizing the debtors to enter into new pollution/remediation policies and provide additional collateral, waive preference and other avoidance claims, assume policies and related insurance program agreements in a plan of reorganization, and negotiate and document an insurance trust agreement and related channeling injunction provisions in the plan of reorganization to address mass tort claims.
- An international marketing firm in the negotiation and documentation of certain agreements with its client, an international spirits company, to secure payment of the client's outstanding multimillion dollar trade debt.
- A product packaging supplier in the private UCC Article 9 foreclosure sale of its customer's unsold inventory of CD and DVD products.
- A commercial insurer in the Chapter 11 bankruptcy of a regional restaurant chain, including successfully prosecuting a motion for allowance of an administrative expense claim and obtaining immediate payment of all post-petition premium due under an auditable premium workers' compensation policy in advance of plan confirmation.
- A third-party claims administrator in the Delaware Chancery Court receivership of a failed insurance company, including successfully obtaining relief from the liquidation order to cancel the claim administration agreement; opposing the receiver's motion for an injunction to compel continued claim administration services; and negotiating an agreed order resolving payment defaults, fixing a termination date, and establishing a protocol for true-up of a claim payment escrow.

MEMBERSHIPS

- American Bankruptcy Institute
- American Bar Association (ABA)
- Turnaround Management Association

PUBLICATIONS

- "Bankruptcy Relief Is Unavailable to a 'SARE' Debtor That Leases Space to a Marijuana-Related Business," American Bankruptcy Institute Real Estate Committee Newsletter, June 2017.
- "Your Policyholder Just Filed Bankruptcy – What Next?" Daily Herald Business Ledger, September 29, 2016.
- "Recent Bankruptcy Court Decision Further Constrains Lenders' Ability to Prevent a Borrower's Bankruptcy Filing," American Bar Association Business Bankruptcy Committee Newsletter, July 2016.
- "The Right to Credit Bid in Bankruptcy Sales Faces Renewed Challenges After the Supreme Court's RadLAX Decision," American Bar Association Commercial Law Newsletter, Summer 2015.

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PUBLICATIONS CONT'D

- "An Update on Payment of Unsecured Creditors' Professional Fees and Expenses in Chapter 11 Cases," American Bankruptcy Institute Unsecured Trade Creditors Committee Newsletter, July 2015.
- "How Bankruptcy Attorneys can Operate Effectively in Unfamiliar Territory: A Primer on Insurance Insolvency," Co-Author, American Bankruptcy Institute Journal, December 2014.
- "Emerging Trends and Lingering Criticisms: A CRO Retention Update," Co-Author, American Bankruptcy Institute Journal, September 2013.
- "The U.S. Supreme Court Recognizes Secured Creditors' Credit Bidding Rights," Butterworths Journal of International Banking and Financial Law vol. 27, no. 8, September 2012.

AWARDS

- Leading Lawyer, Business Bankruptcy, 2015-2016
- General Motors Scholar, University of Michigan, College of Engineering