Tucker Ellis LLP

Bankruptcy

Overview

Even successful businesses can find themselves dealing with bankruptcy issues when customers, suppliers, or other related parties face financial trouble. Our attorneys regularly represent secured and unsecured creditors, creditors' committees, investors, purchasers, lessors, landlords, suppliers, equity holders, trustees, and other parties in interest in bankruptcy forums across the country. Our practice is national in scope with particular emphasis on the economic segments of manufacturing, real estate, finance, health care, food service, and energy.

Representing an official committee of unsecured creditors requires creative, experienced counsel so that the interests of all unsecured creditors are fully protected. We are familiar with all of the varied issues that creditors' committees confront, including "first day" issues – such as cash collateral and debtor-in-possession financing – to plan negotiation, litigation trusts, and other pre-confirmation matters that directly impact the rights and recovery of unsecured creditors. We have assisted in asset sales, claims analyses, prosecution of preference and fraudulent transfer actions, implementation of liquidating trusts, and other services necessary to reorganizing or liquidating a business in bankruptcy forums. Our creditor committee representation often includes addressing non-bankruptcy issues, and our bankruptcy attorneys involve Tucker Ellis lawyers experienced in other practice areas to provide the highest-quality, most cost-effective representation across all necessary matters.

Tucker Ellis bankruptcy attorneys have extensive experience in representing secured creditors and lenders in the bankruptcy context. We use innovative strategies and explore creative opportunities to get good results. At the same time, we approach situations with an eye toward recovering the most value for our clients at the least cost. If litigation is required to fully reach a client's goal, our lawyers have decades of experience in achieving superior results in court.

Proactive and assertive creditors are best positioned to maximize their recovery and minimize their exposure in bankruptcy courts. When a debtor files for bankruptcy, unsecured creditors, suppliers, and vendors are thrust into a fast-paced, constantly evolving situation where quick action results in vastly better outcomes. The risks include being paid pennies on the dollar for accounts owed by the debtor, having collateral impaired without justification, being required to continue performance on unfavorable leases or contracts, losing future business if the debtor ceases its operations, losing the source of vital products or services, and defending claims by the trustee for return of payments that were earned and received prior to the bankruptcy. Our lawyers have experience in proactively managing such risks and helping our

clients understand and navigate the path toward their goals.

Areas of Emphasis

- Prosecution and defense against preference claims that seek the return of monies previously paid to creditors
- Reclamation of goods delivered before bankruptcy
- Prosecution and defense against turnover actions and fraudulent transfer claims
- Assertion of priority claims (wages, benefits, taxes), administrative claims, and proofs of claim
- Recovery of and adequate protection for property owned by the creditor but held by the debtor
- Adequacy of disclosure statements
- Plan negotiations
- Essential supplier orders to require faster payments post-bankruptcy
- Analysis of landlord and supplier rights in executory contracts