



# Mark E. Felger

## Co-Chair, Bankruptcy, Insolvency & Restructuring

### Wilmington

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Mark is the co-chair of the firm's Bankruptcy, Insolvency & Restructuring Group, and he served as the office managing partner of the firm's Delaware office from its opening in 2000 through 2021.

Mark has a broad commercial practice, focusing in the areas of Chapter 11 reorganization and general insolvency law for more than 30 years. He has represented all constituencies in corporate restructurings and insolvencies both in and out of Chapter 11, including debtors, unsecured creditors' committees, plan trustees, secured creditors, trade creditors, landlords, equipment lessors, reclamation creditors, insurance companies, and equity security holders, as well as acquirers of troubled businesses.

Mark's practice includes, in large part: (i) counseling debtors through non-judicial restructurings and Chapter 11 proceedings; (ii) advising unsecured creditors' committees in Chapter 11 proceedings; and (iii) representing trustees in complex Chapter 7 cases.

Mark is a certified mediator for the U.S. Bankruptcy Court for the District of Delaware and maintains an active mediation practice. He has been appointed to serve as mediator in several hundred proceedings over the past 15 years and has successfully mediated more than 150 matters, including WARN litigation, breach of fiduciary duty actions, avoidance litigation, and claim disputes.

Mark is a fellow of the American College of Bankruptcy and is certified by the American Board of Certification in business bankruptcy. He has been designated as a Super Lawyer in both Delaware and Pennsylvania and has been listed in *Chambers and Partners USA* as a leading bankruptcy lawyer in Delaware since 2005. Mark is a co-author and editor of *Representing the Creditors' Committee: A Guide for Practitioners*, published by the American Bankruptcy Institute. Mark is on multiple committees for the American Bankruptcy Institute and the Advisory Board of its mid-Atlantic conference, and a past co-chair of the Unsecured Trade Creditors' Committee. In addition, he is a past president and chairman of the Board for the Philadelphia/Wilmington Chapter of the Turnaround Management Association (TMA) and is a member of the Board of Trustees of TMA Global. Mark also serves on the Board of the American Board of Certification and its marketing committee.

Mark graduated from Rochester Institute of Technology, with high honors in 1985, and received his J.D. in 1989 from Boston University.

### Experience

Represented US Tobacco Cooperative (USTC) and its five affiliates as lead bankruptcy counsel in their Chapter 11 proceedings in Raleigh, NC. USTC and its affiliates were forced into Chapter 11 due to an adverse judgment in a class action that had been ongoing for 17 years, and that resulted in a \$1 billion claim being filed by the class in the case. After early skirmishes with the class, we were able to negotiate a global settlement after three days of mediation with the class and the bank group. The global settlement served as the lynchpin to a plan of reorganization that was fully consensual with all classes of creditors and equity holders and was confirmed by the court and has gone effective. The matter was named the 2022 Consumer Staples Deal of the Year and the Chapter 11 Reorganization of the Year by the M&A Advisor.

### Practice Areas

- Bankruptcy, Insolvency & Restructuring
- Distressed Real Estate
- Corporate Governance
- Business

### Education

- Boston University School of Law, J.D., 1989
- Rochester Inst. of Technology, B.A., 1985

### Bar Admissions

- Delaware
- New Jersey
- New York
- Pennsylvania

### Court Admissions

- New York Supreme Court
- U.S. Court of Appeals for the Third Circuit
- U.S. District Court -- Delaware
- U.S. District Court -- Eastern District of New York
- U.S. District Court -- Eastern District of Pennsylvania
- U.S. District Court -- New Jersey
- U.S. District Court -- Northern District of New York
- U.S. District Court -- Southern District of New York

### Affiliations

- American College of Bankruptcy
- American Bankruptcy Institute
- Turnaround Management Association
- The American Board of Certification

### Awards & Honors

- Chambers and Partners USA, 2005-2024  
*\* This award is conferred by Chambers and Partners. A description of the selection methodology can be found here. No aspect of this advertisement has been approved by the Supreme Court of New Jersey.*
- Super Lawyers (DE: 2007 - 2008, 2011 - 2024, PA: 2005 - 2006, 2008 - 2024)  
*\* This award is conferred by Super Lawyers. A description of the selection methodology can be found here. No aspect of this advertisement has been approved by the Supreme Court of New Jersey.*
- IFLR1000 (Restructuring and Insolvency)
- Lawdragon Leading Global Bankruptcy and Restructuring Lawyers, 2024

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Represented Cosi, Inc. and its six affiliates as lead bankruptcy counsel in their Chapter 11 cases commenced in Delaware. One month into the Chapter 11 cases, the global pandemic occurred and the resulting lockdowns caused an immediate reduction of 85 percent of this sandwich shop chain's revenues. The company struggled for its survival, which was hampered by the longevity of the pandemic, the inability to obtain a PPP loan, and funds being exhausted under the Restaurant Revitalization Fund before its application could be acted upon. Ultimately, after dismissing its cases to attempt to obtain RRF monies, the company secured a third-party plan sponsor. We then successfully moved to reinstate the Chapter 11 cases over one year after dismissal. We were able to confirm a pre-packaged plan of reorganization within 16 days after the cases were reinstated with the unanimous support of the creditor body.

Represented the Trustee of IntegraMed America (ITMD) and nine of its affiliates in Chapter 7 proceedings. ITMD -- with more than 1,000 employees who performed all of the non-clinical functions for 19 medical practices operating almost 150 fertility clinics across the country (several of which included labs housing cryo-preserved embryos and other human tissue) -- ceased operations overnight. We quickly negotiated agreements with all 19 medical practices and ITMD's secured creditor, enabling employees to keep their jobs and the clinics to maintain their operations, which were ultimately approved by the Bankruptcy Court. We also crafted and ran a sale process, which resulted in the negotiation, approval, and consummation of seven separate sale transactions (without any issues arising with respect to the cryo-preserved human tissue) that transitioned all 19 medical practices to new owners, who assumed almost \$20 million of claims held by thousands of patients. This matter drew on the experience of the firm's Bankruptcy, Insolvency, & Restructuring; Corporate; Health Law; and Commercial Litigation attorneys.

Served as special litigation counsel to the trustee in Chapter 7 bankruptcy cases filed by an insurance company. The representation included investigating claims against the debtors' former board, management, and professionals; coordinating a two-day mediation process involving three claimants, three insurers, and numerous prospective defendants and counsel; and negotiating a favorable, court-approved settlement for the estates in bankruptcy.

Represented Chapter 7 trustee as special counsel to develop and implement auction process to sell substantially all of the assets of the estates under Section 363 of the Bankruptcy Code in the following cases: IntegraMed America, Advanced Interactive System, Synova Healthcare, Peregrine I, Pixel Optics, Polymedix, Pursuit Capital, Impact Services, A Voce, Lyton Partnership, and Thompson River Power.

Represented Chapter 7 trustees, committees, and debtors in the investigation and pursuit of litigation against the debtor's former directors and officers for breach of fiduciary duty and related claims in the following cases: Samuels Jewelers, Affirmative Holdings, Hashfast, Scoreboard, Starter Corporation, Glass Group, TVC/OPUS, Archway Cookies, Capitol Infrastructure, Advanced Interactive Systems, Code Rebel, and 38 Studios.

Represented over sixty insurers holding subrogation claims totaling approximately \$2 billion in the PG&E Chapter 11 cases, which is one of the largest chapter 11 cases of all time. Cozen O'Connor's team worked with the ad hoc committee of subrogation claimants and negotiated a settlement resulting in a confirmed plan which will pay subrogation claims a dividend of over 60 cents on the dollar.

Represented the Official Committee of Unsecured Creditors of a manufacturing company that filed a Chapter 11 petition in the District of Delaware. The case involved three separate sales of the debtors' business divisions and real estate and the investigation and settlement of claims against the debtors' directors and officers. The case resulted in a consensual confirmed plan and a 45 cent recovery for unsecured creditors.

Represented the Official Committee of Unsecured Creditors in the 1031 Tax Group cases that were commenced in the Southern District of New York, which involved widespread fraud perpetrated by the debtors' principals. The committee worked with the Chapter 11 trustee to confirm a consensual plan of reorganization that in the end will result in a recovery to unsecured creditors in excess of 70 cents on the dollar.

Represented Foamex International, Inc. and certain affiliates as lead bankruptcy counsel in their Chapter 11 cases that were filed in the District of Delaware. These cases involved a sale of substantially all of the assets of the debtors through a two-phased auction process. The auction process yielded significant additional value for creditors, and the cases were concluded through a structured dismissal that saw all administrative and priority creditors paid in full and a significant amount of the unsecured trade debt paid through debt and contract assumption and critical vendor payments.

Represented Aluminum Shapes, LLC and various affiliates as lead bankruptcy counsel in their Chapter 11 proceedings in the District of New Jersey. The cases were filed with a pre-negotiated plan with the debtors' plan sponsor and secured creditors. The cases were hard fought with the creditors' committee and resulted in a confirmed plan within six months of the petition date – with the committee's consent. The plan sponsor was replaced mid-way through the case by a party that offered financing on better terms and a larger recovery for unsecured creditors.

Represented Wolverine Tube, Inc. and various affiliates as lead bankruptcy counsel in their Chapter 11 cases in the District of Delaware. Wolverine is a leading producer of enhanced copper tubing and related products for commercial applications with worldwide operations. The case resulted in a confirmed plan of reorganization within eight months of the petition date. The plan provided for full payment to unsecured creditors, a debt for equity exchange with the debtors' bondholders, and a negotiated resolution with the PBGC of its \$100+ million pension underfunding claim. Shortly after the plan went effective, the firm handled the refinancing of the debtors' tolling arrangements with a new working capital facility.

Represented Unilife Corporation and its affiliates as lead bankruptcy counsel in Chapter 11 proceedings in the District of Delaware. The case involved the sale of the debtors' assets through a Court-sanctioned section 363 auction sale process to four separate buyers; the wind-down of the debtors' Australian affiliates; the negotiation and settlement of derivative claims, which created a fund for distribution to creditors; and the negotiation and confirmation of a consensual plan of liquidation with the creditors' committee.