

Related Services

- Corporate
- Financial Restructuring
- Litigation
- Mergers, Acquisitions and Joint Ventures
- Tax

Bankruptcy and Creditors' Rights Litigation

Our Financial Restructuring Group includes a dedicated team of litigators that evaluates, prosecutes and defends litigation claims arising in a variety of contexts and in courts across the country.

Drawing upon our extensive, multifaceted experience, we understand our clients' business motivations. Therefore, we are able to promptly and efficiently respond to our clients' needs, whether they are evaluating litigation risk as part of an investment opportunity, assessing offensive litigation options or defending against claims asserted against our clients. We are tactical, strategic and practical, recognizing that litigation, whether prospective or existing, often becomes the foundation for the entire restructuring.

The breadth of our practice is demonstrated by the variety of clients and matters in which we have obtained successful litigation results. Whether it's going to trial or a negotiated resolution, we are experts in evaluating and pursuing the appropriate litigation path to ensure that the results align with our client's expectations and maximize our client's returns.

Representative Experience

- **Caesars Entertainment Operating Company, Inc.:** In the significantly litigation-driven Caesars Entertainment bankruptcy cases, we evaluated, on behalf of the ad hoc committee of first lien bank lenders, the merits of myriad litigation claims, including complicated fraudulent transfer and Trust Indenture Act claims, which directly impacted our clients' negotiating strategy and the ultimate restructuring. We also litigated and prevailed after a trial in the Bankruptcy Court against claims initiated by junior secured lenders who asserted that the bank lenders waived their right to seek recourse treatment under section 1111(b) of the Bankruptcy Code.
- **Foresight Energy:** We obtained judgment after trial in the Delaware Chancery Court for our clients, an ad hoc committee of noteholders, determining that a sale affecting the control of the parent company of Foresight Energy triggered a "change of control" under the indenture for the notes held by our clients, and subsequently leveraged the decision to drive a favorable settlement for cash, new second lien notes (which were later taken out at par plus a make whole payment) and warrants.
- **iPayment:** We defended against claims and negotiated a settlement for members of the Special Committee of the Board of Directors of iPayment in connection with derivative litigation brought by the former CEO and founder in Delaware Chancery Court involving an insider-

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sponsored dilutive exchange transaction.

- **KV Pharmaceutical:** We obtained declaratory judgments on behalf of the Official Committee of Unsecured Creditors of KV Pharmaceutical, following a trial that limited the scope of the senior creditors' liens in collateral and limited the scope of senior creditors' subordination rights with respect to post-petition interest, respectively.
- **Trump Entertainment Resorts, Inc.:** In the second Trump Entertainment Resorts, Inc. bankruptcy cases, we successfully terminated exclusivity, obtained an order appointing an examiner, confirmed after a lengthy evidentiary confirmation hearing a competing chapter 11 plan funded by a rights offering, and crammed up a senior secured lender, on behalf of an ad hoc committee of second lien noteholders who thereby became the majority equity holders of the company. In the third (and final) of its bankruptcy cases, we represented the debtor, Trump Entertainment Resorts, Inc., and, among other things, were successful after a trial in terminating the debtor's pension plans pursuant to Section 1113 of the Bankruptcy Code, which resulted in significant economic savings that enabled the debtor to negotiate the conclusion of the bankruptcy cases with its secured lender.