

## Joseph Cioffi

Chief Operating Partner/Chair

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### Areas of Focus

Bankruptcy, Creditors' Rights + Finance |  
Lending and Specialized Financings |  
Insolvency and Financial Products Litigation |  
Bankruptcy | Corporate + Transactions | Credit  
Facilities | Litigation + Dispute Resolution

"In my business career, I disliked the lawyers who so easily said 'no' in order to avoid any risk without a rational assessment of the potential reward and alternatives. I internalize my clients' goals and find a way to achieve them as if they were my own."

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## Overview

**Joseph Cioffi, Chief Operating Partner and Chair of the Bankruptcy, Creditors' Rights + Finance Practice Group, gives his diverse client base a competitive edge through his deep and nuanced understanding of financial market dynamics. He advises businesses including domestic and international financial institutions, marketing communications firms, and creditors from various sectors.**

Joseph's practice focuses on credit and finance transactions, insolvency matters, and financial products litigation. He skillfully manages significant commercial and bankruptcy cases, helps marketing communications firms resolve liability issues stemming from counterparty insolvencies, and advises clients across lending and credit markets for mortgage, auto, fintech, student loans, and emerging sectors such as cryptocurrency and cannabis.

With 20 years of experience tracking market cycles, Joseph has a unique ability to discern patterns and foresee movement in credit markets. He applies that knowledge to find opportunities others might miss and to protect his clients against potential risk. In addition, Joseph's understanding of bankruptcy court dynamics informs his pragmatic approach to negotiating credit terms.

As a former finance and marketing executive, Joseph brings a business perspective to providing the critical information clients need for informed decision-making. Widely acknowledged as a thought leader in subprime lending and securitizations, he pioneered the firm's acclaimed [Credit Chronometer](#) blog, fostering dialogue on pivotal legal and industry topics.

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## Representative Experience

- Developed a proprietary strategy to limit a marketing communications intermediary's legal exposure to media and other third parties when its clients became insolvent and the threat of preference liability loomed. This strategy has since been implemented on numerous occasions to save intermediaries hundreds of millions in situations where their clients have not paid them or have sought to claw back funds in bankruptcy.
- Achieved numerous victories, including multiple dismissals and favorable resolutions for one of the largest residential mortgage-backed securities (RMBS) sponsors in cases brought by investors and securitization trusts for fraud and repurchase, leading to the dismissal of over \$1 billion in claims. These litigation victories created precedent that cut off future claims against our client and other defendants in the RMBS space and benefit ABS sponsors in all credit markets with similar deal structures.
- Defending a European investment bank against over \$600 million in exposure from an ongoing fraudulent transfer lawsuit brought by Madoff bankruptcy trustee based on derivative transactions, including total return swaps and leveraged notes. In Madoff-related litigation, achieved, with other similarly situated banks, dismissal of over \$200 million state law- and foreign insolvency-based actions asserted by liquidators of largest offshore Madoff feeder fund. The litigation resolved legal exposure for the client incurred in providing its customers with desired synthetic deal structures.
- Pursuing over \$300 million in recoveries from Wells Fargo as the master servicer of securitization trust for breach of contract and failing to comply with servicing standards, through a detailed analysis and proprietary calculation of losses caused by servicing failures, including delays in foreclosure, failures to modify loans and unreasonably low-priced collateral sales, all of which contributed to the client-sponsor's legal exposure for repurchases of loans.
- Advised investors on regulatory risk exposure of subprime auto lending targets and potential litigation recoveries in RMBS and subprime auto ABS. Our guidance enabled the investors to anticipate regulatory changes and litigation outcomes, helping to determine long and short positions.
- Counseled a bank working under partnership with a marketplace lender in compliance with consumer protection and privacy laws, clearing the path to client offering new online products and creating consortium for industry sharing of information.
- Advised one of the largest subprime auto lenders on solutions to minimize losses from consumer fraud, including fraudulent fees and liens placed on collateral by mechanics and impound lots.
- Developed a holding structure of distressed loans to insulate a global investment bank from reputational and financial risk related to mortgaged properties and minimize legal exposure in liquidating of portfolio.

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## Insights + Events

### Press Mention

Valuation Review | Commercial Property Assessed Clean Energy, and Other Matters Are Examined Regarding CRE

April 8, 2024

### **Press Mention**

Valuation Review | Attorney Highlights Litigation Risks in Commercial Real Estate, Valuation  
April 3, 2024

### **Publication**

Westlaw Today | Knowledge Is Power: Accessing Loan Information in Troubled CMBS  
March 11, 2024

### **Press Mention**

BisNow | 'You Can Imagine the Pressure': Commercial Appraisers at the Center of CRE's Price Reckoning  
March 11, 2024

### **Balancing Compliance and Creativity in Regulated Industries, Publication, Risk and Reward in Cannabis Financing**

Law360 | A New Push To Clear Up Marijuana's Foggy Legal Status  
March 7, 2024

### **Publication, Risk and Reward in Cannabis Financing**

Law360 | Regulatory Shift May Offer Lifeline to NY's Cannabis Industry  
November 2, 2023

### **New Risks, Regulations and Enforcement in Lending Markets, Press Mention**

Law360 | Long Before FTX, Criminal Cases Have Complicated CH. 11  
October 3, 2023

### **Emerging Issues, New Risks, Regulations and Enforcement in Lending Markets, Publication**

Westlaw Today | Valuation and Regulation Risks and Opportunities in Commercial Real Estate  
September 21, 2023

### **New Risks, Regulations and Enforcement in Lending Markets, Press Mention**

ProPublica | Wall Street Bet Big on Used-Car Loans for Years. Now a Crisis May Be Looming.  
September 13, 2023

### **Blog Post, Risk and Reward in Cannabis Financing**

What's Next for Cannabis After MasterCard's Debit Card Ban?  
August 30, 2023

### **New Risks, Regulations and Enforcement in Lending Markets, Press Mention**

Structured Credit Investor | Skid Marks: Subprime Auto ABS Shows Sign of Pain  
August 24, 2023

### **Blog Post, New Risks, Regulations and Enforcement in Lending Markets**

Subprime Auto: Cracks in the Road Starting to Show  
July 31, 2023

### **New Risks, Regulations and Enforcement in Lending Markets, Press Mention**

Structured Credit Investor | Litigation Looms: Investor Disputes to Rise as CMBS Valuations Decline  
July 27, 2023

### **New Risks, Regulations and Enforcement in Lending Markets, Publication**

Commercial Observer | How Valuation and Materiality Become Catalysts for CRE Litigation  
July 12, 2023

### **New Risks, Regulations and Enforcement in Lending Markets, Podcast**

Talking Compliance and Risk with Davis+Gilbert Partner Joseph Cioffi  
June 28, 2023

### **Blog Post, New Risks, Regulations and Enforcement in Lending Markets**

The Wall of Maturities Looms in the Shadow of Bank Failures. What's Next for Commercial Real Estate?  
June 14, 2023

### **New Risks, Regulations and Enforcement in Lending Markets, Report**

Will Another Bank Fail? Identifying Legal and Business Risks from Banking Turmoil  
May 23, 2023

### **Publication**

Reuters Legal News | Perfecting Digital Assets: There's No Control Without Power  
May 19, 2023

### **Event**

D+G Hosted Event | Who's Next? Identifying Vulnerabilities in the Banking System, Managing Risks and Maximizing Opportunities for Banks and Investors  
May 3, 2023

### **Alert, Risk and Reward in Cannabis Financing**

Key Influences on the Cannabis Market in 2023  
April 20, 2023

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## **Credentials**

### **Education**

Rutgers Law School (J.D., 1995)  
New York University (M.B.A., 1990)  
Pace University (B.B.A., 1986)

### **Clerkship**

The Honorable Stan Bernstein, U.S. Bankruptcy Court for the Eastern District of New York

### **Bar Admissions**

New York  
Massachusetts  
New Jersey  
Texas

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## **Associations**

Member, Davis+Gilbert Corporate Social Responsibility Committee

Member, Davis+Gilbert Diversity, Equity and Inclusion Committee

Member, Davis+Gilbert Executive Committee

Member, Davis+Gilbert Growth and Planning Committee

Member, Davis+Gilbert Health Insurance Plans Committee

Member, Davis+Gilbert Technology Committee

Member, Davis+Gilbert Legal Opinion Committee

Member, Davis+Gilbert Pro Bono Committee

Member, Davis+Gilbert Retirement Plans Committee

Member, Davis+Gilbert Wellness Committee

Member, New York State Bar Association

Member, Non-prime Auto Financing Association

Member, American Bankruptcy Institute