

Massimo Giugliano

Partner

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Areas of Focus

Bankruptcy, Creditors' Rights + Finance |
Bankruptcy | Lending and Specialized
Financings | Corporate + Transactions | Credit
Facilities

"Every deal or dispute presents legal obstacles. I focus on formulating practical solutions to avoid standing in the way of a closing or resolution."

Overview

Without proper guidance, the intricacies of bankruptcy and complex financing arrangements can expose parties to significant losses and unwanted litigation. Massimo Giugliano applies his deep knowledge of bankruptcy, finance and creditors' rights to preserve and maximize the rights of international financial institutions, national banks, mortgage originators, commercial landlords, advertising agencies and media companies.

Clients benefit from Massimo's experience guiding businesses through all stages of credit cycles, from deal structuring to litigation to bankruptcy. With this 360-view, Massimo is able to zero in on the issues clients care about most. Whether a client needs to break through an impasse in dispute resolution or manage credit risk in a transaction, Massimo offers practical solutions that consider vendor relationships, market developments, industry standards and other business concerns.

When disputes persist, Massimo fully exerts his clients' rights in litigation. He has steered clients through litigation both inside and outside of bankruptcy, including fraudulent and preferential transfer claims, mortgage-backed securities breach of contract and fraud claims, agency-media-advertiser disputes, and enforcement of commercial landlord rights.

Massimo has protected clients from millions of dollars in exposure. He has safeguarded advertising agencies and media companies facing insolvent advertisers, ensured the enforcement of the rights of creditors under the Bankruptcy Code and applicable law, and formulated deal structures to protect clients against counterparty credit risk.

Representative Experience

- Counseling a west coast-based bank in over \$100 million of commercial real estate refinancing and revolving credit transactions. Created protective and effective forms of deal documents tailored to specific properties and borrower needs. The deals helped the client successfully kick-start new relationships and expand its east coast presence.
- Advising a residential mortgage lender as a borrower with over \$100 million in warehouse financing, resolving regulatory and structural matters to help the client bring a new innovative product to market. The advice helps the client reduce the risk of regulatory scrutiny related to unique bridge financing.
- Guided an international real estate investment firm in chapter 11 bankruptcies of its retail tenants during the COVID-19 pandemic. Maximized the client's recoveries by enforcing its rights as a commercial landlord under the Bankruptcy Code and participating in negotiations concerning unprecedented rent relief during government shutdowns. The ultimate resolution balanced the retail tenants' need for rent relief during the shutdowns and the client's right to collect rent during the bankruptcies. This resolution created a framework to deal with future disputes and commercial tenant insolvencies during the pandemic.
- Saved an advertising agency from disgorgement of nearly \$10 million in alleged preferential transfers prior to the filing of a threatened chapter 11 adversary proceeding against it by arguing the concept of sequential liability in addition to traditional defenses.
- Guided an advertising agency in connection with an advertiser's chapter 11 bankruptcy proceeding and negotiated global resolution of dispute with various media vendors. The resolution preserved our client's business model and its role as an agent in connection with media buying.
- Negotiated a liquidation of distressed loan portfolio for a foreign bank holding legacy assets related to pre-financial crisis securitization activities. The liquidation involved multiple sales of residential mortgage loans to various investors.
- Represented an investor in connection with the acquisition of a \$170M DOJ loan to an U.S. electric automobile manufacturer and the subsequent bid to acquire the U.S. manufacturer's assets in its chapter 11 bankruptcy case.
- Secured resolution of indemnity claims for a securitization sponsor brought by an underwriter and other parties seeking to shift liability for settlement payouts to investors and regulatory agencies. Negotiated settlement terms that eliminated future exposure for similar claims.

Insights + Events

Alert, New Risks, Regulations and Enforcement in Lending Markets

It Could Happen Again: What to Know If There is Another Bank Failure
March 22, 2023

Publication

Reuters Legal News | Bankruptcy Relief for Cannabis-adjacent Debtors? It Gets Hazy
January 25, 2023

Publication

Reuters Legal News | Clawback to the Future: Avoidance Actions in Crypto Bankruptcies
January 13, 2023

Publication

Reuters Legal News | Repurchase Agreement Redux: Mortgage Loan Originator Bankruptcies Are Back
October 12, 2022

Event, Risk and Reward in Cannabis Financing

New York State Bar Association | Navigating the Legal Pitfalls of Cannabis Financing
February 8, 2022

Publication, Risk and Reward in Cannabis Financing

Westlaw | Fortune or Forfeiture: Real Estate Lending in the Cannabis Space
February 8, 2022

Event

Davis+Gilbert Counsel 2U® Real Estate + Bankruptcy Webinar | What Happens When a Commercial Tenant Files Bankruptcy
May 21, 2020

FAQ

When a Commercial Tenant Files Bankruptcy: What Landlords Need to Know
April 7, 2020

Alert

Trademark License Rights Survive Rejection in Bankruptcy
June 10, 2019

Publication

Law360 | Madden Creates More Uncertainty For Marketplace Lenders
March 23, 2017

Alert

Claims Against Navient Echo Problems with Subprime Mortgage Loan Servicers
February 23, 2017

Credentials

Education

St. John's University School of Law (LL.M. (Bankruptcy), 2010)
St. John's University School of Law (J.D., *cum laude*, 2008)
Fairfield University (B.S., 2004)

Clerkship

The Honorable Burton R. Lifland, U.S. Bankruptcy Court for the Southern District of New York

Distinctions

- *New York Metro Super Lawyers*® “Rising Stars” 2016-2019, Creditor Debtor Rights: Business

Bar Admissions

New York

Associations

Member, Davis+Gilbert Legal Opinion Committee

Member, American Bar Association

Member, Association of Commercial Finance Attorneys