

JEFFREY L. COHEN, ESQ.
(admitted *pro hac vice*)
ERIC S. CHAFETZ, ESQ.
(admitted *pro hac vice*)
DANIEL B. BESIKOF, ESQ.
(admitted *pro hac vice*)
LOWENSTEIN SANDLER LLP
1251 Avenue of The Americas
New York, New York 10020
Telephone: (212) 262-6700
Facsimile: (212) 262-7402
Email: Jcohen@Lowenstein.Com
Email: Echafetz@Lowenstein.Com
Email: Dbesikof@Lowenstein.Com

BRETT A. AXELROD, ESQ.
Nevada Bar No. 5859
NICHOLAS A. KOFFROTH, ESQ.
Nevada Bar No. 16264
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, Suite 700
Las Vegas, Nevada 89135
Telephone: (702) 262-6899
Facsimile: (702) 597-5503
Email: Baxelrod@Foxrothschild.Com
Email: Nkoffroth@Foxrothschild.Com
*Proposed Local Counsel for the Official
Committee of Unsecured Creditors*

MICHAEL T. PAPANDREA, ESQ.
(admitted *pro hac vice*)
LOWENSTEIN SANDLER LLP
One Lowenstein Drive
Roseland, New Jersey 07068
Telephone: (973) 597-2500
Facsimile: (973) 597-2400
Email: Mpapandrea@Lowenstein.Com
*Proposed Counsel for the Official Committee
of Unsecured Creditors*

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

- ☒ NEVADA COPPER, INC.
- ☒ NEVADA COPPER CORP.
- ☒ NC DITCH COMPANY LLC
- ☒ NC FARMS LLC
- ☒ LION IRON CORP.
- ☒ 0607792 B.C. LTD.

Debtors.¹

Lead Case No.: 24-50566-HLB
Chapter 11

Jointly Administered with:
Case No. 24-50567-hlb
Case No. 24-50568-hlb
Case No. 24-50569-hlb
Case No. 24-50570-hlb
Case No. 24-50571-hlb

**VERIFIED STATEMENT OF JEFFREY L.
COHEN IN SUPPORT OF APPLICATION FOR
AN ORDER AUTHORIZING RETENTION
AND EMPLOYMENT OF LOWENSTEIN
SANDLER LLP AS COUNSEL TO THE
OFFICIAL COMMITTEE OF UNSECURED
CREDITORS**

Hearing Date: August 26, 2024
Hearing Time: 1:30 p.m.

¹ The Debtors in these chapter 11 cases and the last four digits of their registration numbers in the jurisdiction in which they are organized are: Nevada Copper, Inc. (1157) (Nevada); Nevada Copper Corp. (5323) (British Columbia); 0607792 B.C. Ltd. (2524) (British Columbia); Lion Iron Corp. (2904) (Nevada); NC Farms LLC (0264) (Nevada); and NC Ditch Company LLC (4396) (Nevada).

1 I, Jeffrey L. Cohen, hereby declare and state as follows:

2 1. I am a partner with the law firm Lowenstein Sandler LLP (the “Firm” or “Lowenstein
3 Sandler”) and am authorized to make this declaration on behalf of the Firm. The Firm is proposed
4 counsel for the Official Committee of Unsecured Creditors in the above captioned cases (the
5 “Committee”). In such capacity, and except as otherwise indicated herein, I have personal knowledge
6 of the facts set forth below, and if called as a witness I could and would competently testify to the
7 matters set forth in this declaration. I hereby submit this declaration in support of the *Application For*
8 *an Order Authorizing Retention and Employment of Lowenstein Sandler LLP as Counsel to the*
9 *Official Committee of Unsecured Creditors* (the “Application”) made pursuant to sections 328 and
10 1103(a) of title 11 of the United States Code (“Bankruptcy Code”), Rule 2014(a) of the Federal Rules
11 of Bankruptcy Procedure (“Federal Bankruptcy Rules”), and Rule 2014 of the Local Bankruptcy Rules
12 for the United States Bankruptcy Court for the District of Nevada (the “Local Rules”).

13 2. On June 10, 2024 (the “Petition Date”), each of the Debtors filed voluntary petitions
14 for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the
15 District of Nevada (the “Court”), thereby commencing the chapter 11 cases (the “Chapter 11 Cases”).

16 3. The Chapter 11 Cases are jointly administered under case no. 24-50566-HLB and the
17 Debtors are operating their businesses and managing their financial affairs as debtors-in-possession
18 pursuant to Bankruptcy Code sections 1107 and 1108.

19 4. On June 27, 2024, the Office of the United States Trustee (the “Trustee”) filed its
20 *Appointment of Official Committee of Unsecured Creditors* [ECF No. 188].

21 5. The Committee is comprised of five (5) members: (a) Mercuria Holdings (Singapore)
22 PTE Ltd. (b) Small Mine Development, LLC; (c) Boart Longyear Company; (d) Jim Menesini
23 Petroleum, LLC; and (e) NewFields Companies, LLC.

24 6. On July 1, 2024 (the “Retention Date”), the Committee selected Lowenstein Sandler
25 LLP as its lead counsel and Fox Rothschild as its local counsel in the Chapter 11 Cases.²

26

27

28

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Application.

7. Lowenstein Sandler's attorneys are skilled counsel in bankruptcy and insolvency cases and have significant experience in the areas of business reorganization and creditor/debtor matters. Lowenstein Sandler has served as counsel to official committees of unsecured creditors in many significant chapter 11 bankruptcy cases. The Committee accordingly believes that the attorneys at Lowenstein Sandler are well-qualified to represent its interests in the Chapter 11 Cases.³

8. Section 1103(a) of the Bankruptcy Code authorizes the Committee to employ counsel to advise and assist in carrying out its duties in a bankruptcy case. The Committee believes that it is in the best interest of the unsecured creditors for the Committee to retain Lowenstein Sandler to advise and assist it in connection with all proceedings of concern to the unsecured creditors and the Committee, including but not limited to the following activities:

- (a) Advising regarding bankruptcy law;
- (b) Advising with respect to the Committee's powers and duties in the Debtors' Chapter 11 Cases;
- (c) Attending Committee meetings;
- (d) Reviewing financial information furnished by the Debtors to the Committee and investigating potential claims;
- (e) Assisting in the investigation of the acts, conduct, assets, liabilities, and financial condition of the Debtors, their principals and their agents;
- (f) Providing aid and assistance in monitoring the progress and administration of the Chapter 11 Cases;
- (g) Advising and assisting the Committee in understanding the Debtors' ongoing operations;
- (h) Advising and negotiating on behalf of the Committee as to debtor-in-possession financing, exit financing, and any other form of financing the Debtors may require in the Chapter 11 Cases or in connection with any chapter 11 plan(s);
- (i) Negotiating, drafting, and pursuing confirmation of a chapter 11 plan and approval of a disclosure statement, whether proposed by the Debtors, the Committee, or any other party in interest;

³ A summary of the qualifications and experience of those attorneys who are expected to render services to the Committee is attached hereto as **Exhibit 1**.

- (j) Reviewing and analyzing the validity of liens against assets of the estates and bringing actions to challenge lien validity as appropriate;
- (k) Preparing, on behalf of the Committee, any necessary applications, motions, oppositions, complaints, answers, orders, reports, and other legal papers related to the foregoing duties;
- (l) Appearing in Court and protecting the interests of the Committee before the Court in connection with the foregoing duties;
- (m) Monitoring the conduct of the cases to ensure that the Debtors' actions promote the best interest of its unsecured creditors;
- (n) Advising as to the possible appointment of a chapter 11 trustee or examiner, if such becomes appropriate;
- (o) Participating, as appropriate, in main case discovery (e.g., 2004 examinations) and adversary proceedings initiated by other parties as necessary to protect the interests of the Committee;
- (p) Objecting to claims asserted against the estates as and if appropriate;
- (q) If so directed by the Debtors, a subsequently-appointed chapter 11 trustee, or order of the Court, prosecuting any cause of action held by the estate; and
- (r) Performing all the legal services for the Committee that may be necessary and proper in furtherance of the foregoing duties or other matters provided for in section 1103(c) of the Bankruptcy Code.

9. Lowenstein Sandler intends to apply for compensation for professional services rendered in connection with these cases subject to the approval of this Court and in compliance with applicable provisions of the Bankruptcy Code and this Court's Guidelines for Compensation and Expense Reimbursement of Professionals and Trustees (the "Compensation Guidelines"), on an hourly basis, plus reimbursement of actual, necessary expenses and other charges incurred by the Firm. The Firm's rates for attorneys and paralegals are as follows:

Classification/Experience	Hourly Rate
Partners of the Firm	\$720 – \$1,975
Of Counsel	\$810 – \$1,525
Senior Counsel (generally twelve or more years of experience)	\$630 – \$1,495
Counsel (generally seven or more years of experience)	\$615 – \$1,195

Classification/Experience Hourly Rate	Hourly Rate
Associates (generally fewer than seven years of experience)	\$520 – \$1,015
Staff Attorneys	\$435 – \$730
Paralegals, Practice Support, and Assistants	\$195 – \$460

The hourly rates set forth above are subject to annual adjustments, usually on January 1st of each year.

10. The hourly rates set forth above are the Firm's normal hourly rates for work of this type. These rates are set at a level designed to fairly compensate the Firm for the work of its attorneys and paralegals and to cover fixed and routine overhead expenses. Following negotiations between Lowenstein Sandler and the Committee, Lowenstein Sandler has agreed to discount its partner rates by 10% and will not charge for non-working travel time. There will be no limitation on Lowenstein Sandler's right to seek reimbursement of all other out-of-pocket disbursements and expenses incurred in connection with the Chapter 11 Cases. These expenses charged to clients include, among other things, charges for messenger services, overnight delivery services, photocopying, court fees, travel expenses, working meals, postage, materials for large mailings, computerized legal research facilities, computerized document inventory and control, investigative searches, and other charges customarily invoiced by law firms in addition to fees for legal services. The Firm will charge the Committee for these expenses in a manner and at rates consistent with charges made generally to the Firm's other clients and in accordance with the Compensation Guidelines.

11. Lowenstein Sandler did not receive a retainer with respect to its representation of the Committee, and there is no retainer agreement between the Committee and Lowenstein Sandler. It is intended that the Application and the Court's order approving Lowenstein Sandler's retention will govern Lowenstein Sandler's employment in these cases, with the Court retaining jurisdiction to resolve any issue that might arise.

12. In conformity with Bankruptcy Code sections 330 and 331, Lowenstein Sandler intends to file interim applications for allowance of fees and reimbursement of costs advanced as and when appropriate under the Bankruptcy Rules, the Local Rules and this Court's orders.

1 13. At the conclusion of these cases, Lowenstein Sandler will file an appropriate
2 application seeking final allowance of all fees and costs, regardless of whether interim compensation
3 has been paid. Upon allowance of such fees and costs, the Debtors will cause to be paid to Lowenstein
4 Sandler the difference between the amounts allowed and any interim compensation paid.

5 14. Lowenstein Sandler has not shared, or agreed to share, any compensation related to the
6 services to be rendered as bankruptcy counsel for the Committee with any other person, except as
7 among Lowenstein Sandler firm members and/or employees and counsel.

8 15. Lowenstein Sandler maintains a computerized database of its client matters. In
9 connection with the proposed retention of Lowenstein Sandler by the Committee, Lowenstein Sandler
10 performed an internal conflicts search to ensure that Lowenstein Sandler does not have a conflict of
11 interest that would prohibit it from representing the Committee in this matter. Specifically,
12 Lowenstein Sandler obtained the names of individuals and entities that may be parties in interest in
13 the Chapter 11 Cases and such parties are listed on **Schedule 1** attached hereto (the “Potential Party
14 List”). Lowenstein Sandler has searched its electronic database for its connections to the entities listed
15 on the Potential Party List.

16 16. Attached hereto as **Schedule 2** is a list of parties that Lowenstein Sandler may currently
17 represent or may have represented in the past on matters wholly unrelated to the Chapter 11 Cases,
18 and professionals with whom Lowenstein Sandler may have served as co-counsel, including parties
19 who appear on the Potential Party List.

20 17. Except as disclosed herein or on Schedule 2 attached hereto, neither I, Lowenstein
21 Sandler, nor any member, counsel, or associate thereof, insofar as I have been able to ascertain, have
22 any connection with the Debtors, their creditors, or any other parties in interest, their respective
23 attorneys and accountants, the Office of the United States Trustee (the “US Trustee”), any person
24 employed in the Office of the United States Trustee, or any Bankruptcy Judge currently serving on the
25 United States Bankruptcy Court for the District of Nevada.

26 ///

27 ///

28 ///

1 18. To the best of my knowledge, information and belief, and other than the connections
2 described in Schedule 2, Lowenstein Sandler has no interest materially adverse to (a) the interest of
3 the Debtors' estates, (b) the Committee, or (c) any class of the Debtors' creditors, either by reason of
4 any direct or indirect relationship to, or connection with, the Debtors or for any other reason.

5 19. I believe that Lowenstein Sandler is a disinterested person within the meaning of
6 Bankruptcy Code section 101(14).

7 20. Finally, to the best of my knowledge, no grounds exist that would make employment
8 of Lowenstein Sandler or any of its attorneys improper under Rule 5002(a) of the Federal Rules of
9 Bankruptcy Procedure.

10 21. As Lowenstein Sandler becomes aware of new parties-in-interest becoming involved
11 in these cases, Lowenstein Sandler will file supplemental declarations as needed to update the
12 disclosures made herein.

13 22. Except to the extent the Court allows payment of compensation to the Firm out of the
14 assets of the estates, the Firm has no compensation arrangements with the Debtors or any entity related
15 to the Debtors, the Committee, or any other individual or entity associated with the Chapter 11 Cases.

16 **STATEMENT REGARDING U.S. TRUSTEE GUIDELINES**

17 23. As this Court is aware, the Executive Office for United States Trustees ("EOUST")
18 recently adopted the new *Guidelines for Reviewing Applications for Compensation and*
19 *Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases*
20 (the "Appendix B Guidelines"). By their terms, the Appendix B Guidelines "apply to the USTP's
21 review of applications for compensation filed by attorneys in larger chapter 11 cases," and are intended
22 as an update to the original Guidelines (the "Appendix A Guidelines") adopted by the EOUST in 1996.
23 The Appendix A Guidelines have been a part of this Court's local procedures for years. In other
24 chapter 11 cases where it has been retained, Lowenstein Sandler has filed its fee applications in
25 compliance with the Appendix A Guidelines.

26 24. Among other things, the Appendix B Guidelines ask attorneys in larger chapter 11
27 cases to provide additional documentation and make significant new disclosures in connection with
28 their retention under section 327 and compensation under section 330 of the Bankruptcy Code. As

1 the Appendix B Guidelines themselves acknowledge, “the Guidelines do not supersede local rules,
2 court orders, or other controlling authority,” and it remains to be seen how the Appendix B Guidelines
3 will be incorporated into larger chapter 11 cases.

4 25. Lowenstein Sandler intends to make a reasonable effort to comply with the U.S.
5 Trustee’s requests for information and additional disclosures as set forth in the Appendix B Guidelines
6 both in connection with this Application and the interim and final fee applications to be filed by
7 Lowenstein Sandler in the course of its engagement. It is Lowenstein Sandler’s intention to work
8 cooperatively with the U.S. Trustee to address the concerns that prompted the EOUST to adopt the
9 Appendix B Guidelines; however, in doing so, Lowenstein Sandler reserves all rights as to the
10 relevance and substantive legal effect of the Appendix B Guidelines in respect of any application for
11 employment or compensation in these Chapter 11 Cases that falls within the ambit of the Appendix B
12 Guidelines.

13 **ATTORNEY STATEMENT PURSUANT TO APPENDIX B GUIDELINES**

14 26. The following is provided in response to the request for additional information set forth
15 in Paragraph D.1. of the Appendix B Guidelines.

16 Question: Did you agree to any variations from, or alternatives to, your standard
17 or customary billing arrangements for this engagement?

18 Response: Yes. Lowenstein Sandler has agreed to a discount on its partner rates
19 of 10%, and to not charge for non-working travel time, as stated in paragraph 9 above.

20 Question: Do any of the professionals included in this engagement vary their rate
21 based on the geographic location of the bankruptcy case?

22 Response: No.

23 Question: If you represented the client in the 12 months prepetition, disclose
24 your billing rates and material financial terms for the prepetition engagement, including any
25 adjustments during the 12 months prepetition. If your billing rates and material financial terms have
26 changed post-petition, explain the difference and the reasons for the difference.

27 Response: Lowenstein Sandler did not represent the Committee prior to the
28 Petition Date.

SCHEDULE 1
POTENTIAL PARTY LIST⁴

Bankruptcy Judges

August B. Landis
Gary A. Spraker
Gregg W. Zive
Hilary L. Barnes
Mike K. Nakagawa
Natalie M. Cox

Benefit Providers

ADP Canada Co. Payroll Technologies
American Specialty Health Incorporated (ASH) d/b/a Active&Fit Direct
Berkley Industrial Comp. d/b/a Carolina Casualty Insurance Company
CIGNA
Colonial Insurance
Ginger
Happify
Humana Insurance Co.
IMG's Travel Assistance Services
iPrevail
MacLean Financial Group
MD Live
Nationwide
Navia Benefit Solutions
PayChex
Paylogix f/b/o Nationwide
Prudential Insurance Company of America
QUILITY Insurance Services
Regional Emergency Medical Services Authority (REMSA)
Reliance Standard Life Insurance
SamCore Inc.
Talk Space
Victor Insurance Managers Inc.
Virgin Pulse
WorkingAdvantage, an EBG Platform
WorkSafeBC

Contract Counterparties

Adobe Inc.
Allied Sanitation Services
Alpesh Surati
Arimex Industrial
Atkinson Construction LLC

⁴ The parties included on this list (and the categories contained herein) are for purposes of a conflicts check only and should not be relied upon by any party as a list of creditors or for any other purpose. As listing a party once allows our conflicts specialists to run a check on such party, we have attempted to remove duplicate entries where possible. Accordingly, a party that would otherwise fall under multiple categories is likely to be listed under only one category.

1 Barr Engineering
2 BESTECH Canada Limited
3 Boart Longyear
4 Carwil
5 CGK Consulting Inc.
6 Cheek Construction LLC
7 Deswik USA Inc.
8 Dusenbury Environmental Services
9 Evolve Security
10 FKC Lakeshore Inc.
11 Fort Lowell Consulting
12 Graymar Environmental Service, Inc.
13 GroundHog Apps
14 Haley & Aldrich
15 Haley & Aldrich, Inc.
16 Halo Service Solutions
17 ICM Solutions, LLC
18 Jim Menesini Petroleum
19 JW Welding Supplies & Tools
20 Konica Minolta Premiere Finance
21 Kool-IP
22 Layne Minerals LLC
23 Major Drilling America Inc.
24 McGinley & Associates
25 Millcreek Engineering Company
26 MyComply
27 Nevada Cement Company Inc.
28 Next Level Internet Inc
NOREX Inc.
Pacific Office Automation
Paterson & Cooke
Platoro Mine Consulting LLC
Preffered Networks Inc.
Quality Scales Unlimited
R & M Security
Redi Services LLC
RGGS Land & Minerals Ltd.
Robert Half
Robison Engineering Company Inc.
Rocky Mountain Railcar Repair
Rough Stock Mining LLC
Sierra Rentals and Transport
Sierra Staffing Group LLC
Southwest Energy
SRK Consulting Inc
Steve Newman
Subterranean Boring Inc
Teresa Thom
ThermoFisher Scientific
Thomas Gallaway Corp d/b/a Technologent
Tori Martinez
Velosio
Walker River Mechanical Corporation

Westland Resources

Creditor Professionals

Akin Gump Strauss Hauer & Feld
Bennett Jones LLP
Cleary, Gottlieb, Steen & Hamilton LLP
Davis, Graham & Stubbs LLP
Milbank LLP
Shea Larson PC
White & Case LLP

Customers

Aurubis AG
Aurubis Bulgaria AD

Debtors

0607792 B.C. Ltd. (BC)
Lion Iron Corp. (Nevada)
NC Ditch Company LLC (Nevada)
NC Farms LLC (Nevada)
Nevada Copper Corp. (BC)
Nevada Copper Inc. (Nevada)

Debtors' Bankruptcy Professionals

AlixPartners, LLP
Allen Overy Shearman Sterling US LLP
Alvarez & Marsal Canada Inc.
Citigroup Global Markets Inc.
Epiq Corporate Restructuring, LLC
Moelis & Company

Depository Banks

BMO Harris Bank

Directors and Officers

Anna Ladd-Kruger
Carolyn "Lina" Tanner (General Counsel)
Cassandra Joseph
Clare Devincenzi (Corporate Secretary)
Elaine Dorward-King
Elva Gonzalez
Ernest (Ernie) Nutter
Evgenij Iorich
Greg French (VP Exploration)
Greg Martin (EVP and CFO)
Guillaume de Dardel
John Cash (Advisory Member)
John Nagulendran
Kalidas Madhavpeddi
Kate Southwell
Lucio Genovese
Matthew Anderson (VP Finance and Treasurer)
Michael Brown

1 Michael Hassler
2 Patrick Gormen (Advisory Member)
3 Phillip “Kris” Sims
4 Raffaele (Lucio) Genovese
5 Randy Buffington (President and CEO)
6 Rod Redden (Advisory Member)
7 Sheldon Vanderkooy
8 Stephen Gill (Non-Executive Chairman)
9 Tom Albanese (Lead Independent Director)

6 **Environmental/Regulatory**

7 Bureau of Safe Drinking Water
8 NDEP - BAPC
9 NDEP-BMRR
10 NDEP-BWPC
11 Nevada Department of Wildlife
12 Nevada Mining Association
13 NevDCNR
14 Oak Valley Hospital District
15 South Lyon Medical Center
16 State of Nevada - Div. of H2O Resources
17 Walker River Irrigation District

13 **Equipment Lessors**

14 CAT Financial
15 CIT Group/Equipment Financing, Inc.
16 CIT Railcar Funding Company, LLC
17 Epiroc Financial Solutions
18 Mine Hoist International Ltd
19 Normet Americas

17 **Insurance Providers**

18 AIG Specialty Insurance Co
19 Allied World Specialty Insurance Company
20 Apollo Syndicate Management Limited
21 Aspen Insurance
22 Banyan Risk Services Ltd.
23 Beazley
24 Berkshire Hathaway Specialty Insurance Company
25 Canopus/Amlin
26 Chubb Insurance Company of Canada
27 CNA Canada
28 CNA Hardy
Continental Casualty Company
Definity
FastTrack
First Insurance Funding Corp.
First Insurance Funding of Canada
General Star Indemnity Company
Great American Insurance Group (GAIG)
Inigo Insurance
Intact Insurance Company
International Mining Industry Underwriters (IMIUI)

1 Lloyd's Insurance Company
LP Insurance Services, LLC
2 Markel Canada Limited
Marsh Canada Limited
3 Munich Reinsurance America, Inc.
QBE Insurance
4 Redwood Fire and Casualty Insurance Company
Starr Indemnity & Liability Co
5 Swiss Reinsurance America Corp
The Economical Insurance Group
6 Zurich Insurance Company Ltd

7 **Members of US Trustee Office**

8 Alisa Wongvasinkul
Anabel Abad-Santos
9 Anita Benson
Avis J. Rhinehart
10 Bryan Coleman
Cameron Gulden
11 Carla K. Cordero
Carlos Hernandez-Vivoni
12 Cecilia Jimenez
Christina Goebelsmann
13 Deanna K Hazelton
Edmund Gee
14 Edward M. McDonald
Gregory Powell
15 Ivy Cones
Jared A. Day
16 Jason Blumberg
Jay Chien
17 Joni Brun
Jorge A. Gaitan
18 Justin C. Valencia
Katina Umpierre
19 Keith Swanson
Kristin McAbee
20 Kristine Kinne
Lamar Lewis-Sutton
21 Laurie Brugger
Lisa M. Grootendorst
22 Michael Fletcher
Michael Mitchell
23 Michelle Forrest
Monette Semana
24 Paul Leahy
Reinhard Freimuth
25 Shane Bharat
Sue Wolny
26 Terri Didion
Tracy Hope Davis
27 Trevor Fehr
28

Ordinary Course Professionals

Davison Van Cleve, P.C.
 Hartwell Thalacker, Ltd.
 Jackson Kelly PLLC
 Miller Thomson LLP
 Pashman Stein Walder Hayden, P.C.
 Torys LLP
 Vedder Price, P.C.

Other Governmental Authorities/Agencies

Alberta Securities Commission
 British Columbia Securities Commission
 Bureau of Alcohol, Tobacco,
 Bureau of Safe Drinking Water (BSDW)
 Canada Deposit Insurance Corporation (CDIC)
 City of Reno
 City of Yerington
 Department of Homeland Security
 Department of Interior - BLM
 Department of Motor Vehicles
 Federal Communications Commission
 Federal Deposit Insurance Corporation (FDIC)
 International Accounting Standards Board
 International Finance Corporation (IFC)
 Lyon County Fair and Rodeo
 Lyon County Recorder
 Mason Valley Fire Protection
 Mineral County Assessor
 Mineral County Building Department
 Mineral County Recorder
 Nevada Department of Wildlife (NDOW)
 Nevada Division of Environmental Protection (NDEP) - BAPC
 Nevada Division of Environmental Protection (NDEP) - BMRR
 Nevada Division of Environmental Protection (NDEP) - BSMM
 Nevada Division of Environmental Protection (NDEP) - BWPC
 Nevada Mining Association
 Nevada Secretary of State
 Nevada State Fire Marshall
 Nevada State Health Division
 NevDCNR
 Northern Nevada Development Authority
 Oak Valley Hospital District
 Office of the United States Attorney for the District of Nevada
 Ontario Securities Commission
 Ontario Superior Court of Justice
 State of Nevada
 State of Nevada - Dept of Ag
 State of Nevada - Div. of H2O Resou
 System for Electronic Document Analysis and Retrieval (SEDAR)
 Toronto Stock Exchange (TSX)
 US Department of Treasury - MSHA
 Walker River Irrigation District

Other Lienholders

Amalgamated Mining & Tunnelling Inc.
 AMC USA LLC
 American Assay Laboratories
 American Equipment, Inc.
 Atlas Copco Customer Finance USA LLC
 Bank of Montreal/Banque De Montreal
 Barr Engineering Co.
 Boart Longyear Company
 BrandSafway Services LLC
 CarWil, LLC
 CIT Bank, N.A.
 Davidson Sales & Engineering, Inc.
 Double Down Heavy Repair LLC
 Durus Industrial, LLC
 Ecofab Maintenance USD Inc
 Exptl Ltd., A Company Organized Under The Laws of The Cayman Islands
 GM Financial
 Hoffman Manufacturing Inc.
 Idaho Mine Technicians, LLC
 Jodouin Mine Ventilation LTD
 Kaman Industrial Technologies Corporation
 Kelley Freight Brokers
 Komatsu Equipment Co.
 Lhoist North America of Arizona
 Maxim Crane Works LP
 Mine Hoists International LTD
 NFS Leasing, Inc.
 Normet Americas Inc.
 Northern Nevada Equipment
 Paterson & Cooke Canada Inc.
 PDM Steel Service Centers, Inc.
 Peoples United Bank
 Purcell Tire & Rubber Company
 Rema Tip Top/North America Inc
 Respec Company, LLC
 Responsible Mining Solutions
 RGGS Land & Minerals. Ltd., L.P.
 Rubicon Mechanical LLC
 Saia LTL Freight
 Savage Services Corporation
 Somerset Leasing Xxv, LLC
 SunBelt Rentals Inc
 Tech-Flow, LLC
 Techline Services Inc
 TFORCE Freight, Inc.
 Total Quality Logistics, LLC
 WebBank
 Wesco
 Wild West Chevrolet
 Williams Scotsman, Inc.

Other Professionals

McDonald Carano LLP

Others, Case Specific

Aaron Lopez

AccuWeather Enterprise Solutions

acQuire Technology Solutions

Adam King

Advanced Weighing Systems LLC

Agilent Technologies, Inc.

Agru America, Inc.

AHern Rentals, Inc.

Aikenhead Physical Therapy, LLC

Alan Rogelio Pineda-Chavez

Aletek LLC

Amazon.com

American Drilling Corp LLC

American Group, LLC

Analytics-Shop USA LP

Anthony O. Lopez

Anthony T. Reviglio

Aon Reed Stenhouse Inc.

Applied Industrial Technologies, Inc.

ARC WorkPlace Services

Associated Pension Consultants, LLC

Atlas Electric Inc

Audiology Consulting and Training

Azteca Consulting, LLC

Bentley Systems, Inc

Berkley Industrial Comp.

Berkshire Hathaway Homestate Insurance Co

Big Iron Rents and Sales, Inc

Bittersweet NC LLC

Brenner-Fiedler & Associates, Inc

Brian Groom

Bryce Roe

BTE West

Burt Process Equipment, Inc.

C.C. Jensen, Inc.

C.H. Spencer & Company

Call & Nicholas, Inc.

Capurro Trucking

CDW Direct LLC

Centennial Equipment Co., Inc.

CGK Consulting Group, Inc

CGS, Inc.

Chuck Pollard

Cisco Air Systems

Codale Electric Supply, Inc.

Coeur Products LTD INC

Colton Honnold

Compressor-Pump & Services, Inc.

Comstock Seed

1 CraneTech, Inc.
2 Crescent Electric
3 Cyclone Transport LLC
4 D. Isom Mobile Glass & Isom Crane
5 David Anthony Coelho
6 De Lage Landen Financial Services, Inc
7 DEA Incorporated
8 Desert Engineering
9 Dominic Carvelas
10 Doug Cleland
11 DSV Air & Sea, Inc.
12 DXP Enterprises, Inc.
13 Dynaway
14 Electrical Reliability Services Inc
15 Elko Wire Rope and Mining Supply
16 Empire Southwest
17 Employer Lynx, Inc.
18 Environmental Express, Inc
19 Eric C. Scott
20 Evolve Security, LLC
21 Examinetics Inc
22 Farmer Brothers
23 Fastenal Company
24 Federal Express
25 FedEx Freight
26 Ferguson Enterprises, Inc.
27 FKC Lake Shore
28 Flanders Electric Motor Service LLC
Flo Components Ltd
Flo-Line Technology, Inc.
Forestry Supplies, Inc.
Fritz-Pak Corporation
G.L. Tiley & Associates LTD.
G2 Archaeology
Geologic Associates, Inc.
GIOMI, INC.
Globe 24-7 Inc
Grainger
Grand Sierra Resort
Graphic Products, Inc
Greenfield Project Development Services LLC
Hard Rok Equipment, Inc.
Hard-Line USA, Inc.
Hartwell Thalacker LTD
Hatch LTD
Hawthorne Recycling Metals Co
Haynsworth Sinkler Boyd, PA
H-E Parts International Mining
Herc Rentals Inc
Hexagon Mining Inc.
High Grade Controls Corporation
Hitachi Solutions Canada, Ltd.
HosePower USA

1 Industrial Automation Services, Inc.
Ingeteam Inc
2 Insight Direct USA, Inc.
International Casting & Supplies
3 J.W. Welding Supplies and Tools
Jack R. Cline
4 Jackson Kelly PLLC
JBA Works, Inc.
5 Jeff N. Faillers, P.C.
Jennifer L. Light
6 Jentech Drilling Supply Inc
Jeremy B. Croft
7 Jose L. Arredondo Vizcaya
JP Mine Rescue Consultant, LLC
8 Kahl Commercial Interiors
Kappes, Cassiday & Associates
9 Kasandra C. Fimbres
Kenton Hoshino
10 Kimball Rentals LLC
Korin Carpenter
11 Kyle Bryce
Kyle White
12 L.N. Curtis & Sons
L/P Insurance Services, LLC
13 Lahontan Paramedical
LBR Enterprises, LLC d/b/a Copper Village
14 Legend, Inc.
Luis A. Ramirez
15 M. Dusenbury Envi. Services, Inc.
Marsh USA LLC
16 Mason Valley Fire Protection Distri
McGinley & Associates, Inc.
17 McLanahan Corporation
McMaster-Carr
18 Mike Probst
Miller Sales & Engineering, Inc.
20 MineARC Systems America, LLC
Minova USA Inc
21 Moly-Cop USA LLC
Motion Industries, Inc.
22 MSC Industrial Supply
myComply US Inc.
23 Nevada Cement Co.
NevCan Inc.
24 New Pig Corporation
NISS
25 Noe Leanos Garcia
Norco, Inc.
26 Nordic Minesteel Technologies Inc
Northern Nevada Rebar, INC.
27 Northern Tool
28 Occupational Health Centers of the
Office Depot

1 OSECOELFAB
Pac Machine Company, Inc.
2 Paessler AG
PetroSolutions LLC
3 PEX - Prepaid
Plastiques G Plus Inc
4 Postmaster
Praneeth Gali
5 Print N' Copy Center (PNCC)
Priority 1 Alert, Inc.
6 Progressive Insurance
Qal-Tek Associates LLC
7 Radiation Detection Company
8 Ramiro Guerrero
Raul D. Elenes
9 Redi Services, LLC
Renaissance Reno Downtown Hotel
10 RespSafety
Rick Hemsworth
11 Rock Solid Training and Solutions
Rock-Tech
12 RPM Expedite Nevada, LLC
Ryan McCalden
13 Safetyculture PTY LTD
SAMG Occupational Medicine
14 Sangoma US
Senergy Petroleum
15 Shoebox Ltd.
Shred-It USA LLC
16 Sierra Corporate Services
Sierra Electronics
17 Sierra Rental and Transport Co.Inc
Sign City
18 Silver State Analytical Labs
Silver State Fire LLC
19 Silver State Wire Rope & Rigging
Smith Power Products, Inc.
20 SNF Inc.
Sonoma Health & Safety Center
21 Sonsray Machinery, LLC
Source Too Machine, Inc.
22 Staples Contract & Commercial LLC
State Fire DC Specialties, LLC
23 Sticks & Stones
Summit Engineering Corporation
24 Super Tek X Automation, Inc.
Synergy Controls Corporation
25 The Cart Barn
Tony Cerasia
26 Tony Hendrick
ULINE, Inc.
27 United Central Industrial Supply Co
28 United Rentals (North America)

1 United Site Services of Nevada Inc
 UPS
 2 UPS Freight - Dallas
 Vanessa Quesada
 3 Vector Solutions
 Verve Cloud, Inc.
 4 Virginia Ibarra
 VLCM
 5 Walker River Mechanical Corp
 Wayne D. Felzien
 6 Weetah W. Kennison
 Weir Minerals North American
 7 Weld-Pro Solutions LLC
 Wells Fargo Vendor Financial Services LLC
 8 Western States Automation, LLC
 Whistleblower Security
 9 WiFiber LLC
 10 William H. Collins
 Wood Canada Limited
 11 Worley Canada Services Ltd.
 Yerington Auto Parts
 12 Yerington Family Vison Center
 Yerington Inn
 13 Zoro Tools, Inc

14 **Potential Purchasers/Investors**

15 Assarel
 Elliott Investment Management

16 **Royalty Recipients**

17 Majuba Mining Ltd.
 Renegade Resources Corporation
 18 RGGGS Land & Minerals Ltd.

19 **Secured Lenders**

20 Concord Resources Limited
 Elliott Investment Management
 Elliott Investment Management d/b/a Hyperion
 21 KfW IPEX-Bank GmbH
 Manchester Securities Corp.
 22 Mercuria Energy Trading
 Mercuria Investments US, Inc.
 23 NIU Invest SE
 Pala Investments Limited
 24 TF Canada
 TF R&S Canada Ltd.
 25 Triple Flag
 Triple Flag International Ltd.
 26 Triple Flag Mining Finance Bermuda, Ltd.
 Triple Flag USA Royalties Ltd.
 27 U.S. Bank Trust Company, National Association
 28 Ziwa Investments Limited

Shareholders

Alexander Hall
Cassandra Joseph Tr Cassandra Joseph Family Trust UA 5/16/2016
CDS & Co
Exchanges Control For C01/C
Jennifer Hall
Kalidas Madhavpeddi
Mercuria Holdings (Singapore) Pte Ltd
Pala Assets Holding Limited
Pala Investments Limited
Pelham Investment Partners LP
Phillip Day
Sedgman USA Inc
Summit Partners Credit Advisors LP

Suppliers and Vendors

Cashman Equipment Company
Caterpillar Financial SARL
Dumas Contracting LTD.
Epiroc Financial Solutions USA LLC
Epiroc USA LLC
Guy F. Atkinson Construction, LLC
Jennmar Corporation of Utah, Inc.
Jim Menesini Petroleum Products
NewField Companies, LLC
RAM Enterprises
Redpath USA Corporation
Small Mine Development LLC
Western Nevada Supply

Sureties

Aon
Nevada Division of Environmental Protection (Reclamation)
Sierra Pacific Power Company d/b/a NV Energy
Trisura Insurance Company
United States Department of the Interior Bureau of Land Management

Taxing Authorities

Canada Revenue Agency
Internal Revenue Service
Lyon County Treasurer
Mineral County Treasurer
Minister of Finance
Nevada Department of Taxation
Nevada State Treasurer
Storey County Business Licensing
Storey County Treasurer
United States Treasury
Washoe County Treasurer

Temporary Labor/Staffing Agencies

ERP Automated LLC
Fort Lowell Consulting PLLC

1 Kapra Cleaning LLC.
2 Lynx Enterprise LLC
3 Manpower
4 R and M Security LLC
5 TJA Consulting LLC
6 XRT Consultants LLC

Unsecured Creditors

7 Automatic Welding Inc.
8 Brake Supply Company Inc
9 C&B Pumps & Compressors, LLC
10 Chlumsky, Armbrust & Meyer, LLC
11 Computershare
12 Cripps Leadership Advisors Ltd
13 Desert Ready Mix, LLC
14 DMI Digital Media Innovations Canada, Inc
15 Dorsey & Whitney LLP
16 F & H Mine Supply, Inc.
17 First Insurance Funding (a division of Lake Forest Bank & Trust Company)
18 FLSmidth
19 Hugessen Consulting
20 Kimball MidWest
21 Kool-IP Solutions Corp.
22 Maddox Industrial Transformer, LLC
23 McInnes Cooper
24 ME Global
25 Mercuria Investments US, Inc.
26 Mill Man Steel, Inc.
27 Pala Investments Limited
28 Partners in Performance USA Inc.
Prepaid Expense Card Solutions, Inc.
Pricewaterhouse Coopers LLP
PricewaterhouseCoopers LLP
Proactive Investors North American Inc
Rain For Rent
Southern Tire Mart, LLC
Southwest Energy LLC
Thiessen Team USA, Inc.
Tom Albanese
Triple Flag International Ltd.
Turnstone Industrial Solutions LLC
Union Pacific Railroad Company
Wedco Inc.
Workiva Inc.

Unsecured Noteholders

Hannam Investments

Utility Providers

Allied Sanitation & Septic Services
Charter Communications
City of Alhambra Utilities Dept.
D&S Waste Removal, Inc.

1 Frontier Communications Parent, Inc.
2 H2O-4-U Potable Water Services, LLC
3 NV Energy
4 Rango
5 Sky Fiber Internet
6 Southwest Gas Corporation
7 Sparkletts & Sierra - Alhambra
8 Starlink.com
9 Waste Management of Nevada
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SCHEDULE 2

<u>Entity</u>	<u>Relationship to Debtors^[2]</u>	<u>Relationship to Lowenstein Sandler</u>
Computershare	Unsecured creditor.	Current client.
Happify	Benefit provider.	Twill, Inc. (Happify) is a current client of Lowenstein Sandler.
Prudential Insurance Company of America	Benefit provider.	Current client.
Alvarez & Marsal Canada Inc.	Bankruptcy Professional	Current client.
CIT Group/ Equipment Financing, Inc.	Equipment Lessor.	First Citizens Bancshares, the parent company of CIT Group is a current client of Lowenstein Sandler..
Atlas Copco Customer Finance USA LLC	Lienholder.	Current client.
Amazon.com	Not specified.	Current client.
U.S. Bank Trust Company, National Association	Secured lender.	Current client.
Turnstone Industrial Solutions LLC	Unsecured creditor.	FalconPoint Capital Partners LLC, an affiliate of Turnstone Industrial Solutions LLC, is a current client.
Hitachi Solutions Canada, Ltd.	Not specified.	Current client.
Jennmar Corporation of Utah, Inc.	Supplier/Vendor.	Current client.
Waste Management	Utility provider.	Waste Management is a member of a group of potentially responsible parties on an environmental litigation matter being handled by Lowenstein Sandler. Lowenstein Sandler is not representing Waste Management in its individual capacity).
Moelis & Company	Bankruptcy Professional	Former client.
Federal Deposit Insurance Corporation (FDIC)	Governmental Authority/Agency.	Former client.
United Site Services of Nevada, Inc.	Not specified.	Former client.
Elliott Investment Management d/b/a Hyperion	Potential purchaser/investor.	Former client.
Caterpillar Financial SARL	Supplier/Vendor.	Former client.
Akin, Gump, Strauss, Hauer & Feld, LLP	Creditor professional.	Co-counsel on unrelated matters.
Cleary Gottlieb Steen & Hamilton LLP	Creditor professional.	Co-counsel on unrelated matters.
Milbank, LLP	Creditor professional.	Co-counsel on unrelated matters.
White & Case LLP	Creditor professional.	Co-counsel on unrelated matters.

^[2] This schedule is for disclosure purposes only and uses the Debtors' description of the relationship to the Debtors, where available. The Committee expressly reserves all rights, including, without limitation, with respect to the nature, extent and validity of any party's alleged lien or claim.

EXHIBIT 1

(Qualifications and Experience of Attorneys)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



Jeffrey Cohen

Partner
Chair, Bankruptcy & Restructuring Department

New York
T: +1 212.419.5868 | F: +1 973.597.2400
jcohen@lowenstein.com

A trusted advisor to unsecured creditors, creditors' committees, and distressed companies, Jeffrey Cohen leads the firm's highly esteemed Bankruptcy & Restructuring department. His tenacious counsel has contributed greatly to increasing Lowenstein's robust client base in retail bankruptcy, and is highly valued by distressed companies across the technology, consumer goods, and other sectors.

Jeff's practice primarily centers on Chapter 11 bankruptcy reorganizations and related litigation. His recent representations include the creditors' committees in New rue21 Holdco, Inc., Nogin, Inc., Anagram Holdings, Proterra Inc, Williams Industrial Services Group, Benefytt Technologies, Inc., Tuesday Morning Corporation, Vital Pharmaceuticals, Inc. (dba Bang Energy), Century 21 Department Stores, GNC, Sur La Table, Modell's Sporting Goods, Murray Metallurgical Coal, The Northwest Company, and Maines Paper & Food Service.

With extensive experience in distressed corporate transactions, Jeff helps his clients implement strategies that maximize value and present a clear vision for the best path forward. He works closely with middle market companies and their boards of directors, management, and owners on out-of-court restructurings, assignments for the benefit of creditors, and Chapter 11 filings.

Jeff also provides counsel to private equity-sponsored and venture capital-backed distressed investors, representing boards and management in the out-of-court wind down or distressed M&A process. Most recently, Jeff represented several private equity sponsors in the out-of-court workouts of iFit Health & Fitness and Dunn Paper.

EXPERIENCE

- > Iconic Consumer Brands and Their Creditors: Creditors' committees of *Atari*, *Lenox China*, *Brookstone*, and Gibson Guitar; individual creditors include Under Armour, Fila USA, Columbia Sportswear, Brooks Running, The Estée Lauder Companies Inc.
- > Consumer Goods and Retail: Creditors' committees of Century 21 Department Stores, GNC, Sur La Table, Modell's Sporting Goods, The Northwest Company, Maines Paper & Food Service, United Sporting Companies, Fred's, Gander Mountain, Vitamin World, *Blockbuster Video*, *Filene's Basement*, *Golfsmith*, *City Sports*, *Sharper Image*, *Pizzeria Uno*, Vestis (*Bob's Stores*, *Eastern Mountain Sports*, *Sports Chalet*), KB Toys, Levitz Furniture, Wickes Furniture, Bombay Company, Skymall, Allen's, Alexander Gallo Holdings, Signature Styles (dba Spiegel, Newport News, and ShapeFx), Archbrook Laguna Holdings, Oriental Trading, Claim Jumper Restaurants, Sports Collectibles (dba BC Sports), Goody's Family Clothing, Boscov's, Scooter Stores, Bachrach Clothing, Troutman's Emporium, The Walking Co., Velo Holdings. Debtor representations include *Crabtree & Evelyn*, *Metropark USA*.
- > Manufacturing and Industrial: Creditors' committees of Murray Metallurgical Coal, Mission Coal Company.
- > Sports, Technology, Media and Entertainment: *National Football League* in the Cumulus Media Chapter 11 cases; several *New York Cosmos* team players in the restructuring of the National American Soccer League (NASL) to avoid closure of the league in 2016; *Beyond Oblivion* creditors' committee (music streaming service Chapter 11); *KIT Digital*, *Fuhu* (children's Nabi™ tablets), *Aquion*, *Hipcricket*.
- > Distressed Technology Companies and the Internet-Connected Home: Debtors in Chapter 11, including *Quirky, Inc.* and *Wink, Inc.* in the sale of their assets to Flextronics, Inc.; *Metromedia Fiber Network*; out-of-court wind down and sale of *LittleThings, Inc.* to RockYou.
- > *Italicized names indicate matters handled prior to joining Lowenstein.*

HONORS & AWARDS

- > **Chambers USA: America's Leading Lawyers for Business (2024)**
Recognized for work in Bankruptcy/Restructuring - New York
- > **New York Metro Super Lawyers, published by Super Lawyers, part of Thomson Reuters (2013-2023)**
Recognized for work in Bankruptcy: Business

NEWS & INSIGHTS

Publications

- > March 20, 2023
"SVB Financial Group Files for Chapter 11 Bankruptcy," *Bankruptcy & Restructuring Client Alert*
 Jeffrey Cohen , Andrew Behlmann , Philip J. Gross , Lowell A. Citron , Rossie E. Turman III , Ed Zimmerman , Anthony O. Pergola
- > October 26, 2022
"The Role of a Creditors' Committee to Investigate, Preserve, and Pursue Causes of Action in Crypto Bankruptcies," *Bankruptcy & Restructuring Department Client Alert*
 Jeffrey Cohen , Andrew Behlmann , Phillip Khezri
- > September 7, 2022
"Crypto Considerations in Bankruptcy Plans of Reorganization," *Bankruptcy & Restructuring Department Client Alert*
 Jeffrey Cohen , Andrew Behlmann , Phillip Khezri
- > August 16, 2022
"Your Crypto Platform Filed for Bankruptcy. Now What?," *Bankruptcy & Restructuring Department Client Alert*
 Jeffrey Cohen , Andrew Behlmann , Phillip Khezri
- > August 26, 2021
"Loan Forgiveness as Basis for Fraudulent Transfer Claims," *Bloomberg Law*
 Jeffrey Cohen , Michael A. Kaplan , Colleen M. Restel
- > August 12, 2021
"Insurers Misuse Proof of Claim Forms in Mass Tort Bankruptcy Cases," *Bloomberg Law*
 Jeffrey Cohen , Michael A. Kaplan , Rasmeet K. Chahil
- > April 28, 2021
"Why Retail is in a Holding Pattern – and Should Be For a Few More Months," *Chain Store Age (CSA)*
 Jeffrey Cohen
- > October 15, 2020
"Congress Should Rewrite The Bankruptcy Examiner Mandate," *Law360*
 Jeffrey Cohen , Michael A. Kaplan , Rasmeet K. Chahil
- > April 8, 2020
"Vigilance Now Can Help Avoid Scrutiny Later: Fiduciary Duties in the Midst of a Global Pandemic," *Litigation and Bankruptcy Client Alert*
 Jeffrey Cohen , Matthew Boxer , Michael A. Kaplan , C. Patrick Thomas
- > April 1, 2020
"When Financial Stress Turns to Distress—Restructuring Tools to Avoid Disaster Parts 1 and 2: Chapter 11 Checklist and What Else Is in the Toolbox," *Bankruptcy & Restructuring Department*
 Jeffrey Cohen , Jeffrey D. Prol , Andrew Behlmann , Eric Chafetz , Michael S. Etkin , Bruce S. Nathan ,
- > March 20, 2020
"Critical Checklists for Business Owners and Management to Mitigate Risk of Financial Distress During the COVID-19 Crisis," *Bankruptcy & Restructuring Department*
 Jeffrey Cohen , Jeffrey D. Prol , Andrew Behlmann , Eric Chafetz , Michael S. Etkin , Bruce S. Nathan ,
- > January 22, 2020
"Significant Amendments Enacted to New Jersey's WARN-related Act," *Lowenstein Sandler Client Alert*
 Julie Levinson Werner , Jeffrey Cohen , Amy C. Schwind
- > June 1, 2018
"Remain on Guard: Lessons for Trade Creditors in a post-Toys 'R' Us World," *CRF News*
 Jeffrey Cohen
- > March 7, 2018
"Lessons From Merit Management: The Settlement Payment Defense Lives ... if You Are a 'Financial Institution'," *Lowenstein Sandler Client Alert*
 Jeffrey Cohen , Richard Bernstein , Michael A. Brosse , Jonathan C. Wishnia
- > April 1, 2017
"Retail Bankruptcies Are Skyrocketing: Creditors, Protect Your Rights!," *CRF News*
 Jeffrey Cohen

In the Media

- > June 26, 2024

News that **David M. Posner** and **Gianfranco Finizio** have joined Lowenstein Sandler as partners in its **Bankruptcy & Restructuring Department** was covered by **Bloomberg Law**, **Law.com**, **ROI-NJ**, **Financial Times**, **Reuters**, and **Law360**.

Department Chair **Jeffrey Cohen** tells *Law.com*: "Their reputations speak for themselves. ... When you have the opportunity to bring people on of the sort of quality and depth as David and Franco, you have to do it."

Finizio comments: "It's also important for all firms, quite frankly, to develop your next generation, and I think Lowenstein has done a great job doing that, especially recently ... Lowenstein has a good core of younger lawyers who are my peers who I can practice with for the foreseeable future."

Regarding the current market, Cohen says: "Demand started to pick up around 18 months ago ... and we were very busy last year. We had the most creditor committee engagements in the industry last year, and work has continued to increase since then." Posner adds: "Compared to the last two years, we've seen an uptick in filings this year... At first, as interest rates went up, we didn't see a tidal wave of filings, but between the inflationary pressures and high interest rates [this year], we see companies with balance sheets they need to manage somehow."

In *Law360*, Posner observes: "We think that the combination of us and the people that are already here [at Lowenstein]—we will be a force in the committee space."

> June 10, 2024

Jeffrey Cohen, partner and Chair of Lowenstein's **Bankruptcy & Restructuring Department**, tells **Restaurant Dive** that Red Lobster's economic troubles may have been influenced by the restaurant's supplier (also their largest equity owner.) "Allegations that [the supplier] exerted undue influence on [Red Lobster] management's decisions to require a larger supply from them, and perhaps at above market rates, that's the problem," Cohen says. He adds that the situation "screams of a settlement" because protracted litigation would be too expensive and disruptive to the restaurant's operations.

> April 17, 2024

In *Law360*, **Jeffrey Cohen**, Chair of Lowenstein's **Bankruptcy & Restructuring Department**, comments on the Chapter 11 filing by discount retailer 99 Cents Only, noting that it is not indicative of trouble for the sector. "Dollar store prices are so much further below standard department retail that I still do think that they offer a meaningful difference to the consumer," Cohen says.

> October 18, 2023

In *Law360*, **Jeffrey Cohen**, partner and Chair of Lowenstein Sandler's **Bankruptcy & Restructuring Department**, comments on Rite Aid's decision to file for bankruptcy in New Jersey, highlighting several factors that influenced the decision. Cohen notes New Jersey judges' ability of handling large and complex cases, emphasizing the "large concentration of restructuring lawyers and judges in the New York area." He also emphasizes the convenience of New Jersey as a venue, citing its proximity and cost-effectiveness compared to other locations such as Texas. (*subscription required to access article*)

> April 27, 2023

As reported in *Law360*, **Jeffrey Cohen**, partner and Chair of Lowenstein Sandler's **Bankruptcy & Restructuring Department**, argued on behalf of the official committee of unsecured creditors of **Tuesday Morning** that any "restrictions that impinged on Tuesday Morning's ability to continue doing business as usual could make it less valuable, which could lead to the purchase price dropping." The sale of substantially all of Tuesday Morning's assets was approved at the conclusion of this five-and-a-half-hour hearing before the U.S. Bankruptcy Court for the Northern District of Texas.

> May 22, 2022

Jeffrey Cohen, chair of the firm's **Bankruptcy & Restructuring Department**, continues his conversation with fellow contributors to **The Creditor Rights Coalition**, on the subject of independent directors. Cohen says that, in order to prove that a director is disinterested as required under Section 327: "subjecting the selection of the director to the scrutiny of the court should be a no brainer. If there's nothing to hide, then it's an easy disclosure to the court. And then once you're in front of the court, just proving that you don't have connections to parties in interest or advisors that would result in you being unable to perform your duties should also be something pretty easy to prove."

Cohen further addresses the timing issue for contesting an independent director's actual independence. He says, "Usually the first time anyone can challenge an independent director's independence is at a contested confirmation hearing, right? It's after we've gone through discovery, after we've run an investigation. I believe it needs to be done at, or shortly after the bankruptcy filing before all the parties and interest put significant amount of time and effort into doing their jobs. We should know whether an independent director is actually independent at the beginning of the case."

> May 15, 2022

Jeffrey Cohen, chair of the firm's **Bankruptcy & Restructuring Department**, participates in a debate with fellow contributors to **The Creditor Rights Coalition**, over the controversy surrounding independent directors. Cohen says what makes the practice controversial from a creditors' committee perspective is that "the company is retaining independent directors of their choosing. And they're often retaining the same directors that they retained in other bankruptcy cases. And they're retaining them for a specific purpose. And the specific purpose is to render a conclusion favorable to whomever they're trying to protect, be it private equity, directors and officers or anybody that might be the target of an investigation by a committee or any party in interest."

> April 13, 2022

Jeffrey Cohen, chair of the firm's **Bankruptcy & Restructuring Department**, comments in the newsletter of **The Creditor Rights Coalition** on the practice of appointing "independent directors" for troubled companies, noting that while he agrees with the premise that "independent directors are necessary and, in many cases, critical to the chapter 11 process...the primary problem is that these individuals are often recruited and hired by the very people (and professionals) who are subject to scrutiny in a particular case." Cohen adds: "It becomes nearly impossible for recidivist directors to be truly independent when they are relying on these parties to hire them again in the next case."

Cohen suggests two possible remedies: "(1) require independent directors to be retained professionals under section 327 and, consequently, require them to be 'disinterested'; or (2) allow the Committee to select (or jointly select with the Debtor) the independent director(s)."

> August 10, 2021

In **The Wall Street Journal**, **Jeffrey Cohen**, Chair of the firm's **Bankruptcy & Restructuring Department**, addresses the growing practice in Chapter 11 proceedings of providing legal protections to third parties, especially those accused of serious abuse in such bankruptcies as USA Gymnastics, Purdue Pharma, and The Weinstein Company. Cohen says that obtaining third-party releases in such matters has "at least flirted with the line of being abusive," but he adds that change may be imminent due to the widespread effect of wrongdoing in these cases: "The more people it touches, it finally has the impact of identifying it as a problem." (*subscription required to access article*)

> June 6, 2021

On the podcast **Americas Core Credit by Reorg**, **Jeffrey Cohen**, partner and Chair of Lowenstein's **Bankruptcy & Restructuring Department**, discusses his 20-year career, how he fell into restructuring, and his representation of the unsecured creditors' committee in the Century 21 bankruptcy cases, including the department store's unusual asset of insurance claims under its highly customized, bespoke policies. Post-pandemic, Cohen predicts many lenders in the retail sector will continue to "amend and extend" their partnerships with hard-hit retail outlets, at least through the summer or even the holidays.

> April 11, 2021

Jeffrey Cohen, Chair of Lowenstein's **Bankruptcy & Restructuring Department**, comments in **Petition** regarding the Disclosure Statement Objection of the Ad Hoc Committee of Shareholders in the Chapter 11 bankruptcy proceedings of Hertz Global Holdings Inc.

> March 31, 2021

Jeffrey Cohen, partner and Chair of the **Bankruptcy & Restructuring Department**, is interviewed in **Petition**, a newsletter that provides curated distressed investing and restructuring/bankruptcy news and analysis. Cohen discusses the role of Unsecured Creditors' Committees and why he enjoys representing them: "Most cases start with the deck substantially stacked against unsecured creditors, generally, and the UCC, specifically. ... I am intimidated by nobody and will back down from no situation. I'm about getting dollars in creditors' pockets. Along with my team, we'll roll up our sleeves and surgically dismantle most well devised plans when given the chance."

Cohen also addresses trends like prepackaged bankruptcy cases and manufactured venues, shares stories about some of the brand-name clients he has worked with, and expresses admiration for the "speed and growth of the technology we used to run our cases and represent our clients [during COVID-19, as well as] how quickly all case parties came together to work collaboratively to try to figure out a solution. ... To the credit of our industry, we saw a lot of collaboration to get parties to the best result possible."

> January 26, 2021

Jeffrey Cohen, Chair of Lowenstein's **Bankruptcy & Restructuring Department**, comments in **Bloomberg** on the slower pace of Chapter 11 filings at the beginning of the new year. Cohen notes that "[t]here could be a pickup in restructurings in February as companies evaluate their next steps." He adds, "It's not unusual to see a lull in January filings, especially in retail, as companies evaluate holiday performance." Cohen's comments also appeared in **Crain's New York Business**.

> January 22, 2021

Jeffrey Cohen, Chair of Lowenstein's **Bankruptcy & Restructuring Department**, is interviewed on the podcast **Debtwired!** on the future of emerging company restructurings (including VC-backed tech companies), what to expect from the distressed market in 2021, and the Chapter 11 cases of Modell's and Century 21 Department Stores.

> September 22, 2020

Lowenstein's retention as counsel to the Official Committee of Unsecured Creditors in the Chapter 11 Bankruptcy of **Century 21 Department Stores** is noted in the **Global Legal Chronicle**. Century 21 operates 13 retail stores across New York, New Jersey, Pennsylvania, and Florida, along with an e-commerce platform. The Lowenstein team is led by **Jeffrey Cohen**, **Kenneth A. Rosen**, **Lynda A. Bennett**, **Eric Chafetz**, **Brent Weisenberg**, and **Lindsay H. Sklar**. [View Lowenstein's news announcement about this retention.](#)

> September 17, 2020

Jeffrey Cohen comments in **Law360** regarding the progression of the Chapter 11 bankruptcy proceedings of GNC. Representing the Official Committee of Unsecured Creditors, Cohen cited recent compromises as clearing objections by the Committee and leading towards a sale of the 5200-store vitamin retailer, with creditors receiving a greater amount of money and control.

> August 3, 2020

Jeffrey Cohen is featured in **Vogue Business** regarding the onslaught of U.S. retail bankruptcies. Cohen comments on anticipated bankruptcy trends through the second half of the year.

> July 31, 2020

Lowenstein's selection as counsel to the Official Committee of Unsecured Creditors in the Chapter 11 bankruptcy case of Sur La Table, Inc. is highlighted in the **Global Legal Chronicle**. The Lowenstein team includes **Jeffrey Cohen**, **Eric Chafetz**, and **Philip J. Gross**. [View Lowenstein's news announcement about this retention.](#)

> July 27, 2020

Jeffrey Cohen is quoted in **Bloomberg Law** regarding the growing value of brand names and related intellectual property in Chapter 11 bankruptcy cases in light of increased online retail. Cohen comments on the abrupt shift to online shopping due to the COVID-19 pandemic and the magnified value of intellectual property as physical stores shutter their doors.

> July 3, 2020

Lowenstein's retention as counsel to the Official Committee of Unsecured Creditors in the Chapter 11 bankruptcy case of **Maines Paper & Food Service, Inc.** is highlighted in the **Global Legal Chronicle**. The Lowenstein team includes **Jeffrey Cohen, Bruce S. Nathan, Jeffrey D. Prol, and Lindsay H. Sklar**. [View Lowenstein's news announcement about this retention.](#)

> June 17, 2020

Jeffrey Cohen is quoted in **Vogue Business** regarding recent progress in the Chapter 11 bankruptcy of luxury retailer Neiman Marcus. Cohen comments as to the court's decision to approve the company's access to \$250 million in debtor-in-possession financing, and he speaks to the future of the brand post-COVID-19.

> June 2, 2020

Jeffrey Cohen shares with **Business Insider** his strategy for continued client engagement in the absence of live meetings and events. Cohen, who has served as counsel to athletics companies including Under Armour, Fila USA, and Brooks Running, leverages his passion for fitness to create shared experiences and build personal relationships. (*subscription required to access article*)

> April 13, 2020

Jeffrey Cohen is quoted in **Law360** regarding the Modell's Chapter 11 bankruptcy proceedings. As counsel to the official committee of unsecured creditors, Cohen comments on the current suspension of the Chapter 11 case and its impact on the landlord community. He suggests that, while imperfect, suspension of the case was the best long-term solution for both the debtor and the creditors following the COVID-19 retail shutdown.

> March 26, 2020

Lowenstein's retention as counsel to the Official Committee of Unsecured Creditors in the Chapter 11 bankruptcy case of **Modell's Sporting Goods** is highlighted in the **Global Legal Chronicle**. The Lowenstein team includes **Jeffrey Cohen, Nicole Fulfree, and Michael Papandrea**. [View Lowenstein's news announcement about this retention.](#)

> February 25, 2020

Jeffrey Cohen argued contested issues in a disclosure statement hearing of retailer Fred's in the U.S. Bankruptcy Court for the District of Delaware. As reported in **Law360**, Cohen represented concerns on behalf of the Official Committee of Unsecured Creditors regarding comprehensive releases included in the Chapter 11 plan, which would bar stakeholders from pursuing claims against former directors and officers of the now defunct Fred's. The Lowenstein team includes **Jeffrey L. Cohen, Nicole Fulfree, Michael A. Kaplan, Colleen M. Maker, and Lindsay H. Sklar**.

> November 6, 2019

Jeffrey Cohen, Nicole Fulfree, Michael A. Kaplan, Gabriel L. Olivera, and Keara Waldron are cited in a **Global Legal Chronicle** article highlighting Lowenstein's having been selected as counsel to the Committee of Unsecured Creditors in Chapter 11 proceedings for **Fred's, Inc.**, a discount general merchandise store operator. [View Lowenstein's news announcement about this representation.](#)

> November 1, 2019

Jeffrey Cohen is quoted in a **Law360** article detailing a Delaware bankruptcy judge's approval of United Sporting Companies' Chapter 11 plan. As a lawyer for the official committee of unsecured creditors in the case, Cohen expresses satisfaction on behalf of the committee, describing how the confirmation represents the best result for the creditors. The Lowenstein attorneys representing the committee include Jeffrey Cohen, Michael Kaplan, Eric Chafetz, Gabriel L. Olivera, Myles R. MacDonald, Rasmeet K. Chahil, and C. Patrick Thomas.

> July 1, 2019

Jeffrey Cohen is quoted in a **Law360** article regarding the Chapter 11 case of United Sporting Companies. As a lawyer for the official committee of unsecured creditors in the case, Cohen remarks on the recent deal struck between the committee and the debtor, which will allow another chance to find a buyer for the debtor's assets.

> June 28, 2019

Jeffrey Cohen is quoted in **The New York Times** in an article on the fate of startup companies that do not succeed or fail quickly. Cohen observes that venture capital investors may let a company struggle for years: "They're willing to let it ride a little longer to see whether it explodes." (*subscription required to access article*)

> February 19-20; March 8; April 15; May 20; June 22, 2019

Lowenstein Sandler's role as legal counsel to Aceto Corporation in its Chapter 11 bankruptcy filing and in the proposed \$338 million sale of its chemical business assets to New Mountain Capital is highlighted in **Bankrupt Company News, MarketWatch, GlobeNewswire, Markets Insider, StreetInsider.com, EIN Presswire, MarketScreener.com**, and the **Global Legal Chronicle** (May 20, 2019; June 22, 2019). The firm's role as legal counsel in Aceto's sale of subsidiary Rising Pharmaceuticals, Inc. is noted in **The Associated Press, MarketScreener.com**, and the **Global Legal Chronicle**. (Lowenstein team: **Kenneth A. Rosen, Steven E. Siesser, Paul Kizel, Michael S. Etkin, Jeffrey Cohen, Wojciech F. Jung, Philip J. Gross, Michael Savetsky, and Michael Papandrea**.) (*subscription required to view certain content*) [View Lowenstein's news announcements about this representation: March 18, 2019; May 13, 2019.](#)

> February 19-20; March 8, 2019

Lowenstein Sandler's role as legal counsel to Aceto Corporation in its Chapter 11 bankruptcy filing and in the proposed \$338 million sale of its chemical business assets to New Mountain Capital is highlighted in **Bankrupt Company News, MarketWatch, GlobeNewswire, Markets Insider, StreetInsider.com**, and **EIN Presswire**. The firm's role as legal counsel in Aceto's sale of subsidiary Rising Pharmaceuticals, Inc. is noted in **The Associated Press** and **MarketScreener.com**. (Lowenstein team: **Kenneth A. Rosen, Steven E. Siesser, Paul Kizel, Michael S. Etkin, Jeffrey Cohen, Wojciech F. Jung, Philip J. Gross, Michael Savetsky, and Michael Papandrea**.) (*subscription required to view certain content*) [View Lowenstein's news announcement about this transaction.](#)

> August 1, 2018

The Wall Street Journal quotes **Jeffrey Cohen** in an article discussing bankrupt guitar maker Gibson Brands Inc.'s deal with its unsecured creditors, each of which will now receive \$2.75 million. Cohen notes that the settlement is "good news" for many small, family-owned businesses that have long-standing relationships with Gibson. **Law360** also covered the settlement. (*subscription required to access articles*)

> May 16, 2018

The **Global Legal Chronicle** highlights Lowenstein Sandler's selection as legal counsel to represent Gibson Brand's Official Committee of Unsecured Creditors in its Chapter 11 bankruptcy proceedings. The article notes that the Lowenstein team is led by **Jeffrey Cohen** and **Kenneth A. Rosen** and includes **Wojciech F. Jung**, **Andrew David Behlmann**, **Scott Cargill**, and **Keara Waldron**. Lowenstein's Delaware co-counsel on the engagement is Adam Landis of Landis Rath & Cobb LLP.

> December 21, 2017

Jeffrey Cohen comments in **Law360** on the opposition of the amended sale order by the Official Committee of Unsecured Creditors in the Vitamin World bankruptcy proceedings. Cohen represents the committee, which was against the delay raised over landlord issues, citing that the negotiations between the buyer and debtor's estate had reduced the value of the assets.

> December 8, 2017

Jeffrey Cohen is quoted in **Law360** regarding the proposed auction plan of Vitamin World in its Chapter 11 proceedings. Cohen represents the Official Committee of Unsecured Creditors of the vitamin and nutraceutical retailer supplement retailer.

> November 21, 2017

Jeffrey Cohen is quoted in **Law360** regarding concerns over the hybrid liquidation and sale plan of bankruptcy for Vitamin World. Cohen represents the Official Committee of Unsecured Creditors of the 40-year old health supplement retailer.

> September 22, 2017

Jeffrey Cohen is quoted in the **New York Post** regarding the issues facing vendors to continue shipping or withhold further deliveries of merchandise to Toys 'R' Us. The retailer obtained \$3 billion in Chapter 11 financing in time for the start of the holiday season.

> April 30, 2017

Jeffrey Cohen is quoted in **The Wall Street Journal** regarding the winning bids at auction of **Gander Mountain Co.** by **Camping World Inc.** and a contractual joint venture of liquidators, including **Gordon Brothers**, **Hilco**, **Tiger Capital**, and **Great American**. Substantially all of the assets of the outdoor retailer, including inventory, intellectual property, and trademarks, were sold for approximately an aggregate of \$390M. Cohen and **Keara Waldron** represent the Official Committee of Unsecured Creditors.

> April 21, 2017

Jeffrey Cohen is quoted in **Fortune** and **Term Sheet** regarding the increasing utilization of bankruptcy law by startup technology companies when businesses fail. Cohen points to the increased involvement by venture capitalists and the need to protect their personal liabilities, as well as intellectual property assets and customer lists as value drivers in Chapter 11 filings.

> March 15, 2017

Jeffrey Cohen comments in **Forbes** regarding the recent explosion of startup technology companies filing for bankruptcy protection. Cohen points to intellectual property assets and the less-public bankruptcy procedure, assignment for the benefit of creditors (ABC), as catalysts for the increase in Chapter 11 filings.

> March 8, 2017

Jeffrey Cohen is quoted in the **New York Post** regarding the increase in the number of retailers filing for bankruptcy protection after a weak holiday retail season. Jeffrey addressed the issue of escalated tensions between retailers and lenders in the wake of disappointing returns.

> January 26, 2017

Jeffrey Cohen comments in the **New York Post** on retail sporting goods companies on the verge of bankruptcy.

> January 23, 2017

Jeffrey Cohen is mentioned for joining Lowenstein Sandler LLP's Bankruptcy, Financial Reorganization & Creditors' Rights practice as a partner in **New York Business Journal**, **Law360**, **New York CityBizList**, **ABF Journal**, and **Business Wire**.

SPEAKING ENGAGEMENTS

> Speaker, **Bridge the Gap**, Fordham University School of Law, Webinar, January 12, 2024

> Presenter, **PCI Compliance and Legalities of Charging Credit Card Processing Fees**, RiemerPlus, Las Vegas, NV, September 12, 2023

> Presenter, **Credit and Payment Fraud: Anecdotes & Antidotes**, RiemerPlus, Las Vegas, NV, September 12, 2023

> Presenter, **Retail Bankruptcy Retrospective**, RiemerPlus, San Diego, CA, September 23, 2022

> Presenter, **Housewares Credit Group's September Meeting**, International Housewares Association, Chicago, IL, September 21, 2022

> Presenter, **Bankruptcy Developments in the Fitness World: A Review of Fitness Facility Bankruptcy Cases**, Fitness Association of Credit Executives, Webinar, December 11, 2021

> Presenter, **Bankruptcy 101**, RiemerPlus, Webinar, November 18, 2021

> Guest Speaker, **Americas Core Credit: Interview with Jeff Cohen, Lowenstein Sandler**, Reorg, Podcast, June 6, 2021

- > Speaker, **Case Study: Belk Chapter 11 Prepackaged Plan**, NACM Connect, Webinar, April 7, 2021
- > Speaker, **Bankruptcy Outlook and Considerations for 2021: Strumming Along or Too Much Treble?**, Reimer Music and Sound Credit Managers Meeting, Webinar, January 28, 2021
- > Speaker, **Credit Meeting for the Department Store Suppliers Credit Group**, RiemerPlus, Webinar, September 17, 2020
- > Presenter, **Current Developments in Chapter 11 Retail in the Post-Covid-19 Environment**, National Association of Credit Management Webinar, July 15, 2020
- > Presenter, **Update on Recent Retail Bankruptcy Filings**, RiemerPlus Webinar for the Department Stores Suppliers Credit Group, Webinar, June 18, 2020
- > Presenter, **Impact of the Pandemic: PPE for the Credit Operation**, National Association of Credit Management, Webinar, April 29, 2020
- > Presenter, **F&D Reports/Creditintell/ARMS Meeting**, New York, NY, November 4, 2019
- > Presenter, **Bankruptcy 101 – 2019**, Credit Research Foundation's Credit & Accounts Receivable Forum and Expo, National Harbor, MD, October 14, 2019
- > Presenter, **Do I Really Need to Read This? Bankruptcy Filings Every Credit Manager Should Understand**, ABC-Amega, March 12, 2019
- > Panelist, **Eye on Bankruptcy**, American Bankruptcy Institute Annual Spring Meeting, Washington, D.C., April 21, 2018
- > Moderator, **2017 Year in Review**, Annual Advanced Restructuring and Plan of Reorganization Conference, New York, NY, November 13, 2017
- > Presenter, **The Retail Apocalypse: How Does the Trade Respond?**, National Apparel & Footwear Credit Association, Las Vegas, NV, November 10, 2017
- > Presenter, **The Retail Apocalypse: How Does the Trade Respond?**, National Association of Credit Management' Luggage and Travel Industry Credit Group, New York, NY, October 16, 2017
- > Presenter, **Do I Really Need to Read This? Bankruptcy Filings Every Credit Manager Should Understand**, Interbike International Bicycle Pre-Conference, Las Vegas, NV, September 19, 2017
- > Presenter, **Fortifying Your Credit Foundation: What Are Your Legal Options When a Customer Approaches Chapter 11?**, Interbike International Bicycle Pre-Conference, Las Vegas, NV, September 18, 2017
- > Presenter, **My Customer Filed Bankruptcy: Now What?**, Credit Management Association Webinar, August 17, 2017
- > Panelist, **Paths for Committees Post-Jevic**, American Bankruptcy Institute Mid-Atlantic Workshop, Hershey, PA, August 4, 2017
- > Presenter, **Differences Between Chapters 7 and 11 Bankruptcy**, Credit Management Association Webinar, July 21, 2017
- > Presenter, **F&D Reports/Creditintell/ARMS Meeting**, New York, NY, May 8, 2017

EDUCATION

- > St. John's University School of Law (J.D. 2000), cum laude; Articles Editor, *American Bankruptcy Institute Law Review*
- > State University of New York at Albany (B.A. 1997), Criminal Justice and Political Science

ADMISSIONS

- > New York



Eric Chafetz

Partner

New York

T: +1 646.414.6886 | F: +1 973.422.6469

echafetz@lowenstein.com

Eric Chafetz is a trusted advisor to creditors' committees and individual trade creditors, debtors, and plan/liquidating trustees involved in complex Chapter 11 bankruptcies throughout the United States.

He advises clients across a wide range of industries on all aspects of the Chapter 11 process, from pre-filing negotiation and preparation of first day pleadings, including financing and sale documents; through the drafting and negotiation of plans of reorganization and all related ancillary documentation.

Eric also has a strong track record in bankruptcy-related litigation, including investigating and prosecuting actions against officers, directors, and lenders, as well as in prosecuting and defending preference/fraudulent transfer actions.

Eric is a frequent speaker on current bankruptcy and creditors' rights topics, including previously serving as a guest lecturer at the Columbia University School of Professional Studies, where he has lectured on such subjects as the intersection of bankruptcy and construction law. He participated in the American Bankruptcy Institute (ABI) Commission's Avoidance Power Subcommittee's study of aspects of the Bankruptcy Code involving preferences, creditors' reclamation rights, and creditors' rights under Section 503(b)(9). Eric is also a prolific author, and has published numerous articles addressing various cutting-edge issues geared toward trade and other categories of creditors, including publications by the National Association of Credit Management and Credit Research Foundation, as well as the ABI, *New York Law Journal*, and *Bloomberg Law*.

Active in the firm's pro bono efforts, Eric has represented several individuals who filed for Chapter 7 bankruptcy protection and numerous non-profits seeking to dissolve.

EXPERIENCE

- > **Represented unsecured creditors' committees in bankruptcies for:** Pegasus Home Fashions, Inc., Proterra Inc, Williams Industrial Services Group, Benefytt Technologies, Inc., Tuesday Morning Corporation, Lucira Health, Inc., Vital Pharmaceuticals, Inc., Avadim Health, Exide Technologies, Bumble Bee Parent, Inc., Draw Another Circle, LLC, Malibu Lighting Corp., Verso Corp., Cenveo, Inc., Filmed Entertainment, SportCo Holdings, Herb Philipson's Army & Navy, Advanced Contracting, WYNIT Distribution, Auburn Armature, Inc., Golden County Foods, Qualteq Inc., d/b/a VCT of New Jersey Inc. (100% plus interest distribution to general unsecured creditors), SP Newsprint Holdings LLC, Manistique Papers Inc., Chef Solutions Holdings LLC
- > **Represented the debtors in the following bankruptcy case:** Frank Entertainment Group LLC
- > **Represented the following individual creditors in one or more bankruptcy cases:** International Paper, LG Electronics U.S.A., Inc. / LG Alabama, Valvoline LLC, Dusa Corp., Central National Gottesman, Inc., Hildun Corporation
- > **Represented a class of customers in the following bankruptcy case:** Gallant Capital

HONORS & AWARDS

- > **Super Lawyers: Rising Star (2013–2017)**
Recognized for his work in Bankruptcy & Creditor/Debtor Rights
- > **National Conference of Bankruptcy Judges 2014 Annual Meeting**
Next Generation Program participant

NEWS & INSIGHTS

Publications

- > March 31, 2024
"Unsecured Creditors Beware: The Bona Fide Dispute Requirement of Bankruptcy Code Section 303(b)(1) is Still Evolving," *Perspective by CRF*
Eric Chafetz , Lindsay H. Sklar
- > April 30, 2023
"ABI Preference Handbook, Third Edition," *American Bankruptcy Institute*
Eric Chafetz
- > November 16, 2022
"Bankruptcy Court Discretion in Choosing Subjective OCB Defense Test," *Bloomberg Law*
Eric Chafetz , Lindsay H. Sklar
- > September 23, 2022
"Timing Is Everything: One Circuit Says the New Value Window Closes as of the Petition Date," *Thomson Reuters Westlaw Today*
Eric Chafetz , Lindsay H. Sklar
- > September 21, 2022
"Does §503(b)(9) of the Bankruptcy Code Apply to Hybrid Goods/Services Transactions?," *Commercial Factor*
Eric Chafetz , Lindsay H. Sklar
- > September 6, 2022
"Why Creditors Should Beware Of SBRA Due Diligence Defense," *Law360*
Eric Chafetz , Lindsay H. Sklar
- > February 25, 2022
"A Potential Alternative to Approving Consensual Third-Party Releases: § 1141(a) of the Bankruptcy Code," *American Bankruptcy Institute*
Eric Chafetz , Erica G. Mannix
- > September 30, 2021
"The "Critical Vendor" Preference Defense Still Not a Panacea for Trade Creditors," *American Bankruptcy Institute*
Eric Chafetz
- > April 1, 2021
"Additional Preference Protection in Recent Stimulus Legislation: Reality or Illusion?," *Business Credit*
Bruce S. Nathan , Eric Chafetz , Michael Papandrea
- > April 1, 2020
"When Financial Stress Turns to Distress—Restructuring Tools to Avoid Disaster Parts 1 and 2: Chapter 11 Checklist and What Else Is in the Toolbox," *Bankruptcy & Restructuring Department*
Jeffrey Cohen , Jeffrey D. Prol , Andrew Behlmann , Eric Chafetz , Michael S. Etkin , Bruce S. Nathan ,
- > March 20, 2020
"Critical Checklists for Business Owners and Management to Mitigate Risk of Financial Distress During the COVID-19 Crisis," *Bankruptcy & Restructuring Department*
Jeffrey Cohen , Jeffrey D. Prol , Andrew Behlmann , Eric Chafetz , Michael S. Etkin , Bruce S. Nathan ,
- > December 30, 2019
"Ultra-Expedited Prepacks Are No Longer an Academic Curiosity," *New York Law Journal*
Eric Chafetz
- > September 16, 2019
"The Limits of Joint Check Agreements as a Risk Mitigation Tool," *Business Credit*
Bruce S. Nathan , Eric Chafetz
- > March 1, 2019
"Trade Creditor's Risk-Mitigation Tools and Remedies Manual," *American Bankruptcy Institute*
Bruce S. Nathan , Scott Cargill , Eric Chafetz , Lowell A. Citron , Theodore C. Sica , Marc S. Kurzweil
- > August 1, 2018
"Payment Pressure Can Be Hazardous to Your Ordinary Course of Business Preference Defense," *Business Credit*
Bruce S. Nathan , Eric Chafetz
- > June 4, 2018
"Disentangling From an Alter Ego in Bankruptcy Court," *Construction Executive*
Eric Chafetz , Michael Papandrea
- > April 1, 2018
"Bankruptcy Court's Stay of Litigations Against Non-Debtors: An Unusual Circumstance?," *Business Credit*©
Bruce S. Nathan , Eric Chafetz

- > March 1, 2018
"A Creditor with a Partially Disputed Claim Risks Disqualification from an Involuntary Petition," *Business Credit*
 Bruce S. Nathan , Eric Chafetz
- > February 1, 2018
"A Chapter 11 Debtor's Right to Use Cash Collateral Trumps PACA Trust Rights," *Business Credit®*
 Bruce S. Nathan , Eric Chafetz
- > January 25, 2018
"The Subsequent New Value Preference Defense for Services: A Practical Approach," *Business Credit®*
 Bruce S. Nathan , Eric Chafetz
- > December 12, 2017
"Jevic – A Paradigm Shift for General Unsecured Creditors? Only Time Will Tell," *CRF News*
 Eric Chafetz , Nicole Fulfree
- > December 1, 2017
"Construction Suppliers Beware: The Bankruptcy Code's Automatic Stay May Bar Post-Petition Perfection of Your Lien Rights," *Business Credit*
 Bruce S. Nathan , Eric Chafetz
- > October 5, 2017
"AE Liquidation: Does the Third Circuit Provide Little Warning to Employees of Distressed Companies?," *Global Banking & Finance Review*
 Eric Chafetz , Michael Papandrea
- > September 19, 2017
"Receipt under Section 503(b)(9) Means Physical Receipt: A Mixed Bag for Trade Creditors," *Business Credit*
 Bruce S. Nathan , Eric Chafetz
- > July 20, 2017
"Receipt Under Section 503(b)(9) Means Actual Physical Possession of Goods: A Victory for the Trade," *NACM eNews*
 Bruce S. Nathan , Eric Chafetz
- > June 1, 2017
"Can UCC Stoppage of Delivery Rights Trump a Debtor's Secured Lender? The Sports Authority Saga Continues!," *Business Credit*
 Bruce S. Nathan , Eric Chafetz
- > April 12, 2017
"Less is More When Perfecting a Security Interest," *Business Credit*
 Bruce S. Nathan , Eric Chafetz
- > March 15, 2017
"Panacea or a Short-Term Rescue?," *Intellectual Property Magazine*
 Eric Chafetz
- > February 7, 2017
"Diversification Key for Mall Developers As Retail Landscape Evolves," *Retail Dive*
 Eric Chafetz
- > February 1, 2017
"The Strict Compliance Requirement for Letters of Credit Is Really Strict," *Business Credit*
 Bruce S. Nathan , Eric Chafetz
- > December 5, 2016
"Will Innovative Moves Reverse the 'Death Spiral' of Malls?," *New York Law Journal*
 Eric Chafetz
- > October 1, 2016
"A Little More You Need to Know About the 'Ordinary Course of Business' and 'New Value' Preference Defenses," *The Credit and Financial Management Review*
 Bruce S. Nathan , Eric Chafetz
- > August 1, 2016
"A Preference Split Decision on the New Value and Ordinary Course of Business Defenses: Win Some, Lose Some!," *Business Credit*
 Bruce S. Nathan , Eric Chafetz
- > May 1, 2016
"Petitioning Creditor Eligibility to Join an Involuntary Bankruptcy Petition," *Business Credit*
 Bruce S. Nathan , Eric Chafetz
- > April 1, 2016
"The Timing of Receipt of Goods in International Transactions Could Be Hazardous to Section 503(b)(9) Priority Status," *Business Credit*

Bruce S. Nathan , Eric Chafetz

> March 1, 2016

"Letter of Credit Coverage of Preference Risk: Overcoming a Fraud Injunction," *Business Credit*

Bruce S. Nathan , Eric Chafetz

> February 1, 2016

"Petitioning Creditors Beware," *Business Credit*

Bruce S. Nathan , Eric Chafetz

> January 1, 2016

"More Shocking Developments on Whether Electricity Is a Good Entitled to Section 503(b)(9) Administrative Priority Status," *Business Credit*

Bruce S. Nathan , Eric Chafetz

> December 24, 2015

"Getting More From a Creditor's Committee," *CRF News*

Eric Chafetz

> December 1, 2015

"Rolling the Dice: Proving the Subjective Ordinary Course of Business Defense at Trial," *Business Credit*

Eric Chafetz

> June 1, 2015

"Involuntary Bankruptcy Petition Risk: Dismissal Can Be Costly to Petitioning Creditors," *Business Credit*

Eric Chafetz

> May 1, 2015

"Triumph Over a Secured Lender," *Business Credit*

Eric Chafetz

> February 1, 2015

"Creditors Beware: Post-Petition Standby Letter of Credit Payments May Reduce New Value Defense," *Business Credit*

Eric Chafetz

> December 1, 2014

"Does the Equal Credit Opportunity Act Apply to Spousal Guarantors? Yes and No!," *Business Credit*

Eric Chafetz

> October 1, 2014

"Section 503(b)(9) Priority Status Limited for Shipments From Abroad," *Business Credit*

Eric Chafetz

> May 1, 2014

"Mistakes in a UCC Financing Statement's Collateral Description Can Be Hazardous to a Perfected Security Interest!," *Business Credit*

Eric Chafetz

> April 1, 2014

"Another Bankruptcy Blow for Triangular Setoff," *Business Credit*

Eric Chafetz

> March 1, 2014

"Counting a Creditor's New Value Paid Post-Petition: You Can Have Your Cake and Eat It Too," *Business Credit*

Eric Chafetz

In the Media

> September 22, 2020

Lowenstein's retention as counsel to the Official Committee of Unsecured Creditors in the Chapter 11 Bankruptcy of **Century 21 Department Stores** is noted in the **Global Legal Chronicle**. Century 21 operates 13 retail stores across New York, New Jersey, Pennsylvania, and Florida, along with an e-commerce platform. The Lowenstein team is led by **Jeffrey Cohen, Kenneth A. Rosen, Lynda A. Bennett, Eric Chafetz, Brent Weisenberg, and Lindsay H. Sklar**. [View Lowenstein's news announcement about this retention.](#)

> July 31, 2020

Lowenstein's selection as counsel to the Official Committee of Unsecured Creditors in the Chapter 11 bankruptcy case of Sur La Table, Inc. is highlighted in the **Global Legal Chronicle**. The Lowenstein team includes **Jeffrey Cohen, Eric Chafetz, and Philip J. Gross**. [View Lowenstein's news announcement about this retention.](#)

> December 7, 2019

Lowenstein's retention as counsel to the Official Committee of Unsecured Creditors in the bankruptcy case of **Bumble Bee Foods** is highlighted in the **Global Legal Chronicle**. The Lowenstein team includes **Andrew David Behlmann, Eric Chafetz, Michael A. Kaplan, and Myles R. MacDonald**. [View Lowenstein's news announcement about this retention.](#)

> February 26, 2018

The **Global Legal Chronicle** highlights Lowenstein's being selected as legal counsel to handle the Chapter 11 bankruptcy proceedings of the Official Committee of Unsecured Creditors of Cenveo Inc. The article lists **Kenneth A. Rosen, Mary E. Seymour, Bruce D. Buechler, Bruce S. Nathan, and Eric Chafetz** as the Lowenstein team.

SPEAKING ENGAGEMENTS

- > Speaker, **A Case Study on Hot Topics in Preference Litigation**, American Bankruptcy Institute, Webinar, June 27, 2024
- > Presenter, **Secured Transactions: A Primer on Safeguarding Your Interests**, RiemerPlus, New York, NY, June 20, 2024
- > Speaker, **Open and Shut: A Trade Creditor's End-to-End Guide to Navigate a Chapter 11 Case**, NACM North American Retail Group, Charleston, SC, April 25, 2024
- > Speaker, **Business Risks for Credit Practitioners using AI in the Workplace**, NACM Commercial Services, St. Petersburg, FL, March 14, 2024
- > Speaker, **From Opening to Closing: A Trade Creditor's End-to-End Guide Through a Chapter 11 Case**, National Group Management Corporation, Fort Lauderdale, FL, February 29, 2024
- > Speaker, **Back to Basics: A Bankruptcy Refresher (and Primer) For The Credit Department**, NACM Connect, Dublin, OH, November 8, 2023
- > Presenter, **Dealing with Counterparties in Financial Distress**, NACM, Newark, NJ, December 14, 2022
- > Speaker, **Commercial: Hazard Ahead: The Thorny Interaction Between Environmental Law and Bankruptcy Law**, ABI Midwestern Bankruptcy Institute, Kansas City, MO, October 6, 2022
- > Presenter, **Dealing with Counterparties in Financial Distress**, NACM, Baltimore, MD, September 29, 2022
- > Presenter, **Cutting Edge Bankruptcy Issues**, Central National Gottesman Inc., Webinar, September 21, 2021
- > Presenter, **Bankruptcy for a Late Lunch**, Business Credit Intelligence, Webinar, June 22, 2021
- > Presenter, **Bankruptcy For Breakfast**, MPS, Webinar, June 15, 2021
- > Presenter, **Recent Stimulus Changes to the Bankruptcy Code**, Credit Research Foundation, Webinar, June 4, 2021
- > Speaker, **Recent Stimulus Legislation's Changes to the Bankruptcy Code**, National Association of Credit Management (NACM), Webinar, March 15, 2021
- > Presenter, **Cutting Edge Bankruptcy Issues**, NACM Connect, Webinar, February 11, 2021
- > Speaker, **Cutting Edge Bankruptcy Issues**, National Association of Credit Management, Credit & Financial Development Division Louisville, Webinar, January 21, 2021
- > Presenter, **Bankruptcy & Restructuring Outlook Seminar**, BWG Strategy Events, Webinar, January 7, 2021
- > Speaker, **Trade Creditor Strategies, Responding to a Troubled Customer**, CFDD Louisville Chapter, Webinar, November 19, 2020
- > Speaker, **Restructuring of Danfurn LLC**, Turnaround Management Association's NYC Chapter, Webinar, November 18, 2020
- > Presenter, **Bankruptcy and Restructuring Outlook Q&A**, BWG Strategy, Webinar, August 5, 2020
- > Presenter, **Bankruptcy Filings Every Credit Manager Should Understand**, Federation of Credit & Financial Professionals, Webinar, May 14, 2020
- > Presenter, **Bankruptcy Implications Related to the COVID-19 Crisis**, BWG Strategy, Webinar, May 5, 2020
- > Presenter, **Do I Really Need to Read This? Bankruptcy Filings Every Credit Manager Should Understand**, National Association of Credit Management's North American Retail Group, Clearwater, FL, January 23, 2020
- > Presenter, **F&D Reports/CreditIntell/ARMS Meeting**, New York, NY, November 4, 2019
- > Presenter, **The Restructuring of Danfurn LLC**, Turnaround Management Association New York City Chapter, NYC Academic Relations Class, New York, NY, October 29, 2019
- > Presenter, **Bankruptcy 101 – 2019**, Credit Research Foundation's Credit & Accounts Receivable Forum and Expo, National Harbor, MD, October 14, 2019
- > Presenter, **The Wayfair Case and Its Impact on Sales Tax Responsibilities for Retailers**, National Association of Credit Management's Book Publishers Credit Group, New York, NY, February 6, 2019
- > **Hot Topics and Important Developments in Preference Law**, ABI Unsecured Trade Creditor Committee, October 4, 2018
- > Presenter, **Update on Sales Tax Exempt Customers - Supreme Court Ruling**, North American Retail Group, Cleveland, OH, September 27, 2018
- > Speaker, **The Wayfair Case and Its Impact on Sales Tax Responsibilities for Retailers**, North American Retail Group Meeting, Cleveland, OH, September 27, 2018
- > **Current Hot Chapter 11 Issues Facing Trade Creditors**, National Electrical Manufacturers Credit Group Meeting, New York, NY, June 7, 2018
- > Presenter, **Current Hot Chapter 11 Issues Facing Trade Creditors**, Riemer Annual Conference 2018, New Orleans, LA, April 26, 2018
- > Presenter, **Fortifying Your Credit Foundation: What Are Your Legal Options When a Customer Approaches Chapter 11?**, Interbike International Bicycle Pre-Conference, Las Vegas, NV, September 18, 2017
- > Panelist, **Recent Developments in Avoidance Actions**, Chicago Bar Association Webinar, June 8, 2017

EDUCATION

- > Brooklyn Law School (J.D. 2004), cum laude
- > University of Michigan (B.A. 2000)

ADMISSIONS

- > New York
- > New Jersey



Daniel B. Besikof

Partner

New York

T: +1 212.204.8693 | F: +1 212.262.7402

dbesikof@lowenstein.com

Daniel Besikof represents secured and unsecured creditors, creditors' committees, debtors, indenture trustees, landlords, equity holders, distressed investors, and other stakeholders in complex Chapter 11 bankruptcy proceedings, corporate restructurings, and liquidations.

He also represents clients in high-stakes bankruptcy avoidance litigation, including fraudulent transfer and preference litigation; and provides counsel on the structuring, negotiation, and documentation of secured and unsecured financing transactions.

Dan's diverse practice enables him to understand his clients' business goals and needs, identify potential problems and risks, and employ the most effective solutions across a range of industries, including crypto, health care, retail, oil and gas, media, technology, and real estate.

Active in such industry associations as the Turnaround Management Association and the American Bankruptcy Institute, Dan frequently presents on restructuring topics. A thought leader on crypto bankruptcies, he is sought out for his perspective by media outlets including *CNBC*, *CNN*, *Reuters*, *Bloomberg*, *MarketWatch*, *Blockworks*, and *Coindesk*.

HONORS & AWARDS

- > **New York Metro Super Lawyers, published by Super Lawyers, part of Thomson Reuters (2018-2023)**
Recognized for work in Bankruptcy: Business
- > **New York Metro Rising Stars, published by Super Lawyers, part of Thomson Reuters (2011-2018)**
Recognized for work in Bankruptcy & Creditor/Debtor Rights
- > **M&A Atlas Awards: Corporate Turnaround of the Year (2017)**
Recognized for transactions valued between \$1 billion and \$2.5 billion
- > **Turnaround Atlas Award: Consumer Products & Services Restructuring of the Year (2016)**
- > **Martindale-Hubbell Law Directory**
Received "AV Preeminent" professional rating

NEWS & INSIGHTS

Publications

- > September 16, 2022
"Crypto Goes Bankrupt: What Do Lawyers and Investors Need To Know?," *New York Law Journal*
Daniel B. Besikof
- > August 16, 2022
"Potential preference exposure for withdrawing crypto," *Reuters*
Daniel B. Besikof
- > June 8, 2022
"Are customers' crypto safe in a custodian's bankruptcy filing?," *Westlaw Today*
Daniel B. Besikof
- > September 25, 2017
"EB-5 Defaults: Unique Challenges to Consider as EB-5 Loans Go Bad," *Lexis Practice Advisor*
Daniel B. Besikof

In the Media

> April 15, 2024

News of **Daniel S. Besikof** joining Lowenstein Sandler as partner in its **Bankruptcy & Restructuring Department** was reported by **Law360**, **New York Law Journal**, **Politico**, **The Deal**, **Bloomberg Law**, and **Daily Bankruptcy News**.

Besikof tells the **Law.com** that "Lowenstein has a great bench of bankruptcy lawyers and related professionals that I thought would allow me to provide even better representation to my clients. It seemed like I would be additive to [the firm's] efforts to help continue their trajectory of growth in the bankruptcy space."

Noting that companies in such sectors as pharmaceuticals, retail, and commercial real estate continue to face a range of bankruptcy-related challenges, Besikof says: "Interest rates and global instability remain high, which to some degree makes providers of capital nervous. Consumer sentiment is somewhat low, which may affect consumer behaviors. All of this suggests that restructuring activity will remain at least as steady if not even busier than it is now."

(subscription required to access some articles)

EDUCATION

> Brooklyn Law School (J.D.), American Bankruptcy Law Journal Student Prize

> University of Wisconsin (B.S.), Personal Finance

ADMISSIONS

> New York



Michael Papandrea

Counsel

New Jersey

T: +1 973.422.6410 | F: +1 973.597.2400

mpapandrea@lowenstein.com

Michael Papandrea provides counsel to debtors, creditors' committees, individual creditors, liquidating trustees, and other interested parties with respect to corporate bankruptcy and creditors' rights matters, including bankruptcy-related litigation.

Reliable and efficient, Mike is appreciated for his innate ability to effectively apply and convey his understanding of the law and general business principles with respect to complex issues, both while providing advice to clients and while aggressively advocating on their behalf. Mike works tirelessly to understand clients' needs and provide practical solutions that are reasonable, balanced, and favorable to the clients he serves.

Mike enjoys keeping clients and relevant industry professionals in the loop regarding bankruptcy, insolvency, and creditors' rights issues, regularly writing articles for and speaking to professionals in the credit and risk management space. Mike also takes pride in his commitment to the community and provides pro bono representation to individuals and nonprofit organizations regarding bankruptcy and foreclosure-related matters.

Prior to joining the firm, Mike held multiple clerkships in the U.S. Bankruptcy Court; he clerked for the Hon. Jerrold N. Poslusny, Jr. (District of New Jersey), the Hon. Ashely M. Chan (Eastern District of Pennsylvania), and the Hon. Gloria M. Burns (Chief Judge, District of New Jersey). Mike applies the valuable insights learned from working closely and directly with these members of the judiciary to his everyday practice.

HONORS & AWARDS

> Ones to Watch, published by Best Lawyers (2021-2024)

Named to "Ones to Watch" list in Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law section

> New Jersey Rising Stars, published by Super Lawyers, part of Thomson Reuters (2023-2024)

Recognized for work in Creditor Debtor Rights

> American Bankruptcy Institute: Medal of Excellence Recipient

NEWS & INSIGHTS

Publications

> June 1, 2024

"CREDIT-RELATED DISCRIMINATION: Not All Guarantors Are Eligible to Assert ECOA Claims," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> May 1, 2024

"“Tomato, Tomahto” A Security Agreement with an Incorrect Debtor Name Passes Muster to Create a Security Interest," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> April 1, 2024

"A-&P, 1-2-3: Two Wins and One Quagmire from Recent Preference Decision," *Business Credit Magazine*

Bruce S. Nathan , Michael Papandrea

> March 1, 2024

"Must See TV Azteca! Bankruptcy Court Dismisses Involuntary Petition Based on Partially Disputed Claims," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> January 1, 2024

"Do You Copy? Letter of Credit Dishonor Risk Where Copies Presented in Lieu of Originals," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> November 1, 2023

"Critical Vendor Payments Are No Sure Thing in the Ninth Circuit," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> October 1, 2023

"Due Diligence Is a Virtue, But Does a Preference Plaintiff Have to Prove It?," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> August 1, 2023

"Is the Spark Gone?," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> June 1, 2023

"Rebutting a Trustee's Preference Claim: A Creditor's First Line of Defense," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> May 1, 2023

"Negative 'Buzz' for Electricity Suppliers Regarding the Applicability of Section 503(b)(9) Priority," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> April 1, 2023

"A Quintessential 'Battle of the Forms' Case," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> March 1, 2023

"Another Win for the Trade on the Subjective Ordinary Course of Business Preference Defense Despite Persistent Requests for Payment," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> February 1, 2023

"The Reinhart Saga Continues: Impact of a Guarantor's Bankruptcy Discharge on Future Liability Under Guaranty," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> January 1, 2023

"UCC Financing Statement Mistakes Can Be Deadly," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> November 21, 2022

"A Victory for the Trade: Décor Holdings Decisions Uphold Applicability of Subjective Ordinary Course of Business Defense to Preference Liability," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> October 1, 2022

"Trade Creditors Have Their Cake and Eat It Too!," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> August 1, 2022

"More 'Goods' News for the Trade," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> June 1, 2022

"'Goods' News for the Trade: Section 503(b)(9) Priority Applies to Sales of Goods Under Service Contracts," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> May 1, 2022

"What's in a Name? UCC Financing Statement Mistakes Can Be Fatal," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> April 1, 2022

"The Subjective Ordinary Course of Business Preference Defense: Tie Goes to the Plaintiff," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> March 1, 2022

"State Law Preferences Are Alive and Well," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> February 1, 2022

"You Can't Judge a Guaranty by Its Title: A 'Conditional Guaranty' May Be an Unconditional Guaranty of Payment," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> January 24, 2022

"Risk of Personal Liability Despite Incorporation," *Today's General Counsel*

Michael Papandrea

- > January 1, 2022
"LC Beneficiaries Beware: Failing to Comply Strictly with Documentary Requirements May Leave You Empty Handed," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > December 1, 2021
"Does Guarantor's Bankruptcy Discharge Extinguish Future Guarantor Liability?," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > October 1, 2021
"Critical Vendor Status Is Not a Preference Defense Without 'Something More'," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > September 1, 2021
"The 'Home Field' Venue Defense to Small Preference Claims: Going, Going, Gone?," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > August 1, 2021
"Electricity: It's Electric! It's Shocking! But Is It a Good?," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > July 1, 2021
"Third Circuit Rejects Triangular Setoff: The Feeling Is Not Mutual," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > June 1, 2021
"Preference Defense in the Wake of the Pandemic: A Primer," *Lowenstein Sandler LLP*
 Bruce S. Nathan , Andrew Behlmann , Michael Papandrea
- > June 1, 2021
"Second Circuit Dismisses Appeal of Critical Vendor Order in Windstream Holdings," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > April 1, 2021
"Additional Preference Protection in Recent Stimulus Legislation: Reality or Illusion?," *Business Credit*
 Bruce S. Nathan , Eric Chafetz , Michael Papandrea
- > April 1, 2021
"The Recent COVID-19 Legislation's Bankruptcy Code Amendments of Interest to Trade Creditors," *Perspective by CRF*
 Bruce S. Nathan , Michael Papandrea
- > January 1, 2021
"Reclamation Rest in Peace? The Eighth Circuit Will Soon Weigh in," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > December 1, 2020
"Bankruptcy Court Chooses Dismissal Over Conversion Based on the Support of the Debtor and All Key Creditors," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > September 11, 2020
"Critical Vendor Treatment May Not Absolve Trade Creditors from Preference Risk," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > August 1, 2020
"Claims Buyers Beware: Your Shiny New Claim May Face Avoidance Risk," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > June 1, 2020
"A Victory Notched for Critical Vendors in Windstream Holdings," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > May 1, 2020
"Seventh Circuit Upholds Chapter 11 Secured Lenders' Priority over Reclamation Claimants," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > April 1, 2020
"Preference Defense Primer Update: Diligence Can Pay Off!," *Business Credit*
 Bruce S. Nathan , Michael Papandrea
- > March 31, 2020

"Sears (MOAC v. Transform): Landlord May Rest (Adequately) Assured of 'Similar' Financial Condition and Operating Performance, But Not Necessarily Tenant Mix," *Bankruptcy and Real Estate Client Alert*

Daniel A. Suckerman , Michael Papandrea

> March 1, 2020

"Delaware District Court Affirms Bankruptcy Court's Rejection of Triangular Setoff as Impermissible in Bankruptcy," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> February 1, 2020

"Are Creditors with Partially Disputed Claims Eligible to Join an Involuntary Bankruptcy Petition? The Saga Continues....," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> January 1, 2020

"Does the Equal Credit Opportunity Act Apply to Spousal Guarantors? The Eleventh Circuit Says No," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> November 1, 2019

"The Importance of a Proper Collateral Description in a UCC Financing Statement," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> August 1, 2019

"Consignment the Wrong Way: The Unfortunate Plight of the Unperfected Consignor," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> June 1, 2019

"Unperfected Consignors Be Warned: You Could Lose Your Goods and Proceeds," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> May 1, 2019

"Is the Preference New Value Defense Limited to Unpaid New Value? The Saga Continues," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> April 1, 2019

"Are Creditors With Partially Disputed Claims Eligible to Join an Involuntary Bankruptcy Petition? Yes and No!," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> March 1, 2019

"Consignment Without a UCC Filing? What Secured Lenders Know Can Hurt Them," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> December 17, 2018

"The Pitfalls of Using Browsewrap Agreements for E-Transactions," *CRF News*

Bruce S. Nathan , Andrew Behlmann , Michael Papandrea

> November 30, 2018

"Eleventh Circuit Approves Paid New Value Defense to Preference Liability," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> September 30, 2018

"Nonconsensual Release of Claims Against Non-Debtor Guarantors Approved in Chapter 15 Case," *Business Credit*

Bruce S. Nathan , Michael Papandrea

> June 28, 2018

"Prudent Collection Action May Be Hazardous to Your Preference Defense," *CRF Special Educational Brief*

Bruce S. Nathan , Michael Papandrea

> June 4, 2018

"Disentangling From an Alter Ego in Bankruptcy Court," *Construction Executive*

Eric Chafetz , Michael Papandrea

> October 5, 2017

"AE Liquidation: Does the Third Circuit Provide Little Warning to Employees of Distressed Companies?," *Global Banking & Finance Review*

Eric Chafetz , Michael Papandrea

> March 1, 2017

"Are Section 503(b)(9) Claims Being Taken Seriously?," *Journal of Corporate Renewal*

Michael Papandrea

> June 1, 2015

"Should We Really Discharge the Student Loan Debt Discharge Exception?," *Rutgers Journal of Law & Public Policy*

Michael Papandrea

In the Media

> May 21, 2024

Reorg reports on the \$25.5 million in settlements approved by the Court in the **Modell's Sporting Goods** bankruptcy litigation, and notes **Michael Papandrea's** comments to Judge Vincent F. Papalia about the Trust's plan of action, post-settlement: "the next priority for the trustee is reconciling approximately \$10.9 million in administrative priority rent claims asserted by landlords for the COVID-19 lockdown period imposed in March 2020." In addition, Papandrea noted that the Trust needs to reconcile other administrative claims, including "litigation over priority WARN Act claims filed against the debtors by former employees." (*subscription required to access article*)

> February 5, 2024

Law360 notes that the biotech company Zymergen has obtained confirmation of its Chapter 11 plan by a Delaware bankruptcy court after resolving an informal objection asserted on behalf of a class of investors by Lowenstein Sandler's **Bankruptcy & Restructuring Department**. The article notes that the plan will not impact the class representative's right to prosecute the securities litigation on behalf of the class against Zymergen (to the extent of available insurance) and against the non-debtor defendants, who are alleged to have misled investors about issues with Zymergen's flagship technology.

Michael S. Etkin, Andrew Behlmann, and Michael Papandrea served as bankruptcy counsel to the securities class. (*subscription required to access article*)

> November 13, 2023

The **National Association of Credit Management (NACM) News** reported on a recent roundtable that included **Bruce S. Nathan, Andrew Behlmann, and Michael Papandrea** and senior NACM executives and credit managers with members of the American Bankruptcy Institute (ABI) Subchapter V Task Force "to exchange invaluable insights gleaned from their cumulative experiences in Subchapter V cases."

> September 7, 2023

Members of Lowenstein's **Bankruptcy & Restructuring Department** are quoted in the National Association of Credit Management's **eNews** on the increasing frequency of Subchapter V bankruptcy. **Andrew Behlmann** expects this trend to continue, saying: "Small businesses aren't able to go avail themselves of the capital markets to get liquidity... Small Business Administration (SBA) loans aren't as readily available and small business lending is generally becoming more difficult to acquire."

Bruce S. Nathan explains: "Before Subchapter V existed, small business Chapter 11 bankruptcies were not working. Instead, small businesses were resorting to state court receiverships, assignments for the benefit of creditors (ABC), or UCC Article 9 sales—or just going out of business—because bankruptcy was too expensive, too slow, and not accommodating to small business owners. Subchapter V bankruptcy was an effort to get around those problems."

Michael Papandrea describes how Chapter 11 differs from Subchapter V, noting: "The owner can retain equity, even if not all classes of claims are paid in full. In addition, administrative claims that arise in connection with the bankruptcy case do not need to be paid in full on the effective date of a plan because they can be paid out over a period of time under a Subchapter V plan." He continues: "In many ways, those pros for debtors can be cons for trade, (such as) administrative claims being drawn out; the speed at which the case occurs; no fiduciary acting on behalf of all [unsecured] creditors. Despite that being the case, the debtor still has the ability to wield substantially all of the benefits of a traditional Chapter 11 case."

> July 21, 2023

Michael Papandrea speaks on the National Association of Credit Management (NACM) podcast **ExtraCredit** about the rise in bankruptcy filings and, particularly, Chapter 22s: when a company files Chapter 11 for a second time. Papandrea says that the retail sector may have been particularly hard hit, but any industry may be seeing Chapter 22s where companies that previously filed "did not necessarily restructure or sell the business off in a way that [made the business] more viable going forward."

> March 16, 2022

The **Global Legal Chronicle** reports that U.S. Bankruptcy Judge Frank Santoro has reconfirmed the Chapter 11 plan of Ascena Retail Group, former owner of Ann Taylor, without the inclusion of third party releases, as a result of the successful appeal prosecuted by Lowenstein Sandler's **Bankruptcy & Restructuring Department** on behalf of the securities claimants. The Lowenstein team included **Michael S. Etkin, Andrew Behlmann, and Michael Papandrea**.

> January 18, 2022

Reuters describes a recent decision by U.S. District Judge David Novak of the Eastern District of Virginia that overturned a restructuring plan for the Mahwah Bergen Retail Group (formerly known as Ascena), the prior owner of Ann Taylor, Lane Bryant, and other retail brands. Citing, among other things, the plan's inclusion of protections from liability for former top executives, the Court held that the third party releases here were void and unenforceable, and that the use of this tactic in bankruptcy cases was "shocking." Lowenstein **Bankruptcy & Restructuring** lawyers **Michael S. Etkin, Andrew Behlmann, John P. Schneider and Michael Papandrea** represent investors who purchased stock in Ascena.

In **The Wall Street Journal**, Etkin notes that "Judge Novak had a strong reaction with respect to what was attempted through the chapter 11 case with respect to the breadth of these third party releases."

> September 16, 2020

Michael Papandrea is quoted in **Reorg's Americas Middle Market**, where he explains the Creditors' Committee's position regarding the Debtors' plan confirmation process during yesterday's hearing in the Sur La Table bankruptcy cases. (*subscription required to access article*)

> March 26, 2020

Lowenstein's retention as counsel to the Official Committee of Unsecured Creditors in the Chapter 11 bankruptcy case of **Modell's Sporting Goods** is highlighted in the **Global Legal Chronicle**. The Lowenstein team includes **Jeffrey Cohen, Nicole Fulfree, and Michael Papandrea**. **View Lowenstein's news announcement about this retention.**

> February 19-20; March 8; April 15; May 20; June 22, 2019

Lowenstein Sandler's role as legal counsel to Aceto Corporation in its Chapter 11 bankruptcy filing and in the proposed \$338 million sale of its chemical business assets to New Mountain Capital is highlighted in **Bankrupt Company News**, **MarketWatch**, **GlobeNewswire**, **Markets Insider**, **StreetInsider.com**, **EIN Presswire**, **MarketScreener.com**, and the **Global Legal Chronicle** (May 20, 2019; June 22, 2019). The firm's role as legal counsel in Aceto's sale of subsidiary Rising Pharmaceuticals, Inc. is noted in **The Associated Press**, **MarketScreener.com**, and the **Global Legal Chronicle**. (Lowenstein team: **Kenneth A. Rosen**, **Steven E. Siesser**, Paul Kizel, **Michael S. Etkin**, **Jeffrey Cohen**, **Wojciech F. Jung**, **Philip J. Gross**, **Michael Savetsky**, and **Michael Papandrea**.) *(subscription required to view certain content)* **View Lowenstein's news announcements about this representation: March 18, 2019; May 13, 2019.**

> February 19-20; March 8, 2019

Lowenstein Sandler's role as legal counsel to Aceto Corporation in its Chapter 11 bankruptcy filing and in the proposed \$338 million sale of its chemical business assets to New Mountain Capital is highlighted in **Bankrupt Company News**, **MarketWatch**, **GlobeNewswire**, **Markets Insider**, **StreetInsider.com**, and **EIN Presswire**. The firm's role as legal counsel in Aceto's sale of subsidiary Rising Pharmaceuticals, Inc. is noted in **The Associated Press** and **MarketScreener.com**. (Lowenstein team: **Kenneth A. Rosen**, **Steven E. Siesser**, Paul Kizel, **Michael S. Etkin**, **Jeffrey Cohen**, **Wojciech F. Jung**, **Philip J. Gross**, **Michael Savetsky**, and **Michael Papandrea**.) *(subscription required to view certain content)* **View Lowenstein's news announcement about this transaction.**

SPEAKING ENGAGEMENTS

- > Speaker, **A Case Study on Hot Topics in Preference Litigation**, American Bankruptcy Institute, Webinar, June 27, 2024
- > Speaker, **Hot Chapter 11 Issues Impacting Trade Creditors**, National Association of Credit Management, Las Vegas, NV, June 11, 2024
- > Speaker, **Spotting and Reacting to Financially Distressed Customers and Suppliers: Dodging the Bankruptcy Bullet**, NACM Tampa, Webinar, June 5, 2024
- > Speaker, **IV Years Of Subchapter V: A Small Business Bankruptcy Retros**, National Association of Credit Management and The Finance, Credit & International Business Association, Webinar, May 29, 2024
- > Speaker, **Open and Shut: A Trade Creditor's End-to-End Guide to Navigate a Chapter 11 Case**, NACM North American Retail Group, Charleston, SC, April 25, 2024
- > Speaker, **A Trade Creditor's End-To-End Chapter 11 Case Guide**, National Association of Credit Management and The Finance, Credit & International Business Association, Webinar, April 8, 2024
- > Speaker, **Bankruptcy 101: Everything You Want to Know about Bankruptcy (And Possibly More!)**, Sojitz Corporation of America, New York, NY, March 8, 2024
- > Speaker, **From Opening to Closing: A Trade Creditor's End-to-End Guide Through a Chapter 11 Case**, National Group Management Corporation, Fort Lauderdale, FL, February 29, 2024
- > Moderator, **Exploring Careers: Bankruptcy Law**, Rutgers Law School, Newark, NJ, February 21, 2024
- > Speaker, **Back to Basics: A Bankruptcy Refresher (and Primer) For The Credit Department**, NACM Connect, Dublin, OH, November 8, 2023
- > Speaker, **Where Is Bankruptcy Headed?**, National Association of Credit Management, Webinar, October 16, 2023
- > Speaker, **4 Yrs Of Subchapter V: A Small Business Bankruptcy**, National Association of Credit Management, Webinar, September 12, 2023
- > Speaker, **Hot Chapter 11 Issues**, National Association of Credit Management, Webinar, June 21, 2023
- > Speaker, **The Road Ahead: The Changing Landscape of Chapter 11**, National Association of Credit Management, Grapevine, TX, June 13, 2023
- > Speaker, **Mind Your Ts And Cs**, National Association of Credit Management, Webinar, May 15, 2023
- > Speaker, **Bankruptcy 101: All You Want to Know About Bankruptcy (and Maybe More!)**, NACM Commercial Services, Webinar, May 11, 2023
- > Speaker, **Easy as "ABC": An Overview of Assignments for the Benefit of Creditors**, Credit Research Foundation and Federation of Credit and Financial Professionals, Webinar, March 21, 2023
- > Speaker, **Spotting And Reacting To Financially Distressed Customers**, National Association of Credit Management, Webinar, October 17, 2022
- > Presenter, **Bankruptcy 101: All You Want to Know About Bankruptcy (and Maybe More!)**, North American Hardwoods Credit Association, Atlanta, Georgia, August 26, 2022
- > Presenter, **Bankruptcy After Lunch: What Trade Creditors Need to Know About Bankruptcy**, Penguin Random House, Webinar, July 25, 2022
- > Speaker, **Identity Crisis: Risks and Best Practices for Doing Business with Affiliated and Newly Acquired Entities**, National Association of Credit Management (NACM), June 22, 2022
- > Speaker, **Bankruptcy After Lunch**, National Association of Credit Management, Webinar, May 9, 2022
- > Presenter, **Don't Sweat the "Small" Stuff on Small Business Chapter 11 Cases**, Federation of Credit & Financial Professionals, Webinar, September 24, 2021
- > Presenter, **Small Business Reorganizations Under Subchapter V of the Bankruptcy Code: Trade Creditors Need Not Sweat the Small Stuff**, NACM, Webinar, July 26, 2021
- > Presenter, **Recent Stimulus Changes to the Bankruptcy Code**, Credit Research Foundation, Webinar, June 4, 2021
- > Presenter, **Bankruptcy Alternatives: The Impact on Trade Creditors**, Credit Research Foundation, Webinar, April 20, 2021
- > Speaker, **Recent Stimulus Legislation's Changes to the Bankruptcy Code**, National Association of Credit Management (NACM), Webinar, March 15, 2021

- > Presenter, **Cutting Edge Bankruptcy Issues**, ABC-Amega, Webinar, February 23, 2021
- > Speaker, **Bankruptcy Outlook and Considerations for 2021: Strumming Along or Too Much Treble?**, Reimer Music and Sound Credit Managers Meeting , Webinar, January 28, 2021
- > Presenter, **Potential Onslaught of Bankruptcy Filings**, National Media Credit Professionals (NMCP), Webinar, June 9, 2020
- > Presenter, **Terms of (Un)endearment: Evaluating and Responding to Customer Terms Pushback**, ABC-Amega Webinar, September 10, 2019
- > Presenter, **Non-Bankruptcy Alternatives**, National Association of Credit Management Book Publishers Credit Group, New York, NY, August 7, 2019

EDUCATION

- > Rutgers Law School (J.D. 2014), *Rutgers Journal of Law & Public Policy*
- > The College of New Jersey (B.S. 2010), Criminology

ADMISSIONS

- > New York
- > New Jersey
- > U.S. Court of Appeals for the First Circuit
- > U.S. District Court for the Southern District of Texas