

KEITH N. COSTA
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Faegre Drinker Biddle & Reath LLP, 1177 Avenue of the Americas, New York, NY 10036. Partner. November 2019 to present. Corporate Restructuring member of Finance & Restructuring Group; fiduciary-related appointments (i.e. Counsel to Official Committees of Unsecured Creditors, Chapter 11 Trustee, Chapter 11 Examiner, Patient Care Ombudsman, Privacy Ombudsman, Board of Directors counsel; SEC Receivership litigation; mediation and arbitration.

Otterbourg P.C., 230 Park Avenue, New York, NY 10169. Member of the Firm. May 2017 to October 2019. Bankruptcy law and litigation; Debtors' counsel and Creditors' Committee counsel; SEC Receivership counsel; mediation and arbitration; general commercial practice.

Riker Danzig Scherer Hyland Perretti LLP, 500 Fifth Avenue, New York, NY 10110. Partner. September 2015 – March 2017. Sole New York City-based Partner in Bankruptcy & Reorganization group. Bankruptcy law and litigation; mediation and arbitration; advising Fortune 500 companies and private equity firms in bankruptcy cases and out-of-court restructurings.

Dilworth Paxson LLP, 99 Park Avenue, New York, NY 10016. Partner. June 2014 to September 2015. General commercial law; contract, partnership and business law disputes; mediation and arbitration; federal court and complex litigation; bankruptcy and lender liability litigation.

Zukerman Gore Brandeis & Crossman LLP, 11 Times Square, New York, NY 10036. Partner and Head of Creditors' Rights & Restructuring Group. June 2013 to June 2014. Bankruptcy litigation; counsel to Liquidation Trustee; counsel to Official Committee of Unsecured Creditors; counsel to Ad Hoc Committee of Unsecured Creditors; commercial finance litigation; mediation and arbitration.

Schiff Hardin LLP, 666 Fifth Avenue, New York, NY 10103. Partner. November 2011 to June 2013. Bankruptcy litigation; mediation and arbitration; counsel to Official Committees of Unsecured Creditors; counsel to Chapter 11 Trustee; securities regulatory compliance; M&A litigation.

Akerman Senterfitt LLP, 335 Madison Avenue, New York, NY 10017. Partner. November 2008 – November 2011. Bankruptcy and lender liability litigation; mediation; counsel to Chapter 11 Debtor-In-Possession; counsel to Official Committees of Unsecured Creditors; Special Counsel to Board of Directors for publicly-traded Chapter 11 case; SEC receivership litigation.

Pullman & Comley LLC, 50 Main Street, White Plains, NY 10606. Partner. September 2005 – November 2008. Bankruptcy law and litigation; Chapter 11 Trustee; Chapter 7 Debtor's counsel (pro bono).

Cohen Birnbaum & Shea P.C., 2 Penn Plaza, New York, NY 10121. Shareholder. September 2003 – September 2005. Sole New York City-based Partner in Bankruptcy & Creditors' Rights Group; bankruptcy litigation; Chapter 11 Trustee; Chapter 11 Examiner; commercial finance litigation.

Cummings & Lockwood LLC, 660 State Street, New Haven, CT 06511. Of Counsel. April 2001 – September 2003. Bankruptcy law and litigation; banking and finance law; commercial litigation.

U.S. Department of Justice, Office of the United States Trustee, One Bowling Green, New York, NY 10004 & 265 Church Street, New Haven, CT 06510. Assistant United States Trustee for the Southern District of New York/Trial Attorney. January 1990 – April 2001.

Assistant U. S. Trustee (SDNY): Head of litigation with direct supervision for panel of forty-nine (49) Chapter 7 trustees. Representative Chapter 11 cases administered included Ames Department Stores, Macy's, Best Products, LTV Steel Corp., Hills Department Stores, G. Heileman Brewing Company, Eastern Airlines, Pandick Printing, Maxwell Communications, Pan American Airways, Drexel Burham Lambert, Financial News Network (FNN), United Press International (UPI), Peter Kalikow, U.S. Home Corp., Myerson & Kuhn, and Gaston & Snow. Also handled first Chapter 11 "prepack" case in history of Southern District of New York (In re 360 Madison Avenue Partners).

Trial Attorney (D. Conn.): Senior litigation counsel responsible for oversight of twelve (12) Chapter 7 trustees. Representative Chapter 11 cases administered included Arochem Corporation, Colt Firearms Inc., CT Furniture Expo, DeGeorge Corp., Railroad Salvage, Raytech Corporation, and Winsted Memorial Hospital. Also successfully litigated first reported decision in District of Connecticut of "substantial abuse" under Section 707(b) of the Bankruptcy Code (In re Heffernan).

Wilson Elser Moskowitz Edelman & Dicker LLP (acquired Rood Schwartz Cohen & Ruderman, P.A. in 1990), 5 Corporate Park Drive, White Plains, NY 10604. Associate. June 1986 – July 1989. General commercial litigation in both state and federal courts including bankruptcy litigation.

Law Office of Ralph J. Schwarz, Jr., 122 East 42nd Street, New York, NY 10007. Law Clerk/Associate. June 1983 – June 1986. General commercial litigation in both state and federal courts.

EDUCATION

American University, Washington College of Law, Washington, DC. - J.D. degree awarded May 15, 1983.

University of Connecticut, Honors Program Scholar, Storrs, CT - B.A. degree with *cum laude* distinction in History awarded May 18, 1980.

AWARDS/HONORS

Super Lawyers, Bankruptcy (Business) & Alternative Dispute Resolution (Annual Recipient of Peer-Nominated "SuperLawyer" designation for New York Metro Area – 2015 to present).

Outstanding Rating and Sustained Superior Performance Award – from the United States Trustee Program (1996).

United States Attorney General's Outstanding Performance Award - from the U.S. Dept. of Justice "in appreciation and recognition of outstanding performance as a Department of Justice Attorney" for Bankruptcy Fraud Task Force including the U.S. Attorney's Office and the FBI (1991).

ADMISSIONS & ASSOCIATIONS

Admitted to Practice: United States District Courts for the Southern, Eastern and Northern Districts of New York; United States District Court for the District of Connecticut; Courts of the State of New York and the District of Columbia.

Appointed to the Mediation Registers of the United States Bankruptcy Courts for the Southern District of New York and the District of Delaware (2009 -- present).

American Bankruptcy Institute - Mediation, Legal Ethics & Commercial Fraud Sections (2001 -- present).

Member of *Turnaround Management Association* and *New York Institute of Credit*

Member of Law360 Bankruptcy Editorial Board (2013 & 2014).

Appointed by the Chief United States Bankruptcy Judge of the District of Connecticut as Member of the Local Rules Committee, Chaired by the Honorable Alan H.W. Shiff, USBJ (1997).

ARTICLES & CONFERENCE PRESENTATIONS

“The Involuntary Petition: Is it a Sword or a Shield – Should it be Utilized or Avoided?” Bankruptcy Webinar by credit2b, Panelist together with Melanie Cyganowski and Scott Hazen (June 13, 2017).

Contributing Author: Collier on Bankruptcy – Chapter 88, Commodity Broker Liquidation (Code §§761-767) (2014)

“Beware of Your Borrower’s Bankruptcy Case: Hidden Risks of a Customer’s Chapter 11 when dealing with Distressed Commercial Real Estate Assets” for Sovereign Bank’s legal department (July 12, 2011).

“Critical Changes Due To Bankruptcy Reform Legislation” for National Business Institute course held by national teleconference (June 6, 2008).

“Getting Paid in Federal Bankruptcy Court” as panelist for Fairfield County Bar Association in Stamford, Connecticut (April 10, 2008).

“Fundamentals of Bankruptcy Practice” for National Business Institute seminars held in both Hartford and New Haven, Connecticut (January 2008).

FIDUCIARY APPOINTMENTS

- *In re Action Redi-Mix Corporation*, Case No. 03-9583-ASH (Bankr. SDNY) – Chapter 11 Trustee for concrete plant in Bronx, NY, resulting in successful \$363 sale of all corporate assets to obtain maximum possible distribution to all allowed creditors.
- *In re Finne Brothers Refuse Systems, Inc*, Case No. 03-22472-ASH (Bankr. SDNY) – Chapter 11 Examiner for Westchester County-based waste hauling business.
- *In re Howard D. Balensweig*, Case No. 04-13299-BRL (Bankr. SDNY) – Chapter 11 Trustee for elderly physician and art collector in Manhattan resulting in successful sale of all assets (both personalty and realty) to generate **100% distribution** to all allowed unsecured creditors.

SIGNIFICANT MEDIATIONS

- *In re Madoff/BMLIS* (Member of Select Panel of Mediators), Case No. 08-01789-SMB (Bankr. SDNY) – settled vast majority of numerous multi-million dollar “clawback” adversary proceedings.
- *In re Lehman Brothers Holding Inc.* (Member of Select Panel of Mediators), Case No. 08-13555-SCC (Bankr. SDNY) – also served as sole Arbitrator in a major discovery-related dispute between two AmLaw 50 law firms.

SIGNIFICANT CLIENT REPRESENTATIONS

- *United States Securities and Exchange Commission et al. v. Platinum Management (NY) LLC, et al.*, Case No. 1:16-cv-06848-BMC (EDNY) (Counsel to SEC Receiver Melanie L. Cyganowski – aka “Platinum Partners” Receivership case).
- *In re Promise Healthcare Group, LLC, et al.*, Case No. 18-12491-CSS (Bankr. Del.) (Counsel to Patient Care Ombudsman Melanie L. Cyganowski).
- *In re 4 West Holdings, Inc. (aka “Orianna Health”)*, Case No. 18-30777-HDH (Bankr. N.D. Tex.) (Counsel to Patient Care Ombudsman Melanie L. Cyganowski).
- *In re Woodbridge Group of Companies, LLC*, Case No. 17-12560-BLS (Bankr. Del.) (Counsel to Unsecured Creditors).
- *In re Navillus Tile, Inc.*, Case No. 17-13162-SHL (Bankr. SDNY) (Special Litigation and Conflicts Counsel)(confirmed Plan of Reorganization for maximum possible distribution to all creditors).
- *In re 21st Century Oncology Holdings, Inc.*, Case No. 17-22770-RDD (Bankr. SDNY) (Counsel to Patient Care Ombudsman Melanie L. Cyganowski).
- *In re New York Crane & Equipment Corp., et al.*, Case No. 16-40043-CEC (Bankr. EDNY) (Counsel to Corporate Debtors N.Y. Crane, Lomma N.J., and Lomma Del.) (confirmed Plan of Reorganization for **100% distribution, plus interest**, to all allowed creditors).
- *In re RS Legacy Corp. (fka RadioShack Corporation)*, Case No. 15-10197-BLS (Bankr. Del.) (Counsel to Unsecured Creditor).
- *In re Electronics Expo LLC*, Case No. 2:13-bk-16921-NLW (Bankr. N.J.) (Counsel to Official Committee of Unsecured Creditors).
- *In re Hawker Beechcraft, Inc., et al.*, Case No. 12-11873-SMB (Bankr. SDNY) (Counsel to member of Official Committee of Unsecured Creditors).
- *In re Liberty State Benefits of Delaware Inc., et al.*, Case No. 11-12404-KG (Bankr. Del.) (Counsel to Chapter 11 Trustee Richard W. Barry).
- *In re MF Global Holdings Ltd., et al.*, Case No. 11-15059-MG (Bankr. SDNY) (Counsel to Secured and Unsecured Creditors).
- *In re Global Capacity Holdco LLC*, Case No. 10-12302-PJW (Bankr. Del.) (Counsel to Board of Directors).
- *In re General Motors Corp.*, Case No. 09-50026 (REG) (Bankr. SDNY) (Counsel to Unsecured Creditor).
- *In re Tavern On The Green Restaurant*, Case No. 09-15450-ALG (Bankr. SDNY) (Debtor’s Counsel).
- *In re Waterford Wedgwood USA, Inc.*, Case No. 09-12512 (SHL) (Bankr. SDNY) (Debtor’s Counsel).
- *United States Securities and Exchange Commission et al. v. Steven Byers, et al.*, Case No. 08-cv-7104-DC (SDNY) (Counsel to Secured Creditor versus SEC Receiver Timothy J. Coleman – aka “Wextrust” Receivership case).
- *In re Cannondale Corp.*, Case No. 03-50117-AHWS (Bankr. Conn.) (Counsel for Unsecured Creditor).
- *In re enivid, inc. (fka Divine, Inc., et al.)*, Case No. 03-11472-JNF (Bankr. Mass.) (Counsel to Chairman of the Official Committee of Unsecured Creditors).
- *In re TEU Holdings, Inc. (fka This End Up Furniture Company)*, Case No. 00-01098-RJN (Bankr. SDNY) (Counsel to Official Committee of Unsecured Creditors).
- *In re Texaco, Inc.*, Case No. 87-20142-HS (Bankr. SDNY) (Counsel to Secured Creditor).

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File Date: 9/23/2020

I. Profession	Accrediting Agency or Jurisdiction	Date of Admission
Attorney	State of New York	1985
	District of Columbia	2002
	U.S. District Court, SDNY	1985
	U.S. District Court, EDNY	1985
	U.S. District Court, NDNY	1988
	U.S. District Court, Connecticut	2001

II. Professional Organization	Date of Admission	Active/Inactive
American Bankruptcy Institute (ABI)	2001	Active
Turnaround Management Association (TMA)	2008	Active

III. General professional experience:

Expertise in all aspects of bankruptcy cases and out-of-court restructuring, commercial transactions, and civil litigation in a wide variety of industries since 1985. I am a Partner in the Finance & Restructuring Group of Faegre Drinker Biddle & Reath.

IV. General pertinent experience:

I served over 11 years with the U.S. Department of Justice as Assistant U.S. Trustee in the Southern District of New York and as Senior Trial Attorney in the District of Connecticut. In my private practice, I have extensive creditors' rights and commercial litigation experience in courts throughout the United States. My fiduciary-related roles have included serving as Counsel to Official Committees of Unsecured Creditors, serving as Special Counsel to the Board of Directors in a publicly traded Chapter 11 case, and being appointed by the U.S. Trustee serving as both as a Chapter 11 Trustee (e.g. Action Redi-Mix Corp.) and Chapter 11 Examiner (Finne Brothers Refuse Systems, Inc.).

V. Mediation training:

Advanced Negotiation & Mediation Skills Program sponsored by the U.S. Bankruptcy Court for the Southern and Eastern Districts of New York and the NASD in New York, NY on March 7-9, 2005 - 24 hours;

Basic Mediation Skills Workshop sponsored by Community Mediation, Inc. in New Haven, CT - June, 2000 - 32 hours;

Alternative Dispute Resolution Skills Seminar offered by U.S. Dept. of Justice at National Advocacy Center in Columbia, SC – September, 1993 – 8 hours.

VI. Pertinent bankruptcy training:

I have over 30 years of experience in bankruptcy and commercial litigation. My bankruptcy experience includes:

- a) Buyers of distressed property and bankruptcy asset sales (e.g. Section 363 sales);
- b) Prosecution and defense of avoidance actions (e.g. preferences and fraudulent conveyances) and all claims filed against the Debtors' estates (e.g. D&O liability insurance actions);
- c) Representing Official Unsecured Creditors' Committees with all necessary negotiation and litigation in connection with maximum recovery sought during the administration of the Debtors' estates;
- d) Advising both individual and corporate creditors, either secured or unsecured, with all necessary negotiation and litigation in connection with maximum recovery sought during the administration of the Debtors' estates;
- e) Representing Debtors-in-Possession in connection with obtaining post-petition financing, assuming or rejecting executor contracts, proof of claim litigation, and all aspects of the plan confirmation process;
- f) Advising both commercial landlords and tenants in bankruptcy matters;
- g) Participating in workouts and out-of-court restructuring efforts;
- h) Representing numerous parties in multiple SEC Receiverships;
- i) Serving in fiduciary-related roles as both Counsel to Official Committee of Unsecured Creditors and Special Counsel to Board of Directors in Chapter 11 cases, plus appointed several times as both Chapter 11 Trustee and Chapter 11 Examiner;
- j) Advising post-confirmation Liquidation Trustees;
- k) Serving as Mediator in the Madoff and Lehman Brothers cases;
- l) Serving as Arbitrator (major discovery dispute) in the Madoff bankruptcy case.

VII. General pertinent business or legal experience:

My legal experience, both in government and private practice, has focused upon debtors' and creditors' rights spanning a number of different industries and business activities throughout the country. For my complete professional biography, please see my law firm biography at <https://www.faegredrinker.com/en/professionals/c/costa-keith-n#!#tab-Overview> or go to my Linked In profile at <https://www.linkedin.com/in/keith-costa-3875859/>.

My fee structure, while normally based upon a standard hourly rate (\$850/hr. in the Madoff case), is also subject to adjustment based upon any alternative fee arrangement which makes sense under the circumstances of a particular case.