



Philip D. Anker

PARTNER

Co-Chair, Bankruptcy and Financial Restructuring Practice Group

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Philip Anker, co-chair of the firm's Bankruptcy and Financial Restructuring Practice Group, is an experienced bankruptcy litigator and counselor who has practiced for more than 30 years in the field. Among other honors, he has been inducted as a Fellow of the American College of Bankruptcy. Mr. Anker has been selected as one of the "Best Lawyers" in Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law in the *Best Lawyers in America* each year since 2005, with peers stating that he is "a first-class litigator who is tremendous in open court." In the 2020 edition, *Best Lawyers in America* named him "Lawyer of the Year" in the area of Litigation - Bankruptcy. He is also listed in the 2013-2024 editions of the *Best Lawyers in America* in the area of Litigation - Bankruptcy; the 2012-2022 editions of *Chambers USA: America's Leading Lawyers for Business* for his "excellent" Bankruptcy/Restructuring work, where clients describe him as "amazing in court," "commercial, thoughtful and with a good command of the law" and "tough, tenacious, credible and incredibly effective;" the 2010-2024 editions of Benchmark Litigation, which has rated him as a "National Star" and "Top 10 Practitioner" for Bankruptcy Law and cites Mr. Anker's peers and clients as saying that he is "a superb lawyer, highly professional, and among the elite bankruptcy practitioners;" in the 2018 edition of Expert Guides' *Best of the Best USA* as one of the leading practitioners in the country in Restructuring and Insolvency Law, as selected by his peers; and in the 2020-2021 editions of *Lawdragon* where he is listed as among the 500 leading bankruptcy and restructuring lawyers in the country.

Mr. Anker's practice is wide-ranging. He has represented the full panoply of clients in business bankruptcy cases: debtors, Chapter 11 trustees, trustees of post-confirmation trusts, creditors' committees, ad hoc committees, secured creditors, debtor-in-possession lenders, noteholders, indenture trustees, unsecured trade creditors, equity holders, investors and purchasers of companies, claims and assets in bankruptcy. In addition, Mr. Anker has played a leading role in some of the largest, most prominent bankruptcy-related litigation matters in recent years, including disputed plan confirmation and other highly contested matters, as well

as adversary proceedings and other actions, arising out of the Adelphia, Boston Generating, Boy Scouts, Energy Future Holdings, Enron, Global Crossing, Grupo Aeromexico, Idearc, Intelsat, Lyondell, Momentive, Refco, Sears, and Tribune Chapter 11 cases, as well as several consumer bankruptcy class actions. Among other prominent cases, Mr. Anker obtained the allowance for a group of noteholders of nearly \$600 million in make-whole claims in one of the largest Chapter 11 cases ever, completed the successful defense at trial of a multi-billion-dollar fraudulent transfer action, and successfully prosecuted, at trial and on appeal, claims for contempt arising out of an acquisition, also led by Mr. Anker, of substantially all of the assets of a leading data fusion company. Mr. Anker has argued and prevailed (in whole or in substantial part) in nine separate bankruptcy appeals in the US Courts of Appeals, including *In re MPM Silicones, LLC*, 874 F.3d 787 (2d Cir. 2017); *Delaware Trust Co. v. Energy Future Intermediate Holding Co.*, 842 F.3d 249 (3d Cir. 2016); *In re Tribune Co. Fraudulent Transfer Litigation*, 818 F.3d 98 (2d Cir. 2016); *Adelphia Recovery Trust v. Bank of America*, No. 09-0039-CV, 379 F. App'x 10 (2d Cir. 2010), *aff'd*, 390 B.R. 80 (S.D.N.Y. 2008); *Eastman Kodak Co. v. Wachovia Bank, N.A.*, 456 F.3d 1277 (11th Cir. 2006); *MBNA America Bank, N.A. v. Hill*, 436 F.3d 104 (2d Cir. 2006); *Arruda v. Sears, Roebuck & Co.*, 310 F.3d 13 (1st Cir. 2002); and *AT&T Universal Card Servs. v. Mercer*, 246 F.3d 391 (5th Cir. en banc 2001). Mr. Anker also successfully argued for the investment bank defendants in the New York Court of Appeals in *Kirschner v. KPMG, et al.*, 15 N.Y. 3d 446, 938 N.E. 2d 941, 912 N.Y.S. 2d 508 (N.Y. Ct. App. 2010), which resulted in that court's seminal decision reinforcing the *in pari delicto* defense and the dismissal of \$2 billion in claims against the banks.

Professional Activities

Mr. Anker is a member of the New York City Bar Association Bankruptcy Committee as well as the American Bankruptcy Institute. He is a periodic contributor on the Creditor Rights Coalition, a frequent speaker and panelist at bankruptcy law conferences, and an author of numerous articles on issues of bankruptcy and related law. Mr. Anker previously served as co-chair of the Debtor Practice Subcommittee of the Bankruptcy and Insolvency Committee of the American Bar Association Section of Litigation.

Solutions

Bank Crisis Task Force

Commercial Litigation
Class Actions

Bankruptcy and Financial
Restructuring
Litigation

Bankruptcy Litigation,
Regulation and Policy
Trials

Experience

- The indenture trustee for, and holders of, billions of dollars in bonds in the successful prosecution and appeal of “makewhole” and related claims totaling approximately \$600 million in the Energy Future Intermediate Holdings Company Chapter 11 case
- A Fortune 50 company in the successful defense at trial of a multi-billion-dollar fraudulent transfer action brought by post-confirmation liquidation trust, with the court entering a defense verdict at the conclusion of the trial
- The indenture trustee for, and holders of, \$1.1 billion in notes issued by Momentive Performance Materials in successfully appealing, and retrying on remand, the cramdown of their claims with replacement notes bearing a below-market rate of interest
- A major trading firm in the successful defense and appeal of multi-billion-dollar fraudulent transfer litigation arising out of the Tribune leveraged buy-out
- The indenture trustee for, and a steering committee of holders of, bonds in the confirmed Energy XXI oil and gas Chapter 11 case
- The holders of a majority in a dollar amount of \$220 million in first lien notes issued by LBI Media, Inc. in the completed sale of their notes
- An ad hoc group of secured noteholders in the Intelsat Chapter 11 case in negotiating, defending against challenge and obtaining court approval for the settlement of approximately \$100 million in disputed make-whole claims
- Several funds and other financial creditors in connection with their acquisition of a majority interest in GT Advanced Technology under its confirmed Chapter 11 plan of reorganization
- Various banks, broker-dealers and other institutions in obtaining the dismissal with prejudice of billions of dollars in fraudulent transfer claims arising out of the Lyondell leveraged buy-out and subsequent Chapter 11 case
- Various investment banks in the Refco Chapter 11 proceedings and in the successful defense of related litigation
- Major international banks in the Adelphia Communications Chapter 11 case and in the successful defense of related, multi-billion-dollar fraudulent transfer and other litigation
- One of the nation's leading credit scoring companies in its acquisition of substantially all the assets of TLO LLC out of bankruptcy, in a transaction that the M&A Advisor listed as both the 2013 Financial Services and Professional Services deal of the year, and in its successful prosecution of third parties for contempt of court for violating the bankruptcy court's sale order
- A Fortune 50 company in several leading telecommunications bankruptcy cases, including WorldCom, Global Crossing, CTC Communications, Adelphia Business Solutions, Adelphia Communications, Network Access, Choice One, Allegiance Telecom and ATX/CoreComm
- The Canadian affiliates of a large clean energy group of companies in the Chapter 11 cases of their US affiliates and in related claims objections and avoidance actions involving hundreds of millions of dollars in claims

- Investment banks in the successful defense of fraudulent transfer and other claims arising out of the insolvencies of the SPhinX/PlusFunds and Suffolk companies
- Large hedge funds, bondholders and other investors in the Chapter 11 cases of Washington Mutual, American Airlines, TerreStar, Flying J and Innkeepers
- The administrative agent for the first lien lenders in the Chapter 11 case of Workflow
- Large set of hedge funds in the negotiation of the plan of reorganization, and in the resolution of subsequent claims disputes in Lehman
- Various investment banks and hedge funds in the successful defense of fraudulent transfer litigation arising out of the leveraged recapitalization of Boston Generating and its subsequent bankruptcy
- Defendants sued in Madoff-related claims
- A major Wall Street broker-dealer in bankruptcy and class action litigation arising out of the collapse of the Foundation for New Era Philanthropy
- Startec Global Communications in its successful Chapter 11 reorganization proceedings, leading to its reorganization and emergence from bankruptcy
- A leading trust company in the commercial paper and other bankruptcy litigation brought by Enron
- Various banks and other entities in the defense of large fraudulent conveyance and other claims brought in the Global Crossing bankruptcy proceedings
- The Pension Benefit Guaranty Corporation in the Northwest Airlines, General Motors and Harry & David cases
- The liquidation trustee in the Chapter 11 case of Actrade Financial Corporation
- One of the nation's leading insurance companies in several large asbestos or other mass tort bankruptcy cases, including Boy Scouts, Congoleum, Mid-Valley, Purdue and Delaco
- A major national retailer and credit card issuer in Homelife and many other Chapter 11 cases and work-outs, as well as in several bankruptcy-related class actions and appeals
- The liquidator for the Navigator companies in their cross-border Chapter 11 cases
- A major Wall Street investment bank in its successful challenge to the original plan of reorganization in the MCorp Chapter 11 case and in the negotiation of the amended plan
- A leading insurance company in the Celotex bankruptcy case and related fraudulent transfer litigation

Recognition



Leading Lawyer for Bankruptcy and Restructuring

Chambers USA

2012-2023



Top Lawyer for Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law

Best Lawyers in America®

SINCE 2005



Top 10 Practitioner and National Star for Bankruptcy

Benchmark Litigation

2010-2024

- Selected by his peers as one of the *Best Lawyers in America®* in the areas of Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law since 2005 and bankruptcy litigation since 2011; named the Litigation - Bankruptcy New York Lawyer of the Year for 2020.
- Named among the Top 10 practitioners and National Stars for bankruptcy, and recognized for his leading bankruptcy litigation practice in the 2010–2024 editions of *Benchmark Litigation*.
- Ranked in the 2012–2023 editions of *Chambers USA Guide* for his Bankruptcy/Restructuring practice.
- Selected as a *Lawdragon 500* Leading Global Restructuring & Insolvency Lawyer for 2020–2023.
- Inducted as a 2018 Fellow of the American College of Bankruptcy.
- Selected by his peers as among the leading practitioners in the nation for Restructuring and Insolvency Law, as listed in the 2020 edition of Expert Guides' *Best of the Best USA*.
- Selected by Who's Who Legal (WWL)'s independent research - with clients and peers - as being among Restructuring's highest-ranking lawyers, for inclusion in the 2023 edition of *WWL: Restructuring & Insolvency*.
- Chosen by peers and through independent research as a “New York Super Lawyer” in business bankruptcy from 2006–2021 and 2023.

Credentials

EDUCATION

JD, George Washington
University Law School, 1982

with Highest Honors

*Editor-in-Chief, George
Washington Law Review; Order
of the Coif*

BA, University of
Pennsylvania, 1978

magna cum laude

ADMISSIONS

District of Columbia

New York

CLERKSHIPS

The Hon. Paul H. Roney, US
Court of Appeals for the
Eleventh Circuit, 1982 - 1983