



Robert D. Gordon

*Partner*

[rgordon@herrick.com](mailto:rgordon@herrick.com)

(212) 592-5964 PHONE

(212) 545-2312 FAX

Robert Gordon represents and provides strategic counsel to distressed companies, significant creditor constituencies, and related parties in complex and high-stakes corporate and public-sector restructurings. Robert has led private-sector restructuring engagements arising out of a broad range of industries, including energy, telecommunications, automotive/manufacturing, real estate, gaming and hospitality, media and entertainment, retail, and aviation. Among his clients are distressed companies, independent directors, ad hoc and official creditors' and retirees' committees, pension systems, secured and unsecured creditors, distressed-asset investors, lessors, trustees and liquidating agents. Robert has also served as a federal court receiver in an SEC enforcement action.

Robert is creative and pragmatic in developing case strategy but also prepared to aggressively leverage litigation positions as needed to advance his clients' goals. His clients appreciate his insight and informed guidance in crafting strategies that account for the numerous competing interests and motivations of various stakeholders in distressed situations. In addition, Robert provides effective transactional advice regarding contractual risk management, agile counsel in matters involving supply chain distress, and skilled litigation representation, including in matters involving liability management transactions, fraudulent transfer actions, preference actions and other commercial and bankruptcy-related matters. Robert has successfully argued cases before numerous courts.

Prior to joining Herrick, Robert was a partner at Jenner & Block LLP.

Recent notable engagements include:

- Serving as counsel to the Official Committee of Retirees in the restructuring proceedings for the Commonwealth of Puerto Rico, representing the interests of 167,000 public-sector retirees who, along with active employees, are owed approximately \$58 billion in connection with the funding of their accrued pensions.
- Represented a special committee of independent directors of Intelsat (Luxembourg) S.A. in the highly complex and contentious Chapter 11 bankruptcy of global satellite communications provider Intelsat S.A. and 35 affiliated debtors, successfully restructuring \$14 billion of debt.
- Represented a special committee of independent members of upstream oil and gas company Bruin E&P Partners, LLC regarding various issues in connection with the negotiation of a restructuring support agreement and prepackaged Chapter 11 bankruptcy that restructured \$1 billion of funded debt.
- Served as special restructuring counsel to the Detroit Retirement Systems in the City of Detroit's landmark Chapter 9 bankruptcy case.

#### Services

- Restructuring & Finance Litigation

- Distressed Real Estate

#### Education

- University of Michigan Law School (J.D., 1989)
- University of Michigan (B.A., 1985)

#### Recognitions and Accolades

- *The Best Lawyers in America*, Bankruptcy and Creditor-Debtor Rights Law, 2010 - Present; Litigation, Bankruptcy, 2019 - Present
- *The Legal 500*, Finance, Restructuring (including Bankruptcy), Corporate, 2018
- Michigan *Super Lawyers*, 2007 - Present [Award Methodology](#)

#### Memberships & Associations

- American Bankruptcy Institute, NYC Bankruptcy Conference Advisory Board, 2018 - Present
- Turnaround Management Association (Former Director, Detroit Chapter)
- UJA-Federation of New York, Restructuring Executive Committee

### Public Sector Restructuring Engagements

- Commonwealth of Puerto Rico: In the largest in-court public sector restructuring in U.S. history, involving approximately \$125 billion of debt, and the first case under Title III of the PROMESA statute, Robert represented the Official Retiree Committee, with responsibility for the interests of approximately 167,000 retirees and approximately \$58 billion in claims for unfunded pension benefits. Robert oversaw the litigation strategy vis-à-vis other creditor groups, and he spearheaded negotiations with the Financial Oversight and Management Board, leading to one of the first and most critical plan support agreements in the case. Ultimately, Robert and his team achieved an astounding result—full payment of accrued pension benefits (i.e., no reductions or deferrals), while bondholders received a blended recovery of less than 50%. As part of the settlement, Robert led the negotiation, drafting, and creation of a novel structure – a non-governmental independent pension reserve trust to be funded by the Commonwealth over the next 10 years out of projected cash surpluses, with governance split between a professionally-managed pension investment board and a retiree-populated pension committee. Last fall, the first deposit into the trust in the amount of \$1.4 billion was made by the Commonwealth.
- City of Detroit: In the largest chapter 9 bankruptcy case in U.S. history, involving approximately \$18 billion of debt, Robert represented the two Detroit retirement systems (Police & Fire Retirement System and General Retirement System) as the single largest creditor group, owed approximately \$6 billion. Robert played a central role in negotiating the treatment of the pension claims, which became the cornerstone of the plan of adjustment. Robert and his team obtained outstanding results for the pension systems, preserving in full the accrued base pension benefits of the police and fire retirees and securing a limited reduction of 4.5% of base pension benefits of the non-uniform retirees.
- Chester, PA: Representing the Official Retiree Committee in the chapter 9 bankruptcy of Chester, PA, furthering his unique work in this area. Retiree claims are approximately \$360 million.

### Private Sector Restructuring Engagements by Industry

Robert has represented debtors, creditors' committees, and various other key constituencies in numerous major bankruptcies and workouts, across a broad range of industries, including the following:

- Telecommunications
  - Intelsat (Luxembourg) SA: Represented a committee of independent directors in this chapter 11 restructuring of a leading global satellite communications company and 35 affiliated entities, involving \$14 billion of debt. The matter involved a highly complex web of crossclaims between affiliated debtors arising out of various liability management transactions, as well as complicated claims related to NOLs and corporate control rights under Luxembourg law. Working with other leading restructuring professionals representing affiliate debtors, we negotiated a complex settlement of the competing claims of the affiliates, achieved a successful exit and confirmed plan, and preserved enterprise value.
  - Apex Global Information Systems: Represented the Unsecured Creditors' Committee in the chapter 11 case of one of the original facilities-based Internet backbone providers. Successfully opposed attempts by various ISPs and other vendors to terminate service, enabling a fast-track going-concern sale under section 363. Persuaded the winning bidder at auction to structure its bid to ensure a significant distribution to unsecured creditors and avoid all proceeds being exhausted by cure claims for critical vendors. Also litigated issues under one of the first IRU agreements in the industry.
- Real Estate
  - Represented several tax-credit-financed affordable housing developments (LIHTC) on behalf of a leading developer and syndicator, in single-asset chapter 11 cases.
  - Made in Detroit, Inc.: Represented the Unsecured Creditors' Committee in chapter 11 case of developer of large residential community and marina on the Detroit River. Achieved confirmation of a completing plan proposed by the Committee for the sale of the property; successfully defended debtor's appeal to the Sixth Circuit Court of Appeals in a published decision.
- Automotive/Manufacturing
  - Plastech Engineered Products: Represented the Unsecured Creditors' Committee in the free-fall chapter 11 bankruptcy of this Tier 1 supplier to GM and Chrysler with \$1.7 billion in annual revenues. Negotiated novel and favorable OEM-backed DIP financing arrangement and negotiated with the debtor, customers, and first- and second-lien creditors for strategic going-concern spinoffs of interiors and exteriors business segments in separate transactions to newly-formed joint ventures, all resulting in an exceptional outcome for trade creditors and employees.
  - Cadence Innovation, LLC: Represented the Unsecured Creditors' Committee and the Liquidating Trustee in the chapter 11 bankruptcy of this Tier 1 supplier to GM and Chrysler with \$1 billion in annual revenues. Negotiated the terms of a structured wind-down with the OEMs and successfully implemented the wind-down with the Liquidating Trustee, delivering a remarkably robust recovery for unsecured creditors.
  - Innatech LLC: Represented the debtor, a Tier 2 supplier, in the successful going-concern sale of its business pursuant to section 363 of the Bankruptcy Code.

- Uniboring LLC: Represented the Unsecured Creditors' Committee.
- Mayco Plastics: Represented the Unsecured Creditors' Committee.
- Ward Products: Represented the prepetition lender.
- Engineered Plastic Products: Represented the prepetition and DIP lender.
- Represented numerous suppliers in bankruptcies of GM, Chrysler, Delphi, Visteon, Metaldyne, Collins & Aikman, and others.

- Energy

- Bruin E&P Partners LLC: Represented a committee of independent managers of an upstream oil and gas company in connection with its prepackaged bankruptcy, restructuring \$1 billion of funded debt.
- Advised major electrical infrastructure company on creditors' rights issues vis-à-vis U.S. Virgin Islands reconstruction post-hurricanes.

- Gaming

- Greektown Casino (Detroit): Represented the Unsecured Creditors' Committee. Jointly with noteholders, successfully proposed a competing plan of reorganization involving a rights offering by the noteholders and thus defeated the debtor's plan to simply convert the senior secured creditor's position to equity.
- Rivers Casino (Pittsburgh): Represented the holders of second-lien debt in an out-of-court workout in which the sponsor initially viewed the clients as out of the money. Through an aggressive strategy, reached a settlement that resulted in the clients converting debt to preferred equity and ultimately realizing an excellent return on investment.

- Media and Entertainment

- Represented ESPN in chapter 11 bankruptcy of Alpha Entertainment d/b/a XFL; successfully protected ESPN's rights under broadcast agreement.
- Represented Sony Music Entertainment in connection with the efforts of a chapter 7 trustee to sell a bankrupt artist's rights in royalty streams owed by Sony.

- Retail

- F&M Distributors: Co-counsel for debtor operator of 125-store chain of discount healthy and beauty aids stores.
- Meyer Jewelry: Represented debtor operator of retail jewelry store chain.
- ½ Off Card Shops: Co-counsel for the Unsecured Creditors' Committee.
- Damman Hardware: Represented the Unsecured Creditors' Committee of regional hardware store chain.
- Represented leading global manufacturer and supplier of health and wellness products in numerous retail cases, including Kmart, The Sharper Image, Service Merchandise, Linens-N-Things, and Natural Wonders.

- Aviation

- Air Transport International: Represented the Unsecured Creditors' Committee in the chapter 11 case of an air cargo carrier, filed in Reno, Nevada. Litigated against various parties involved in an LBO transaction that preceded the

bankruptcy, resulting in robust settlements and a 50% recovery to unsecured creditors.

- Trans Continental Airlines: Represented the Unsecured Creditors' Committee in the chapter 11 case of this air cargo carrier.
- Flagship Express: Simultaneously represented approximately 15 preference defendants in the chapter 11 liquidation of this air cargo carrier. Leveraged economies through the multiple representations to create vigorous defense, resulting in exceptional outcomes involving dismissals or de minimis settlements of all cases.

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#### Other

- Acis Capital Management: Represented Sculptor Capital f/k/a Och-Ziff Capital vis-à-vis a potential purchase of the assets of this CLO manager in its chapter 11 bankruptcy, a precursor to the Highland Capital bankruptcy.
- Robert Gordon, Receiver: Served as federal court-appointed Receiver in an SEC enforcement action involving an online Ponzi scheme, with approximately \$45 million in lost investor funds. Effectively and efficiently liquidated futures positions, real estate, thinly-traded stocks, and other assets and pursued various clawback, securities, and fraudulent transfer litigation claims on behalf of the estate, resulting in a recovery to the investor victims of approximately 40%, far exceeding initial expectations.
- McLean Wines: Represented the Unsecured Creditors' Committee in chapter 11 bankruptcy of wine distributor; successfully crafted and achieved confirmation of completing plan proposed by the Committee.