



Stephen B. Selbst

Partner; Co-Chair, Restructuring & Finance Litigation Department

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Stephen Selbst is the co-chair of Herrick's Restructuring & Finance Litigation Department. He has more than 30 years of experience representing debtors, creditors, official committees, distressed investors and asset purchasers in bankruptcies and out-of-court restructurings. Stephen advises clients from a wide range of industries, including financial services, telecommunications, government agencies and real estate. A skilled commercial litigator, Stephen also has significant experience in district and state courts, where he regularly represents clients in separate litigation arising out of bankruptcy. He also advises clients on structured finance and derivative transactions.

He is a frequent lecturer on bankruptcy and restructuring topics and has published articles and book chapters on bankruptcy-related topics. He has been frequently quoted in newspaper articles on insolvency related topics and has appeared on CNBC.

Bankruptcy and Restructuring Engagements

- *The Weinstein Companies.* – Successfully opposed motion of debtors' licensee to reject licensing contract where bank client was secured by assignment of licensing royalties. (D. Del.)
- *Cross-Dock Solutions, LLC* – Successful motion for appointment of trustee where warehouse operator had damaged, mislaid and converted customer goods. (D. N.J.).
- *SunEdison, Inc.* – Representation of service provider in chapter 11 case and as adversary proceeding defendant (S.D.N.Y.).
- *Lehman Brothers, Inc.* – Representation of adversary proceeding defendant involving alleged breach of warranty claims on sales of mortgages. (S.D.N.Y.)
- *Hancock Fabrics, Inc.* – Settled adversary proceeding against vendor alleging consigned goods had become property of debtor's estate. (D. Del.)
- *The Great Atlantic & Pacific Tea Company* – Won summary judgment for landlord in lease dispute with chapter 11 debtor (S.D.N.Y.)
- *97-111 Hale LLC et al.* – After chapter 11 debtors filed adversary proceeding that mimicked state court action, persuaded bankruptcy court to abstain from jurisdiction and remand litigation to state court. Later obtained relief from automatic stay for lender. (S.D.N.Y.)
- *Coyne International Enterprises, Inc.* – Lead counsel for industrial laundry and linen company operating plants in 15 states. Led three successful 363 sales that paid senior lender in full and provided substantial payment to junior lienholder. (N.D.N.Y.)
- *PSN USA, Inc.* – Won success defense summary judgment in bankruptcy court on fraudulent conveyance claim against telecommunications provider. Decision affirmed in District Court and 11th Circuit, 615 Fed. Appx. 925 (11th Cir. 2015).
- *Anthony Fusco* – Obtained relief from automatic stay for mortgage special servicer in fraud case involving "straw man" purchaser of real estate (E.D.N.Y.).

- *ISDA Transactions* – Represented television network, major league sports franchise and real estate developer on ISDA transactions with notional values in excess of \$1.2 billion.

Services

- Commercial Finance and Lending
- Private Investment Funds
- Restructuring & Finance Litigation
- Real Estate Litigation & Dispute Resolution
- Real Estate

Education

- University of Michigan Law School (J.D., 1980)
- University of Michigan (B.A., *with highest distinction*, 1976)

Accolades

- *The Best Lawyers in America*® - Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law (2021)

Memberships & Associations

- American Bar Association
- Association of the Bar of the City of New York
- American Bankruptcy Institute
- Turnaround Management Association
- TAGLaw®
 - Member, Financial Institutions and Markets Specialty Group

Publications

January 26, 2021

Supreme Court Holds Passive Retention of Collateral Does Not Violate Automatic Stay

December 11, 2020

S.D.N.Y. Bankruptcy Court Holds that Safe Harbor Protects SunEdison's Purchase of First Wind Assets

November 18, 2020

Herrick's Restructuring & Finance Litigation: 2019-2020 In Review

October 12, 2020

Bankruptcy Court Affirms Availability of 1111(b) Election in Subchapter V Cases

September 29, 2020

Second Circuit Does Not Flip Flop on Enforceability of Flip Clauses

September 4, 2020

Hedge Fund Founder Faces Criminal and SEC Charges Based on Alleged Misconduct in *Neiman Marcus* Bankruptcy

September 2020

Delaware Bankruptcy Court Voids Preferred Stockholder's Right to Block Bankruptcy Filing
Pratt's Journal of Bankruptcy Law

September 1, 2020

S.D.N.Y. Bankruptcy Court Pivots from *Enron*; Holds "Disallowance Taint" Transfers With
Purchased Claim in *Firestar Diamond* Case

July 29, 2020

S.D.N.Y. Bankruptcy Court Holds that Allegedly Fraudulent Conveyances are Safe Harbored
Under Section 546(e) and Provides a New Avenue of Defense

June 9, 2020

Distress Buyer in UCC Foreclosure Sale Held Liable for Seller's Debts Under De Facto Merger
Doctrine

April 29, 2020

The Importance of Clear Tax Allocation Agreements

March 24, 2020

Beloved Home-Grown Ice Cream Company, Ample Hills, Seeks a Buyer

March 11, 2020

Bond Market Shaken (Not Stirred) As Supreme Court Declines To Hear Puerto Rico Municipal
Bonds Dispute

February 2020

MULTIPLE CHOICE TEST: Make-Whole Claims in Bankruptcy Are (A) Enforceable, (B) Not
Enforceable, (C) Maybe Enforceable
ABF Journal

February 2020

New Ruling Lowers Standard for Discharging Student Loans in Bankruptcy

January 2020

First Circuit Rules that Sun Capital Funds Not Part of "Controlled Group" and Not Liable for
Pension Plan Withdrawal Liability

December 2019

Protection for Lenders: Bankruptcy Stays Stop the Clock Under CPLR § 204(a)

October 2019

Pity the Poor Consignor: Term Loan Lender Prevails
Pratt's Journal of Bankruptcy Law

July 2019

Pity the Poor Consignor: Term Loan Lender Prevails

January 2019

Passive Investor, Beware!
Pratt's Journal of Bankruptcy Law

October 2018

Passive Investor, Beware!

August 2018

Ninth Circuit Rules that Purchasing Claims to Block a Bankruptcy Plan is Permissible

July/August 2018

Retail Relief: Amend the UCC to End the Filing Requirement to Perfect Consignment Interests
ABF Journal

June 2018

Lender Lessons From Consumer Bankruptcy Cases in the Eastern District of New York

April 2018

First Union Case before Second Circuit Questions Validity of Deed-in-Lieu Transactions in New York

March 2018

Supreme Court Decision on Bankruptcy Code Section 546(e) Significantly Expands the Risk of Fraudulent Transfer Liability in Failed M&A transactions

February 2018

Galín v. Hamada: Investor Who Entrusted Painting to Fraudulent Gallery Owner Loses Claim Against Buyer in Ordinary Course

December 1, 2017

The Retail Crisis: Impact on Regional Shopping Malls
ABF Journal

September 2017

Is This The End For Geoffrey the Giraffe? Toys “R” Us Seeks Chapter 11

April 2017

Right of First Refusal Survives Bankruptcy Where Seller Failed To Give Notice of Sale

March 2017

SCOTUS: Payments Made under Structured Dismissals Can’t Violate Absolute Priority Rule

February 2017

Second Circuit Rules That Section 316(b) of the Trust Indenture Act Only Protects Core Payment Terms of Bond Indentures

January/February 2017

Retail Bankruptcy Cases: A Volatile Sector Faces More Turbulence
ABF Journal

August 11, 2016

Puerto Rico Financial Oversight Law Enacted
Bloomberg BNA’s Bankruptcy Law

April 1, 2016

Credit Bidding After Fisker: Challenges Lacking Substance Will Not Be Upheld
ABF Journal

March 21, 2016

RadioShack Dissected: The Decline, Fall and Possible Rebirth
ABF Journal

December 2015

Credit Bidding After Fisker
The Review of Banking & Financial Services

August 2009

The Art of Perfection: Avoiding Pitfalls in Gallery Bankruptcies
Art & Advocacy, Volume 3

Winter 1998

Monitoring Retail Reorganizations in an Era of Consolidation
Commercial Lending Review

News

April 13, 2021

Protection Dissolving for Borrowers in NY Seeking to Halt UCC Sales
Commercial Observer

February 19, 2021

Hotel Bankruptcies On The Rise As Lenders Lose Patience With Recovery
Bisnow

January 19, 2021

U.S. Bankruptcy Tracker: Hotel Filings Rise Amid Virus Spike
Bloomberg

November 30, 2020

Troubled-Debt Group Drops Objection to PREIT Restructuring, Opening Mall Owner's Path
from Bankruptcy
The Philadelphia Inquirer

August 20, 2020

Twenty Herrick Attorneys Recognized by Best Lawyers® 2021
Best Lawyers®

July 29, 2020

Bankruptcy Practices Scour Field for Resources on Rising Demand
Bloomberg Law

July 8, 2020

Top Bankruptcy Cases Of 2020: Midyear Report
Law360

May 6, 2020

In a Pandemic, Food, Booze and Guns Retain Value Best
The Wall Street Journal

May 1, 2020

COVID-19-Hit Retailers Face Tough Odds of Restructuring
Women's Wear Daily

February 2, 2020

More Retailers File for Bankruptcy Twice as They Struggle with Rising Debt, Pressure from
Amazon
CNBC

November 1, 2019

Retail Wreckage Piles Up
The Real Deal

October 22, 2019

As WeWork Value Plunges By \$39B, Ex-CEO Adam Neumann Rakes In Another \$1.7B
Forbes

October 17, 2019

WeWork Could Run Out of Cash by Mid-November — Here's What Would Happen Next
CNBC

August 6, 2019

Barneys Files for Bankruptcy, Felled by Rivals and High Rent
Bloomberg Law

June 24, 2019

Herrick Recognized by Best Lawyers®
Best Lawyers®

October 3, 2018

Toys R Us Comeback? New Name, Same Geoffrey Emerges from Wayne Headquarters
NorthJersey.com

June 6, 2017

Company Linked to Ticketing Ponzi Scheme Files for Bankruptcy
Wall Street Journal

April 21, 2017

Ralph Lauren's former flagship store still sucking in \$70K a day in rent
New York Business Journal

April 20, 2017

Four Disruptors of Physical Retail
FierceRetail

March 2, 2017

J. Crew Information Dispute Is a Situation to Watch as Some Observers See Legal Advantages on the Lenders' Side
CapitalStructure

February 28, 2017

There Hasn't Been This Many Distressed Retailers Since the Great Recession
TheStreet.com

July 1, 2016

Surviving a Restructuring: Developing a Strategy for Small- and Medium- Sized Debtors
ABF Journal

November 10, 2015

Herrick Advises Commercial Laundry Company Coyne in \$50M Chapter 11 Bankruptcy Auction
Herrick, Feinstein LLP

November 5, 2015

Judge Approves Three Coyne International Deals
The Deal

March 20, 2015

Jefferies to back LightSquared's \$1.5B second-lien exit facility
International Financing Review

January 6, 2015

The Bankruptcy Year in Review: Detroit Motors through Ch 9
Westlaw's Practitioner Insights