



KIMBERLY S. WINICK

Kimberly Winick's practice centers around commercial finance and bankruptcy law, and spans the spectrum of clients' financial concerns. Every business is both a debtor and creditor, owing on business and real estate loans and being owed for services rendered or goods sold. Lenders and borrowers of all stripes need to minimize the risks of bankruptcy. Comfortable representing the interests of either side in a given transaction, Ms. Winick structures loans, credit sales, asset acquisitions, leases, and long-term contracts to minimize bankruptcy risks, such as nonpayment, subordination, avoidance of preferences and fraudulent conveyances, assumption or rejection of leases, and protection and preservation of collateral.

Ms. Winick is equally comfortable in the courtroom. She is experienced in perfecting, prosecuting, and defending the interests of institutional lenders with respect to a full range of products including secured and unsecured lines of credit and term loans, and other credits – anything that may become a "special asset." She also has represented many business debtors in workouts or restructuring of debts and entire business organizations and operations. Forbearance agreements, loan modifications, out of court workouts, and formal bankruptcy proceedings all are in her wheelhouse.

In addition to serving clients, Ms. Winick enjoys writing and lecturing on commercial finance and bankruptcy topics, and serving as a pro bono mediator for the bankruptcy courts, often in Spanish.

EXPERIENCE

Transactional and Out of Court Representations

- Negotiated and documented \$60 million secured credit facility to obtain accommodations needed for borrower client's operational requirements.
- Represented secured lender/investor in UCC foreclosure upon equipment and subsequent purchase from debtor of related technology and other assets.
- Advised real estate developer in connection with acquisitions of properties with bankruptcy contacts that necessitated additional analysis and action, including plan modification, to minimize client exposure to potential debtor or third party claims.
- After occurrence of non-monetary defaults, represented real estate developer in connection with \$40 million construction loan modification, and ultimate payoff after revamp, lease-up, and sale of shopping mall project.
- Enhanced bank's collateral position and strengthened leverage over guarantors through forbearance and settlement agreement negotiation and documentation.
- Worked with non-profit arts organization to restructure operations, develop reliable financial strategy and enter into out of court payment plan, resulting in successful reorganization and revitalization of enterprise without need for bankruptcy.

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CONTACT

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Commercial Law and Insolvency
Creditors' Rights and Remedies
Bankruptcy
Real Estate Finance

AFFILIATIONS

- Regent, American College of Commercial Finance Lawyers
- Member, Conference Executive Committee, Ninth Circuit Judicial Conference
- Director/Past President, Financial Lawyers Conference
- Director/Past President, Los Angeles Bankruptcy Forum
- Director, Pasadena Symphony Association

EDUCATION

- JD with honors, University of Texas School of Law, 1985
- BA, Middlebury College, 1980

ACCOLADES

- Martindale-Hubbell "AV/Preeminent Attorney"
- *The Best Lawyers in America*, recognized for Bankruptcy & Creditor-Debtor Rights, Insolvency, Reorganization since 2013
- Los Angeles Magazine, "Top Women Attorneys In Southern California," 2013 and 2014
- Southern California Super Lawyers, since 2012
- AVVO "Perfect 10"

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PRACTICE AREAS

Commercial Law and Insolvency
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SELECTED LECTURES

- Financial Lawyers Conference: You Authorized What?!, April 2015
- California Bankruptcy Forum 24th Annual Conference: Strategies for and Challenges to Reorganizing Not-for-Profit Entities, May 2012
- CLE International: Real Estate Restructuring: Loan Defaults, Workouts, Bankruptcy and Distressed Property Acquisitions – Documenting a Restructure, Jan. 2010
- Financial Lawyers Conference: Nips and Tucks: The Surgical Enhancement of Article 9, Nov. 2009
- L.A. County Bar Assn.: Subordinated Secured Financing and Intercreditor Agreements in Bankruptcy, Jan. 2008

SELECTED PUBLICATIONS

- California Nonprofits – Restructuring Fundamentals, Cal. Bankr. Forum 24th Annual Conf., May 2012
- Real Estate Bankruptcies, CEB 2010, 2011, 2012 (advisor; author)
- Intercreditor Agreements in Bankruptcy, L.A. County Bar Assn., Jan. 23, 2008
- Tenant Letters of Credit; Bankruptcy Issues for Landlords and Their Lenders, 9 ABI L. Rev. 733, Winter 2001

EXPERIENCE

- Obtained consensual resolution of dispute between foreign client, U.S. contract party, and U.S. issuer bank concerning wrongful dishonor of \$3 million standby letter of credit, resulting in payment in full to client and performance of all contract obligations.
- Advised client manufacturer with respect to design and implementation of PMSI program in connection with large machinery sales.
- Advised parties regarding alternatives for structuring real estate sale-leaseback transactions as attractive alternative to second mortgage financing.

[Lender Representations In Bankruptcy](#)

- Defended senior secured lenders and collateral agents in adversary proceeding for breach of fiduciary duty and equitable subordination of liens.
- Advised creditor/defendant with respect to assertion of claims and settlement of adversary proceeding relating to financing of intellectual property assets.
- Advised vendor client in anticipation of bankruptcy filing by retailer customer. Negotiated allowance of administrative claims and settlement of large preference complaint.
- Represented bank, holder of \$1.2 million secured asset based loan to failed steel forge company. Aggressive litigation to limit use of cash collateral drove negotiated resolution providing client relief from the stay to foreclose on all assets within six months after petition date.
- Defended lender against actions to set aside fraudulent conveyances and preferences relating to loans involving timeshare, construction projects and a golf course resort.

[Debtor Representations](#)

- Devoted two and one-half years to advising non-profit detox/alcohol rehab company with respect to substantial restructuring of business, which culminated in confirmation of Chapter 11 plan of reorganization providing full payment to all creditors.

[Real Estate-Related Bankruptcy Representations](#)

- Represented purchaser in obtaining order in implementation of and modification of plan as well as related acquisition of \$25 million real estate asset that was held by seller subject to obligations under confirmed plan, to assure acquisition did not create purchaser exposure under plan.
- Represented landlord interests including with respect to post-petition enforcement of lease, premises transition upon rejection, and collection of rejection damages.