



## JEFFREY A. WURST

### PARTNER

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Jeffrey Wurst has more than 30 years of experience and is well recognized for handling significant commercial finance and bankruptcy matters. He is an esteemed fellow of the American College of Commercial Finance Lawyers and is a panelist on the American Arbitration Association's National Roster of Arbitrators.

Highly regarded for his knowledge and experience in commercial finance, Jeff is an outside-the-box thinker who is skilled in handling matters involving loan workouts, asset-based lending, factoring, syndications, leasing and C&I, as well as bankruptcy matters, and turnaround situations stemming from transactions. His experience also extends to counseling emerging finance companies and commercial marketplace lenders.

Jeff advises lenders and borrowers when commercial borrowers seek protection, whether in or out of bankruptcy, often under Chapter 11 and state court insolvency proceedings. He has extensive experience in obtaining orders authorizing debtors-in-possession to borrow money on a secured basis, and in litigating contested claims for use of cash collateral. Jeff is also well versed in representing clients who are acquiring the assets or stock of companies in bankruptcy, and regularly represents the interests of commercial landlords in bankruptcy matters.

Jeff has in-depth experience representing both lenders and borrowers in litigation arising from transactions, and is often called upon to handle inter-lender disputes. His litigation experience includes the successful defense of major money center banks in venues across the country related to lender liability, lien priority disputes, fraudulent conveyance and similar actions. He is engaged both as an advocate and as a neutral in arbitration proceedings under state and federal law, and is a frequent speaker advancing the use of arbitration in commercial finance matters. In addition, Jeff has successfully argued appeals in the Second, Third and Fourth Circuit Courts of Appeals on matters involving bankruptcy, financing and lender liability.

An established writer and blogger, Jeff's [Wurst Case Scenario](#), the commercial finance law newsletter, has thousands of followers. He is also a frequent lecturer on topics concerning lenders and entrepreneurs.

### BACKGROUND

Prior to joining Armstrong Teasdale, Jeff devoted over 30 years in private practice at another New York area law firm. While there, he served as chair of the Financial



### SERVICES AND INDUSTRIES

Alternative Dispute Resolution  
Appellate  
Bankruptcy and Financial  
Restructuring  
Financial Services  
Litigation  
Outside General Counsel  
Financial Services and Banking

### ADMISSIONS

New York  
U.S. District Court, Southern  
District of New York  
U.S. District Court, Eastern  
District of New York  
U.S. District Court, Western  
District of New York  
U.S. District Court, Northern  
District of New York  
U.S. District Court, Northern  
District of Texas  
U.S. District Court, Northern  
District of Illinois  
U.S. District Court, Eastern  
District of Michigan  
U.S. Court of Appeals, Second  
Circuit  
U.S. Court of Appeals, Third  
Circuit  
U.S. Court of Appeals, Fourth  
Circuit

Services, Banking and Bankruptcy department.

During the prior 16 years, Jeff was a music and English teacher in Oceanside, New York.

## EDUCATION

- Touro College Jacob D. Fuschberg Law Center (J.D., *magna cum laude*, 1987)
- Hofstra University (M.A., 1974)
- Hofstra University (B.A., 1971)

## PROFESSIONAL ACTIVITIES

- Association of Commercial Finance Attorneys, Director
- New York Institute of Credit, Past Chair
- Turnaround Management Association Global, Past Vice President
- American Bar Association, Business Law Section, Commercial Finance (Alternative Dispute Resolution, Subcommittee Chair), Legal Opinions Committees
- New York State Bar Association, Dispute Resolution Section, Commercial Finance Alternate Resolution Committee Chair
- Long Island Chapter of the Turnaround Management Association, Founding Member and Past President
- ABF Journal, Editorial Board Member
- Secured Finance Network, Board Member, Education Foundation

## ACCOLADES

- American College of Commercial Finance Lawyers, Fellow
- Martindale-Hubbell, AV-rated
- *New York Metro Super Lawyers*®, Banking (2014-present)
- Pulse Magazine Top Bankruptcy Attorney (2017)
- Long Island Business News Business & Finance Award (2015)
- New York Institute of Credit, Hon. Burton R. Lifland Mentor of the Year Award (2015)
- New York Institute of Credit, Leadership in Credit Education Award (2009)

## EXPERIENCE

### **Counsel to Major National Banking Association in Defense of Lender Liability Suit**

Represented a major bank in connection with defaults by its borrower, a public company that manufactured and distributed generic drugs. After six or more forbearance agreements, the bank was paid in full, but the former borrower later brought a lender liability action against the bank. Motion to dismiss was successfully

affirmed following presentation to the Second Circuit Court of Appeals.

#### **Counsel to Importer of Gourmet Italian Food Products in Post-Chapter 11 Proceedings**

Engaged by a distributor of Italian food products following the confirmation of its plan of reorganization and disputes arose with the Creditors' Trust, and with the secured lender. Strategic plan resulted in having the trustee replaced and defeating the community bank's efforts to force a default that would have resulted in a foreclosure action. The bank's second lien position was refinanced and its senior mortgage loan on the client's real estate is performing in accordance with its terms.

#### **Representation of Financially Distressed Gold Coast Not-For-Profit Private School**

Called upon to strategize and facilitate a plan to save a 100+ year private boarding school. The school was losing students and was at risk of running out of funds to enable it to compete the school year. After extended negotiations with an intended purchaser who was an operator of "for profit" private schools, achieved a settlement whereby the purchaser made a loan of the entire purchase price together with an option to purchase after certain conditions were attained.

#### **Created Outside-the-Box Lending Solution for Asset-Based Lender**

Lender was asked to make a loan to remediate an environmentally contaminated site to enable the owner to sell the land to a developer who refused to purchase until the land had been cleaned. On behalf of the lender, strategized a loan, secured by the owner's neighboring land which fully secured the loan to be made for the remediation. The loan funded the removal of the contamination, allowing the sale to go forward. The developer proceeded with the project and today, a multi-purpose community stands with residential, commercial and entertainment tenants connected by a bridge over the interstate.

#### **Counsel to Lender in Sale of Debtor Collateral, Repayment of Loan**

Represented the lender in providing a debtor-in-possession loan with appropriate protections for the lender after borrower filed for protection under Chapter 11. When a liquidation became necessary, the debtor-borrower brought a motion to sell its assets under Section 363 of the Bankruptcy Code. Research on the judge disclosed an aversion to *sub rosa plans* (a sale of substantially all of a debtor's assets without an approved plan of reorganization) and brought a *prophylactic* motion for stay relief. Provided proper notice for a private secured party sale pursuant to Article 9 of the Uniform Commercial Code. When the judge denied the motion to sell and granted the motion for stay relief instead, the parties proceeded immediately to close the Article 9 sale, resulting in full payment of the bank's loan.

## **THOUGHT LEADERSHIP**

May 18, 2020

#### **SBRA Provisions Make Chapter 11 More Accessible to Small Businesses, Sole Proprietors**

November 2019

#### **The San Andreas Economy: Protecting Your Business From The Inevitable Earthquake**

ABF Journal

November 2019

**Looking For A Better Mouse Trap? Article 9 Sales Spring To Action**

The Secured Lender

June 2019

**Don't Waive Waivers in Loan Documents**

ABF Journal

November/December 2018

**Why Are MCAs Doing So Well in the Courts?**

ABF Journal 16.7

July/August 2017

**Financing Government Receivables: State Governments Subject to Notification Like Other Account Debtors**

ABF Journal 15.5

January/February 2017

**What's Your Interest in Interest? Lenders' Rights to Post-Confirmation Default Rate Interest**

ABF Journal 15.1

May/June 2016

**What's In a UCC Name Requirement? When to Use Specific and Generic Names**

ABF Journal 14.4

November/December 2015

**Negative Effects of Hidden Lien: How to Identify, Avoid and Protect Against Pitfalls**

ABF Journal 13.8

November 2015

**Rights In Payment Intangibles: Collateral or Red Herring?**

The Secured Lender

March 2015

**Unintended Consequence — JPMorgan's Costly Mistake**

ABF Journal 13.2

January 2016

**Post-Paying the Piper: The Collateral Effects and Unintended Consequences of Settling with the SEC**

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