



# J. Mark Fisher

PARTNER

Mark is a Partner in the Chicago office.



## Industries

[Consumer Products](#)

## Practices

[Bankruptcy & Financial Restructuring](#)

[Complex Litigation](#)

[Finance](#)

[Real Estate](#)

## Education

University of Virginia School of Law, JD, 1978

Yale University, BA, magna cum laude, 1975

## Offices

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Mark Fisher's broad experience helps clients seize opportunities in complex restructuring and bankruptcy cases and avoid pitfalls in secured, structured and mezzanine financing transactions. As a lawyer, he has drafted portions of the laws governing secured transactions, equipment leasing and bankruptcy that are central to his court advocacy, negotiations and drafting. Mark has an innate ability to present the law and underlying reasons in practical terms, helping him resolve hundreds of deals and cases in his over years as a finance and restructuring lawyer.

Mark excels at quickly sizing up the documents, players and perspectives of a transaction, because timely advice is essential in identifying and addressing bankruptcy and creditors' rights issues. Those insights are just as important in structuring a highly leveraged transaction or distressed acquisition as they are in enforcing a lender's rights or defending against a lender liability or fraudulent transfer attack. Mark knows he practices in the "intensive care" wing of the legal system. This includes counseling in the unique area where a bank holding company is in financial difficulty and *itself* must restructure or even consider bankruptcy. Fortunately, Mark understands how to develop the appropriate agreement or pleading in unique matters where there is no template or form. He also has tried cases to courts and juries and handled complex appeals throughout the United States.

Mark represents some of the largest banks and insurance companies as well as smaller financial, manufacturing and real estate firms who face an opportunity or challenge with financing or insolvency matters. He continues to lead a joint defense group facing a \$450 million fraudulent transfer and breach of fiduciary duty claim. He also obtained, from the Eighth Circuit Court of Appeals, *en banc*, vindication of a trademark licensee against a bankrupt licensor who could have put it out of business by using bankruptcy to reject key licenses. Mark has crafted laws that benefit commercial and industrial landlords regarding rejection claims, post-petition administrative claims and other issues across the United States.

Mark has had particular experience with leveraged acquisitions, secured lending and equipment leasing, commercial real estate leasing, and intellectual property transactions and bankruptcy cases. He has represented parties in over 50 financially-distressed acquisitions in and outside bankruptcy cases. His successful defense of lenders, intellectual property (IP) licensees and landlords has won him many awards and a high rating. It has also helped solidify ArentFoxSchiff's reputation as a "midsize firm that has the capabilities and professionalism you would expect of a top firm" (*Chambers*) in finance and restructuring.

## Client Work

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- Mark has had numerous representations in mass tort bankruptcies, including the ongoing representation for 15 years of a leading liability carrier in the bankruptcies of numerous dioceses and archdioceses throughout the United States and the representation of the Roman Catholic Ad Hoc Committee in the pending bankruptcy of the Boy Scouts of America.
- Mark is general counsel to the chapter 7 trustee and local counsel in litigation that recovered \$28 million from insiders of a large Chicago homebuilder that, through a variety of corporate restructurings and intercompany transactions, left the debtor and its operating subsidiaries cash poor and undercapitalized by distributing millions as compensation and other distributions to themselves and family members.
- Mark led the defense and successful settlement of two clusters of fraudulent transfer litigation seeking a total of over \$350 million against a major insurance company in chapter 7 bankruptcy of the holding company of a national chain of dialysis clinics that was restructured and sold and against wealthy investors in a chapter 7 bankruptcy of a leading algorithm based commodities trading platform. Both engagements required mastery of the law, the complex documentation of the underlying transactions and the identification of key leverage points to strike good deals.

Mark represented a major insurance company as mezzanine lender in the bankruptcy of a consumer products company that involved de-railling a quick sale arranged by the senior lender. He spearheaded a plan of reorganization, negotiating a better transaction, then brokered a settlement with the plaintiffs in a class action, clearing the way for his reorganization plan to be consummated.
- Mark navigated a client through a complex cross-border bankruptcy case of a defense contractor. Mark was called in to represent the bank agent for several secured lenders. The matter brought with it complex legal issues relating to the debtor's supply chain and the simultaneous sale of U.S. and Canadian corporate assets involving regulations promulgated by the U.S. State Department and Department of Defense and their Canadian analogs. Other issues involved in the case included environmental liability and arbitration of the disputed working capital adjustment under the asset purchase agreements.
- Mark fought against DIP financing and a quick Section 363 sale on behalf of the unsecured creditors committee of a bankrupt contractor. He negotiated a multimillion-dollar distribution trust for the benefit of unsecured creditors and established an innovative arrangement to resolve mechanics' lien claims and property owners' defenses to the payment of accounts receivable.
- Mark represented the buyer of a refractory brick manufacturer and installer that had previously used asbestos in its products. He not only helped the firm put together a successful bid of cash and debt at an auction of business assets as well as a subsequent plan that took advantage of bankruptcy code provisions barring successor liability and future claimants from suing the client.
- When a bank found itself facing lender liability litigation for an alleged "bad faith" foreclosure against Government National Mortgage Association (GNMA) securities, he made law in the trial court and on appeal establishing over-the-counter market for GNMA securities as a "recognized" market as to which no notice of a foreclosure sale is required under Article 9 of the UCC.
- Mark successfully defended an electricity trading company sued for fraudulent transfer and preference claims and successfully organized a defense group to coordinate over \$200 million in claims. 8-week arbitration led to a successful resolution in favor of the client in the Chapter 11 bankruptcy of one of the largest independent power traders in the United States.
- Mark shepherded a major oil company and mortgagee in the difficult bankruptcy, environmental and financing issues related to the preservation, cleanup, and disposition of a major refinery.
- Mark represented indenture trustees and holders of municipal and corporate bonds relating to Chapter 11 cases filed by debtors in software development, trucking, computer equipment, hospitals, retail, municipal waste recycling, residential fiber optic systems, elderly housing and nursing homes, multifamily residential real estate and one of the largest real estate developments presently underway in California.

## Publications, Presentations & Recognitions

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### Recognitions

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- The Best Lawyers in America, *Best Lawyers* (2008-2009, 2012-2023)
- *Chambers USA* Bankruptcy/Restructuring, Illinois (2013-2021)
- *Illinois Super Lawyers*, Thomson Reuters (2007-2009, 2011-2021)
- "Lawyer of the Year" Equipment Finance Law Chicago, *Best Lawyers* (2021)
- Illinois Leading Lawyer, Law Bulletin's *Illinois Leading Lawyers Network* (2007-2009, 2011-2021)
- Lawyer of the Year, *Best Lawyers in America* (2014, 2015, 2019)
- PLC Which Lawyer? Chicago Restructuring and Insolvency Lawyer, *Practical Law Company* (2013)
- Fellow, American Bar Foundation, ABF (Since 2010)
- Recommended Attorney, *Cross-Border Restructuring and Insolvency Handbook* (2008-2009)
- Leading Lawyer, Law Bulletin's *Illinois Leading Lawyers Network* (2006)
- Peer Reviewed AV® Preeminent®, *Martindale-Hubbell* (Since 2005)
- Distinguished Service Award, *Corporate Legal Times* (2001)
- Achievement Award, Commercial Finance Association (2000)
- Distinguished Bank Counsel Award, Illinois Bankers' Association (2000)

## Boards, Memberships & Certifications

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- American Bar Association, Section of Business Law, Committee on Business Bankruptcy
- Chicago Bar Association, Commercial Finance Committee, Past Chair
- Commercial Finance Association Education Foundation, Director
- Member, Insolvency Practice Group for the Americas of TerraLex (an international network of 15,000 lawyers in over 100 countries) and co-representative of the firm as the Illinois member of TerraLex (2004 to 2022).

## Bar Admissions

[Illinois](#)

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## Court Admissions

[US Supreme Court](#)  
[US Court of Appeals, 7th Circuit](#)  
[US Court of Appeals, 8th Circuit](#)  
[US District Court, Central District of Illinois](#)  
[US District Court, Northern District of Illinois](#)  
[US District Court, Northern District of Indiana](#)  
[US District Court, Eastern District of Michigan](#)  
[US District Court, Western District of Michigan](#)  
[US District Court, Eastern District of Wisconsin](#)  
[US Bankruptcy Court, Northern District of Illinois](#)  
[US Bankruptcy Court, Eastern District of Wisconsin](#)  
[US Bankruptcy Court, Western District of Michigan](#)  
[US Bankruptcy Court, Northern District of Indiana](#)  
[US District Court, Northern District of Texas](#)