HUSCH BLACKWELL



Mark T. Benedict

PARTNER

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OVERVIEW

Mark assists clients in complex corporate and debt reorganizations and distressed mergers and acquisitions.

With more than 25 years of experience, Mark uses his comprehensive understanding of the Bankruptcy Code to assist all parties involved in the restructuring process in achieving their business objectives, including debtors, bank and nonbank lenders, trade creditors, vendors and strategic buyers of distressed assets.

In debtor representations Mark has distinguished himself as a practical problem-solver capable of addressing all facets relating to his clients' challenges in a coordinated and strategic manner, including Chapter 11 reorganizations and out-of-court restructurings. Mark has a demonstrated ability in helping clients tackle complexity in order to restage their business operations. Most recently, he advised the owner of several casinos in multiple states in an out-of-court debt restructure; he ran the Chapter 11 sale of a chain of retail and specialty pharmacies; and he negotiated a Chapter 11 plan for a yellow pages delivery company.

Early in his career, Mark was perhaps best known for his representation of asset-based secured lenders and trade vendors with large exposures to finally distressed borrowers and business partners. His creditor-side work spans multiple industries, including healthcare, aviation, transportation, agriculture, retail and energy, and he has represented creditors with a variety of debt and equity interests.

Today, clients call on Mark for advice concerning distressed mergers and acquisitions, including asset sales under Section 363

Industry

Financial Services & Capital Markets

Services

Ag Finance

Asia

Canada, Mexico, Central, & South America

Europe, the Middle East, & Africa

Healthcare Insolvency & Bankruptcy

Insolvency & Commercial Bankruptcy

International

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of the Bankruptcy Code. Mark assisted clients with numerous transactions, including the acquisition of the Strack & Van Til grocery chain in Indiana, the Dahl's Foods grocery chain in Iowa, the Belle Foods grocery chain in Alabama, the acquisition of substantially all the assets of grocery distributor Affiliated Foods Southwest Inc. in Arkansas, and the purchase of six operating divisions in the Fleming Cos. bankruptcy in Delaware. He has also been actively assisting green energy companies in acquiring distressed projects, including operating assets of Abengoa, S.A. in the United States.

Mark began his career as the law clerk for the Hon. Frank W. Koger, Chief Bankruptcy Judge for the Western District of Missouri, during the Food Barn Stores Inc. bankruptcy in Kansas City, Missouri. Building on that early grocery experience, Mark has focused a substantial portion of his practice during the past decade on food industry and agricultural Chapter 11 bankruptcy proceedings. This has involved matters from "field to table" and everywhere along the supply chain, including issues under the Perishable Agricultural Commodities Act (PACA) and the Packers and Stockyards (P&S) Act.

Mark is active in the local bar, having served as co-chair of the Bankruptcy and Commercial Law Committee for the Kansas City Metropolitan Bar Association and the Ad Hoc Advisory Committee on Local Rules for the U.S. Bankruptcy Court, Western District of Missouri. Mark is board certified in business bankruptcy by the American Board of Certification.*

In the local community, Mark is on the Board of Trustees for the Lyric Opera of Kansas City.

*The American Board of Certification's business bankruptcy certification program is accredited by the American Bar Association. Neither the Supreme Court of Missouri nor the Missouri Bar reviews or approves certifying organizations or special designations.

Experience

- Led representation of large agribusiness client on $500MM refinancing of its commercial loans and interest rate swaps into the farm credit system. The refinancing represented a significant cost savings to the client and provided relief from various loan covenants that gave the client substantially more flexibility in its business and joint venture efforts.
- Serve as lead restructuring counsel for gaming holding company that owned multiple casinos in several states. Negotiated debt for equity swap with senior lender and negotiated continued stake for employee stock ownership plan (ESOP) owners.
- Serve as Chapter 11 debtors' counsel for largest group of independently-owned retail pharmacy stores in Missouri, which operated 23 pharmacies, including 20 retail, one specialty and two long-term care pharmacies. Ran successful sale process, doubling stalking horse price after nine hours of competitive bidding.

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Experience

- Serve as lead restructuring counsel for largest canned meat producer in out-of-court workout that permitted existing equity to retain ownership.
- Served as lead restructuring counsel for largest independent radiology practice in Kansas. Negotiated out-of-court restructuring.
- Counseled Algonquin Power Co., as secured lender, in Trafalgar Power Inc. bankruptcy proceedings and sale, pursuant to Section 363 of Bankruptcy Code, of seven hydroelectric power facilities.
- Represented Canadian energy company in acquisition of equity stake in publically traded energy yield co, related to spinoff from multijurisdictional reorganization with COMI in Spain and United Kingdom.
- Assisted American construction company in acquisition of U.S.-based water infrastructure projects from insolvent Spanish energy company.
- Represented developer of luxury condominium complex on Seven Mile Beach in Grand Cayman in foreclosure and receivership proceedings.
- Represented American energy company in acquisition of U.S. renewable projects out of bankruptcies of U.S. subsidiaries of bankrupt European energy company.
- Represented owner of energy construction project in German insolvency of its general contractor and bankruptcy of general contractors U.S. subsidiary.
- Assisted the successful buyer in acquiring seven operating grocery stores in the Dahl's Foods Inc. bankruptcy in Des Moines, Iowa.
- Assisted the successful buyer group in the acquisition of 43 operating grocery stores in the Belle Foods, LLC bankruptcy in Alabama.

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Experience

- Represented HMC/CAH Consolidated Inc. and its 12 operating affiliates as debtors-in-possession in their Chapter 11 bankruptcy in Kansas City, MO. Assisted system of 12 rural hospitals with annual revenues of approximately $100 million reorganize and emerge from Chapter 11 within 15 months of filing as a true reorganization without shutting down or selling a single hospital.
- Served as co-counsel for Patient First Healthcare Inc. and its affiliates as debtors-in-possession in their Chapter 11 bankruptcy in Kansas City, Kan. Advised surgical specialty hospital and affiliated physician practices in reorganization plan to emerge as a true reorganization without a shutdown or sale of their businesses.
- Represented Associated Wholesale Grocers Inc. (AWG) in the nearly $300 million acquisition of six operating divisions from the Fleming Cos. Inc. bankruptcy in Wilmington, Del.
- Counseled National Beef Packing Co. LLC as a trade vendor in obtaining payment in full on its claims through a reclamation process in the Fleming bankruptcy.
- Represented National Beef as a trade vendor in the bankruptcy of Empire Beef Co. Inc. in Rochester, N.Y., and obtained recognition of the first Bankruptcy Code Section 503(b)(9) creditors' committee in the nation. Also obtained dismissal of the bankruptcy case, thereby avoiding litigation against all vendors over alleged preferential transfers, including National Beef, which was alleged to have received in excess of $40 million in preferential transfers.
- Represented AWG as a strategic buyer in the Affiliated Foods Southwest Inc. bankruptcy in Little Rock, Ark. Obtained a Section 363 sale order within five business days of the bankruptcy filing.
- Represented AWG as a secured lender and vendor in the Homeland Stores Inc. bankruptcy in Oklahoma City, Okla., where AWG acquired ownership of approximately 44 stores through a sale approved in the Chapter 11 plan.
- Assisted AWG in the spinoff of its retail operations of approximately 80 stores to an employee stock ownership plan (ESOP).

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Experience

- Represented the American Baker's Association retirement plan as a creditor in the Interstate Bakeries Inc. bankruptcy proceedings in Kansas City, Mo., where the plan received a substantial distribution as an administrative claim and a favorable ruling with respect to single employer versus multiemployer liability against the Pension Benefit Guaranty Corp.
- Represented large national bank as a defrauded lender in the George Young bankruptcy proceedings in Kansas City, Mo. Young perpetrated what was at the time the single largest cattle fraud scheme ever in the United States. Led negotiations for the defrauded investor group and its lenders and was instrumental in forging a global settlement with more than 50 stakeholders, resulting in a distribution and recovery for all creditors.
- Successfully represented the State of Montana Department of Revenue before the U.S. Court of Appeals for the Ninth Circuit, obtaining reversal of bankruptcy court ruling denying the State sovereign immunity in adversary proceeding.

Recognition

- *The Best Lawyers in America®*
    - Best Lawyers® Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law "Lawyer of the Year," Kansas City, 2027
    - Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, 2008-2027
    - Litigation-Bankruptcy, 2008-2027
- *Kansas City Business Journal*, Best of the Bar, 2011-2014
- *Missouri & Kansas Super Lawyers,* Bankruptcy & Creditor/Debtor Rights, 2006-2024
- Martindale-Hubbell AV Preeminent
- The Missouri Bar, Pro Bono Award, 1995

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Education

- J.D., Boston College Law School
  - *cum laude*
  - *UCC Reporter-Digest*, Executive Board
- B.A., Rockhurst College
  - Mathematics and Political Science
  - *summa cum laude*
  - Alpha Sigma Nu

Admissions

- Missouri
- Kansas

Clerkship

- The Hon. Frank W. Koger, U.S. Bankruptcy Court, Western District of Missouri

Community Leadership

- Lyric Opera of Kansas City, Board of Trustees



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