



Brian D. Darer

Partner

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t 919.890.4170



With more than 20 years of experience, Brian Darer has successfully represented creditors in hundreds of bankruptcies, foreclosures, and workouts. He is a North Carolina State Bar board certified specialist in business bankruptcy. He has substantial experience litigating in federal and state courts, as well as arbitration, mediation, and other forms of alternative dispute resolution.

His clients include Fortune 500 companies, national, regional and community banks, nontraditional lenders, finance companies, and lessors. Clients describe him as "very efficient in analyzing and resolving issues," according to *Chambers USA*, which ranks Brian as a leading attorney based on in-depth interviews and objective research. He also provides cost-effective results in the most complex loan workouts and bankruptcies.

Brian is also a successful advocate for construction industry professionals, including owners, contractors, architects, and engineers on all aspects of a construction project such as contract negotiation, litigation and arbitration.

REPRESENTATIVE EXPERIENCE

- Represented a national bank in multiple bankruptcies filed by related developers and builders in North Carolina and South Carolina; successfully argued issues over the use of cash collateral generated by the sale of homes and lots, and defeated the debtors' challenge to the bank's loan documents, ultimately leading to the grant of relief from the automatic stay and foreclosure of the bank's collateral.
- Successfully represented an unsecured creditors committee in a large bankruptcy filed by a technology-based company; achieved a 100 percent dividend payout to all unsecured creditors – an increase from an estimated 20 percent when the case was originally filed.
- Advised various banking institutions on hundreds of out-of-court workouts, obtaining favorable and timely results without the legal expenses associated with protracted court battles in state, federal, and bankruptcy courts.
- Represented several businesses purchasing the assets of a bankrupt entity through a § 363 sale; negotiated and drafted asset purchase agreements and represented clients in bankruptcy court seeking approval of the sales.
- Successfully represented a regional bank on an appeal from an order of the bankruptcy court confirming a debtor's Chapter 11 plan of



RALEIGH OFFICE



PRACTICE AREAS

Financial Restructuring & Insolvency
 Commercial Foreclosure & Receivership
 Construction Litigation



EDUCATION

University of Virginia
 JD, 1998
 University of Virginia
 BA, with honors, 1995



ADMISSIONS

North Carolina, 1998



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reorganization; successfully represented the bank on appeal, resulting in a reversal of the order confirming the plan.

- Defended an international engineering company in a large construction dispute concerning delay claims in connection with the construction of a bridge – claims against the client alleged that design defects caused delays and cost overruns; successfully resolved the matter on terms favorable to the client.
- Reversed a “partial dirt for debt” Plan of Reorganization confirmation. *SunTrust Bank v. Bannerman Holdings, LLC (In re: Bannerman Holdings, LLC)*, 7:11-CV-00009-H (E.D.N.C. 2011)
- Reversed a dismissal of a lender's federal court action to compel arbitration, finding that the lender had standing to compel arbitration. *Republic Bank & Trust Co. v. Kucan*, 2007 WL 2376927 (4th Cir. 2007)
- Reversed a grant of summary judgment in favor of a blasting subcontractor regarding whether the general contractor could assume the risk of blasting. *Vecellio & Grogan, Inc. v. Piedmont Drilling & Blasting, Inc.*, 644 S.E.2d 16 (N.C. App. 2007)
- Successfully represented a client in a case affirming grant of judgment on the pleadings in favor of surety on a payment bond. *Beachcrete, Inc. v. Water Street Center Associates, L.L.C.*, 615 S.E.2d 719 (N.C. App. 2005)

CLIENT ALERTS

- "The Practical Effects of LIBOR's Phase Out," October 2017
- "U.S. Supreme Court Weighs in on Bankruptcy Claims, Fair Debt Collection Practices Act," May 2017
- "Don't Forget About Those Aging Judgments," August 2016
- "North Carolina Supreme Court Confirms That Lenders Do Not Owe Fiduciary Duties To Borrowers," December 2015

PUBLICATIONS

- "Guide to Tracing Assets Around the World," TerraLex, May 2018
- "Chapter XVIII on Ch. 11 Reorganization," North Carolina Bankruptcy Practice Manual, Eighth Edition, December 2017



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- "Chapter XVIII on Ch. 11 Reorganization," North Carolina Bankruptcy Practice Manual, Seventh Edition, 2012
- "Chapter XVIII on Ch. 11 Reorganization," North Carolina Bankruptcy Practice Manual, Sixth Edition, 2007
- "Construction Management Comes to Public Work," Charlotte Business Journal, March 2002

SPEAKING ENGAGEMENTS

- "Nuts and Bolts of Commercial Tenant Bankruptcies," Parker Poe Webinar, September 2020
- "COVID-19 Webinar: Bankruptcy in the U.S.," Employment Law Alliance, May 2020
- "From Field to Table: The Opportunities and Challenges Facing the Food Supply Chain," TerraLex Webinar, May 2020
- "Construction Issues in a Softening Economy: Navigating Your Way Through the Storm of Insolvency," N.C. Bar Association Construction Law Potpourri, February 2020
- "Collegiality and Playing to Win," Eastern Bankruptcy Institute, Myrtle Beach, S.C. , May 2018
- "Law Firm Economics," Eastern Bankruptcy Institute, Myrtle Beach, S.C., May 2016
- "Current Issues in Chapter 11," Eastern Bankruptcy Institute, Myrtle Beach, S.C. , May 2014
- "Agricultural Issues in Bankruptcy," Eastern Bankruptcy Institute, Myrtle Beach, S.C., June 2011
- "Construction Liens Under Title 11: Will Your Lien Provide Shelter From The Storm of Bankruptcy?," 30th Annual Bankruptcy Institute, North Carolina Bar Association, Wilmington, N.C., November 2007

HONORS

- *The Best Lawyers in America* in Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, 2021
- North Carolina Bar Board Certified Specialist in Business Bankruptcy



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- *Chambers USA: America's Leading Lawyers* in Bankruptcy/Restructuring, 2010-2020
- *Business North Carolina* magazine's "Legal Elite" in Bankruptcy, 2010-2011, 2014, 2019
- *North Carolina Super Lawyers*, 2011-2020; *Rising Star*, 2009-2010
- North Carolina Bar Association "Citizen Lawyer," 2007
- Martindale-Hubbell AV Preeminent™ in Bankruptcy; Construction Law
- Order of the Coif
- Virginia Law Review

MEMBERSHIPS

- North Carolina Creditors Bar Association, Membership Chair, 2017
- North Carolina Bar Association, Bankruptcy Council of the Bankruptcy Section