

HAROLD L. KAPLAN



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Harold L. Kaplan is a partner with Foley & Lardner LLP. He, among other things, is the leader of the firm's Corporate Trust and Bondholders Rights Team and is a member of the firm's Bankruptcy & Business Reorganizations Practice. Over the last three decades, Mr. Kaplan has represented financial institutions, debtors, trustees under the Bankruptcy Code and the Securities Investors Protection Act, foreign liquidators in ancillary proceedings, creditors committees, and other creditor groups, including representing indenture trustees and bondholder interests.

In addition to more traditional areas of practice, he has extensive experience in claims trading and regulated industry matters, including railroad, airline and other transportation reorganizations; utility industry matters; securities industry and broker-dealer matters; insurance and bank insolvencies; telecommunications, gaming, oil and gas and mining proceedings; and health care industry matters, including health care finance, reorganizations, insolvencies, and other proceedings.

Mr. Kaplan has been Peer Review Rated as AV® Preeminent™, the highest performance rating in Martindale-Hubbell's peer review rating system. He was named one of 12 outstanding bankruptcy lawyers in the country in 2005, 2004 and 2003, and one of 13 in 2001, by *Turnarounds & Workouts* magazine. Mr. Kaplan is recognized as one of *Chambers USA's* 2006-2011 "Leaders in their Field" for bankruptcy. Mr. Kaplan was selected for inclusion in the 2010 and 2012 editions of *The Best Lawyers in America*® in the specialties of bankruptcy and creditor-debtor rights law and corporate law. He was also selected for inclusion in the 2005-2011 *Illinois Super Lawyers*® lists. In 2010 and 2011, the *Legal 500* recognized Mr. Kaplan for his work in corporate restructuring.

Mr. Kaplan has authored numerous articles and spoken on transactional, bondholder/corporate trust, health care and bankruptcy topics. He is a member of the American Bankruptcy Institute, where he is a contributing editor to the *ABI Journal's* "Intensive Care" column on health care related issues. He has been a presenter at numerous conferences on corporate reorganization, distressed debt, distressed real estate, health care financing and bond default, and chairs the Annual Corporate Reorganizations Conference held in Chicago. He is a past chair of the Chicago Bar Association Bankruptcy and Reorganization Committee; past chair of the American Bar Association Health Care and Nonprofits in Bankruptcy Subcommittee; and chair of the American Bar Association Committee on Trust Indentures and Indenture Trustees, as well as serving on several related committees, including the advisory drafting group of the Subcommittee on Revision of the Model Simplified Indenture. He is also a member of the editorial board of the American Bankers Association *Trust and Investments* magazine, and was a member of the editorial board of *Network News*, a publication for corporate trustees. He recently served as an original member of the Cornerstone Council, an advisory group that makes recommendations to the Turnaround Management Association (TMA) Management Committee on the uses of Cornerstone 15 funds for academic research.

Mr. Kaplan received his law degree from the University of Chicago Law School (J.D. 1975). He is a graduate of the University of Wisconsin (M.A. 1975, B.A. 1972).

Mr. Kaplan is admitted to practice in Illinois and New York and has appeared in courts and cases throughout the United States.

Previous and Current Representative Major Bond/Indenture Trustee/Creditor Cases:

ASARCO, AbitibiBowater, Aleris International, Bally Total Fitness, Charter Communications, Primus Telecommunications, Simmons Bedding, Extended Stay, Inc., General Growth, Hartmarx, HRP Myrtle Beach Holdings LLC, Kimball Hill, Remy International, UAL Corp., Northwest Airlines Corp., FLYi, Inc., Mirant Corp., Loral Orion, USGen New England, Atlas Air, Tower Automotive, WHX Corp., Kaiser Aluminum, Conseco, Petro-Geo, HealthSouth, Magellan Health Services, NCS Healthcare, AHERF, Home Products International, Inc., Fleming, Kmart, Redback Networks, USN Communications, Favorite Brands, Southern Mineral, United Companies Financial, ContiFinancial, Sunterra, Crown Vantage, Kitty Hawk, Safety-Kleen, Reliant Building Products, Wheeling-Pittsburgh, Metal Management, Armstrong World Industries, Outboard Marine, Loewen Group, Globe Manufacturing, Pacific Gas & Electric, AMRESCO, Goss Holdings, Thermadyne Holdings, Jacobson Stores, Farmland Industries, Hunt International Resources, Sunshine Mining, Eastern Air Lines, Telemundo, Bally's Grand, Wedtech, Manville Forest Products, Venture Stores, Rock Island Railroad, Milwaukee Road, and WPPSS.

Recent publications and speaking engagements from 2006 to present (partial list):

- "Recent Bankruptcy Legal Developments," co-authored with Mark F. Hebbeln, Network News Column, *ABA (American Bankers Association) Trust & Investments*, November/December 2011.
- "Chapter 9 and Municipal Health Care Bankruptcy: A Collision and Evolution of Bankruptcy Code Provisions," authored a chapter of *Inside the Minds: Chapter 9 Bankruptcy Strategies*, pp 87-105, Aspatore Books (West), 2011.
- "Health Exam: Muni Health Care Bankruptcy Under Chapter 9," *Bankruptcy Law360* and *Health Law360*, September 16, 2011.
- Moderator and Speaker, and co-authored paper entitled: "The Indenture Trustee as Target and Protector in an Activist World," which was prepared for a panel presentation on "Who's Happy Now?" ABS Disputes: Trustees Under Siege, Investors Enraged, and the Litigation Settlements That Will Determine Who Will "Win," presented at Business Law Section Annual Meeting, August 4-9, 2011, Toronto, Ontario.
- "Transparency and Protection: Notice and Disclosure Issues for Indenture Trustees: Part 2 of 2," co-authored with Mark F. Hebbeln, Corporate Trust Section, *ABA (American Bankers Association) Trust & Investments*, July/August 2011.
- "Transparency and Protection: Notice and Disclosure Issues for Indenture Trustees: Part 1 of 2," co-authored with Mark F. Hebbeln, Corporate Trust Section, *ABA (American Bankers Association) Trust & Investments*, May/June 2011.

- Moderator and Speaker, "The Amazing Shrinking Government Credit Market: Who Said Government Credit Ambac(k)?" American Bar Association (ABA), Business Law Section Spring Meeting, April 14-16, 2011, Boston, MA.
- Speaker, "Treatment of Municipal G.O. and Special Revenue Bonds Under Chapter 9: A Bondholder and Trustee Perspective," American Bar Association (ABA), Business Law Section Spring Meeting, April 14-16, 2011, Boston, MA.
- *A Guide for Patient Care Ombudsman*, co-authored e-publication, published by the American Bar Association, 2010.
- "The Bank of New England Case and the Rule of Explicitness," co-authored with Mark F. Hebbeln, Network News Column, *ABA (American Bankers Association) Trust & Investments*, January/February 2011.
- "Chapter 9 Municipal Bankruptcy Primer," co-authored with Mark F. Hebbeln, Corporate Trust Section, *ABA (American Bankers Association) Trust & Investments*, November/December 2010.
- "Diagnosing Medical Malpractice Coverage and Treatment in Health Care Chapter 11s: Part 2 of 2," co-authored with Andrew M. Troop, *ABI (American Bankruptcy Institute) Journal, Intensive Care*, September/October 2010.
- "To Bid or Not to Bid? Gamesmanship in Credit Bidding," co-authored with Mark F. Hebbeln, Corporate Trust Section, *ABA (American Bankers Association) Trust & Investments*, September/October 2010.
- "Diagnosing Medical Malpractice Coverage and Treatment in Health Care Chapter 11s: Part 1 of 2," co-authored with Andrew M. Troop, *ABI (American Bankruptcy Institute) Journal, Intensive Care*, July/August 2010.
- "None Dare Call it Champerty - at Least Not in New York," co-authored with Mark F. Hebbeln, Network News Column, *ABA (American Bankers Association) Trust & Investments*, July/August 2010.
- "Rule 2019 Flurry Distressing 'Distressed' Investors," co-authored with Mark F. Hebbeln, Network News Column, *ABA (American Bankers Association) Trust & Investments*, March/April 2010.
- Speaker, "Secured Debt in a Low Valuation Tight Credit Economy – Trustees and Bondholders Caught in the Middles," ABA Capital Markets Forum for Corporate Trust Professionals, April 18-20, 2010 (St. Petersburg, Florida).
- Speaker, "Breaking News from the Trenches," ABA Capital Markets Forum for Corporate Trust Professionals, April 18-20, 2010 (St. Petersburg, Florida).
- "General Growth Decision Undercuts Presumption of SPE Insulation From Bankruptcy," Network News Column, *ABA (American Bankers Association) Trust & Investments*, January/February 2010.
- "Sigma Finance Redux--Uncertain Victory of Pari Passu," Network News Column, *ABA (American Bankers Association) Trust & Investments*, January/February 2010.
- "Rating Agencies Under the Microscope," co-authored with Nick Colic and James Sorrels, Network News column, *ABA (American Bankers Association) Trust & Investments*, November/December 2009.
- Speaker, "Maximizing Profits in the Distressed Debt Market," 16th Annual Distressed Investing Conference, November 30, 2009 (New York).

- "Trustee Lessons From the United Kingdom: The SIV Cases," co-authored with Daniel R. Fisher, Corporate Trust Section, ABA (*American Bankers Association*) *Trust & Investments*, July/August 2009.
- "The Opportunity and "Duty" to Restructure Nonprofit Health Care Debt," co-authored with Anu R. Singh, ABI (*American Bankruptcy Institute*) *Journal, Intensive Care*, June 2009.
- "Tranche Warfare: Leapfrogging Debt Through Exchange Offers," co-authored with Mark F. Hebbeln, Corporate Trust Section, ABA (*American Bankers Association*) *Trust & Investments*, March/April 2009.
- "BCE Post-Mortem," co-authored with Mark F. Hebbeln, Network News column, ABA (*American Bankers Association*) *Trust & Investments*, January/February 2009.
- BCE: Bondholder 'Oppression Remedies' Under Canadian Law," co-authored with Mark F. Hebbeln, Network News column, ABA (*American Bankers Association*) *Trust & Investments*, November/December 2008.
- "Covenants Count: Current CaseLaw," co-authored with Mark F. Hebbeln, Network News column, ABA (*American Bankers Association*) *Trust & Investments*, September/October 2008.
- "News Brief: Loewen Decision on Trustee Pre-Default Ministerial Conduct," co-authored with Mark F. Hebbeln, Network News column, ABA (*American Bankers Association*) *Trust & Investments*, September/October 2008.
- "Trusting Trust Accounts -- Comparative Safeguards of Customer Accounts," Corporate Trust section, ABA (*American Bankers Association*) *Trust & Investments*, September/October 2008.
- "Doing Well by Doing Right: The Ethical-Legal Challenge of the Indenture Trustee in an Activist World," co-authored with Mark F. Hebbeln, Corporate Trust section, ABA (*American Bankers Association*) *Trust & Investments*, July-August 2008.
- "Keeping a Level Playing Field: The Evolution of Discriminatory Consent Solicitations and Exchange Offers," co-authored with Mark F. Hebbeln, Corporate Trust section, ABA (*American Bankers Association*) *Trust & Investments*, March/April 2008.
- "The Evolving Standards For the Appointment of a Patient Care Ombudsman: Section 333 in "Operation"," co-authored with Samuel R. Maizel, ABI (*American Bankruptcy Institute*) *Journal, Intensive Care*, March 2008.
- "Recent Developments Possibly Putting Investor Privacy and Purchased Debt Claims at Risk," co-authored with Daniel Northrop, Network News column, ABA (*American Bankers Association*) *Trust & Investments*, January/February 2008.
- "Aggressive Enforcement of Indenture Covenants: The No-Action Clause in an Activist World," co-authored with Mark F. Hebbeln and Daniel Northrop, Corporate Trust section, ABA (*American Bankers Association*) *Trust & Investments*, November/December 2007.
- "Indenture Trustee Role and Obligation in Settlements Affecting Bondholder Rights: The Kenton County Bonds/Delta Air Lines Case," co-authored with Daniel Northrop, Network News column, ABA (*American Bankers Association*) *Trust & Investments*, November/December 2007.
- "Recoupment in Health Care Bankruptcies: A Shrinking Issue?," co-authored with Timothy R. Casey, ABI (*American Bankruptcy Institute*)

Journal, Intensive Care, October 2007.

- "Grand Old Trustee Standard of Care Cases Draw to a Close Bluebird, Semi-Tech, Holmes Harbor," co-authored with Daniel Northrop, Network News column, *ABA (American Bankers Association) Trust & Investments*, September/October 2007.
- "Indenture Trustee Fees and Expenses in Bankruptcy - A Strategic Consideration Update," co-authored with Mark F. Hebbeln and Daniel Northrop, Corporate Trust section, *ABA (American Bankers Association) Trust & Investments*, May/June 2007.
- "Update on Trustee Litigation in the United Airlines Case: Lease Recharacterization," co-authored with Mark F. Hebbeln and Daniel Northrop, Network News column, *ABA (American Bankers Association) Trust & Investments*, May/June 2007 (Part 2 of 2).
- "Update on Trustee Litigation in the United Airlines Case: Lease Recharacterization," co-authored with Mark F. Hebbeln and Daniel Northrop, Network News column, *ABA (American Bankers Association) Trust & Investments*, March/April 2007 (Part 1 of 2).
- Speaker, "Recent Developments in Corporate Trust--Litigation and Defaults," The Fiduciary and Investment Risk Management Association, Inc. Corporate Trust Senior Managers Forum, February 27, 2007 (Ponte Vedra Beach, Florida).
- "Reading Indentures Strictly: The Rise of Delayed SEC Filing Defaults and Aggressive Bondholders," co-authored with Daniel Northrop, Corporate Trust section, *ABA (American Bankers Association) Trust & Investments*, January/February 2007.
- "Putting New Bankruptcy Code Information-Sharing Provisions Into Practice: Creditors' Committee Protocols," co-authored with Daniel Northrop, Corporate Trust section, *ABA (American Bankers Association) Trust & Investments*, November/December 2006.
- "Update on NOL Trading Orders and Trading Wall Orders," co-authored with Daniel Northrop, Network News column, *ABA (American Bankers Association) Trust & Investments*, November/December 2006.
- Co-Chair of Conference, Renaissance American Management, Inc. & Beard Group, Ninth Annual Conference on Corporate Reorganizations, June 22-23, 2006 (Chicago, Illinois).
- "Hospitals Face New Financial Threat of Charity Care Legislation," co-authored with Linda S. Moroney, *ABI (American Bankruptcy Institute) Journal, Intensive Care*, June 2006.
- "Denial of Antitrust Claims Against United EETC Trustees," co-authored with Mark F. Hebbeln and Daniel Northrop, Network News column, *ABA (American Bankers Association) Trust & Investments*, January/February 2006.
- Speaker, "Recent Developments in Corporate Trust--Litigation and Defaults," The Fiduciary and Investment Risk Management Association, Inc. Corporate Trust Senior Managers Forum, January 19, 2006 (Ponte Vedra Beach, Florida).
- "BAPCPA: Health Care Lenders Beware?," *ABI (American Bankruptcy Institute) Journal*, December/January 2006.

Publications and speaking engagements before 2006 are available upon request.

Recent honors (partial list):

- Chair of Gardner Carton & Douglas (2004-2006); Co-Chair of Corporate Restructuring Group (1999-2007)
- Named to List of 12 Outstanding Bankruptcy Lawyers for 2005, *Turnarounds & Workouts*, December 15, 2005
- Named to List of 12 Outstanding Bankruptcy Lawyers for 2004, *Turnarounds & Workouts*, December 15, 2004
- Named to List of 12 Outstanding Bankruptcy Lawyers for 2003, *Turnarounds & Workouts*, December 15, 2003
- Named to List of 13 Outstanding Bankruptcy Lawyers for 2001, *Turnarounds & Workouts*, December 15, 2001
- *ABI (American Bankruptcy Institute) Journal*, Contributing Editor, "Intensive Care" Column (2004-present)
- American Bar Association Healthcare and Nonprofits in Bankruptcy Subcommittee, Chair (2000-2009)
- American Bar Association Health Care-Related Insolvency Working Group, Vice-Chair (1998-2000)
- American Bar Association Committee on Trust Indentures and Indenture Trustees, Chair (2009-present) and former Vice Chair (2006-2009)
- American Bar Association Subcommittee on Revision of the Model Simplified Indenture, Advisory Drafting Group Member (Revised Model Simplified Indenture Published in 2000)
- American Bankers Association, *Trust & Investments*, Editorial Board (2000-present)
- American Bankers Association *Network News*, Editorial Board (1998-1999)
- Chicago Bar Association, Bankruptcy & Reorganization Committee, Chair (2002-2003)
- Chicago Bar Association, Bankruptcy & Reorganization Committee, Vice Chair (2001-2002)
- Chicago Bar Association, Bankruptcy & Reorganization Committee, Educational Chair (2000-2001)
- Chicago Bar Association, Large Law Firm Committee, Co-Chair (2005-2006)
- Annual Renaissance American Management, Inc. & Beard Group Corporate Reorganization Conference (Chicago), Chair (1998-2008)
- Annual Renaissance American Management, Inc. & Beard Group Healthcare Restructuring/Transactions Conference (Chicago), Chair and/or Sponsor (2000-2009)
- Faculty, Cannon Banking Institute (1999)
- Turnaround Management Association, Cornerstone Council 15 Member (2004-2008) □
- Jewish National Fund Lawyers for Israel, National Chair (2009-present)
- Jewish National Fund, 2010 Negev Nights/Tree of Life Honoree
- Jewish National Fund, Regional Board (2008-present)
- Jewish United Fund (Chicago), Chair 2006 Lawyers Division Event
- Anti-Defamation League, Regional Board Member (2005-present)

*The Illinois Supreme Court does not recognize certifications of specialties in the practice of law and no award or recognition is a requirement to practice law in Illinois.