

Curriculum Vitae

Robert J. Keach, Esq.
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Robert J. Keach, a shareholder at Bernstein, Shur, Sawyer & Nelson, practices in the area of bankruptcy, reorganization, and workouts. Mr. Keach's practice focuses on the representation of various parties in workouts and bankruptcy cases, including debtors, creditors, creditors committees, lessors and third parties acquiring troubled companies and/or their assets. Mr. Keach has appeared before the bankruptcy courts in the Districts of New Jersey, Maine, Massachusetts, New Hampshire, Delaware, the Northern District of California and the Southern and Eastern Districts of New York, among others. Mr. Keach regularly appears as a panelist on national bankruptcy, lender liability and creditors' rights programs, and is the author of several articles on bankruptcy and creditors' rights appearing in the ABI Law Review, Commercial Law Journal and ABI Journal, among other publications. Mr. Keach is admitted to practice in both state and federal courts in Maine and Massachusetts, as well as the First, Second, Seventh and Eighth Circuit Courts of Appeals and the Supreme Court of the United States.

Mr. Keach is an Adjunct Professor (Cross-Border Insolvency; Business Bankruptcy) at Boston College Law School.

Selected National Engagements:

Mr. Keach represented the creditors committee in *EYP Group Holdings, Inc.* in the District of Delaware, and the secured lender and purchaser in *Gold Standard Baking*, also in Delaware. Mr. Keach was co-counsel for the victorious petitioner in a case before the Supreme Court of the United States, *Mission Product Holdings, Inc. v. Tempnology LLC*, 139 S.Ct. 1652 (2019). Mr. Keach is the estate representative (and formerly, the chapter 11 trustee) in the cross-border railroad reorganization of *Montreal Maine & Atlantic Railway, Ltd.* Mr. Keach has, *inter alia*, represented ad hoc committees in the *Homebanc Mortgage*, *New Century TRS Holdings*, and *Nortel Networks* cases in Delaware, as well as a public utilities commission in the *FairPoint Communications* case in the Southern District of New York, and parties in *In re Sports Authority Holdings, Inc.* (Delaware), *In re Verso Corporation* (Delaware), *In re Heritage Home Group* (Delaware), *In re The Bon-Ton Stores, Inc.* (Delaware), and *In re Toys R Us, Inc.* (E.D. Va.). Mr. Keach represents international private equity funds in distressed company acquisitions throughout the U.S. both in and outside of chapter 11 cases.

Selected Fiduciary and Fee Examiner Engagements:

Mr. Keach is currently the fee examiner for a post-confirmation trust in a mass tort Chapter 11 Case. Mr. Keach served as the court-appointed fee examiner in the chapter 11 case for *LTL Management, LLC* in the District of New Jersey. Mr. Keach is also currently the fee examiner as to all professionals retained by the Financial Oversight and Management Board for Puerto Rico in

connection with non-Title III services. Mr. Keach served as the court-appointed fee examiner in the following chapter 11 cases: *AMR Corporation* (the chapter 11 cases of American Airlines and its parent and certain affiliates, filed in the SDNY), *Exide Technologies* (D. Del.), *Mineral Park* (D. Del.), *Relativity Media* (SDNY), *Intelsat SA. et al.* (E.D. Va.), and *Murray Energy Holdings, et al* (S.D. Ohio). Among other private engagements, Mr. Keach was retained by a litigation trust formed pursuant to a plan of arrangement sanctioned under Canada's Companies Creditors Arrangement Act to review, and advise the trust's board with respect to, the conduct of the trustee and its counsel in prosecuting multi-billion dollar cross border fraud and fraudulent transfer litigation.

Selected Honors:

Recipient, Lifetime Achievement Award (American Bankruptcy Institute), 2021
Fellow, American College of Bankruptcy; Member of the College's Board of Directors
Chambers USA "Star Individual," Corporate/M&A (Bankruptcy) Section
2023 Lawdragon 500 Leading U.S. Bankruptcy and Restructuring Lawyers
Top Lawyers in New England, Wall Street Journal
New England Super Lawyer, Top 100 Lawyers in New England
Martindale-Hubbell, Rated A-V Preeminent
Listed in *Best Lawyers in America (Twenty Year Certificate)*

Professional Affiliations:

American Bankruptcy Institute, Past President (2009-2010); Co-chair of the ABI's Commission to Study the Reform of Chapter 11 (2012-2015); Member, ABI Subchapter V Task Force (2023); Fellow of the American College of Bankruptcy; American Bar Association, Section on Business, Banking and Corporations, Section on Real Estate, Probate and Trust Law (Committee on Enforcement of Creditors Rights) and Section on Litigation; Certified - Business Bankruptcy Law - American Board of Certification (ABC).

Selected Publications:

Robert J. Keach and Adam R. Prescott, *Confirming Nonconsensual Plans in Subchapter V: Exploring the "Projected Disposable Income" Requirement and What It Means (And Does Not Mean) For Small Business Debtors*, 32 No. 2 J. Bankr. L. & Prac. NL Art. 1 (June 2023); Robert J. Keach and Adam R. Prescott, *Balancing Act: How the Small Business Reorganization Act Facilitates Successful Reorganizations (And How Judicial "Rebalancing" Could Affect That Success)*, 31 No. 6 J. Bankr. L. & Prac. NL Art. 1 (December 2022); Robert J. Keach and Lindsay Zahradka Milne, *The Unconstitutional Confluence of Statutory Mootness Under Bankruptcy Code §363(m) and Bankruptcy Courts' Discretion Under Rule 6004(h)*, 71 SYRACUSE LAW REVIEW 493 (2021); Robert J. Keach and Lindsay Zahradka Milne, *Persuasive Authority: Compelled Third-Party Releases*, 37 ABI Journal 12 (December 2018); Robert J. Keach and Andrew C. Helman, *Life After Jevic: An End to Priority-Skipping Distributions?*, 36 ABI Journal 9 (September 2017); Robert J. Keach and Brady C. Williamson, *The Boomerang Effect: Is There a Contract Exception to ASARCO?*, 35 ABI Journal 14 (April 2016); Robert Keach and Al Togut, *The ABI Commission to Study the Reform of Chapter 11 Enters Its Second Year*, ABL Advisor (2013), *Commission to Explore Overhauling Chapter 11*, 30 ABI Journal 5, 36-37, 83 (June 2011); *Chapter 11 as a Liquidation Tool: Legal, Tactical and Practical Considerations for Debtors, Lenders and Buyers*, *Collier Guide to Chapter 11: Key Topics and Selected Industries*, ^ [4.01] (Alan N. Resnick and Henry J. Sommer eds.) (2015); *Rule 2004 as a Pre-Litigation Tool in a Post-Twombly/Iqbal World:*

Part II, 29 ABI Journal 28 (Nov. 2010); *Rule 2004 as a Pre-Litigation Tool in a Post-Twombly/Iqbal World: Part I*, 29 ABI Journal 28 (Oct 2010); *Declarations And Affidavits: Using And Defending Against Written "Nontestimonial" Evidence*, 28 ABI Journal 1, 20, 68-69, (February 2009); *Selecting, Qualifying an Expert in Bankruptcy Proceedings: One Type Does Not Fit All*, 27 ABI Journal 2, 26, 71-74 (March 2008); *Selecting, Qualifying an Expert in Bankruptcy Proceedings: One Type Does Not Fit All: Part I*, 27 ABI Journal 1, 26, 76-77 (Feb. 2008); *BAPCPA and WARN Act 'Back Pay': Now, Timing Isn't Everything*, 24 ABI Journal 26 (Dec./Jan. 2006); *Dead Man Filing Redux: Is the New Individual Chapter Eleven Unconstitutional?*, 13 AM. BANKR INST. L. REV. 483 (Winter 2005); *Afterlife, Reincarnation or Purgatory? Post-confirmation Jurisdiction in the First Circuit*, 24 ABI Journal 24 (Oct. 2005); *Solvent Debtors and Myths of Good Faith and Fiduciary Duty*, 23 ABI Journal 36 (Jan. 2005); *Stalking -Horse Lenders and Good Faith: The Availability of Appellate Protection Under §§363(m) and 364 (e) For Asset Purchasers Extending DIP Financing*, 23 ABI Journal 28 (June 2004); *When the Committee is Not and When the Committee is No More*, 22 ABI Journal 34 (Jan. 2004); *A Hole in the Glove: Why 'Negotiation' Should Trump 'Solicitation'*, 22 ABI Journal 22 (June 2003); *The Case Against KERPS*, American Bankruptcy Institute (2003); *LaSalle, the "Market Test" and Competing Plans: Still in the Fog*, 21 ABI Journal 18 (December/January 2003); *The Continued Unsettled State of Constructive Trusts in Bankruptcy: Of Butner, Federal Interests and the Need for Uniformity*, 103 COM. L. J. 411 (Winter 1998); *"Free To Wander The Commercial Meadows": Controlling Debtor (and Creditor) Conduct in the Gap Period*, American Bankruptcy Institute 1997; *Partner and Partnership Bankruptcy: A Survey and Analysis of Case Law and Proposed Amendments to the Bankruptcy Code*, American Bankruptcy Institute, 1996; *Creditors Get "Gas": The Unsettled State Of Constructive Trusts in Bankruptcy After Columbia Gas and Omegas Group*, American Bankruptcy Institute, 1995; *Creditor Plans In Single-Asset Chapter 11 Cases: Some Issues and Considerations. Restructuring Real Estate Partnerships: Is There Life After Greystone?*, American Bar Association, 1992; *Negative Amortization Plans, Feasibility, and the Fair and Equitable Test. Current Developments, Restructuring Real Estate Partnerships: Is There Life After Greystone?*, American Bar Association, 1992; *Allocating Tax Payments Made During a Bankruptcy Case First to Trust Fund Taxes After United States v. Energy Resources Co., Inc.*, 39th Annual Colby College Estate Planning and Tax Institute, 1992; *Termination of Commercial Credit Relationships and the Implied Covenant of Good Faith and Fair Dealing*, Business Torts Seminar, MSBA, 1990; and *Partner and Partnership Bankruptcy: The Impact of the Filing of a Petition for Relief Under the Bankruptcy Code by a General Partner or a Partnership Upon the Partnership Assets, the Non-Filing Partners, and Partner and Partnership Creditors*, Partnership Investments Seminar, MSBA, 1990; Miscellaneous articles for "Cracking the Code," 1996-1997, at ABI World, www.abiworld.org.