

David Lemke

PARTNER



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Trustees, lenders, creditors' committees and other clients requiring assistance with defaulted bonds or other financial instruments rely on David Lemke to provide sophisticated, practical advice and counsel. For more than 25 years, David has designed creative solutions for clients both inside and outside of formal proceedings. Whether a workout is undertaken within the bankruptcy court setting, a receivership is necessary to enforce the remedies of a trustee or lender, or an out-of-court restructuring is needed, clients can be assured that David has the experience and judgment to craft a resolution.

David enjoys the competitive nature of his work and thrives on bringing a win to the client. He assertively and tenaciously finds leverage within a matter to achieve the client's goal.

In November 2011, Jefferson County, Alabama filed for Chapter 9 bankruptcy protection, making it the largest municipal bankruptcy ever filed at that time. Representing the trustee for certain sewer debt exceeding \$3 billion, David and the Waller team were intimately involved in the historic proceedings. In July 2013, the City of Detroit filed its Chapter 9 bankruptcy petition, thereby eclipsing Jefferson County as the largest municipal bankruptcy ever filed. Drawing on the experience gained in Jefferson County, David and the Waller team was engaged to represent the trustee for Detroit's water and sewer bonds - totaling almost \$6 billion - in this historic case.

A former managing partner and member of Waller's Board of Directors, David provides sound leadership not only to clients, but also to his peers and colleagues.

EXPERIENCE

- **Manufacturer, distributor of medical water products sells to senior lender**

Represented a distressed manufacturer and distributor of medical water products and related supplies with long-term secured debt of almost \$30 million in an out of court sale process that ultimately resulted in the senior secured lender purchasing the business and operating it as a portfolio company.

- **Indenture trustee involved in \$385 million in notes connected with sale**

Represented the indenture trustee for \$385 million senior secured notes in connection with the

sale of the borrower.

- **Lenders face default on \$100 million credit by ambulatory surgery center management company**

Represented the agent in connection with a defaulted \$110 million syndicated loan to an ambulatory surgery center and pain management company.

- **Auto parts manufacturer completes out-of-court restructuring**

Completed the out-of-court restructuring of an auto parts manufacturer in a process that entailed amendments to existing credit facilities, a new asset-based loan and the sale of a business line.

- **Indenture trustee involved in \$450 million out-of-court restructuring**

Represented the indenture trustee in connection with \$450 million in senior unsecured notes that were part of an out-of-court restructuring.

- **Specialty finance firm deals with bankruptcy of a borrower**

Represented a specialty finance firm in the bankruptcy case of a nursing home operator involving the lender's prepetition ABL loan.

- **Behavioral healthcare company acquires West Virginia hospital through 363 sale**

Represented a behavioral healthcare company as the stalking horse purchaser of a West Virginia facility through a sale under Section 363 of the Bankruptcy Code.

- **Middle-market specialty finance firm closes \$15 million DIP revolving credit facility**

Represented a specialty finance firm in structuring and closing a \$15 million debtor-in-possession revolving credit facility to three acute care hospitals.

- **Ally Bank provides \$185 million debtor in possession financing to Verity Health System**

Represented the administrative agent and lender in a revolving credit facility to Verity Health System as debtor in possession.

- **Large U.S. bank to act as trustee for second lien notes in the Chapter 11 of energy company**

Advised a large U.S. bank and the second lien indenture trustee through the successful confirmation of an energy company's Chapter 11 plan.

- **Almost Family, Inc. acquires assets of home health provider MD2U**

Represented Almost Family, Inc. in its acquisition of the assets of home health provider MD2U following MD2U's filing for Chapter 11 bankruptcy protection.

- **Two healthcare companies, creditors settle with skilled nursing facility following bankruptcy**

Represented two healthcare companies in negotiating settlements with a skilled nursing home operator following its Chapter 11 bankruptcy.

- **Large U.S. bank to act as trustee second lien notes in the Chapter 11 of energy company**

Advised a large U.S. bank, the second lien indenture trustee, through the successful

confirmation of an energy company's Chapter 11 plan of reorganization.

- **Represented indenture trustee in City of Detroit's Chapter 9 proceeding**

Represented the indenture trustee for the approximately \$5.3 billion water and sewer bonds connected to Detroit's Chapter 9 bankruptcy proceeding.

- **Outside directors dismissed of claims following of one of the largest U.S. bank failures**

Defended outside directors of Colonial Bank and its sole shareholder, Colonial Bancgroup, Inc., following the bank's failure against multiple lawsuits included securities fraud, suits against the directors, and shareholder derivative lawsuits. We obtained dismissals of certain actions and successfully settled the remaining claims within the officers' D&O insurance.

- **Jefferson County defaults on approximately \$3.2 billion in pledged revenue bonds**

Represented an appointed Indenture Trustee in connection with litigation that arose from Jefferson County, Alabama defaulting on approximately \$3.2 billion in pledged revenue bonds.

EDUCATION

- J.D., University of Missouri at Columbia, 1985
 - *University of Missouri Law Review*
- B.S., Central Methodist College, 1982
 - Omicron Delta Kappa

COURT ADMISSIONS

- U.S. Supreme Court
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court for the Eastern District of Michigan
- U.S. District Courts for the Western District of Michigan
- U.S. District Court for the Middle District of Tennessee
- U.S. District Court for the Western District of Tennessee
- U.S. Bankruptcy Court for the Middle District of Tennessee
- U.S. District Court for the Southern District of New York

BAR ADMISSIONS

- Tennessee

RECOGNITIONS

Chambers USA

- Bankruptcy/Restructuring (Tennessee), 2015-2022

The Best Lawyers in America© (BL Rankings)

- Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law, 2006-2023

The Best Lawyers in America© (BL Rankings), 2022

- Lawyer of the Year, Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law (Nashville)

Mid-South Super Lawyers (Thomson Reuters)

- Creditor Debtor Rights, 2006-2019

PROFESSIONAL INVOLVEMENT

- Member, Nashville Bar Association
- Member, American Bankruptcy Institute
- Former Board Member and Past President, Mid-South Commercial Law Institute
- Past Chair, Nashville Bar Association's Bankruptcy Court Committee
- Former Chair, CLE Subcommittee and the Local Rules Subcommittee, Bankruptcy Court Committee, Nashville Bar Association
- Former Board Member, Middle Tennessee Chapter, Turnaround Management Association

COMMUNITY INVOLVEMENT

- Member, Harpeth Conservancy Advisory Board of Directors