

Ira L. Herman | Partner
Bankruptcy & Restructuring

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Ira Herman concentrates his practice on restructuring and bankruptcy matters with emphasis on distressed public debt issues, secured and unsecured loans, cross-border insolvency matters, distressed M&A, and corporate governance.

Restructuring & Bankruptcy

Ira regularly advises his clients, including equity investors and lenders, on the management of bankruptcy risk in their transactions, asset dispositions, inter-creditor issues, and distressed M&A. He also regularly counsels indenture trustees regarding defaulted public debt issue. Additionally, he provides restructuring and bankruptcy advice to financially distressed businesses and their management, including with regard to corporate governance issues.

Mediation & Arbitration

As a court-appointed mediator, Ira has been able to facilitate the resolution of controversies involving U.S. and non-U.S. parties concerning bankruptcy and commercial law issues. He is a skilled listener who is able to solve problems and address the needs of the parties to a dispute by employing his knowledge of the law and creativity.

With all his clients, Ira seeks to be a partner and trusted adviser who works hard to understand a client's business to achieve the best possible outcomes. He strives to be efficient, cost effective, and proactive in discussing the impact of legal trends on their businesses, managing risk, and making the client's job as stress-free as possible.

Ira annually updates “Anticipating and Managing Bankruptcy Risk,” a series of articles he has written for the Financial Restructuring & Bankruptcy module of *LexisNexis Practical Guidance*®. He has served for five years on its editorial advisory board and has also served on Law360’s Bankruptcy Editorial Advisory Board. In 2022, Ira updated the chapter titled “Bankruptcy” in the treatise *Negotiating and Drafting Commercial Leases* (2022, Full Court Press).

During law school, Ira served as the Articles Editor for the *Boston University International Law Journal* and while earning his bachelor’s degree, he served as editor-in-chief of *The Polis*, the college political science journal.

Outside The Firm

With an English Setter of their own, Ira and his wife foster and provide hospice care (when necessary) for English Setters, in association with A Better English Setter Rescue. Ira is an avid perennial gardener and has an extensive collection of 19th century bankruptcy court documents, as well as a collection of Holy Land postal history items. He is a New York sports fan and has the dubious distinction of owning the blog *Long-Suffering Jets Fan*. In addition to these interests, he enjoys spending time with his five grandchildren.

Select Engagements

Restructuring & Bankruptcy

- **QualTek Services.** DIP ABL agent in a split-lien deal in connection with the negotiation and documentation of a \$101.2 million DIP revolving credit facility, restructuring support agreement, and plan of reorganization in the debtors’ pre-arranged chapter 11 bankruptcy cases, as well as an exit ABL facility, and related intercreditor agreements with the debtors’ DIP and exit term lenders. (Texas)
- **Invacare Corp.** Agent and lender in connection with a \$35 million pre-petition credit facility and a DIP financing of \$17.4 million in chapter 11 case of manufacturer and distributor of home and long-term care medical products. (Texas)
- **Superior Energy.** Indenture trustee in Chapter 11 case of a leading oilfield services company with debt in excess of \$1.3 billion. (Texas)
- **Alta Mesa Resources Inc.** Indenture trustee in Chapter 11 case of an independent energy company engaged in the development, acquisition, exploration and production of oil and natural gas properties. (Texas)
- **Borden Dairy Co.** Agent of senior secured lenders in the bankruptcy of one of the nation’s oldest and largest dairy companies, whose estimated debts and liabilities range from \$100 million to \$500 million. (Delaware)
- **Refac Holdings, Inc.** Counsel to Refac Holdings with respect to the sale of its business.
- **Pioneer Energy Services.** Senior secured DIP and exit facility lender in the

- bankruptcy case of a land contract drilling and production services company serving major oil and gas exploration and production companies. (Texas)
- **Kaiser Gypsum Company, Inc.** The creditors' committee in Chapter 11 case of gypsum manufacturer in channeling 14,000 asbestos related actions to a 524(g) trust and resolving in excess of \$300 million in environmental liability. (North Carolina)
 - **Panda Temple Power LLC.** A large pension fund with various relationships to the debtors in Chapter 11 case of electric generation business. (Delaware)
 - **Parker Drilling.** Indenture trustee in Chapter 11 case of an offshore and onshore contract drilling and drilling-related services company. (Texas)
 - **BCBG Max Azria Global Holdings LLC.** A trade creditor and trademark licensee in Chapter 11 case of women's fashion retailer. (New York)
 - **Linc USA GP.** Indenture trustee in Chapter 11 case of an oil and gas exploration and production company. (Texas)
 - **Hostess Brands, Inc.** Indenture trustee in Chapter 11 case of a leading sweet snacks company. (New York)
 - **Parallel Energy LP.** The debtors in Chapter 11 case of oil and gas driller. (Delaware)
 - **O.W. Bunker Holding North America Inc.** Creditor and physical supplier of fuel bunkers in Chapter 11 case of fuel shipper. (Connecticut)
 - **Buccaneer Resources, LLC.** The mineral rights owner of Cook Inlet Region, Inc, ("CIRI"), in Chapter 11 case of oil and gas field services company. (Texas)
 - **PSL North America LLC.** Purchaser of substantially all of the assets through a 363 sale in Chapter 11 case of a steel pipe manufacturer. (Delaware)
 - Trial counsel for mezzanine lender and directors with respect to causes alleging breach of the covenants of good faith and fair dealing, breach of contract, breach of fiduciary duty, and aiding and abetting breach of fiduciary duty.
 - **HMX Acquisition Corp.** The purchaser of intellectual property rights through a 363 sale, in Chapter 11 case of owner of tailored clothing brands, and coordinating that purchase with the acquisition of substantially all of the operating assets of Copley Inc. of Hamilton, Ontario, in a U.S./Canada cross border transaction. (New York)
 - **Controladora Comercial Mexicana.** Indenture trustee in Chapter 15 case of a Mexican operator of retail supermarkets and restaurants, and in proceedings filed under Article 125 of the Mercantile Concurso Mercantiles. (New York and Mexico)
 - **Trico Marine Services, Inc.** Naviera Mexicana de Servicios, S. de R.L. de C.V. ("NAMESE"), a Mexican joint venture principally owned by Trico Marine Services, Inc. in connection with its reorganization and liquidation of its assets. (Delaware)
 - Wrote an *amicus curiae* brief for the New York City Bankruptcy Assistance Project ("NYCBAP"), before the United States Second Circuit Court of Appeals, in *In re: Mary Veronica SANTIAGO-MONTEVERDE, Debtor. Mary Veronica Santiago-Monteverde, Debtor-Appellant, v. John S. Pereira,*

Chapter 7 Trustee, Trustee–Appellee. No. 12–4131–bk. 2013 WL 4776173 (C.A.2) (Appellate Brief) United States Court of Appeals, Second Circuit.

- Wrote a separate *amicus curiae* brief for NYCBAP and MFY Legal Services, Inc., filed with the Court of Appeals of the State of New York, with respect to the question certified by the Second Circuit Court of Appeals, *In the Matter of Mary Veronica SANTIAGO–MONTEVERDE, Debtor. Mary Veronica Santiago–Monteverde, Debtor–Appellant, v. John S. Pereira, Chapter 7 Trustee, Trustee–Appellee*. CTQ-2014-00004, argued October 14, 2014. 2014 WL 6711109 (N.Y.) (Appellate Brief) Court of Appeals of New York.

Mediation & Arbitration

- Mediator with respect to a foreclosure action brought by a special servicer against a residential cooperative corporation (over 150 units) and successfully resolved the dispute by restructuring the cooperative corporation’s obligations.
- Mediator with respect to disputes relating to federal tax liens.
- Mediator with respect to an FBAR (Foreign Bank and Financial Accounts) action.
- Arbitrator (panel) appointed with regard to multimillion-dollar commercial landlord and tenant rent disputes that arose as a result of the COVID-19 Pandemic.
- Mediator with respect to multiple “claw back” cases pursued by the Madoff trustee against “net winners.”
- Mediator with respect to disputed indemnity claims arising in the Lehman Brothers case with regard to the sale of certain residential mortgages.
- Mediator with respect to multiple cases involving alleged preferential transfers.
- Mediator with respect to a partnership dispute arising in connection with a single asset commercial real estate case.

Admissions

- U.S. District Court - Northern District of Texas
- U.S. District Court - Western District of New York
- New York
- Texas
- U.S. District Court - Eastern District of New York
- U.S. District Court - Northern District of New York
- U.S. District Court - Southern District of New York
- U.S. District Court - Southern District of Texas
- United States Court of Appeals for the Second Circuit

Memberships

- American Bar Association
- American Bankruptcy Institute

- New York City Bar Association
- New York State Bar Association
- Association of Insolvency and Restructuring Advisors
- Turnaround Management Association, New York City chapter

Education

- Yeshiva University, BA, cum laude
- Boston University School of Law, JD, cum laude

Recognitions

- AV Preeminent®, listed in Martindale-Hubbell®
- Pro Bono Alumni Award, by Boston University School of Law
- Recognized for Providing Pro Bono Assistance, by Legal Services NYC
- Empire State Counsel, by the New York State Bar Association
- Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law, New York, listed in *Best Lawyers in America*®
- New York Metro “Super Lawyer” in Bankruptcy & Creditor/Debtor Rights, listed by *Super Lawyers*

Professional Activities

Ira is on the Register of Mediators and Arbitrators for the U.S. District Court for the Eastern District of New York, and the U.S. Bankruptcy Courts for the District of Delaware, Eastern District of New York, and Southern District of New York.

He is an active member of the Bankruptcy & Corporate Reorganization Committee of the New York City Bar Association, as well as chair of its Subcommittee on Out of Court Restructuring and Pre-Negotiation.

Ira is also an active participant in the American Bar Association’s Trust Indentures and Indenture Trustees Committee.

He previously served as chair of the New York State Bar Association’s Committee on Bankruptcy Law.

Ira serves as the national chair of the American Bankruptcy Institute’s Master Class on Bankruptcy Law, Business Law Section.

He is an active provider of pro bono services to indigent New Yorkers, particularly through the New York City Bar Association.

Ira is also a board member of the Westchester Hebrew High School.

Languages

- Hebrew