



OVERVIEW

James Silver is an “AV” rated Partner and Business Unit Leader with over 40 years of experience. Currently, he leads the firm’s Business Bankruptcy, Insolvency, and Commercial Creditors’ Rights Practice.

James has extensive experience in complex commercial litigation and receivership, as well as creditors’ rights litigation arising out of Ponzi and other fraudulent schemes.

He has prosecuted and defended a wide variety of actions, including:

- Assisted with defense of proposed class action claims brought in an arbitration before the American Arbitration Association;
- Bank and lender representations;
- Confirmation and cramdown of Chapter 11 bankruptcy plans;
- Dismissal of bankruptcy cases for bad faith;
- Disputes among shareholders or stakeholders and disputes regarding whether claims were derivative claims that had to be brought on behalf of the corporation or individual claims of various minority shareholders that were not derivative claims;
- Litigation arising in connection with distressed assets;
- Litigation regarding the automatic stay;
- Preference and fraudulent transfer claims;
- Representation of commercial lessors, mortgagees, and other creditors in Chapter 11 bankruptcy proceedings;
- Representation of creditors in assignments for the benefit of creditors; and,
- Third-party releases and bar orders in bankruptcy.

CONTACT INFORMATION

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PRACTICE AREAS

- Business Bankruptcy, Insolvency, and Commercial Creditors’ Rights
- Complex Commercial Litigation

ADMISSIONS

- Florida
- United States District Court, Southern District of Florida
- United States District Court, Middle District of Florida
- United States District Court, Northern District of Florida

EDUCATION

- University of Miami School of Law, J.D., *magna cum laude*, 1982
- Arizona State University, B.S., 1979

James' practice spans a broad range of complex insolvency issues across various industries, such as real estate, corporate, and financial services. He has served as a federal court-appointed receiver in an SEC enforcement action, marshalling assets, establishing claims procedures for defrauded investors, and initiating investigations and litigation to reclaim funds.

James graduated in the top 3% of his law school class and served as the Associate Research Editor of the University of Miami Law Review.

AWARDS

- *Super Lawyers Magazine*, Florida "Super Lawyers," Bankruptcy: Business, 2022-2023
- *Chambers & Partners USA*, "Bankruptcy Litigation," 2023
- *Best Lawyers®*, "The Best Lawyers in America®"
 - Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law, 2018 – 2023
 - Commercial Litigation, 2018 – 2023
- *The Boca Raton Observer*, "Top Lawyers," 2022 – 2023
- *South Florida Legal Guide*, "Top Lawyers," 2007, 2013 – 2017, 2020 – 2021
- *Fort Lauderdale Illustrated*, "Top Lawyer," Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, 2020 – 2022
- *Daily Business Review*, "Most Effective Lawyer," Bankruptcy Category, 2013
- Martindale-Hubbell, AV® Preeminent™, 1992 – Present
- The University of Miami Law Review, Associate Research Editor, 1982



ASSOCIATIONS

- Broward County Bar Association (BCBA)
- The Florida Bar
 - Bankruptcy/UCC Committee of the Business Law Section, Member
 - Judicial Liaison Committee of the Business Law Section, Member

SPEAKING ENGAGEMENTS

- Presenter, *The In Pari Delicto Defense to Bankruptcy and Other Claims Against Directors, Officers, and Third Parties*, June 2020
- Panelist, *Bankruptcy, Contract Renegotiations, and Other Legal Tools to Survive*, Hispanic Unity of Florida's 2020 Entrepreneur Summit, August 2020

MEDIA

- Quoted: "Trump's Florida properties could be targeted by the New York attorney general's office if it wins a \$250 million fine", *South Florida SunSentinel*, October 2023
- Quoted, "Experts Predicting a Rise in Individual Bankruptcy", *Miami Today*, September 2022
- Quoted, "**Miami business bankruptcies run against trend**", *Miami Today*, August 2022
- Quoted, "Why Small Business Bankruptcy Could Lead a National Insolvency Wave", *Daily Business Review*, April 2022
- Quoted, "The Days Of 'Eerie' Bankruptcy Silence Are Numbered", *Law360*, August 2021
- Quoted, "Bernie Madoff is Dead: Where Does That Leave His Victims' Cases?", *Daily Business Review*, April 2021
- Quoted, "South Beach Nightclub Is Priced in Bitcoin — But What About Volatility?", *Daily Business Review*, March 2021
- Quoted, "Expiring Debt Cap To Limit Small Business Bankruptcy Fast Lane", *Bloomberg Law*, March 2021
- Quoted, "Bankruptcy Practice's Human Element Also Fell To COVID-19", *Law360*, March 2021
- Quoted, "Landlords Are Accepting Partial Rent Payments. Ruling Shows This Might Be a Mistake", *Daily Business Review*, March 2021
- Quoted, "The Fight Over JCPenney's Real Estate Foreshadows the Fate of Malls", *Commercial Observer*, December 2020
- Quoted, "Coronavirus Relief Bill Could Complicate PPP Precedent in 11th Circuit", *Daily Business Review*, December 2020
- Featured, "Inside Retail Bankruptcies", *Reuters*, December 2020
- Quoted, "J.C. Penney to Exit Longtime Custom-Built Headquarters", *CoStar*, November 2020
- Quoted, "Bankruptcy Judge Approves J.C. Penney's Plan to Emerge From Chapter 11", *CoStar*, November 2020
- Quoted, "YouFit Health Clubs' Bankruptcy Petition Is Another Hit to Mall Operators", *Daily Business Review*, November 2020
- Quoted, "Dave & Buster's Seeks Liquidity From \$500 Million Junk Bond", *Yahoo Finance*, October 2020
- Quoted, "Dave & Buster's Seeks Liquidity From \$500 Million Junk Bond", *MSN*, October 2020
- Quoted, "Dave & Buster's Seeks Liquidity From \$500 Million Junk Bond", *Bloomberg News*, October 2020
- Quoted, "Decision Limits Receivers Power to Recover Torts Damages from Third Parties in Fraud Cases", *Daily Business Review*, June 2020
- Quoted, "Lawyer Guidance: Advise Clients of New Ruling and Hidden Consequences of Garnishment Writs", *Daily Business Review*, May 2020
- Featured, "South Florida (and everywhere) facing Avalanche of Bankruptcies", *Channel 10*, April 2020
- Featured, "610 WIOD Radio Interview on Bankruptcy Options for Businesses", 610 WIOD Radio, April 2020
- Quoted, "Here Come the Lawyers: A Look at the Key Players in the Sears' Chapter 11 Case", *Daily Business Review*, October 15, 2018

- Featured, "One Liners Broward," *South Florida Business & Wealth*, October 2018
- Featured, "People on the Move", *Sun-Sentinel*, September 16, 2018
- Featured, "On the Move", *Florida Bar News*, September 15, 2018
- Featured, "People on the Move", *South Florida Business Journal*, September 4, 2018
- Featured, "On the Move", *Daily Business Review*, August 31, 2018
- Featured, "Kelley Kronenberg taps Veteran Litigator To Lead Firm's Commercial Creditors Rights Bankruptcy Group", *Attorney at Law Magazine*, August 22, 2018
- Featured, "Movers", *Miami Herald*, August 20, 2018
- Featured, "People on the Move", *Sun-Sentinel*, August 16, 2018
- Featured, "People on the Move", *South Florida Business Journal*, August 14, 2018
- Featured, "Kelley Kronenberg taps Veteran Litigator To Lead Firm's Commercial Creditors Rights Bankruptcy Group", *Legal Learning Series*, August 14, 2018
- Featured, "Bankruptcy Expert Silver Joins Kelley Kronenberg as Partner", *ABF Journal*, August 10, 2018
- Featured, "Kelley Kronenberg Appoints James D. Silver To Lead Firm's Commercial Creditors Rights Bankruptcy Group", *CityBizList South Florida*, August 9, 2018
- Featured, "Kelley Kronenberg Taps Veteran Litigator to Lead Firm's Commercial Creditors Rights Bankruptcy Group", *Accesswire*, August 2018

Publications

- Author, "When Business Goes Bad, Know Your ABCs", *Bloomberg Law*, April 2021
- Author, "For Commercial Landlords, a Shift in Courts' Sentiments Could Spell Trouble With Tenants", *Daily Business Review*, February 2021
- Author, "Business in a Cash Crunch Should Consider Chapter 11", *South Florida Business and Wealth*, March 2020

BLOGS

- Combatting "Bad Faith" Bankruptcy Filings , July 2022

REPRESENTATIVE CASES

- Bankruptcy representation of largest victims group of more than 80 defrauded investors in the \$1.2 billion Ponzi scheme involving Scott Rothstein's defunct 70 attorney law firm, for which Silver received a "Most Effective Lawyers award in the bankruptcy filed from the Daily Business Review. Also assisted in state court litigation issues in the aiding and abetting fraud claims brought against the major banks with the defunct law firm's accounts. The representation ultimately resulted in recovery of approximately a quarter billion dollars for the client groups. Also defended a number of the victim creditors in adversary proceedings brought against them by the bankruptcy trustee, including preference and fraudulent transfer claims. When a global resolution was reached in the bankruptcy, all of these suits were dismissed.
- Lead counsel for the City of Port Saint Lucie in successfully obtaining a receiver for a non-profit biomedical research institute over substantial opposition. The receiver was sought in connection with the non-profit entity's default on over \$60 million in

municipal financing used to acquire a 100,000 square foot state-of-the-art building to house the institute.

- Appointed Receiver in SEC enforcement action by United States District Court, Middle District of Florida, over various entities engaged in a multi-state Ponzi-scheme involving wireless credit card terminals. Mr. Silver: (i) administered receiver estate, (ii) oversaw and participated in investigation and litigation to recover funds for the defrauded investors, and (iii) developed and oversaw claims procedure for the receivership and distribution of recovered funds on account of claims in the receivership. Testified at trial in Texas of principal of receivership entities who was found guilty and sentenced to 99 years in prison.
- Lead bankruptcy counsel for State of Florida Department of Economic Opportunity contesting removal of its state court fraud related litigation to the bankruptcy court for the Southern District of Florida in connection with the Chapter 11 bankruptcy of a digital effects company. Successful in having bankruptcy court abstain from removed litigation and having same remanded to the State Court.
- Represented Creditors' Committee and ultimately, Liquidating Trustee in Chapter 11 bankruptcy of publicly traded fragrance distributor alleged to be involved in extensive fraud on Bank Group holding \$65 million of loans secured by receivables and inventory. Headed up investigation and settlement of various litigation and pre-litigation claims against parties alleged to have aided the claimed fraud. Negotiated Chapter 11 liquidating plan in which Bank Group contributed its fraud claims in exchange for release of potential equitable subordination claims and for participation in recoveries.
- Lead bankruptcy counsel for Bank assignee in Chapter 11 bankruptcy of affiliate of individual corporate guarantor against whom a judgment for over \$40 million had been entered, and against whom a freeze order had been entered freezing more than \$40 million in assets held in an offshore Cayman Island. Ultimately, assisted in negotiating a settlement for more than \$30 million at a bankruptcy judicial settlement conference.
- Lead bankruptcy counsel representing lab in connection with a Chapter 11 bankruptcy of a rural hospital in which the Debtor and Creditors Committee asserted that bankruptcy estate had over \$67 million in claims against client. Participated in multiple mediations and entry into and bankruptcy court approval of a comprehensive settlement agreement, and subsequently an amended settlement agreement.
- Assisted in bank representation in Chapter 11 bankruptcy of health care magnate who at one time had net worth of approximately \$500 million, and who owned a 33,000 square foot mansion on the ocean in Palm Beach. The mansion ultimately sold to Donald Trump for \$41.4 million. Involved in fraud investigation, discovery, and other aspects of bankruptcy.