

Dan Flanigan

SHAREHOLDER

Kansas City, MO | 816.360.4260

New York, NY | 646.289.6501

dflanigan@polsinelli.com



Dan is the founder of the Firm's Financial Services Department and is Chair Emeritus (having served from 1999 thru 2017) of the Firm's Finance, Investment Strategies and Real Estate Department, which had grown to 200-plus lawyers when he stepped down in 2017. Dan is also the founder of the firm's New York City office and served as Office Managing Partner of the New York City office until December 2021.

According to *Chambers USA*, Dan's clients refer to him as a "master strategist" and consummate problem solver. One says, "There are many decisions I will not make unless I have his input." Another client of many years, the head of real estate lending at one of the largest banks in the U.S., says "I think his strength is he's a very practical attorney."

He has been selected for inclusion in Best Lawyers In America in each of the following areas: Banking and Finance Law, Real Estate Law, Bankruptcy and Creditor-Debtor Rights/Insolvency and Reorganization Law, Litigation--Banking and Finance, and Litigation--Bankruptcy.

He has been a trusted advisor to lenders, helping them navigate the ups and downs of the business cycle for decades. He also makes his financing experience, and deep knowledge of the lending environment and culture, available to the firm's borrower clients, especially in difficult restructuring and workout situations.

Representative Engagements

The following representative engagements illustrate the breadth and diversity of Dan's practice:

- The Firm's Real Estate Finance group, founded and led by Dan for 20 years, has documented and closed more than 5,300 commercial mortgage loans exceeding \$56 billion in principal amount in all 50 states, the District of Columbia, the U.S. Virgin Islands and Puerto Rico.
- Representation of major New York developer in financing of special-purpose development and construction projects nationwide.
- Served as Kamber Management Company's counsel in three related purchase, sale and exchange transactions totaling over \$650 million in Manhattan, NY in a three-

Capabilities

- Banking & Financial Institutions
- Bankruptcy & Restructuring
- Bankruptcy & Distressed Litigation
- Behavioral Health
- Commercial Lending
- Specialty Finance & Trading
- Distressed Health Care
- Finance
- FinTech & Blockchain Technology
- Financial Services Litigation
- Infrastructure & Public-Private Partnerships
- Opportunity Zones
- Real Estate
- Real Estate Development
- Real Estate Finance
- Securitization & Structured Finance
- International

month period.

- The Firm has served as Issuer's Counsel in numerous Commercial Real Estate CLO transactions sponsored by Dan's client Prime Finance.
- Representation of Hong Kong/Cayman-based fund investing in U.S. student housing projects.
- Since the 1990's he has represented master and special servicers, portfolio lenders, and property developers and borrowers in connection with numerous high and low-profile real estate loan restructuring, loan enforcement, and bankruptcy matters throughout the U.S. He has been especially engaged recently in connection with numerous outbreaks of so-called "Tranche Warfare" involving disputes, negotiation, and often litigation among members of CMBS capital stacks, syndicated lender groups, and loan participants.
- Represented one of the nation's premier developers in a complex restructuring of a \$375 million dollar loan on a trophy property in New York City. He also recently assisted one of the top developers in Kansas City on a major loan restructuring on a trophy property in that city.
- Represented a major national special servicer in the successful resolution of a \$226 million defaulted mortgage loan secured by 42 troubled nursing home facilities, which involved an in-depth analysis of all loan resolution alternatives, including potential ownership and operation of the nursing homes, sale of the loan, and advice and guidance with respect to all related legal and regulatory issues, including Medicare, Medicaid and state licensure issues.
- In the multi-billion dollar ResCap Chapter 11 proceeding in New York, Dan was bankruptcy counsel to a member of the Unsecured Creditors Committee representing a class of consumer borrowers with an allowed claim of \$300 million. He now serves as General Counsel of the \$60 million Borrower Claims Trust established by the Plan.

Presentations

Dan is a frequent presenter at industry conferences including:

- Moderator - PERE Debt Forum: "Strategy: Analysis of Debt Across the Risk-Return Spectrum", Hong Kong, March 5, 2019
- Television Appearance - Squawk Box Asia, March 4, 2019
- Panelist - Seminar: "The Current Opportunities and Challenges for Real Estate Finance in US and China," cohosted by Greencourt Investment Group, China General Chamber of Commerce-U.S.A. and The Chinese Finance Association, New York, May 17, 2018
- Moderator - 2018 Uglobal Investment Opportunities Forum in Beijing, "*A Guide to Emerging Asset Classes*," May 8, 2018
- Moderator - *The China Investor Magazine's* 2017 Global Asset & Investment Opportunities Forum in Shanghai, China, "*Asset Classes: Hotel, Multi-family, Mixed-use, Student Housing, Senior Housing*," November 9, 2017
- Moderator - 2017 Global Private Equity Opportunities Forum in Beijing, "*Getting Beyond the Gateway Markets – Discovering Up-and-Coming Next Tier Markets*," May 20, 2017
- Panelist - Mortgage Bankers Association of New York, Real Estate Mezzanine Lending: Documentation and Deal Structuring, Mortgage Bankers Association of New York, December 2015
- Panelist - The Annual Cornell University Real Estate Conference, What We Can Learn From Capital Flows in Real Estate, October 2015
- Seminar Presentation - Strafford, Commercial Mortgage-Backed Securities 3.0: Structuring Commercial Mortgage Securitized Loans in an Evolving CMBS Market, March 2015

Publications

His publications as author and co-author include:

- **The Devil's Dictionary of Bankruptcy Terms for Commercial Lenders** (Peppercorn Press 2007, 2012)
- "Yield is King": Real Estate Investors Ditch New York, LA for Second-Tier US Cities," Quoted, *South China Morning Post*, March 14, 2019
- **The Polsinelli Guide to Real Estate Mezzanine Finance** (Peppercorn Press 2008)
- "Subordinate Finance In Real Estate Transactions", **Business Workouts Manual**, (Thomson Reuters, 2018)
- "The Borrower's Agenda: Negotiating Loan Documents", **PLI Commercial Real Estate Financing** 2013 (March, 1, 2013)
- **Understanding the Legal Issues Behind Executory Contracts in Bankruptcy: Leading Lawyers on Strategies for the Structuring, Drafting and Execution of Executory Contracts**, (Aspatore, Inc. 2006)
- **The Criminal Law of Slavery and Freedom 1800-1868** (Garland Publishing 1987)

Education

- University of Houston (J.D.)
- Rice University (Ph.D.)
- University of Kansas (B.S.)

Bar Admissions

- New York
- Missouri

Memberships

- Commercial Real Estate Finance Council
- Mortgage Bankers Association
- American Bar Association (Business Law, Real Estate and Litigation Sections)
- American Bankruptcy Institute
- Turnaround Management Association
- The New York Bar
- The Missouri Bar
- The New York City Bar Association
- Real Estate Board of New York

Recognition

- Selected for inclusion in *IFLR 1000* as Highly Regarded in Banking, 2024
- Adjunct Professor, Bates College of Law, University of Houston, 1973
- Assistant Professor, U.S. Legal & Constitutional History, University of Virginia, 1973-1975
- Co-Founder (with wife Candy), Sierra Tucson (Leading International Addiction Treatment Center), Tucson, AZ
- Selected for inclusion in *Best Lawyers in America*® for:
 - Real Estate Law, 2017-2026
 - Litigation - Banking & Finance, 2011-2026
 - Litigation - Bankruptcy, 2011-2026
 - Banking and Finance Law, 2007-2026
 - Bankruptcy and Creditor-Debtor Rights/Insolvency and Reorganization Law,

2005-2026

- Selected for *Best Lawyers*® “Lawyer of the Year” in Kansas City, Missouri, for Litigation - Bankruptcy, 2013 and 2021
- Selected for *Best Lawyers*® “Lawyer of the Year” in Kansas City, Missouri, for Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law, 2019
- Selected for *Best Lawyers*® “Lawyer of the Year” in Kansas City, Missouri, for Banking and Finance Law, 2012, 2014, 2015, 2016, 2020, 2023 and 2024
- Ranked in *Chambers USA: America's Leading Lawyers for Business*, Senior Statespeople, Real Estate, Missouri: Kansas City & Surrounds, 2021-2025
- Ranked in *Chambers USA: America's Leading Lawyers for Business*, Band 1, Real Estate, Missouri: Kansas City & Surrounds, 2014-2020
- Board of Directors, World Childhood Foundation, 2017-Present

Matters

In addition to the matters described above, the following representative transactions show the breadth and depth of Dan's experience:

- Structured, negotiated, and documented numerous loan originations, workout, restructure, deed-in-lieu, and voluntary surrender transactions for lender clients.
- Representation of national acquirer of troubled loan portfolios from RTC on loan enforcement, restructures and workouts, reorganization and bankruptcy, and loan sale matters throughout the U.S.
- Appearance as primary counsel for clients in bankruptcy cases throughout the U.S., including Arizona, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Maryland, Minnesota, Missouri, Nevada, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Texas, and Virginia.
- Advises lender clients (both lead lenders and participants) in connection with a variety of loan participation and syndication issues.
- 100% successful defenses of lender liability allegations against lender clients (no jury submission ever, numerous summary judgments obtained, no settlements other than “nuisance settlements”).
- Served as lead trial counsel and obtained plaintiff jury verdict against national lender in lender liability case.
- Formation of two commercial real estate mortgage conduit lenders involving strategic alliances among investment bankers, venture capital, and entrepreneurial partners.
- Retained by largest commercial bank in Hungary to establish special assets department (troubled loans, workouts, loan enforcement, collections, bankruptcy). Developed organization chart, staffing plan, policies and procedures.
- Representation of national asset based lender on all transactions west of the Mississippi River including major leveraged buyouts and multi-state transactions involving every type of collateral.
- Representation of lenders in connection with numerous DIP financings.
- Counsel to largest Kansas City area health plan in successful merger with HMO and related restructuring including negotiated buyout of dissenting hospital shareholders.
- Structured acquisition vehicle for purchase of Missouri Life Insurance Company by its agency force.
- Documented and closed emergency loan to railroad secured by all rolling stock including obtaining required ICC approval of securities issuance by borrower under Interstate Commerce Act (project began on December 24 and closed December 31 to fund settlement of antitrust case scheduled for trial on January 2).

- Represented sale-leaseback lender in connection with attempt to recharacterize \$260 million in sale-leaseback transactions as loans in convenience store bankruptcy (negotiation with debtor and unsecured creditors committee followed by discovery and full trial of all recharacterization issues, including extensive factual and expert testimony to overcome objection of subordinated debenture holders).
- Obtained court approval and documented major restructuring of \$260 million in sale-leaseback leases as part of successful conclusion of convenience store bankruptcy (sale of all assets to Investcorp).
- Advised several lending institutions on establishment of general policies and procedures to avoid environmental liability.