

David D. Ferguson

SENIOR PARTNER

he / him / his

Kansas City, MO | 816.360.4311

dferguson@polsinelli.com



David Ferguson has a national practice representing banks, CMBS special servicers, debtors-in-possession, and creditor committees across the United States in bankruptcy cases. His practice has focused for more than 30 years on creditors' rights, Chapter 11 bankruptcy, and commercial litigation, including representation of a multi-national retailer in bankruptcy disputes and claims litigation. In recent years, David has advocated for banks and special servicers on a wide array of issues, including loan enforcement, workouts, lender liability defense, prosecution of fraud actions against borrowers, bankruptcy stay relief and other matters in the bankruptcy courts.

In addition to representing banks and special servicers in bankruptcy matters, David represents a broad range of other constituencies in Chapter 11, advising corporate debtors, Chapter 7 trustees, creditors' committees, lessors, and business acquirers.

Capabilities

- Bankruptcy & Restructuring
- Bankruptcy & Distressed Litigation
- Finance
- Litigation
- Financial Services Litigation

Education

- University of Missouri (J.D., 1990)
- Truman State University (B.S., 1987)

Bar Admissions

- Kansas, 1991
- Missouri, 1990
- New York, 2009

Court Admissions

- U.S. Court of Appeals, Eighth Circuit
- U.S. District Court, Northern District of Illinois
- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of New York

Memberships

- American Bar Association

- Business Law Section
- American Bankruptcy Institute
- Kansas City Bankruptcy Bar Association
- The Missouri Bar
- Mortgage Bankers Association
- The New York Bar
- The United States District Court for the Northern District of Illinois Bar
- Turnaround Management Association

Recognition

- Selected for inclusion in *Missouri Lawyers Media's* POWER List for Bankruptcy Law 2021
- Selected for inclusion in *Best Lawyers in America*® for:
 - Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law, 2022-2026
 - Litigation - Bankruptcy, 2022-2026
- Co-author of *The Devil's Dictionary of Bankruptcy Terms for Commercial Lenders*
- Frequent lecturer on bankruptcy issues, covering topics such as lenders' rights in Chapter 11, avoidance actions, and the rights of real estate lessors, as well as presentations on identification and prevention of commercial mortgage loan fraud.

Matters

- Represents multi-billion-dollar global retailer in bankruptcy litigation across the United States.
- Successfully represented international lender in bankruptcy litigation, foreclosure, and workout matters across the United States.
- Successfully represented national real estate lenders and CMBS special servicers in connection with bankruptcy litigation, problem loan matters, workouts, loan enforcement, receivership, and fraud prosecution.
- Counsel for real estate lender on loans subject to complex Chapter 11 case of national TIC syndicator, successfully defending lender's escrow reserves and other collateral in Chapter 11 case, and obtaining workouts with TIC borrowers.
- Successfully represented secured lenders and others in numerous bankruptcy courts throughout the United States (including jurisdictions such as the District of Delaware, Northern District of Illinois, and Southern District of New York) on stay relief, contested plan confirmation, asset sales, and other matters.
- Successfully represented regional window manufacturing firm throughout the United States in connection with construction litigation matters.
- Successful prosecution for debtor physician group of complex contract litigation claim against largest hospital group in St. Louis.
- Successfully represented regional manufacturing firm in Chapter 11 case resulting in 100 percent payout to creditors.
- Lead counsel for Vanguard Airlines, Inc., in connection with its Chapter 11 filing, including successful prosecution of avoidance/equitable subordination action against insider lenders.
- Lead counsel for the bankruptcy estate in over 1,200 preference actions, with substantial experience as defense counsel as well.