

Curtis Castillo



Mark A. Castillo
Practice Management Shareholder

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Practice Areas: Bankruptcy Reorganizations; Debtor and Creditor Rights; Banking and Secured Transactions; Commercial Litigation; Business Law.

Admitted: 2000, Texas; U.S. District Courts for the Northern, Southern, Eastern, and Western Districts of Texas; Fifth Circuit Court of Appeals.

Education: University of Texas at Dallas (Bachelor of Arts in Interdisciplinary Studies, 1997, *Summa Cum Laude*); University of Chicago Law School (Juris Doctorate, 2000).

Honors:

- Named Minority Business Leader by the *Dallas Business Journal*, 2018.
- Named "Texas Super Lawyer" by *Texas Monthly*, October 2015 - 2017.
- Named one of the "Best Lawyers in Dallas" by *D Magazine*, 2014.
- Named a "Texas Rising Star" by *Texas Monthly*, April 2005, 2007 - 2015.
- Master (2015-2018) and Barrister (2012-2014) of the Honorable John C. Ford American Inn of Court, established and maintained to foster the mentoring of counselors, promote collegiality of attorneys and judges, and encourage professional conduct in the practice of law.
- Maintaining Member of The College of the State Bar of Texas (2010-2015), an honorary society for qualified attorneys who are interested in both high ethical standards and improved training for all attorneys.
- Thomas R. Mulroy Prize for Appellate Advocacy; Co-Chair: Moot Court Board, University of Chicago Law School.

Martindale-Hubbell Rating: As a result of an extensive and confidential peer review, Martindale-Hubbell awarded Mr. Castillo a rating of BV(R) Distinguished(TM). The BV rating identifies a lawyer who is widely respected by his reviewing peers for high professional achievement and ethical standards.

Background Information:

Mr. Castillo has developed a diverse practice with significant experience in all areas of bankruptcy law, litigation, and corporate matters. Through representation of numerous Chapter 11 debtors, secured and unsecured creditors, official committees, and Chapter 7 and Chapter 11 trustees, Mr. Castillo has developed a broad knowledge of the law and the Bankruptcy Code, including pre-bankruptcy planning

and prepackaged acquisitions, pre-negotiated reorganizations, bankruptcy liquidation and non-bankruptcy dissolution, assumption, assignment, and rejection of leases and contracts, utility and reclamation issues, claims objections, avoidance and recovery actions, disclosure-statement and plan drafting and negotiation, and various confirmation and post-confirmation issues. Mr. Castillo has tried suits involving millions of dollars in bankruptcy-related claims, including fraud, notes, turnover, conversion, and contract claims, and has litigated or settled millions more in preference and fraudulent-transfer claims for both plaintiffs. Mr. Castillo represents numerous clients in all areas of corporate formation and management, collection of difficult receivables, and handling of various operational matters.

Speaking Engagements:

- “Bankruptcy: Critical Changes You Need to Know Now”, webcast presented by National Business Institute, June 24, 2016.
- “A Paralegal’s Guide to Bankruptcy”, webcast presented by National Business Institute, October 8, 2015.
- “Direct and Cross Examination of Witnesses”, and “How to Get in Tax Returns, Schedules, Appraisals, and Other Key Documents, 11th Annual Consumer Bankruptcy Practice Conference sponsored by the University of Texas School of Law, Galveston, Texas, July 23-24, 2015.
- “The Means Test from Start to Finish”, webcast presented by National Business Institute, April 1, 2015.
- “Small/Individual Chapter 11’s and Big 13’s” and “Preparing for Hearings”, 10th Annual Consumer Bankruptcy Practice Conference sponsored by the University of Texas School of Law, Galveston, Texas, July 24-25, 2014.
- “Creditor’s Rights in Repossession”, Live Teleconference Presenter, Sponsored by National Business Institute, May 6, 2014.
- “Adversary Proceedings Nuts and Bolts from Filing through Appeal,” 9th Annual Consumer Bankruptcy Practice sponsored by the University of Texas School of Law, Galveston, Texas, August 8-9, 2013.
- “What every young lawyer needs to know about HOA’s”, Panel Member, DAYL Lunch & Learn CLE Event, May 8, 2013.
- “A Paralegal’s Guide to Bankruptcy,” Live Webcast Presenter, Sponsored by National Business Institute and Institute for Paralegal Education, April 30, 2013.
- “Fair Debt Collection Practices Act (FDCPA): Brief Overview,” “Identifying Fraudulent Conveyances,” and “Averting Potential Ethical Problems in Collections” Seminars presented at “Collections: Seeking and Collecting a Judgment,” Sponsored by the National Business Institute, Fort Worth, Texas, September 18, 2012.
- “Bankruptcy Issues in Collection: A Paralegal’s Guide,” Teleconference Presenter, Sponsored by National Business Institute and Institute for Paralegal Education, June 15, 2012.
- “Dischargeability Actions,” “Preferences,” and “Fraudulent Transfers” Seminars presented at “Bankruptcy Litigation 101,” Sponsored by the National Business Institute, Dallas, Texas, April 17, 2012.
- “Bankruptcy During Collections” and “Ethical Considerations During the Collection Process” Seminars presented at “Advanced Collection Strategies,” Sponsored by the National Business Institute, Dallas, Texas, November 3, 2011.
- “Case Evaluation” and “Claims and Distributions” Seminars presented at “Protecting the Creditor’s Rights During Bankruptcy,” Sponsored by the National Business Institute Seminar, March 24, 2011.
- “Individual and Small Business Bankruptcies under Chapter 11,” 6th Annual Consumer Bankruptcy Practice sponsored by the University of Texas School of Law, Galveston, Texas, August 12 – 13, 2010.
- “Impact of *United Operating* and Recent Decisions on Preservation of Claims and Defending Claims Post-Confirmation,” Panel Member for Dallas-Fort Worth Bankruptcy Court Presentation, June 8, 2010.
- “Small Business Bankruptcies,” 5th Annual Consumer Bankruptcy Practice sponsored by the University of Texas School of Law, Galveston, Texas, August 13 – 14, 2009.
- “Nuts & Bolts of Business Bankruptcy”, Panel Member State Bar of Texas, Austin Texas, May 10, 2006.

Publications:

- National Business Institute: Bankruptcy Quick Tips, January 2015.
- Aspatore Thought Leadership: Bankruptcy and Financial Restructuring Law 2012, Market Effects on Real Estate Negotiations and Case Law Impact on Preservation of Claims for the Estate, chapter author, January 2012.
- Inside the Minds: Trends in Commercial Bankruptcy Filings, Thomson Reuters / Aspatore, author of Liquidating Chapter 11s: New Developments and Strategies, September 2010.
- Dallas Business Journal, Today's Economic Realities: Planning Ahead for a Bankruptcy Filing...To Potentially Avoid One, September 11, 2009.
- Tarrant County Bankruptcy Bar, Trustee Resources for Maximization of Estate Recoveries, co-author, September 2006.
- State Bar of Texas, Commencing the Case – The Petition, Creditor Lists, Schedules and Statements, Retention Applications, co-author, May 2006.
- State Bar of Texas, Getting the Debtor out of Bankruptcy – The Plan and Disclosure Statement, Plan Solicitation, Confirmation and Implementation, author, May 2006.

Significant Representations

Representative Bankruptcy Engagements:

- Obtain discharge of client's debts creditor alleged to be nondischargeable under 11 U.S.C. §§ 523(a)(2), (a)(4), and (a)(6)). *In re to Fritz*, AP 16-3030, 2017 WL 1229706, at *1 (Bankr. N.D. Tex. Apr. 3, 2017).
- Prevented creditors' efforts to obtain client's homestead and annuity payments and proceeds to pay prior judgment. *Hollis v. Hollis*, 2016 WL 7985269 (E.D. Tex. June 6, 2016), aff'd 2017 WL 359659 (5th Cir. January 24, 2017).
- Representation of defendant client resulting in the court of appeals affirming the trial court's striking of all opposing evidence and granting firm's motion for final summary judgment in favor of client on over half million dollar guarantee suit. *LSREF2 Apex (TX) II, LLC v. Blomquist*, 05-14-00851-CV, 2015 WL 4554522 (Tex. App.—Dallas July 29, 2015, no. pet. h.).
- Defense of individual and corporate clients resulting in bankruptcy court approval of the settlement of multiple claims against the clients, the balance of which claims were later dismissed in their entirety through final summary judgment obtained by the firm from the underlying trial court. *In re Margaux City Lights Partners, Ltd.*, No. 12-35828-BJH, 2014 WL 6674922 (Bankr. N.D. Tex. Nov. 24, 2014).
- Representation of investor clients in contested claims litigation (i) obtaining allowance of over \$7 million in claims for clients; (ii) prosecuting clients' claim objection resulting in the bankruptcy court's reduction of competing \$1.5 million claim by over \$1.2 million; and (iii) subsequently defending the appeal of the bankruptcy court's decision, resulting in the appellate court's complete affirmance of the bankruptcy court's reduction of the claim. *In re Margaux City Lights Partners, Ltd.*, No. 12-35828-BJH, 2014 WL 6668982 (Bankr. N.D. Tex. Nov. 20, 2014), aff'd July 16, 2015.
- Representation of several clients in purchase of two downtown Dallas properties for \$5.25 million and in the restructuring of a Dallas real estate partnership in contentious Dallas reorganization case.
- Representation of publicly traded real estate company with over 4,000 commercial properties in 50 states and territories in connection with reorganization of tenant companies operating in 23 states.
- Representation of equity holder and creditor in reorganization case of local home builder.
- Debtor representation in Chapter 11 reorganization cases. Recent corporate reorganization clients include:
 - skilled nursing home and related entities in East Texas;
 - Dallas and Plano hotels;
 - a full-service real estate and brokerage firm;
 - real estate holding companies;
 - national metal manufacturers and providers;
 - nationwide trucking and logistics companies;

- a national energy company specializing in drilling and snubbing oil and gas wells in addition to owning significant interests in gas plays in the Barnett Shale;
 - a Texas energy company specializing in deep oil and gas formations in East Texas and surrounding areas;
 - a debt-management servicing company;
 - an energy company operating in New Mexico;
 - Dallas area restaurants;
 - Telecom;
 - Radio broadcast station.
- Representation of Official Committees of Unsecured Creditors in Chapter 11 reorganizations of mortgage lenders and trade-show services.
 - Representation of secured and unsecured creditors in significant bankruptcy cases in Dallas, Fort Worth, Plano, Corpus Christi, Tyler, Houston and San Antonio. Recent clients include nationally recognized oil and gas exploration and development company, global engineering and consulting firm, fuel and convenience-store operator, plastics manufacturer, packaging and bottling companies, telecommunications provider, computer-equipment supplier, healthcare provider, and national energy and construction companies.
 - Representation of Chapter 11 and Chapter 7 Trustees in the Northern and Eastern Districts of Texas in liquidations of companies within various industries.
 - Defense of numerous creditors, including a factoring company, law firm, and individuals and companies involved in various other industries, against millions of dollars in preference and fraudulent-transfer demands and lawsuits.
 - Successful resolution or recovery on behalf of debtors and trustees of millions of dollars in avoidance and recovery demands and lawsuits related to preferences and fraudulent transfers.
 - Representation in solicitation of votes on multi-billion dollar prepackaged plan of reorganization for various subsidiaries of one of nation's largest energy companies.
 - Debtor representation in pre-negotiated Chapter 11 reorganization cases in Delaware.
 - Counsel in claims-resolution process following confirmation of liquidation plan of debtors.
 - Acquisition of a majority stake in large corporation through a prepackaged Chapter 11 reorganization in the Northern District of Texas.
 - Debtor's counsel in Chapter 11 bankruptcy of real estate owner and landlord.
 - Debtors' counsel in successful Chapter 11 reorganization in the Northern District of Texas for twelve corporate debtors comprising the nation's largest consolidator of antique malls with locations in Texas, California, Florida, Indiana, Kansas, and Ohio.
 - Debtor's counsel in successful Chapter 11 reorganization of Dallas retailer and wholesaler of specialty frozen custard and other items.
 - Debtors' counsel in successful Chapter 11 reorganization in the Eastern District of Texas of one of the State's largest general construction companies.
 - Represented unsecured creditors' committees during Chapter 11 proceedings, including the formation, oversight, and governance of the committee, investigation of the underlying debtor's assets and the pre-petition activities of officers and directors, and the evaluation of actions proposed to be taken by the debtor during the course of the Chapter 11 proceeding.

Representative Non-Bankruptcy Engagements:

- Assisted client investor to sufficiently plead claims against broker and conspirators for violation of the Securities Exchange Act and related causes of action. *Lohr v. Gilman*, 248 F. Supp. 3d 796 (N.D. Tex. 2017).
- Representation of individual and corporate guarantors in millions of defaulted debts.
- Restructuring of over \$36 million of corporate debt and personal guarantees of closely held businesses in the plastic-manufacturing and packaging industry.
- Successful resolution through litigation of over \$600,000 in personal guarantees in closely held medical imaging company.
- Representation of numerous clients on recoveries of thousands of dollars on accounts receivable and breaches of contract.
- Defense of both individuals and corporations against lawsuits alleging fraud, defalcation of duty, breaches of fiduciary duty, breach of contract, tortious interference, and conversion.
- Defense of various individuals against disgorgement judgments previously obtained by the U.S. Securities and Exchange Commission, and defense against SEC Receiver actions.

- Defense of national crafts retailer against hundreds of thousands of dollars demanded in copyright-infringement lawsuit.
- Defense of national insurer resulting in a take-nothing judgment and appeal in a \$2.5 million suit related to disputed workers' compensation, disability, and related insurance coverage and demands.

Member:

- State Bar of Texas
- Dallas Bar Association
- College of the State Bar of Texas
- Regional Hispanic Contractors Association