



THE WAGNER LAW GROUP

Bankruptcy and Restructuring

Our Expertise

Our Bankruptcy and Restructuring group practices at the intersection of bankruptcy law and employee benefits law. The firm's attorneys provide special counsel support on employee benefits matters to debtors, creditors, ad hoc or official creditor or equity committees, examiners, trustees, receivers, unions, retiree associations, and other stakeholders and, where necessary, zealously litigate on their behalf. Our team draws on the support of our ERISA, Employee Benefits & Executive Compensation, Labor, Employment & HR, Investment Management, Mergers & Acquisitions, Litigation, Fiduciary Compliance, and Independent Fiduciary Services practices.

Our Bankruptcy and Restructuring group also utilizes the firm's unique and in-depth experience in PBGC counseling, disputes, and litigation. Led by Israel (Izzy) Goldowitz, former chief counsel to the PBGC, we regularly represent clients in PBGC investigations, terminations, and claims disputes, which often arise in restructuring or bankruptcy settings. The firm also counsels clients on plan fiduciary and administration matters, mergers and acquisitions, and executive compensation, which pose unique challenges in restructuring, pre-bankruptcy or bankruptcy.

Additional situations requiring our counsel include:

- pension funding issues, including funding waivers
- termination of single-employer plans
- plan mergers, spinoffs, assumptions, or replacements
- plan freezes, annuitization, and other forms of de-risking
- funding improvement or rehabilitation plans for multiemployer plans
- employer security issues
- withdrawal from multiemployer pension plans
- claims resulting from plan termination or withdrawal
- settlor and fiduciary functions and conflicts of interest
- executive compensation and nonqualified retirement plans
- modification or termination of defined contribution plans
- modification or termination of health and other welfare plans



Super Lawyers



- negotiation of labor agreements or managing employee relations
- retirement benefits in personal bankruptcies
- investigations or claims by the Department of Labor, the Internal Revenue Service, or the Pension Benefit Guaranty Corporation

Highlights of our attorneys' experience (including experience before joining our firm):

- Representing a Chapter 7 trustee as special employee benefits counsel in *In re David Pulver Pray* (Bankr. N.D. W.Va.) involving unique issues around the exclusion and exemption of single participant retirement plan assets from the bankruptcy estate
- Representing a retiree association in *In re The McClatchy Company* (Bankr. S.D.N.Y.) in connection with benefits under non-qualified plans
- Leading PBGC's investigations, negotiation, and litigation in widely reported Chapter 11 cases including:
 - AMR/American Airlines (Bankr. S. D.N.Y.)
 - CF&I Steel (Bankr. D. Utah) and CSC/Copperweld (Bankr. N.D. Ohio)
 - Philip Services (Bankr. S.D. Tex.)
 - WCI Steel (Bankr. N.D. Ohio)
- Negotiating PBGC's pre-Chapter 11 bankruptcy settlements with, among others:
 - Sears over monetization of its Craftsman brand and real estate
 - Chrysler, over departure of a controlled group member
- Consulting Debtors on pre-Chapter 11 bankruptcy issues:
 - West Texas Oil Reserves LLP
 - LTV Steel Corporation
 - Southwest Merchant Guarantor Corporation
- Writing appellate briefs on novel bankruptcy issues, including amicus briefs before the Supreme Court.
- Representing Chapter 11 debtors (e.g. LTV Steel Corporation, Republic Steel) regarding treatment of their employee benefits, including executive compensation programs, defined benefit plans, defined contributions plans, and welfare plans
- Representing creditors and creditor committees including Chemical Bank, TCB Chase, M Bank, Bank One, in Chapter 11 proceedings
- Representing Debtors or Chapter 7 trustees in terminating and underfunded defined benefit plans and resolving liability to the PBGC

- Supporting Chapter 7 trustees in their mandated role as the fiduciary plan administrator under ERISA to abandoned retirement and benefit plans
- Representing lenders, including Chemical Bank, Mercantile Bank, TCB Chase Manhattan, on Chapter 11 extensions of credit including DIP financings
- Representing debtors on administrative issues such as final plan audits, participant distributions, and blackout periods
- Representing debtor, LTV Steel Corporation, on restructuring of debt in connection with PBGC settlement

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