



# DAVID A. SAMOLE

Partner

✉ das@kttlaw.com

☎ 305-728-2926

## PRACTICE AREAS

Commercial Bankruptcy  
Fraud and Insolvency Related Litigation  
Assignments for Benefit of Creditors and Receiverships  
Creditors' Rights  
UCC  
Corporate Restructuring  
Fraud and Ponzi Schemes  
Healthcare Litigation

## EDUCATION

J.D., Washington University in St. Louis  
B.A., University of Chicago

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THROCKMORTON

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Miami, Florida 33134

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**David Samole**, a partner at Kozyak Tropin & Throckmorton, focuses his practice on corporate bankruptcy and insolvency-related litigation matters. He represents parties in corporate reorganization, liquidation, workouts and financially distressed transactions, and also serves as a fiduciary Assignee in state court liquidation proceedings. David also has represented healthcare providers in disputes with managed care companies and government payers.

David's insolvency-related litigation experience includes representing corporate debtors, creditors, committees, trustees and related parties in contested Chapter 11 proceedings, including principals, guarantors and Section 363 asset purchasers in the healthcare, real estate, hospitality, retail, aviation, banking, maritime, and construction industries, as well as in cross-border insolvencies.

David also handles many of the firm's more complex trustee matters, including in the bank holding and Ponzi scheme litigation contexts, in addition to the firm's clients facing potential exposure for avoidable transfers under the Bankruptcy Code or under applicable state law. He frequently represents commercial landlords and other corporate entities and counterparties in bankruptcy proceedings and [insolvency-related litigation](#) throughout the country. His practice also includes bankruptcy appeals, assignments for the benefit of creditors, receiverships, and serving as a fiduciary or fiduciary counsel in federal bankruptcy and state court liquidation proceedings.

David's healthcare litigation matters focused on reimbursement litigation on behalf of providers, including a portfolio of managed care litigation matters for one of the largest hospital/health systems in the Southeast United States.

David is a Past-President of the Bankruptcy Bar Association of the Southern District of Florida, and he also served as the President of the University of Chicago Alumni Club of South Florida.

When he is not working at the firm, David enjoys running, attending Miami Heat home games, and spending time with his family. He lives in Miami with his wife, Brigid, who is an attorney, and their two children.

## RESULTS/CURRENT REPRESENTATIONS

### CONTENTIOUS CHAPTER 11 CASES – PRIMARY CREDITORS/COMMITTEES

David focuses much of his case work on representing primary creditors and groups of creditors in contentious Chapter 11 cases. David currently serves as co-counsel for PepsiCo. as the second largest unsecured creditor in the Chapter 11 proceedings involving Bang Energy drinks, which involves nearly \$1.7 billion in debt. David assists Pepsi's role serving on the Official Committee of Unsecured Creditors toward a contemplated 9-figure sale of substantially all assets and pursuit of third-party litigation claims for creditors.

David previously represented a group of 184 pension claimants in the Chapter 11 bankruptcy proceedings of the Archdiocese of San Juan as part of the Catholic Church of Puerto Rico. He represented the pension claimants in all aspects of the Chapter 11 and related proceedings, and won a bankruptcy trial to secure the desired dismissal of the Chapter 11 proceeding and successfully defended against the Church's appeal. David then helped secured a multi million-dollar recovery in a negotiated workout with the Church, which was paid in full.

David represents a pair of hotel developers in a pair of bankruptcy proceedings of

AltosGroups FL/NC, which are construction financing lenders which failed to fund loans and misappropriated millions of dollars to the hotel developers. David's ongoing efforts have helped with a partial recovery of funds into the estates and the Chapter 11 operators being dispossessed with the appointment of a Trustee.

David led a group of equity interest holders in the Chapter 11 case of TLFO, LLC in successful litigation and ultimate settlement to re-characterize approximately \$23 million of a secured lender's claim as equity, improving the equity holder distribution by millions of dollars.

David represents Nueterra Capital, which provides equity investment and advisory services to a bevy of healthcare companies, hospitals and other providers, as well as NueHealth, a national system of integrated provider networks aligning physicians and healthcare consumers to deliver value-based healthcare, in the Chapter 11 hospital bankruptcy proceedings of The Miami Medical Center.

David has also served as bankruptcy counsel to DHL and its affiliates in the Chapter 11 filings and other insolvency proceedings of their corporate customers around the Country. He previously represented DHL as bankruptcy counsel in over 35 creditor/committee bankruptcy matters maximizing DHL's recovery and/or protecting their interests as an international global shipping and logistics company.

#### WORKOUTS

David spends a meaningful amount of time on cases outside of court, as he advises parties on all sides who are subject to troubled loans, pending litigation, post-judgment recovery and other financially-distressed transactions to explore and address workout solutions to maximize a recovery for the creditor or minimize financial disruption to the debtor, borrower, guarantor, etc.

David currently represents a handful of high net-worth individuals and closely-held companies in workouts of troubled commercial debts, guarantees and post-judgment collection/resolution matters, while David also represents commercial and private lenders as well as commercial landlords in bankruptcy cases to address troubled loans, commercial tenant issues and re-possession of premises and collateral, and recovery of debts.

David also frequently represents the firm's clients to prosecute, defend or otherwise help resolve insolvency-related litigation, avoidable transfers and other financially distressed transactions, litigation and disputes.

#### BANKRUPTCY TRUSTESHIPS/ABCs

David handles many of the Firm's larger Trusteeships and leads many of the Firm's ABC matters. He currently serves as Bankruptcy Counsel to the Chapter 11 Trustee administering the 9 jointly administered estates of American Resource Management Group, LLC and affiliated entities d/b/a Resort Release, a group of timeshare exit companies. David is overseeing a court-supervised dismissal process, after addressing thousands of timeshare files and obtaining millions of dollars in litigation recoveries.

David represents the Trustee of Leonidas Ortega Trujillo, a debtor subject to a \$600 million judgment arising from fraud in connection with the failure of Banco Continental, Ecuador's fourth largest bank. A bankruptcy trial determined the debtor was the true owner of entities including some cross-border that distributed millions of dollars in assets and discharge was denied.

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David previously served as counsel to the Chapter 11 Trustee and then Plan Administrator in NNN Doral Court, LLC et al, which were real estate based bankruptcy proceedings filed by 29 Tenants-in-Common entities as to a commercial office building and other acres of land, effectuating a \$25.9 million purchase and sale as part of a jointly administered Chapter 11 confirmation plan, and also pursued and recovered a favorable insurance settlement on behalf of the estates relating to asserted damages for business interruption and lost rent.

David also has represented bankruptcy trustees, receivers, investor groups and ad hoc creditor groups to recover proceeds on claims against financial institutions and other third parties emanating from S.E.C. fraud, Ponzi schemes and other misconduct, such as the bankruptcy proceedings involving National Century Financial Enterprises, Royal West Properties, MP Diagnostic, Commodities Online and Private Commercial Offices.

David also represents statutory trustees and official creditor committees in bank holding bankruptcy cases recovering millions of dollars in First State Bancorporation, BankUnited Financial Corporation and MetroBank Financial Services, in litigation over tax refunds, capital maintenance obligations and director & officer claims.

David periodically serves as the fiduciary assignee in selected ABC cases. His Assignee experience includes winding down an international specialty food distributor, as well as a duty-free and travel retailer, and also a separate licensor for the use of a restaurant franchise concept, and fully liquidated each estate with a return to all creditors within approximately 180 days in such state court liquidation proceedings. David also has represented as counsel assignees, asset purchasers, assignors, guarantors and creditors in ABC cases and workouts.

#### COMPLEX LITIGATION

David was part of the bankruptcy team that represented victims of the billion-dollar Scott Rothstein Ponzi Scheme, one of the largest Ponzi schemes in history and the largest in Florida history. He was part of the lead counsel team of lawyers in this complex case, which involved simultaneous litigation in bankruptcy court, state court, and U.S. District Court. The case involved litigating numerous complex issues, some of which threatened the ability of victims to bring lawsuits to recover their losses, and the ultimate negotiation of a favorable treatment for the investors in a confirmed consensual Chapter 11 plan. David also frequently represents the firm's clients to prosecute, defend or otherwise help resolve insolvency-related litigation, avoidable transfers and other financially distressed transactions, litigation and disputes.

#### SPEAKING ENGAGEMENTS

- Bankruptcy Webinar - Strategies of Lenders, Landlords and Logistics Companies Dealing with Chapter 11 Bankruptcies (2020)
- Bankruptcy Webinar - The Ten Commandments of Landlords and Commercial Tenants – COVID-19 Edition (2020)
- Panelist, 26th Annual CFBLA Seminar & State of the District, Tangled In a Preference: Strategies for All Stages of Preference Actions (2018)
- Bankruptcy Seminar Client Series, Dealing with Financially Distressed Customers: Protecting Rights & Maximizing Recovery (2017 – Update to 2013 Lecture Series)
- Panelist - Intersection of Healthcare and Bankruptcy – BBA Brown Bag Courtroom

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#### Series (2017)

- Guest Lecturer - FIU Law School - Prosecution, Defense & Resolution of Avoidance Actions in Bankruptcy Court (February 2017)
- Seminar Presenter -- Chapter 11 Challenges – Going Beyond the Basics: Pre-Confirmation Middle Stage of Chapter 11s – “In the Trenches . . . ” (2016)
- Bankruptcy Committee Seminar – Extraordinary Remedies: Proceedings Supplementary and Involuntary Bankruptcy (2015)
- Bankruptcy Seminar Client Series, Dealing with Financially Distressed Customers: Protecting Rights & Maximizing Recovery (2013)
- Association of Corporate Counsel, Annual Conference – Handicapping the Playing Field: Addressing Frequent Issues in Bankruptcy Litigation (2013)
- Bankruptcy Seminar – The Ten Commandments of Commercial Landlords and Tenants in Bankruptcy (2012)
- Bankruptcy Seminar – Secured Creditor Strategies — Maintaining Triple Threat Position: Push, Posture & Maximize Value (2010)
- American Association of Matrimonial Lawyers, 32nd Annual Institute, Keep Your Client From Drowning: How To Deal With Bankruptcies and Foreclosures (2010)
- Bankruptcy Seminar – Divorce Wars: When the DSO Creditor Strikes Back — The Recent Empowerment of a DSO Creditor in Bankruptcy (2010)

#### **AWARDS & RECOGNITION**

- Recognized in Best Lawyers in America, Chambers and Partners, Florida Trend, Legal Elite and Super Lawyers publications.
- Finalist for Leaders in Law award by South Florida Business & Wealth Publication (2015)
- “Top 40 Under 40” attorneys in Miami by the Cystic Fibrosis Foundation (2014).

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