

ATTORNEY

Timothy M. Swanson

303-292-7954

tim.swanson@moyewhite.com



Tim's practice focuses primarily on commercial bankruptcy, creditors' rights, and commercial litigation. Tim brings creative problem solving to difficult insolvency scenarios with an emphasis on obtaining practical and cost driven results. Tim has been named a Super Lawyer and Rising Star in the areas of creditor/debtor law by the Super Lawyers publication Illinois, Colorado, and Kansas/Missouri.

Tim has extensive experience with Chapter 7 and 11 matters, drafting and arguing a multitude of motions, objections, appellate briefs, and other pleadings along with handling contested bankruptcy court proceedings and appellate proceedings. Tim pursues and negotiates a variety of collection, litigation and/or settlement strategies with each insolvency matter he handles. Tim has represented numerous participants in bankruptcy proceedings including secured creditors, trade creditors, landlords, tenants, debtors, creditors' committees, trustees, asset purchasers, equity holders, and various other interested parties.

Tim regularly assists lending clients in a variety of matters involving workouts, creditors' rights (foreclosure, guaranty, replevin, etc.) and loan documentation. Tim serves as regional workout counsel to the trustee of a large loan portfolio. Additionally, Tim serves as national bankruptcy counsel to numerous commercial landlords and property owners. A significant portion of Tim's practice focuses on advising strategic asset purchasers of distressed assets. Tim has appeared on behalf of clients in distressed situations in Missouri, Illinois, Kansas, New York, Delaware, California, Wyoming, Colorado, and Wisconsin.

(cont'd)

AREAS OF CONCENTRATION

Bankruptcy

Commercial Litigation

EDUCATION

Northwestern University, L.L.M.,
(Taxation)

University of Kansas, J.D.

University of Kansas, B.A.

CREDENTIALS

American Bankruptcy Institute

Medal of Excellence Winner

(Nominated by KU Law Faculty)

Best Lawyers®: Bankruptcy

and Creditor Debtor Rights/
Insolvency and Reorganization
Law, Commercial Litigation,
and Litigation - Bankruptcy,
2023 - 2024

Outside the office, Tim can be found enjoying the outdoors in Colorado. Tim is an avid golfer and fan of all things athletic. Tim regularly competes in triathlons (sprint, Olympic, half and full Ironman distance) and marathons. Additionally, Tim is easily found rooting on the Kansas Jayhawks and the Denver Broncos.

REPRESENTATIVE BANKRUPTCY EXPERIENCE

- *In re Battalion Resources, Inc.* Represented stalking horse purchaser in connection with acquisition of nearly 700 coal bed methane wells and related assets over an objectory creditor objection to the overall sale transaction.
- *Arnold v. Arnold (In re Arnold)*, 2016 Bankr. LEXIS 794 (B.A.P. 10th Cir. Mar. 15, 2016). Successfully defended an appeal of an attorneys' fee award before the Tenth Circuit Bankruptcy Appellate Panel that affirmed all aspects of the Bankruptcy Court's order granting attorneys' fees based upon the Colorado Civil Theft Statute.
- *In re Midway Gold US Inc.* Represented purchaser of assets with respect to its strategic acquisition of gold mines and related assets in a complex § 363 sale.
- *In re Gas City, Ltd.* Represented secured mortgage lender in a \$300M Chapter 11 case, from motions to lift stay to navigation through completion of two complex §363 sales, including negotiation among secured parties, DIP lender and the debtor regarding sale proceeds, breakup fee allocation, sale objections, sale confirmation and sale proceeds allocation litigation.
- *In re Dickinson Theatres, Inc.* Lead associate on a team of attorneys representing a Chapter 11 debtor that operated a chain of movie theatres. Drafted and argued all first day motions. Assisted with plan disclosure, plan solicitation, and subsequent confirmation. Assisted with the prosecution of the debtor's motion to sever and reject a single lease subject to a master lease agreement with landlord finance company.
- *In re Damon Pursell Construction Company.* Successfully assisted in the defense of multiple appeals to the 8th Circuit B.A.P. of a summary judgment order, entered in favor of a bank client, resolving a priority fight with a competing equipment lender.
- *In re JDS Hospitality, LLC.* Represented national hotel franchisor in protection of its trademark rights in the Chapter 11 bankruptcy case of franchisee.
- *In re Pagosa Partners II, Inc.* Represented secured lender with respect to all aspects of protecting its collateral in SARE case including opposing confirmation of Chapter 11 plan.

(cont'd)

Colorado Super Lawyers:

Bankruptcy - Business,
2020 - 2024; Rising Star:

Bankruptcy, 2016 - 2019

Illinois Super Lawyers Rising

Star: Bankruptcy and Creditor/

Debtor Law, 2012

Kansas Super Lawyers Rising

Star: Bankruptcy and Creditor/

Debtor Law, 2013

Law Week Colorado People's

Choice "Barrister's Best"

Bankruptcy Lawyer 2021

AFFILIATIONS

American Bankruptcy Institute's

Annual Rocky Mountain

Conference, Member of the

Advisory Board

American Bar Association,

Bankruptcy Committee, Young

Lawyers Division, Former Vice

Chair, 2011

Colorado Bar Association, Chair

of the Bankruptcy Subsection

Risk Management Association,

Emerging Credit Leaders

(Rocky Mountain Chapter),

2015 to 2017

Turnaround Management

Association, NextGen Board

Member (Rocky Mountain

Chapter), 2015 to 2018

ADMITTED

- *In re CAM Trucking, LLC*. Represented secured party with respect to its statutory lien rights in specific trucking assets of an operating trucking company as against the debtor's lender.
- *In re Peabody Energy Corporation*. Represented Native American tribe with respect to its rights as a creditor in the largest coal company bankruptcy ever filed.
- Defended numerous commercial parties in a variety of adversary proceedings including fraudulent transfer actions, preference actions, various avoidance actions, and other related proceedings: *In re Eastman Kodak Company*; *In re Lehman Brothers Holdings, Inc.*; *In re Lamar Construction Company*; *In re Eastern Livestock Co., LLC*; *In re American Title Services Company*; *In re CCI Funding, LLC*.
- Successfully prosecuted, negotiated, and resolved numerous cure objections on behalf of commercial landlords and other commercial counterparties along with related administrative expense claims in numerous large bankruptcy cases: *In re RadioShack Corporation*; *In re Emerald Oil Inc.*; *In re Hancock Fabrics, Inc.*; *In re Draw Another Circle, LLC*; *In re American Title Services Company*; *In re Novinda Corp.*; *In re Gas Compressor Consultants*; *In re Rural/Metro Corporation*; *In re Escalera Resources Co.*
- Representation of subordinated judgment creditor in connection with objecting to treatment of claim under plan of reorganization in a \$9M Chapter 11 case.
- Secured favorable settlement, on behalf of principal of a Chapter 7 debtor, of potential insider claims by Chapter 7 trustee.
- Represented large food supplier in resolution of administrative claims and preference defenses in Chapter 11 case of a large grocery retailer.

Colorado
Illinois
Kansas
Missouri

REPRESENTATIVE CREDITORS' RIGHTS EXPERIENCE

- Represented a commercial real estate development company with its appointment as receiver for several multiple multi-function commercial properties including hotels and golf courses.
- Represented a receiver in connection with its successful sale - free and clear of liens, claims, and interests - of substantially all receivership assets over the objections of interested parties in the first sale of its kind under Colorado law.
- Pursued and negotiated a variety of collection strategies against a judgment debtor who owed a bank client in excess of \$4.5M while simultaneously pursuing a co-debtor in Chapter 11 for claims in excess of \$7.5M.

(cont'd)

- Represented commercial landlord in successful prosecution of contested claims against tenant and guarantors of lease eventually securing a collection of 100 cents on the dollar of total judgment amount.
- Representation of numerous secured lenders in a variety of out-of-court workout strategies and judicial commercial foreclosure proceedings throughout Colorado, Illinois, Kansas and Missouri state courts.

PUBLICATIONS AND ARTICLES

- Quoted
 “Trucking Bankruptcies Expected to Continue in the Foreseeable Future”
Commercial Carrier Journal, December 2023
- Author
 “The Devil is in the Details”
Business Section of the Colorado Bar Association, Winter 2015

SPEAKING ENGAGEMENTS AND PRESENTATIONS

- Co-Presenter
 “Introduction to Subchapter V Bankruptcy”
 Colorado Bar Association, May 2022
- Presenter
 “Taking Yes for an Answer: Emerging Issues in Assumption, Rejection and Cure in a Post-Pandemic World”
 Rocky Mountain Bankruptcy Conference, January 2022
- Presenter
 “A Legal Perspective on the Real Estate Industry: A Conversation on the Impacts of COVID-19”
 Moye White Webinar, June 2020
- Presenter
 “Getting Coloradans Back to Work”
 Moye White Webinar, May 2020
- Speaker at the Rocky Mountain ABI Conference on “Get a Fresh Perspective: Special-Purpose Entities and Single-Asset Real Estate Insolvencies” (January 2020).
- Speaker, together with the Hon. Joseph G. Rosania (Bankr. D. Colo.), at the Bankruptcy Case Law Update to the Colorado Bar Association sponsored by the Bankruptcy Subsection (Fall 2019).

(cont'd)

- Moderator
“Bankruptcy Appeals Be Prepared!”
Colorado Bar Association’s Bankruptcy Subsection, Spring 2018
- Speaker, together with the Hon. Howard R. Tallman (Bankr. D. Colo.),
at the Bankruptcy Case Law Update to the Colorado Bar Association
sponsored by the Bankruptcy Subsection (Fall 2016).
- Speaker, together with the Hon. Elizabeth B. Brown (Bankr. D. Colo.),
at the Bankruptcy Case Law Update to the Colorado Bar Association
sponsored by the Bankruptcy Subsection (Spring 2015).
- Bankruptcy & Estate Planning: A primer on fundamental bankruptcy
principles and examination of selected intersections between estate
planning and bankruptcy (1 hour long presentation to Colorado estate
planning practitioners).