



## → Kyle J. Mathews

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Kyle Mathews is a partner in the Finance and Bankruptcy Practice Group in the firm's Los Angeles office.

### Areas of Practice

Kyle specializes in the following areas:

- Asset Based Lending
- Defaulted Loan Workouts
- Secured Creditor Remedies Enforcement (e.g. Article 9 public and private sales and receiverships)
- Bankruptcy

### Honors

Fellow, American College of Commercial Finance Lawyers

Best Lawyers in America, Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law, *Best Lawyers*, 2019-2024

Southern California Rising Star, *Super Lawyers*, 2008, 2010-2016

### Experience

#### Representative Transactions

Represented non-bank asset based lender client in documenting 100+ loans (between \$5MM and \$40MM), engaging in workout/ distress sales with respect to dozens of such loans, while incurring de minimis losses.

Assisted bank and non-bank asset based lender clients in running numerous Article 9 private sales.

Assisted bank and non-bank asset based lender clients in conducting numerous distressed note sales.

Assisted bank and non-bank asset based lender clients in negotiating and documenting numerous cash collateral and DIP financing transactions.

Assisted bank in obtaining the appointment of a federal receiver over an operating company borrower (the receiver then filed a voluntary bankruptcy petition to facilitate a 363 sale) and obtaining a waiver of turnover to permit receiver to remain in place throughout the sale process.

Assisted CMBS special servicer in negotiating 9019 settlement agreement that provided for relief from stay and also provided for the appointment of a Chapter 11 Trustee to oversee a consensual plan sale process to preserve certain favorable tax attributes of the borrower.

Negotiated favorable debt restructuring and intercreditor agreement on behalf of one of three secured creditors in consolidated bankruptcy cases of multiple related car wash operators and assisted in sale of restructured notes.

Assisted bank in connection with: (1) voluntary sale process initiated by borrower following extensive workout negotiations, (2) responding to involuntary bankruptcy proceeding initiated by the holder of second lien debt, including consent to “gap period” cash collateral use and a “gap period” DIP financing facility to support the sale process, and (3) conversion of the case to a voluntary Chapter 11 following selection of a “stalking horse bidder” and (4) a successful 363 sale process.

Represented indenture trustees in connection with bankruptcies/restructurings of various levels of corporate notes and debentures, including being a member of official unsecured creditors committees, with representative cases including:

- American Airlines
- Idearc, Inc.
- Eurofresh Inc.
- Pierre Foods, Inc.
- Lehman Brothers Holdings Inc.
- Northwest Airlines
- Adelphia Communications

## Articles

- Co-Contributor – Strategic Alternatives for and Against Distressed Businesses, Chapter 41, 2014, 2015, 2016, 2017, 2018 and 2019 Editions

### Finance & Bankruptcy Law Blog Posts

- “Troubled Debt Restructuring: Phase 3 Stimulus Bill,” March 26, 2020
- “UPDATE – Lenders Encouraged to Work with Customers in Response to COVID-19 Challenges,” March 17, 2020
- “Dealing with the Financial Impact of the Coronavirus,” March 6, 2020
- “The Ninth Circuit Rules on Plan Feasibility,” June 6, 2007
- “If It Looks Like a Duck (KERP) and Quacks Like a Duck (KERP), It’s a Duck (KERP),” September 7, 2006
- “The Grafton Case: Pre-Dispute Jury Trial Waivers are Unenforceable in California State Courts,” August 24, 2005

## Speaking Engagements

Crossfire, Bankruptcy Battleground West, American Bankruptcy Institute, March 28, 2019

Dealing with Defaults, Financial Poise Webinar, May 9, 2017

"Assignments for the Benefit of Creditors," Commercial Finance Association and the Commercial Finance and Uniform Commercial Code Committees of the American Bar Association, Moderator, November 14, 2012

"Federal Receiverships - The Solution to the Current Patchwork of State Receivership Laws?" Business Bankruptcy and Commercial Finance Committees of the American Bar Association, Moderator, August 5, 2012

"Another \$%!@ Program About Workouts and Forbearance Agreements," Panelist, Business Law Section and the ABA Center for Continuing Legal Education, Webcast, January 11, 2011

"Kicking the Can Down the Road: Strategic Issues in Negotiating Forbearance Agreements," Moderator, Commercial Finance Association and the Commercial Finance and Uniform Commercial Code Committees of the American Bar Association, October 22, 2010

"Another \$%!@ Program About Workouts and Forbearance Agreements," Panelist, Commercial Finance Association and the Commercial Finance and Uniform Commercial Code Committees of the Business Law Section of the American Bar Association, October 20, 2010

"The Beginning of the End or the End of the Beginning: Negotiating and Re-Negotiating Forbearance Agreements in Troubled Commercial Loans," Program Chair and Moderator, Commercial Finance Committee, Business Law Section of the American Bar Association, Co-Sponsored By: UCC Committee, American College of Commercial Finance Lawyers, Association of Commercial Finance Attorneys, Annual Meeting of American Bar Association, Scheduled August 7, 2010

"Workouts 101," Panelist, Commercial Finance Committee, Uniform Commercial Code Committee, Business Law Section of the American Bar Association, and the ABA Center for Continuing Legal Education, December 15, 2009

"Anatomy of a Workout," Panelist, Commercial Finance Committee, Uniform Commercial Code Committee, Business Law Section of the American Bar Association, and the ABA Center for Continuing Legal Education, October 15, 2009

"Anatomy of a Workout," Panelist, Commercial Finance Committee, Business Law Section of the American Bar Association, Co-Sponsored By: UCC Committee, American College of Commercial Finance Lawyers, Chicago, Illinois, August 1, 2009

"What to Expect When Your Deal Goes Bad," Program Chair and Moderator at Spring Meeting of Business Law Section of the American Bar Association, Vancouver, British Columbia, Canada, April 16, 2009.

"New Developments in Chapter 11 - Hedge Fund Participation and the Role of Trust Indenture and Indenture Trustees," Program Chair at Spring Meeting of Business Law Section of the American Bar Association, Dallas, TX, April 10, 2008.

“What’s Under the Blanket: Perfecting in Collateral Not Covered by a UCC Filing,” Panelist, Committee on Commercial Financial Services, Business Law Section of the American Bar Association, San Diego, California, November 9, 2005.

## Memberships

Former Chair, Loan Workouts Sub-Committee, Commercial Finance Committee, Business Law Section of the American Bar Association

Former Co-Chair of Programs, Commercial Finance Committee, Business Law Section of the American Bar Association

Former Vice Chair, Loan Workouts Sub-Committee, Commercial Finance Committee, Business Law Section of the American Bar Association

Former Vice Co-Chair of Programs, Commercial Finance Committee, Business Law Section of the American Bar Association

Former Chair, Programs Sub-Committee, Trust Indentures and Indenture Trustees Committee, Section on Business Law, American Bar Association

## Practices

Asset Based Lending

Bankruptcy and Restructuring

Bankruptcy Litigation

Commercial Lending and Financial Transactions

Debtor in Possession (DIP) Financing

Distressed Acquisitions Under Bankruptcy Code  
§ 363

Tribal and Indian Law

## Industries

Cannabis

## Education

J.D., University of Southern California, 2001, *Order of the Coif*, Co-Executive Editor, *Law Review*

B.A., University of Southern California, 1998, *magna cum laude*