

Nicholas Zluticky

PARTNER

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Nicholas is an astute, trusted advisor who doesn't shy away from litigation when it comes to protecting his client's interests.

Nicholas represents a broad range of clients in all facets of bankruptcy, receiverships, foreclosures, out of court workouts and restructurings. Nicholas brings his experience with leading lenders in nationwide cases to banks of all sizes in bankruptcy proceedings and related litigation, helping them assertively manage a range of creditor relationships and responsibilities.

Leveraging experience he gained from working on some of the largest bankruptcy cases in the country, including representing the debtor in a large bankruptcy dubbed a "Transaction of the Year" by the Turnaround Management Association, Nicholas represents clients in all aspects of bankruptcy cases, including debtors, secured lenders, asset purchasers, trustees and creditors' committees. Nicholas also has represented more than 50 lenders across the country in all areas of workouts and enforcement of commercial loans, including receiverships, foreclosures, replevins, collection actions and lender liability litigation.

PRACTICES & INDUSTRIES

Bankruptcy & Creditors' Rights

Commercial Lending

ADMISSIONS

Kansas, 2009

Missouri, 2008

United States District Court, District of Colorado

United States District Court, District of Kansas

United States District Court, Eastern District of Missouri

United States District Court, Western District of Missouri

United States District Court, District of Nebraska

United States District Court, Southern District of Texas

United States Court of Appeals, Eighth Circuit

United States Court of Appeals, Tenth Circuit

United States Supreme Court

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EXPERIENCE

Nicholas represented the Revocable Trust of John Q. Hammons and its 75 subsidiary companies in the largest Chapter 11 bankruptcy case ever filed in the District of Kansas. The debtors were a billion-dollar hospitality conglomerate that owned 35 hotels and other hospitality properties throughout the country. Nicholas was lead counsel for the debtors in all aspects of the bankruptcy case and successfully led the closing of the sale of the debtors' properties that resulted in full payment to all creditors. *See In re John Q. Hammons Fall 2006, LLC, et al.*, Case No. 16-21142 (D. Kan.)

Nicholas subsequently served as the lead attorney for the Revocable Trust of John Q. Hammons and its associated debtors in their successful appeal to the Tenth Circuit Court of Appeals with respect to constitutional challenges to a 2017 amendment to the statutory fee provision. Nicholas argued the appeal before the Tenth Circuit, who reversed the Bankruptcy Court for the District of Kansas, held that a portion of the Bankruptcy Code is unconstitutional, and directed the Bankruptcy Court to order the refund of more than \$2.5 million in quarterly fees to the John Q. Hammons Trust and its associated debtors, that had been paid to the U.S. Trustee under the unconstitutional statute. *In re John Q. Hammons Fall 2006, LLC*, --- F.4th ---, 2021 WL 4535285 (Oct. 5, 2021).

He represented the unsecured creditors committee in the Chapter 11 bankruptcy filing of a biofuel plant in Missouri and, after confirming a plan with the debtors and being hired by the liquidating trustee, successfully prosecuted several avoidance actions and complex litigation matters, including a claim against the former directors and officers for breach of fiduciary duty. *See In re Blue Sun St. Joe Refining, LLC*, Case No. 15-42231 (W.D. Mo.)

Nicholas has represented lender clients in receiverships for apartment complexes, car dealerships, golf courses, hotels, hospitals, marinas, office buildings, real estate developments, restaurants, shopping centers, surgical centers and theaters.

EDUCATION

Washburn University, J.D., *with honors*, 2008

- *Washburn Law Journal*, Staff Member

University of Kansas, B.A., Political Science, 2005

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He represented a bank client in two complicated bankruptcy cases of the owner and operator of a private 18-hole golf course in Kansas City, MO, including successfully litigating over ownership of the club's personal property.

Nicholas successfully represented a national lender contesting the confirmation of a plan of reorganization for a 116-unit apartment complex following loan default, obtained appointment of a receiver after dismissal of the bankruptcy case, completed a foreclosure of the complex, and obtained judgment for the lender against the borrower and all guarantors.

Nicholas writes frequently on recent court decisions in the bankruptcy field, publishing on JD Supra and in the *Journal of Corporate Renewal* and presents regularly at conferences for the American Bankruptcy Institute and the National Association of Bankruptcy Trustees.

RECOGNITIONS

American Bankruptcy Institute 40 Under 40, 2019

Named a "Rising Star" in *Missouri & Kansas Super Lawyer*[®], 2012-present

Selected to the 2023, 2024 editions of *Best Lawyers in America*[©]

PROFESSIONAL & CIVIC ACTIVITIES

American Bankruptcy Institute

Kansas City Bankruptcy Bar Association

Attorney Advisory Group for the United States Bankruptcy Court for the Western District of Missouri, 2017-present

The Missouri Bar

Kansas Bar Association

Kansas City Metropolitan Bar Association

Midwest Bankruptcy Institute, Advisory Board

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NEWS

Super Lawyers Recognizes 29 from Stinson on Missouri and Kansas Top Lists

11.14.2023

175 Stinson Attorneys Selected to the 2024 *Best Lawyers in America* List

08.17.2023

Super Lawyers® Recognizes 26 Stinson Attorneys in Missouri and Kansas

11.14.2022

152 Stinson Attorneys Selected to the 2023 *Best Lawyers in America* List

08.18.2022

Super Lawyers Recognizes 21 Stinson Attorneys in Missouri and Kansas

11.15.2021

Stinson Attorneys Win Tenth Circuit Appeal on Constitutionality of Non-Uniform Bankruptcy Law

10.07.2021

Stinson Attorneys Named to 2020 Kansas & Missouri *Super Lawyers* and Rising Stars

11.16.2020

Nick Zluticky Publishes on Risks Associated with Insolvent Retail Debtors

04.09.2020

SPEAKING ENGAGEMENTS

"The Intersection of Bankruptcy and Construction Law," American Bankruptcy Institute (ABI) - Annual Spring Meeting, April 22, 2023

Presenter, "Conflicted About Conflicts," Kansas City Bankruptcy Bar Association CLE, Kansas City, MO November 2019

Presenter, "Trustees Administering Unusual Assets," ABI Midwestern Bankruptcy Institute, Kansas City, MO, October 2018

Presenter, "Bet on the Red 9: Article 9 Issues for Bankruptcy Trustees," National Association of Bankruptcy Trustees Spring Seminar, Las Vegas, NV, February 2018

Presenter, "Violations of the Automatic Stay and Discharge Injunction," Missouri Bar Association Annual Bankruptcy Seminar, Springfield, MO, February 2016

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Presenter, "Kansas Post-Foreclosure Issues," National Business Institute, Overland Park, KS, June 2015

Perfecting and Enforcing Liens on LLC Membership Interests
Stinson LLP, 01.14.2020

PUBLICATIONS

"Managing Risks in Doing Business with Administratively Insolvent Retail Debtors," *Journal of Corporate Renewal* Turnaround Management Association

Co-author, "Information about Information: The Increasing Role of Metadata in Bankruptcy," *American Bankruptcy Institute Litigation Committee Newsletter*, Vol. 13, No. 4, January 2017

Co-author, "Having Your (Cup)Cake and Eating It, Too: Integrated Agreements as Executory Contract in Light of *In re Interstate Bakeries Corporation*," *American Bankruptcy Institute Litigation Committee Newsletter*, Vol. 12, No. 3, September 2015

Co-author, "Licensor Chapter 11s May Put Trademark Licenses at Risk: Contract Rejection Issues for Turnaround Managers," *Journal of Corporate Renewal*, Vol. 26, No. 3; April 2013

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