



# Eric L. Scherling

## Member

## Philadelphia

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Eric focuses his practice primarily on bankruptcy, insolvency, and creditors' rights matters.

Eric's clients include Chapter 11 debtors, Chapter 7 trustees, and secured and unsecured creditors. His bankruptcy litigation experience includes the prosecution and defense of preference, fraudulent transfer (including Ponzi "clawback" suits), equitable subordination, non-dischargeability, "bad faith filing" and automatic stay disputes, and the enforcement of parties' rights under commercial contracts, real property leases, and intellectual property agreements.

Eric's transactional experience includes representation of buyers and sellers in sales conducted pursuant to Section 363 of the Bankruptcy Code and Article 9 of the Uniform Commercial Code, advising on insolvency-related issues in the structuring and documentation of complex financing transactions, and, outside of bankruptcy, the negotiation and drafting of debt workout agreements on behalf of both borrowers and creditors. He also advises a wide array of clients, including vendors, commercial landlords, and service providers on developing strategies to mitigate credit risks, and counsels insurers on a variety of issues related to bankruptcy and insolvency.

Eric received his bachelor of arts in history, *magna cum laude* and with high honors, from Haverford College in 1998, and was elected to membership in Phi Beta Kappa. Eric received his law degree in 2001 from the University of Pennsylvania School of Law, where he was awarded honors for legal writing.

## Experience

Represented Foamex International, Inc. and certain affiliates in their Chapter 11 cases that were filed in the District of Delaware. These cases involved a sale of substantially all of the assets of the debtors through a two-phased auction process. The auction process yielded significant additional value for creditors, and the cases were concluded through a structured dismissal that saw all administrative and priority creditors paid in full and a significant amount of the unsecured trade debt paid through debt and contract assumption and critical vendor payments.

Represented the trustee in liquidating estate consisting of claims by approximately 26,000 creditors in the aggregate amount of approximately \$720 million. The representation included obtaining authority to operate, securing trustee financing, and subsequent litigation against multiple parties on a variety of causes of action. Included in the representation was negotiation and approval of a settlement which provided for payment of \$100 million to the trustee from certain financial institution defendants \$17 million from directors and officers.

Represented the trustee in a multi-debtor case involving seven pulp and paper mills located in both the United States and Canada. The representation included obtaining authority to operate the debtor pending completion of the Section 363 sale of a paper pulp mill plant. This matter was complicated by cross-border issues arising from the existence of parallel receivership proceedings for certain of the U.S. debtors in Canada under the Canadian Companies' Creditors Arrangement Act as well as the pendency of a Chapter 15 case in the United States Bankruptcy Court for the District of Delaware.

Represented the trustee in a multi-debtor case of leading producers of diesel-powered motor homes in

## Practice Areas

- Bankruptcy, Insolvency & Restructuring

## Education

- University of Pennsylvania Law School, J.D., 2001
- Haverford College, B.A., *magna cum laude*, 1998

## Bar Admissions

- New Jersey
- Pennsylvania

## Court Admissions

- Pennsylvania Supreme Court
- U.S. Bankruptcy Court -- Eastern District of Pennsylvania
- U.S. Bankruptcy Court -- Middle District of Pennsylvania
- U.S. Bankruptcy Court -- New Jersey
- U.S. District Court -- Eastern District of Pennsylvania
- U.S. District Court -- Middle District of Pennsylvania
- U.S. District Court -- New Jersey

## Affiliations

- American Bankruptcy Institute
- Philadelphia Bar Association

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the United States and major manufacturer of motorized recreational vehicles. Negotiated settlement of Bank of America's secured claim and have conducted sales under U.S.C. Section 363 of three separate manufacturing facilities located throughout the United States for which the debtor was unable to obtain lender support for sale during Chapter 11.

Represented the Kimmel Center – Philadelphia's performing arts center – as a major constituent in the Chapter 11 bankruptcy cases of The Philadelphia Orchestra, The Academy of Music, and Encore Series, Inc., as well as in its capacity as chairperson of the Official Committee of Unsecured Creditors of the Philadelphia Orchestra and The Academy of Music.

Represented The Honickman Group, dominant distributor of Pepsi Cola and Canada Dry products, in the Chapter 11 bankruptcy case of the Great Atlantic & Pacific Tea Company.

Represented the Commonwealth of Pennsylvania in contesting the Chapter 9 bankruptcy petition filed for the City of Harrisburg by members of its city council. The Commonwealth was joined in its opposition to the bankruptcy filing by several other stakeholders, including the City of Harrisburg's mayor, and the unions representing city employees. Petition was dismissed and dismissal was upheld on appeal.

Won a judgment of more than \$22 million in favor of our client, a London-based commodities trader, in a breach of contract and fraud matter it filed against a Greek shipping company and individual co-defendants in New York state court. The trial court entered judgment against the defendants after it was discovered that one of them intentionally destroyed thousands of relevant emails and had repeatedly attempted to mislead the court. This result was unanimously affirmed on appeal. We also secured dismissal, as a bad faith filing, of a personal bankruptcy case one of the co-defendants filed in North Carolina.

Served as special litigation counsel to the trustee in Chapter 7 bankruptcy cases filed by an insurance company. The representation included investigating claims against the debtors' former board, management, and professionals; coordinating a two-day mediation process involving three claimants, three insurers, and numerous prospective defendants and counsel; and negotiating a favorable, court-approved settlement for the estates in bankruptcy.

Represented a newly formed Delaware Special Purpose Entity affiliated with our client, Merion Realty Partners, LLC, in connection with its \$58 million acquisition of Champions Walk Apartment Complex in Bradenton, Fla. In addition to the acquisition, the project included preparation of the private placement documents and joint venture agreement with a large institutional investor and large public trust, a \$45.9 million agency loan, issuance of a Florida Opinion, a Delaware Single Member LLC Opinion, and a U.S. bankruptcy non-consolidation opinion.