



# Frederick E. Schmidt, Jr.

## Member

## New York

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Erik has practiced bankruptcy law for more than 20 years, and represents domestic and international debtors, creditors, creditors' committees, and other parties-in-interest in sophisticated Chapter 11 cases and in non-judicial corporate reorganizations and restructurings.

Erik has represented Chapter 11 debtors in numerous Chapter 11 cases, including Vivaro Corporation (the largest producer of prepaid calling cards), Horsehead Industries, Inc. (the largest North American producer of zinc), Ultra Stores, Inc. (a national retail jewelry chain), The Glazier Group, Inc. (managers of a chain of high-end steak restaurants in New York, New Jersey, Florida, Texas and Puerto Rico), Precision Tool, Die and Machine Co., Inc. (a Louisville, Kentucky-based tool and die manufacturer), Fred Leighton Holding, Inc. (high-end "Jeweler to the Stars"), The Athlete's Foot Stores, LLC (national retail footwear stores), Vicksburg Chemical Company, Inc. (a Mississippi-based chemical manufacturing company), Resource Recovery, LLC (aluminum recycling), Cedar Chemical Corp. (a Tennessee-based chemical manufacturing company), and 1633 Broadway Mars Restaurant Corp. (a theme restaurant with operations in New York City and Chicago).

Erik has also advised secured lenders, creditors' committees, creditors, trustees, landlords, and other parties in interest in various large Chapter 11 cases across the United States, including General Growth Properties, Inc., FX Luxury Las Vegas I LLC, Bernard L. Madoff Investment Securities LLC, American Laser Skincare, Filene's Basement LLC, Nutrition 21, Inc., Kmart Corporation, Refco Inc., UAL Corporation, Dana Corporation, GC Companies, Inc. (General Cinemas), TW, Inc. (The Wiz), Fleming Companies, Inc., Footstar, Inc., Winstar Communications, Inc., Montgomery Ward, LLC, M. Fabrikant & Sons, Inc., L.I.D., Ltd., TransCare Corporation and Ames Department Stores, Inc. In addition, Erik was a member (on behalf of clients) of the unsecured creditors' committees in the Chapter 11 cases of MPC Corporation and Getty Petroleum Marketing, Inc. and sat on the Trust Oversight Committees in both of those cases following confirmation of their plans.

A registered mediator with the U.S. Bankruptcy Court for the Southern District of New York, Erik has briefed and argued several cases before the U.S. Court of Appeals for the 2nd Circuit.

## Experience

Represented a publicly traded medical device manufacturer and certain of its affiliates as debtors-in-possession in Chapter 11 proceedings in the U.S. Bankruptcy Court for the District of Delaware. (*In re Unilife Corporation, et al.*)

Acted as debtors' counsel to several affiliated companies which together represented the world's largest pre-paid calling card company. The debtors' going-concern business enterprise was sold pursuant to section 363 of the Bankruptcy Code, resulting in substantial cash proceeds for the benefit of creditors, the assumption by the purchaser of tens of millions of dollars in claims, and the preservation of jobs for the debtors' employees. A joint Chapter 11 plan was thereafter successfully confirmed. (*In re Vivaro Corporation, et al.*)

Represented a member of the official committee of unsecured creditors, and served as a member of

### Practice Areas

- Bankruptcy, Insolvency & Restructuring

### Education

- Brooklyn Law School, J.D., 1994
- University of Connecticut, B.S., 1990

### Bar Admissions

- Connecticut
- New York

### Awards & Honors

- New York Metro Super Lawyer, 2013-2019

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the trust oversight committee following the confirmation of the Chapter 11 plan of liquidation. *(In re Getty Petroleum Marketing Inc.)*

Represented a mortgage originator in bankruptcy litigation brought by the post-confirmation trust. Secured a favorable decision from the bankruptcy court, and the parties' disputes were thereafter settled in concurrent non-bankruptcy litigation. *(In re Residential Capital, LLC)*

Acted as special counsel to the Chapter 7 trustee in connection with litigation against the debtor's landlord. Achieved a favorable settlement which significantly reduced administrative and pre-petition claims by the landlord. *(In re Windsor Financial Group LLC)*

Achieved a favorable settlement on behalf of a creditor modeling agency in connection with the bankruptcy of a former advertising agency. *(In re Revolte Holdings LLC)*

Represented two "feeder funds" in the Bernard L. Madoff Investment Securities cases. The funds had lost more than \$160 million of principal and several hundred million dollars of phantom profits in the wake of the largest investment fraud in history. The complicated case involved claims made by the SIPC Trustee against the client, numerous class actions, an action by the Department of Labor and the client's claims against a third-party outside investment advisor. Following a global settlement of all outstanding disputes, the client's investors are projected recover all of their net investments and may achieve a profit of 40% or more on their Madoff investments. The result is arguably the most favorable outcome for any investor who invested through a Madoff feeder fund. *(In re Bernard L. Madoff Investment Securities, LLC)*

Represented an asset management fund holding second lien secured claims in the Chapter 11 cases of FX Luxury Las Vegas I, LLC. The debtor was the owner of real property on the Las Vegas Strip that it intended to develop into an Elvis Presley-themed hotel and casino. Together with a consortium of other second lien lenders, the client was able to defeat a pre-arranged plan that would have transferred all value to select insiders and first lien lenders. *(In re FX Luxury Las Vegas I, LLC)*

Represented the largest creditor in the General Growth Properties bankruptcy cases. The client, together with two other private fund investors, provided a capital infusion to facilitate the debtor's emergence from Chapter 11 proceedings. *(In re General Growth Properties, Inc., et al.)*

Represented a bridge lender in which the client defeated the debtor's reorganization plan that contemplated a cramdown of the mortgage debt. Following a contested confirmation hearing, a consensual Chapter 11 plan was confirmed in which the client obtained ownership and control over the mortgaged property – a newly-constructed luxury high-rise condominium project in Williamsburg, Brooklyn. *(In re 20 Bayard Views, LLC)*

Represented a first lien lender in a lawsuit by a trustee for bankrupt jeweler M. Fabrikant & Sons, Inc. Obtained dismissal of the complaint which was later affirmed on appeal. *(In re M. Fabrikant & Sons, Inc.)*

Represented the largest producer of zinc in North America, Horsehead Industries, Inc., in their Chapter 11 cases. *(In re Horsehead Industries, Inc., et al.)*

Represented the Official Committee of Unsecured Creditors in the Chapter 11 cases of ALC Holdings LLC. The debtors were one of the largest providers of laser hair removal and injectable and non-invasive medical aesthetic services in the United States. *(In re ALC Holdings LLC)*

Represented the litigation trustee of Refco Litigation Trust in various bankruptcy litigations. *(In re Refco Inc.)*

Represented the purchaser in the acquisition of nutritional supplement maker Nutrition 21 out of

bankruptcy. (*In re Nutrition 21, Inc.*)

Managed the successful purchase of assets of New York-based specialty coffee shop chain and high-end chocolatier, FIKA, out of Chapter 11 bankruptcy proceedings. The assets were purchased by an acquisition vehicle comprised of a non-insider family group of investors, the existing management of FIKA, and the largest secured lender to FIKA. In addition to forming the acquisition vehicle and managing the acquisition out of bankruptcy, the representation involved handling a financing transaction through which FIKA's pre- and post-petition operations were funded, and ensuring the continuity of management through new employment agreements for selected management personnel.