

## **RICHARD LEVY, JR.**

### **OFFICE ADDRESS:**

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### **CURRENT PROFESSIONAL AFFILIATION:**

**Partner, Pryor Cashman LLP, New York, New York** (2002- present). Member of the firm's Bankruptcy, Reorganization & Creditors' Rights Practice Group, and also a member of the firm's Litigation, Banking & Finance, and Investment Management Practice Groups. Experienced in all phases of Chapter 11 and Chapter 7 bankruptcy cases and related litigation, creditors' rights litigation, business entity dissolutions, and bankruptcy- and insolvency-related counseling in corporate, commercial and real estate transactions, and intellectual property licensing. Represents parties seeking to acquire assets from bankruptcy estates. Responsible for the firm's issuance of non-consolidation opinions, true sale opinions, and opinions regarding the eligibility of business entities to file for bankruptcy protection under applicable state law.

### **TEACHING:**

**Distinguished Lecturer in Law, Syracuse University College of Law, JDinteractive Program** (2021-present). Teaches *Advanced Legal Topics: Bankruptcy & Creditors' Rights*.

**Adjunct Instructor, New York Law School** (1988-90). Taught *Legal Research and Writing*.

### **EDUCATION:**

**Syracuse University College of Law** (J.D., 1977, *magna cum laude*).

Order of the Coif; Justinian Law Society; Syracuse Law Review (Notes & Comments Editor (1976-77), Staff Member (1975-76)); Research Assistant to Prof. Thomas J. Maroney (federal jurisdiction; antitrust and trade regulation) (1975-77).

**Williams College** (B.A., 1974, *cum laude*, with honors in Political Economy).

Member, Faculty-Student Library Committee (1971-74), Faculty-Student Library Construction Committee (1972-74); Mead Fund Government Internship (U.S.

Environmental Protection Agency, Summer 1972); Student Leader, Williams College Marching Band (1971-74).

**PROFESSIONAL MEMBERSHIPS, AFFILIATIONS AND OTHER ACHIEVEMENTS:**

Bar Admissions:

- New York (adm. 1980) (active).
- District of Columbia (adm. 1977) (inactive).
- U.S. Supreme Court (2015).
- U.S. Court of Appeals, Second Circuit (1989; renewed 2016).
- U.S. Court of Appeals, Eleventh Circuit (1995).
- U.S. Court of Appeals, District of Columbia Circuit (1978).
- U.S. District Court for the Southern District of New York (1980).
- U.S. District Court for the Eastern District of New York (1980).
- U.S. District Court for the Northern District of New York (1990).
- U.S. District Court for the District of Columbia (1977).
- U.S. District Court for the Eastern District of Michigan (1996).

Bar Associations and Committees:

- American Bankruptcy Institute.
- American Bar Association (Member, Sections of Business Law and Litigation).
- Association of the Bar of the City of New York (Member: Committees on the Judiciary (2009-12), Bankruptcy and Corporate Reorganization (2001-04), Professional and Judicial Ethics (1998-2001), and Professional Responsibility (1995-98)).
- Association of Commercial Finance Attorneys (Member, Board of Directors (2017-present)).
- New York State Bar Association (Member, Section of Commercial and Business Litigation).

Certified Mediator, U.S. Bankruptcy Court for the Southern District of New York..

Named a “Super Lawyer” in Bankruptcy & Creditors/Debtor Rights by *New York Metro Super Lawyers Magazine* in each year since 2012.

Rated AV® Preeminent™ 5.0 out of 5.0, Martindale Hubbell’s highest level of peer recognition for ethical standards and professional abilities.

**SPEAKING ENGAGEMENTS:**

Moderator and Panelist, *Annual Bankruptcy Update*, Annual Continuing Legal Education Weekend of the Association of Commercial Finance Attorneys (various locations, 2012-22).

Moderator and Panelist, *What Happens to a Lawsuit When a Party Becomes a Debtor in Bankruptcy*, Pryor Cashman Litigation Training Series (March 9, 2022).

Panelist, *Force Majeure and COVID-19: Assessing the Landscape*, Pryor Cashman CLE Webinar (Zoom Presentation, Dec. 8, 2020).

Moderator and Panelist, *Recent Bankruptcy Developments*, Continuing Legal Education Program of the Association of Commercial Finance Attorneys (Zoom Presentation, Nov. 19, 2020).

Panelist, *Covid-19, Force Majeure and “Pause” Orders – Does Bankruptcy Make Any Difference?*, Pryor Cashman CLE Webinar on Force Majeure Clauses in a COVID World (Zoom Presentation, Oct. 15, 2020).

Panelist, *Pandemic Impacts on Trademark Enforcement, Licensing Breaches/Force Majeure, and Brands in Bankruptcy*, N.Y. Intellectual Property Law Association CLE Program (Zoom Presentation, Aug. 5, 2020).

Alumni Panelist, Orientation Program for the Class of 2023 (J.D. Online Program), Syracuse University College of Law (Zoom Presentation, Aug. 2020).

Moderator and Panelist, *Collapse of a Platform: Understanding Your Rights in the Aftermath [Issues Arising from the Failure of A Music Festival]*, MONDO Music & Tech Law Symposium (Brooklyn, N.Y., Oct. 18, 2019).

Panelist, *Trademarks in Bankruptcy: The Supreme Court Finally Speaks*, Hot Topics in Intellectual Property, N.Y. Intellectual Property Law Association CLE Program, (New York, N.Y., July 2019).

Speaker, *How Victims Can Be Compensated: Bankruptcies, Receiverships and Forfeiture Actions*, Syracuse University College of Law 2010 Spring Lecture Series (New York, N.Y., Mar. 2010).

Alumni Panelist, Orientation Program for the Class of 2012, Syracuse University College of Law (Syracuse, N.Y., Aug. 2009).

Speaker, *Bankruptcy Touches Everything*, Two-Part Seminar on Bankruptcy Law for Partners and Counsel of Pryor Cashman LLP (New York, N.Y., Jan.-Feb. 2009).

Speaker, *Ethical Considerations Concerning Fraudulent Conveyances (A Lawyer’s Oxymoron?)*, Bankruptcy CLE Seminar, New York University School of Continuing & Professional Studies, Center for Finance, Law & Taxation (New York, N.Y., Oct. 2003).

Chair and Moderator, *Collection and Enforcement of Money Judgments*, New York State Bar Association CLE Program (White Plains, N.Y., Nov. 2002).

Panelist, *Bankruptcy Considerations, Collection and Enforcement of Money Judgments*, New York State Bar Association CLE Program (Tarrytown, N.Y., Nov. 2000).

Panelist, *Buying and Selling Assets in Bankruptcy*, Price Waterhouse Corporate Finance Management Group Seminar (Orlando, Fla., Apr. 1992).

**PUBLICATIONS:**

*COVID-19, Force Majeure and “Pause” Orders in Bankruptcy Cases*, N.Y.L.J. (Nov. 25, 2020) (available at <https://www.pryorcashman.com/richard-levy-jr/publications/covid-19-force-majeure-and-pause-orders-in-bankruptcy-cases>).

*Supreme Court Preserves Decision Limiting Bankruptcy Trustees’ Powers To Avoid Securities-Related Transfers*, 29 WESTLAW J. – WHITE-COLLAR CRIME, No. 12 (Sept. 2015) (available at <https://www.pryorcashman.com/richard-levy-jr/publications/partner-richard-levy-jr-authors-article-about-supreme-court-preserving-decision-to-limit-bankruptcy-trustees-powers-to-avoid-securities-related-transfers>).

*Second Circuit Decision In Madoff Case Limits Avoidance Of Securities-Related Transfers As Fraudulent Transfers*, Pryor Cashman Legal Update (Dec. 2014).

*Fraudulent Transfer Defendants Beware: The Statutory Limitations and Reach-Back Periods May Be Broader Than You Think*, 8 AM. BANKR. INST. COMMERCIAL FRAUD TASK FORCE NEWSLETTER, No. 2 (Sept. 2011).

*The Madoff Securities Liquidation – The First Six Months*, Pryor Cashman Legal Update (June 2009).

*Considerations Relating to the Bernard Madoff Securities Fraud*, Pryor Cashman Legal Update (Jan. 2009).

*Recent Developments in the Bankruptcy Treatment of Letters of Credit Under Commercial Real Estate Leases*, in THE PRACTICAL REAL ESTATE LAWYER’S MANUAL ON COMMERCIAL LEASING IN TROUBLED TIMES: FORMS, CHECKLISTS AND ADVICE (ALI-ABA 2009) (updating article previously published at 23 PRAC. REAL EST. LAW. 27 (ALI-ABA Mar. 2007)).

*Owners Can Minimize Tenant Default Risks*, Pryor Cashman Legal Update (July 2007).

*Proposals to Modify New York Court Rules Concerning the Engagement of Local Counsel and the Pro Hac Vice Admission of Attorneys*, Report of the Committee on Professional Responsibility of the Association of the Bar of the City of New York, 53 THE REC. 150 (1998) (principal author).

Note, *Trademark Franchising and Antitrust Law: The Two-Product Rule for Tying Arrangements*, 27 SYRACUSE L. REV. 953 (1976), reprinted at 9 PAT. L. REV. 525 (1977) and 69 TRADEMARK REP. 41 (1979) (with revisions).

Research assistant to authors: Thomas J. Maroney, “*Averting The Flood*”: *Henry J. Friendly and the Jurisdiction of the Federal Courts – Part I*, 27 SYRACUSE L. REV. 953 (1976);

Thomas J. Maroney & Daan Braveman, “*Averting The Flood*”: *Henry J. Friendly, The Comity Doctrine and the Jurisdiction of the Federal Courts – Part II*,” 31 SYRACUSE L. REV. 469 (1980).

#### **OTHER EXPERIENCE AND AFFILIATIONS:**

Deputy Village Attorney of the Village of Larchmont, New York (1997-2018).

Williamstown Theatre Foundation, Inc., a Massachusetts not-for-profit corporation (Member, Board of Trustees (2017-present); Co-Chair, Governance Committee (2021-present); Member, Development Committee (2018-present)).

Friends of the Larchmont Public Library, Inc., a New York not-for-profit corporation (Member, Board of Directors (2013-present); President (2016-20)).

Society of Alumni of Williams College (President of the Society, and delegate of the Society to the Board of Trustees of Williams College (2006-08); Vice-President (2004-06); Member, Executive Committee (1999-2002); Member, Society of Alumni Bicentennial Planning Committee, and Co-Chair of Archival Subcommittee (2018-21)).

Syracuse University Law Alumni Association (Member, Board of Directors (2014-present); Member, Executive Committee (2016-present); Executive Secretary (2016-18); Co-Chair, Syracuse Law Honors Committee (2015-present)).

Williams College Class of 1974 (President (2019-present; 1989-94); Co-Head Class Alumni Fund Agent (2018-present); Assistant Class Agent (1999-2018); Class Secretary (1984-89)).

Williams Club, Inc., a New York membership corporation (Member, Board of Governors (1984-2004); President (1995-99); Vice President (1991-95); Secretary (1984-88); outside counsel to the corporation since 2010).

#### **SELECTED REPRESENTATIVE PROFESSIONAL ENGAGEMENTS:**

##### **REPORTED CASES:**

- *Picard v. Ida Fishman Rev. Trust (In re Bernard L. Madoff Inv. Secs. LLC)*, 773 F.3d 411 (2d Cir. 2014), *aff'g Securities Inv. Prot. Corp. v. Bernard L. Madoff Inv. Secs. LLC (In re Madoff Secs.)*, 476 B.R. 715 (S.D.N.Y. 2012), *cert. denied*, 576 U.S. 1044 (2015) (counsel for fraudulent transfer defendants; successful appeal of decision limiting trustee’s avoidance remedies in Ponzi scheme case to actual fraudulent transfers made within two-years before commencement of liquidation proceeding under the Securities Investor Protection Act of 1970, as amended).
- *Fulmer v. Fifth Third Equip. Fin. Co. (In re Veg Liquidation, Inc.)*, 572 B.R. 725 (Bankr. W.D. Ark. 2017), *aff’d*, 583 B.R. 203 (B.A.P. 8th Cir. 2018), *aff’d*, 931 F.3d 730 (8th Cir.

2018), *cert. denied*, 140 S. Ct. 904 (2020) (counsel to member of official creditors committee; committee's successful appeal of decision rejecting Chapter 7 trustee's attempt to prosecute collateral challenges to bankruptcy sale order with committee's support entered during Chapter 11 phase of the case).

- *Securities Inv. Prot. Corp. v. Bernard L. Madoff Inv. Secs. LLC*, 531 B.R. 439 (Bankr. S.D.N.Y. 2015) (counsel to fraudulent transfer defendants; post-appeal proceedings dismissing, in part, SIPA trustee's remaining avoidance claims).
- *Rescap Liquidating Trust v. Primary Capital Advisors, LLC (In re Residential Capital, LLC)*, 2014 U.S. Dist. LEXIS 140584 (S.D.N.Y. Sept. 16, 2014) (counsel to fraudulent transfer defendant; successful motion to withdraw the reference of creditor trustee's adversary proceeding asserting avoidance claims from bankruptcy court to district court and to transfer the litigation to another federal district).
- *In re T Asset Acquisition Co., LLC*, 2010 WL 4689562 (Bankr. C.D. Jan. 29, 2010) (counsel to film production company as stalking horse bidder for purchase of debtor's film production rights; litigation proceedings on challenge to competing bidder's offer accepted at auction).
- *Penthouse Media Group, Inc. v. Guccione (In re General Media, Inc.)*, 335 B.R. 66 (Bankr. S.D.N.Y. 2005) (counsel to debtor's former executive; successful motion to dismiss reorganized debtor's contract breach claims against former executive, based on the court's limited post-confirmation jurisdiction).
- *In re Kingston Square Assocs.*, 214 B.R. 713 (Bankr. S.D.N.Y. 1997) (counsel to debtors' managing partner; successful defense against lenders' motions to dismiss Chapter 11 cases of limited liability companies as bad faith filings based on alleged misconduct of debtor's principal in orchestrating involuntary petitions filed by friendly creditors, and addressing violations of fiduciary duties in LLC management by lenders' representative).
- *In re Barney's, Inc.*, 197 B.R. 431 (Bankr. S.D.N.Y. 1996) (counsel to pension fund as member of official creditors committee; successful decision, after trial, overruling debtor's motion to remove client from the committee).
- *Delta Air Lines, Inc. v. A.I. Leasing II, Inc. (In re Pan Am Corp.)*, 159 B.R. 396 (S.D.N.Y. 1993), and *Luedtke v. Delta Air Lines, Inc.*, 159 B.R. 385 (S.D.N.Y. 1993) (counsel to official creditors' committee; litigation arising from failed Chapter 11 reorganization plan of Pan Am).
- *Braniff, Inc., v. Sundstrand Data Control, Inc. (In re Braniff, Inc.)* 154 B.R. 773 (Bankr. M.D. Fla. 1993) (counsel to official creditors committee; decision, after trial, rejecting new value defense to preference avoidance claim, pending further litigation of insolvency issue in consolidated proceedings).
- *In re Braniff Insolvency Litigation (In re Braniff, Inc.)*, 1992 WL 261641 (Bankr. M.D. Fla. Oct. 2, 1992), and 153 B.R. 941 (Bankr. M.D. Fla. 1993) (counsel to official creditors'

committee in Chapter 11 airline case; liaison counsel for plaintiffs in consolidated proceedings in fraudulent transfer litigation arising from leveraged buyout of the debtor).

#### **UNREPORTED CASES:**

- *In re P8H, Inc. f/k/a Paddle 8*, Case No. 20-10809 (DSJ) (Bankr. S.D.N.Y.) (counsel for Chapter 11 trustee in liquidation case of online art auction company).
- *In re Burns & Roe Enterprises, Inc.*, Case No. 00-41610 (BG) (Bankr. D.N.J.), and Case No. 00-4191 (EP) (D.N.J., for confirmation and post-confirmation proceedings withdrawn from the Bankruptcy Court) (counsel to Official Representative of Future Asbestos Personal Injury Claimants during Chapter 11 case; and counsel to post-confirmation Legal Representative of Future Asbestos Personal Injury Claimants in connection with asbestos compensation trust established under confirmed plan).
- *In re United States Mineral Products Co.*, Case No. 01-2471 (JKF) (Bankr. D. Del.) (counsel to Chapter 11 trustee in reorganization of asbestos products manufacturer; believed to be the only asbestos bankruptcy case to result in a confirmed reorganization plan under auspices of an operating trustee).
- *In re Kmart Corp.*, Case No. 02-02474 (SPD) (Bankr. N.D. Ill.) (counsel to indenture trustee as member of official financial institutions committee).
- *In re Owens Corning*, Case No. 00-03837 (JKF) (Bankr. D. Del.) (counsel to indenture trustee in asbestos bankruptcy reorganization case as member of official creditors committee).
- *In re W.R. Grace & Co.*, Case No. No. 01-01139 (JKF) (special bankruptcy counsel to property damage claimants in Chapter 11 asbestos reorganization case).
- *In re MN Associates, L.P. f/k/a Mabon Nugent & Co.*, Case No. 95-B-42865 (BRL) (Bankr. S.D.N.Y.) (counsel to former partners in Chapter 11 reorganization case of investment firm), and *NoMas LLC v. Weinman (In re MN Assocs., L.P.)*, Adv. Proc. No. 99 0862 (SMB) (Bankr. S.D.N.Y.) (special litigation counsel to post-confirmation liquidating entity; successful decision, after trial, obtaining declaratory judgment barring creditor's assertion of barred fraudulent transfer claims).

#### **COURT-APPOINTED AND COURT-APPROVED POSITIONS:**

- Plaintiffs' Liaison Counsel designated by the Court, *In re Braniff Insolvency Litigation (In re Braniff, Inc.)*, Master Adv. Proc. No. 92-911 (CTC) (Bankr. M.D. Fla.).
- Examiner, and later post-confirmation Creditor Trustee, *In re La Toya Jackson*, Case No. 95-B-43145 (CB) (Bankr. S.D.N.Y.).

- Official Representative of Future Asbestos Claimants, *In re M. H. Detrick Co.*, Case No. 98-B-01004 (JDS) (Bankr. N.D. Ill.).
- Official Representative of Future Asbestos Claimants, *In re Rutland Fire Clay, Inc.*, Case No. 99-11390 (CAB) (Bankr. D. Vt.).
- Member, Trust Advisory Committee for the HLI Creditor Trust, *In re Hayes-Lemmerz International, Inc.*, Case No. 01-11490 (MFW) (Bankr. D. Del.).