



Bankruptcy

Susman Godfrey has extensive experience with bankruptcy-related litigation—we represent debtors, creditors and other interested parties in claims in bankruptcy court and bankruptcy-related claims in other venues. Our experience with alternative fee arrangements and, in particular, our preference for contingent fee agreements and other results-based compensation have proven attractive to bankruptcy estates seeking to maximize recovery while minimizing their own up-front expenses and risk.

- **Citibank vs. Compania Vidriera.** Represented Vitro S.A.B. de C.V., a multi-billion-dollar Mexican glass manufacturer, in litigation related to its multi-venue international bankruptcy proceedings. This litigation included a major breach of contract and tort action in New York state court against several major investment funds.
- **In re Lehman Bros. Holdings, Inc.** Represented former investment bank, Lehman Brothers International (Europe) (LBIE), in the wake of financial calamities that struck global markets in 2008. In a series of separate negotiations with such entities as Citibank, Barclays Capital, JPMorgan Chase Bank, Teacher Retirement System of Texas, and others, the firm helped LBIE recover and repatriate over \$1 billion in assets ultimately for the benefit of its creditors. Susman Godfrey was retained by LBIE to oppose the proposed Lehman bankruptcy plan, which gave LBIE less than other, similarly situated creditors. LBIE and Lehman reached a global settlement approximately one month after the firm appeared in the case and as the plan approval hearing was approaching.
- **National Hockey League v. Moyes et al.** Secured a ruling significantly reducing the potential damages sought by the National Hockey League (NHL)—over \$140,000,000—against Jerry Moyes and his family due to their ownership of the Phoenix Coyotes hockey team. Susman Godfrey devised a successful plan to have the case removed from New York state court, where it was originally filed, to New York federal court, to Arizona federal court, and then to an Arizona Bankruptcy court. After successfully moving the case back to Arizona, we successfully moved for summary judgment which eliminated most of the NHL's claims.
- **In re Washington Mutual et al.** Retained to represent the Equity Committee in the Washington Mutual bankruptcy. In two multi-week plan-confirmation hearings, Susman Godfrey opposed plans that would have

wiped out shareholders. Although both plans were supported by the debtor and by all major creditors, the Court rejected both plans after the trials. Susman Godfrey then negotiated terms of a new plan that distributed over \$100 million in value to shareholders, including 90% ownership of the reorganized debtor.

- ***Lyondell Chemical v. BNSF Railway Company.*** Represented Lyondell Chemical as conflicts counsel and special litigation counsel during a Chapter 11 reorganization. Susman Godfrey obtained an injunction prohibiting note holders and guarantee holders from enforcing guarantees against European non-debtor affiliates, which allowed for a successful and orderly reorganization of the entire company. In addition, we represented Lyondell and its affiliates and subsidiaries in a number of adversary proceedings, obtaining settlement recoveries worth tens of millions of dollars to the estate. Our team was an active participant and advisor to the debtors in all phases of the bankruptcy proceedings.
- ***Enron v. Citibank et al.*** Represented the bankruptcy estate of Enron Corp. in litigation against ten banks and investment banks for aiding and abetting breach of fiduciary duty and fraud. Settlements brought more than one billion dollars in value to the Enron estate.
- ***Toronto Dominion (Texas) et al. v. PricewaterhouseCoopers.*** Represented over ninety banks and lending institutions in connection with their claim against PricewaterhouseCoopers (PwC), alleging that the lenders provided a \$2.1 billion credit facility to a company called Laidlaw Environmental Services Inc., later known as Safety-Kleen, in reliance on PwC audited and certified financial statements for the company. The case settled for a confidential amount two days before jury selection.
- ***In re Anicom Securities Litigation.*** Represented, under a joint prosecution agreement, the senior creditors of the Anicom bankruptcy estate, the Anicom bankruptcy estate (unsecured creditors), and Anicom shareholder securities class action representative State of Wisconsin Investment Board (Wisconsin's \$80 billion pension fund) in an action against PwC and certain officers and directors of Anicom, Inc. The case settled favorably for \$40 million, with PwC paying \$21.5 million and two individual directors paying \$12 million out of their own pockets.
- ***Metropolitan Mortgage Securities et al. v. PriceWaterhouseCooper.*** Retained by the bankruptcy estates of sister companies Metropolitan Mortgage & Securities and Summit Securities to pursue claims against professionals for actions that led to the financial collapse of the companies. Metropolitan and Summit's joint bankruptcy is the largest in the history of the Eastern District of Washington. Susman Godfrey represented the estate in claims against a number of third parties, including former officers and directors, auditors, and investment firms, and was also retained to defend Metropolitan in a claim brought by one of its subsidiaries.
- ***In re Truvo USA et al.*** Represented the Coordinating Committee of Senior Lenders as conflicts counsel in the Chapter 11 bankruptcy

proceedings of certain affiliates of the Truvo Group, an advertising and directories company based in Europe. At the commencement of Truvo's bankruptcy, Susman Godfrey helped obtain a highly unusual order from the bankruptcy court preventing dozens of financial institution creditors from taking any legal action against the company's European operations, which would have destroyed the debtor's best opportunity to reorganize efficiently.

- ***Aetna v. Ace Bermuda***. Represented Ace Bermuda Insurance (now part of Chubb) in a \$25 million coverage claim brought by the bankruptcy estate of Boston Chicken in bankruptcy court in Phoenix, Arizona. The case raised novel issues of bankruptcy procedure, international law, and the enforcement of arbitration agreements involving a bankruptcy trustee.
- **London Insurance Market Asbestos Cases**. Defended three insurance groups in the London Insurance Market in bankruptcy adversary proceedings relating to asbestos liability, asserted to be in the tens of billions of dollars. After trying one of the cases in a bench trial and winning, the cases settled on terms that were extremely favorable to our clients.
- ***First Capital Holdings Bankruptcy Litigation***. Hired by the Creditors' Committee of First Capital Holdings Company to prosecute an adversary proceeding on the debtor's behalf in the Bankruptcy Court for the Central District of California. First Capital was a holding company for life insurance companies in Virginia and California, and its bankruptcy was the second largest insurance company failure at the time. Susman Godfrey pursued breach of fiduciary duty claims against First Capital's former officers and directors and its controlling shareholder, Shearson Lehman Brothers. In addition, we litigated a fraudulent transfer claim against Shearson arising out of Shearson's sale of E.F. Hutton Insurance Group, Inc. to First Capital. This innovative claim was the subject of extensive summary judgment briefing and was tried. After some six weeks of trial, and before the Court ruled, the parties settled.
- ***El Paso Electric v. Central and South West Corp.*** Represented an electric utility debtor-in-possession, El Paso Electric Company, in its breach of contract claim against Central and South West Corporation, a utility holding company based in Dallas. This case arose out of an uncompleted merger agreement that constituted a key part of El Paso Electric's plan of reorganization. Susman Godfrey successfully prosecuted El Paso's claim to a \$35 million payment for CSW's failure to conclude the merger in accordance with the contract. The case was tried to Judge Larry E. Kelley, Chief Bankruptcy Judge for the Western District of Texas.