



Bankruptcy & Insolvency

2022



PROFILED:

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Bankruptcy & Insolvency



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PERSONAL BIOGRAPHY

Kenneth A. Rosen was chair of the bankruptcy & restructuring department at Lowenstein Sandler LLP for 21 years before becoming counsel to the firm. During that time, the bankruptcy practice grew to over 30 attorneys handling matters nationwide. He serves on several non-profit boards, including the RWJ Barnabas Health, the All Stars Project and the National Yiddish Theater Folksbiene. After graduating the School of Industrial and Labor Relations at Cornell University, he received a Master of Business Administration from Columbia University and a law degree from Benjamin Cardozo School of Law (Yeshiva University).



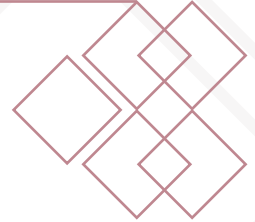
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Q&A WITH KENNETH A. ROSEN

**Could you provide an insight into how you approach your work? What drives and motivates you?**

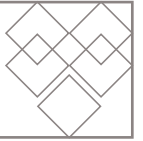
◆ My first order of business is to understand a client's business and financial condition and its needs. This includes reviewing taxes, cash flow, competition, market position, capital needs and business relationships. A solution cannot be reached for a successful restructuring unless I also understand how the legal options are affected by the facts and circumstances of the client. Rarely does one size fit all. This information directly impacts the development of a strategy for the client. With regard to settlements of litigation or other disputes, I do not simply focus on the pros and cons of my client's position. I also focus on the costs and benefits – direct and indirect – of settlement versus continued litigation and also the costs and benefits to the adversary from settlement versus litigation.

In what ways do you endeavour to support the career development of your colleagues rising through the ranks?

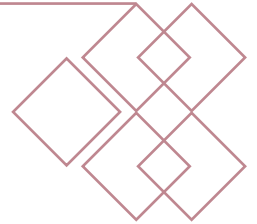
◆ Nothing is more important than developing the next generation of leaders. Whenever I am retained by a new client, I am on constant alert for appropriate opportunities for young attorneys in the department to get 'face time' with the client, to interact with other attorneys in the case and to appear in court with an active role. Also, helping young attorneys learn the skill of business development is critical. Perhaps most important is to regularly ask the next generation their opinion on an issue or dispute and what they see as a solution. All of the foregoing helps attorneys who are rising through the ranks to feel more invested in a client's case and to feel valued by the firm.

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Reflecting on your area of expertise, how do you see this sphere of the market shaping up over the coming months? Are any exciting trends or developments on the horizon?



◆ We have gone through a period of low interest rates, government loans and subsidies and extreme lender patience. As inflation occurs and interest rates become higher, what will rise to the surface are companies with bad management, companies that have failed to adequately reinvest in themselves, and overleveraged companies. This is likely to cause more Chapter 11 filings. An interesting corollary to the tremendous decline in Chapter 11 filings from October 2020 onward is the increase in overall non-financial corporate debt. When interest rates go up, many companies are going to face serious refinancing risk. The inability to refinance when rates rise and when lenders move away from covenant-light loans will increase the number of Chapter 11 restructurings. It also will cause greater use of out-of-court workouts, bulk sales and other solutions, such as collateral surrenders and loan sales. ■

“THE INABILITY TO REFINANCE WHEN RATES RISE AND WHEN LENDERS MOVE AWAY FROM COVENANT-LIGHT LOANS WILL INCREASE THE NUMBER OF CHAPTER 11 RESTRUCTURINGS.”

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**REPRESENTATIVE ENGAGEMENTS**

- ◆ Represented Aceto Corporation in its Chapter 11 bankruptcy, including the court-supervised sales of substantially all the company's assets. The transaction was named TMA's 2020 Large Company Transaction of the Year.
- ◆ Represented the official committee of unsecured creditors of Exide Technologies in the debtors' Chapter 11 cases.
- ◆ Represented the official committee of unsecured creditors of Coldwater Creek Inc. in the debtor's Chapter 11 case and subsequent liquidation providing for the creation and funding of a liquidating trust for unsecured creditors.
- ◆ Represented the official committee of unsecured creditors of Verso Corporation in the confirmation of its Chapter 11 plan of reorganisation.
- ◆ Represented the official committee of unsecured creditors of Cenveo, Inc., et al., in the debtor's Chapter 11 case, including a global settlement that tripled the cash pool for unsecured creditors.
- ◆ Represented Mountain Creek Resort in restructuring approximately \$40m in prepetition secured debt through a Chapter 11 plan of reorganisation.

