Allen Underwood II

He | Him | His

Partner

New York

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Education

- Seton Hall University School of Law, JD
- Hamilton College, BA

Practices & Industries

- Restructuring, Bankruptcy & Creditors' Rights
- Commercial Litigation & Complex Trials
- Corporate

Admitted to Practice

- New York
- New Jersey
- District of Columbia

Court Admissions

- US Bankruptcy Court for the District of New Jersey
- US Court of Appeals for the Second Circuit
- US District Court for the District of New Jersey
- US District Court for the Eastern District of New York
- US District Court for the Southern District of New York
- US District Court for the Western District of New York

Biography

Allen is a corporate, commercial, and bankruptcy attorney who serves as outside general and special counsel to public and private manufacturing, trading, lending, and service providers. His corporate and commercial career has as its foundation many years of intensive representations of creditors, debtors, committees, and trustees in federal bankruptcy and state law debtor-creditor matters.

Allen understands that representing a distressed entity in workout, forbearance, reorganization, wind-down, or liquidation requires certain confidence, experience, and mettle. These same characteristics are required when representing companies in strategic growth phases, commercial negotiations, and civil litigation when necessary. His extensive experience counseling clients at all stages enables him to provide fast and efficient advice on the executive level. Allen enjoys knowing and understanding clients' businesses—what they do and how they do it—which reveals potential problems and helps to map a path toward greater success for the client.

In the Chancery and Law Divisions, Allen has represented corporate and individual plaintiffs and defendants in breach of contract, common-law fraud, and breach of fiduciary duty matters; employment cases; and all manner of commercial actions. In the bankruptcy courts, he has represented a multitude of corporate bankruptcy creditors on administrative, secured, priority, and unsecured claims, with many of these matters involving complex issues of securitization, priority, setoff, recoupment, reclamation, and possession of collateral. These matters frequently involve related issues of purportedly preferential or fraudulent transfers, demands for turnover, alleged unauthorized pre- or post-petition transfers, assumption and rejection, and the like. Issues of guaranty and indemnity, whether as to principals, corporations, or construction and insurance entities, have likewise proliferated in recent years.

Allen has also represented creditors in numerous health care–related bankruptcies, including in most of the major hospital bankruptcies filed in New Jersey over many years. In bankruptcy and insolvency matters, his ethos for creditors is to minimize costs while maximizing leverage and recovery. The ability to achieve this, time and again, is the product of efficiency, hard work, and experience. That same ethos characterizes his efforts in commercial and transactional matters.

Bar Associations

- New Jersey Bar Association
- Bergen County Bar Association
- Federal Bar Association of the State of New Jersey

Selected Memberships & Affiliations

- Association of Commercial Finance Attorneys, Inc., Secretary and Board Member
- American Bankruptcy Institute
- New Jersey Turnaround Management Association
- Garden State Credit Associates

Representative Experience

Bankruptcy

- Represented personal injury and wrongful death plaintiffs as creditors in multiple Delaware nursing home and health care–related bankruptcies.
- Represented insurance entities in numerous New Jersey bankruptcies on every aspect of coverage, from pre-filing negotiations to cash collateral and budget treatment, claims filing, plan confirmation, assumption and rejection, claims objections, and defense of avoidance actions.
- Represented commercial lenders in New York and New Jersey bankruptcies on secured claims.
- Represented a New Jersey city as creditor of a major real estate development in Chapter 11 and a complex settlement enabling resolution of takings claims, debtor refinance and project completion, maintenance and beneficial modification of the redevelopment plan, a confirmed Chapter 11, and ultimately a successful project that amplified revenue and regenerated a blighted area.
- Represented a manufacturer of factory equipment in Delaware bankruptcies on reclamation, administrative and unsecured claims related to immediate pre-bankruptcy factory renovations, and product and work supplied thereto.

Corporate

- Represented a deadlocked not-for-profit in a reorganization and conversion to a for-profit entity, with continuing corporate general representation.
- Represented a major manufacturer in the corporate reorganization of all its US subsidiaries, streamlining corporate structure and operations, reducing overall costs, and deriving operation and tax benefit thereby, with continuing corporate general representation on all matters.
- Engaged in negotiations with the Pension Benefit Guaranty Corporation, resulting in a successful resolution regarding legacy subsidiary plan underfunding due in large part to market fluctuations.
- Represented a deadlocked business closely held by multiple generations of multiple families in an internal reorganization, streamlining of operations, and continuing corporate general representation on all matters.

Litigation

- Secured summary judgment for a plaintiff pension fund on dispositive motion as to multiple conveyances under the Uniform Fraudulent Transfers Act.
- Secured settlement and payment following litigation to a judgment on equipment shipped to Iraq but not paid for in full.
- Secured settlement of a trust and estate litigation in the Chancery Division alleging fraud and defalcation in fiduciary capacities by the trustee and executor.

Discrete Commercial Transactions

- Negotiated and documented oil- and gas-related manufacturing supply and service contracts involving the supply of equipment and coordinated projects to public companies and state-owned entities in Texas, Brazil, Mexico, Romania, Tajikistan, and others.
- Negotiated and documented supply contracts for equipment manufactured for US government and military use.
- Routinely negotiates and documents agreements for the supply of curated data and information from licensed sources.

Prior Experience

- Lite DePalma, Greenberg & Afanador, LLC, Member
- Becker LLC, Member
- Becker Meisel LLC, Member
- Robert T. Corcoran, PC, Associate
- Schwartz, Tobia, Stanziale, Becker, Rosensweig & Sedita, Summer Associate and Law Clerk
- US District Court for the District of New Jersey, Honorable Nicholas J. Politan, Judicial Intern
- Cole, Schotz, Meisel, Forman & Leonard, Summer Associate
- Cole, Schotz, Meisel, Forman & Leonard, File Room Coordinator

Judicial Clerkships

- Superior Court of New Jersey, Chancery Division, Family Part, Bergen County Vicinage, Judge Edward V. Torack

Selected Community Activities

- Seawanhaka Corinthian Yacht Club, Board of Trustees Member, Law Committee Chair, Cruising Committee Co-Chair, Race Committee Member
- Cove Neck Tennis Association, Member
- North Syosset – Woodbury Republican Club, Member
- Raynham Hall Museum
- Oyster Bay Boy Scout Troop 299
- St. Domenic Grammar School

Selected Honors

- Martindale-Hubbell AV Rated Preeminent in Bankruptcy Matters, 2014
- Selected to *Super Lawyers* New Jersey Rising Stars: Bankruptcy & Creditor/Debtor Rights, 2006–2012
- *New Jersey Law Journal*, 40 Under 40, 2011

Selected Speaking Engagements

- LeadingAge New York Annual Conference & Exposition, "Time to Pivot – A Legal Toolkit for Navigating Financial Instability: A Discussion of Legal and Regulatory Considerations, From Recovery and Reorganization Insolvency and Closure," Panelist
- New Jersey State Bar Association, Bankruptcy Law Section CLE, “New Developments in Bankruptcy Third-Party Releases (Traps for the Unwary)”
- New Jersey Institute for Continuing Legal Education, “What Non-Bankruptcy Attorneys Need to Know to Protect Landlord and Business Clients,” Panelist

Selected Media

- Law360 Pulse, "Barclay Damon Adds Ex-Lite DePalma Bankruptcy Chair"
- Law360, “Canadian Creditors Seek Direct Appeal of Purdue Ch. 11 Plan”