



## David E. Runck

**Shareholder** | david.runck@fmjlaw.com

David Runck is a shareholder at FMJ and Chair of the Bankruptcy & Insolvency group. He represents clients in litigation matters involving all types of distressed and defaulted commercial loans. He represents creditors in bankruptcy cases, loan default litigation, mortgage foreclosures, receiverships, debt restructurings and loan workout negotiations. He also represents clients in civil litigation in state and federal courts. David has extensive experience assisting all types of creditors (including banks, secured and unsecured lenders, creditors' committees, indenture trustees, bondholders, real estate landlords, and equipment finance and leasing companies) to maximize their recovery in default situations.

Before joining FMJ, David was a Vice President at Wells Fargo Bank, N.A., where he served as an indenture trustee for bondholders in defaulted municipal bond transactions. Prior to Wells Fargo, he was a partner in the Financial Services department of a large Minneapolis law firm.

David was a law clerk for the Honorable Nancy C. Dreher at the U.S. Bankruptcy Court for the District of Minnesota and the U.S. Bankruptcy Appellate Panel for the Eighth Circuit. While in law school, he was an editor of the *Annual Review of Banking Law*.

Specific examples of David's experience include:

- Representing court-appointed receivers and liquidating trustees for distressed businesses such as skilled nursing and senior living facilities, multifamily housing, office buildings, manufacturing facilities, retail and other areas
- Representing banks to enforce their remedies in defaulted commercial loans, including mortgage foreclosures, actions against borrowers and guarantors, receiverships and out-of-court workouts
- Representing approximately 60 landlords of retail stores in the Chapter 11 bankruptcy case of *In re Gander Mountain Company*

- Lead counsel for the Official Committee of Unsecured Creditors in the Chapter 11 bankruptcy cases of *In Re Petters Company, Inc.* and *In re Petters Group Worldwide, LLC* representing creditors owed approximately \$2 billion in one of the largest Ponzi schemes in U.S. history
- Representing the Official Committees of Unsecured Creditors in the Chapter 11 cases of *In re HEI, Inc.*, *In re SCICOM Data Services, Ltd.*, *In re Purified Renewable Energy, LLC* and *In re Lyman Lumber Company*
- Pursuing and defending against insolvency-related litigation, such as claims to recover fraudulent transfers and preferences, claims against corporate insiders, equitable subordination and recharacterization claims, and lien perfection and priority disputes
- Special litigation counsel for the court-appointed receiver for an insolvent real estate construction lender, defending against breach contract and fraud claims arising out of a \$150 million structured finance transaction involving construction loan receivables
- Advising a large asset-based lender on Article 9 lien perfection issues involving a \$200 million revolving credit line secured by receivables acquired from automobile dealerships
- Negotiating and drafting commercial real estate purchase agreements for the sale of distressed real property
- Successfully argued numerous appeals before the U.S. Court of Appeals for the Eighth Circuit, the U.S. Bankruptcy Appellate Panel for the Eighth Circuit, and the Minnesota Court of Appeals
- Successfully argued *In re Dial Business Forms, Inc.*, 273 B.R. 594 (Bankr. W.D. Mo. 2002), *aff'd* 283 B.R. 537 (B.A.P. 8th Cir. 2002) (named "Decision of the Week" by *The National Law Journal* (Oct. 2002))
- Named a Minnesota "Super Lawyer" for the years 2011 through 2019

**Practice Areas:**

Bankruptcy & Insolvency  
Litigation  
Banking & Financial Institutions  
Real Estate  
Transportation & Logistics

**Education:**

Boston University School of Law (JD, 1996)  
Brandeis University (BA, *cum laude*, 1993)

**Clerkship:**

Hon. Nancy C. Dreher  
U.S. Bankruptcy Court for the District of Minnesota  
U.S. Bankruptcy Appellate Panel for the Eighth Circuit

**State Bar Admissions:**

Minnesota  
Wisconsin  
Massachusetts (inactive)

**Federal Bar Admissions:**

U.S. District Court, District of Minnesota  
U.S. District Court, Northern District of Illinois  
U.S. District Court, Western District of Wisconsin  
U.S. Court of Appeals, Second Circuit  
U.S. Court of Appeals, Eighth Circuit  
U.S. Supreme Court

**Professional Memberships and Associations:**

Bankruptcy Practice Committee, U.S. Bankruptcy Court for the District of Minnesota (2009-2010)  
Federal Bar Association, Minnesota Chapter, Bankruptcy Law Section  
Minnesota State Bar Association, Bankruptcy, Civil Litigation and Real Property Law Sections  
Turnaround Management Association, Minnesota Chapter

**Presentations and Publications:**

*Key Issues for Lessors under Non-Residential Real Property and Personal Property Leases*, co-presenter, Minnesota Bankruptcy Institute (Oct. 2018 and May 2019)

*Real Survival Tips for the Mounting Retail Woes*, co-presenter, Minnesota Bankruptcy Institute (Oct. 2017)

*Bringing and Defending Fraudulent Transfer Claims In and Out of Bankruptcy*, Hennepin County Bar Association CLE presentation (Jan. 2016)

*Defaults, Workouts & Bankruptcy Issues in Public Finance*, National Association of Bond Lawyers 32nd Bond Attorneys' Workshop (Sept. 2007)

*Chapter 11 Secured Claim Valuation: Does My Pre-Petition Security Interest Attach to Post-Petition Collateral?*, Minnesota State Bar Association (Oct. 2004)

*Equipment Leasing in Minnesota*, Lorman Education Services CLE presentation (Feb. 2004)

*Everything You Ever Wanted to Know About Equipment Leasing But Were Afraid to Ask*, CLE presentation (Oct. 2003)

*In re Dial Business Forms, Inc.: Eighth Circuit BAP Holds That Priority Language in a Chapter 11 Plan "Trumps" Article 9*, MSBA Bankruptcy Bulletin (Apr. 2003)

*An Analysis of the Community Development Banking and Financial Institutions Act and the Problem of "Rational Redlining" Facing Low-Income Communities*, 15 Annual Review of Banking Law 517 (1996)

*Developments in Banking Law 1994: The Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994*, 14 Annual Review of Banking Law 1 (1995)



**Practice Philosophy:**

"I do my best to add positive value to often difficult situations. In addition to finding the best solution for our clients' legal needs, I make sure that I listen to our clients, communicate with them frequently, and keep things moving forward."

**The Rest of the Story:**

David lives in a Twin Cities suburb with his wife and their two cats. He enjoys spending time with his friends and family, going to movies, and reading books.