



Ellen Arvin Kennedy

Partner

ellen.kennedy@dinsmore.com

Lexington, KY

Tel: (859) 425-1020

Ellen focuses her practice on litigating and mediating high-stakes matters in federal, state and bankruptcy courts, and employs a practical, measured approach to helping her clients reach resolutions.

She has experience handling commercial bankruptcy, insolvency and creditors' rights matters for clients, including advising Chapter 11 and liquidating trustees and both creditors and debtors in complex liquidations and corporate wind-downs. Her knowledge of bankruptcy law and her ability to tailor her approach to fit each client's circumstances allows her to offer counsel at every step of the bankruptcy and restructuring process, including proactive counsel.

Ellen also leverages her knowledge of corporate law to guide investment groups through the purchase, reorganization and sale of companies and distressed assets in a variety of industries, such as coal, oil and gas, health care, education and manufacturing.

She provides restructuring assistance to clients looking for out-of-court resolutions, and handles foreclosures, complex collection actions and litigation matters in state courts and federal to enforce the rights of secured creditors. Because Ellen concentrates her practice in Kentucky, she is well known throughout the Kentucky bankruptcy bar. Among other positions, she has served as chair of the Bankruptcy Section of the Kentucky Bar Association twice (2008, 2010), and is frequently asked to lecture on bankruptcy practice throughout the state. Ellen was selected to serve two rotations on the Local Bankruptcy Rules Committee for the Eastern District of Kentucky. This service included a series of work sessions with the Western District Committee and court to unify bankruptcy practice rules throughout the state.

Services

- Bankruptcy & Restructuring
- Corporate & Transactional
- Equine Industry

Education

- University of Kentucky College of Law (J.D., 2000)

- Moot Court Board, First Amendment Moot Court Team
- Centre College (B.A., *cum laude*, 1997)
 - Phi Beta Kappa

Bar Admissions

- Kentucky

Court Admissions

- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court for the Eastern District of Kentucky
- U.S. District Court for the Western District of Kentucky

Affiliations/Memberships

- Mid-West Regional Bankruptcy Conference 2020 and 2021, co-chair
- University of Kentucky David J. Rosenburg College of Law, Bankruptcy professor
 - *Commercial Debtor and Creditor Relations*
- Member, American Inns of Court, Central Kentucky Chapter
- Leadership Kentucky, class of 2014
- Kentucky Bar Association, Bankruptcy Practice Section, past chair
- Eastern District of Kentucky, U.S. Bankruptcy Court Local Rules Committee
- Fayette County Bar Association, Women Lawyers Section, former chair
- Leadership Lexington, class of 2008
- Legal Aid of the Bluegrass, board member

Distinctions

- Peer Review Rated AV in *Martindale-Hubbell*
- Best Lawyers®
 - "Lawyer of the Year" in Lexington for Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization (2016)
 - "Lawyer of the Year" in Lexington for Litigation - Bankruptcy (2017)
 - "Lawyer of the Year" in Lexington for Litigation - Environmental (2016, 2019)
 - Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law (2022-2024)
 - Litigation - Bankruptcy (2022-2024)
- Listed in *The Best Lawyers in America*® for Bankruptcy, Creditor Debtor Rights and Insolvency and Reorganization Law
- Kentucky *Super Lawyers*®

- For Bankruptcy: Business (2013 - present)
- Fayette County Bar Association Outstanding Young Lawyer of the Year, 2008

Experience

Represented Stalking Horse Bidder in Acquisition of Debtor Hospital as part of Chapter 11 Reorganization

Dinsmore's Healthcare and Bankruptcy attorneys collaborated to close a member substitution transaction whereby our client Health System became the sole member of a debtor hospital in a Chapter 11 action. Dinsmore prepared the financing and joint creditor agreements as part of its representation of the acquiring Health System in its role as Chapter 11 DIP Lender and also represented Health System as the stalking horse bidder to acquire debtor hospital through a sale approved as part of its Ch. 11 Plan of Reorganization. Dinsmore also prepared the definitive transaction agreements as part of the Ch. 11 filings, restructured the Health System's board, prepared amended and restated Health System and debtor hospital governing documents and handled all pre- and post-closing state and federal regulatory notices and filings related to the transaction, including ODH hospital licensure and Medicare filings.

Chapter 11 Liquidating Trustee and Receiver representation and appointments

Ellen has a wealth of experience handling Chapter 11 cases as counsel for debtors, unsecured creditor committees, and lessors. She has also, specifically represented both operating and liquidating trustees in Chapter 11 cases, and has served as a court-appointed Chapter 11 liquidating trustee. Ellen was appointed Chapter 11 Liquidating Trustee for Cambrian Coal Company and Trinity Coal Company, and served as counsel for operating and liquidating trustees in other Chapter 11 cases which has provided her with a thorough understanding of the claims investigation and litigation process from the liquidating trustee position. Ellen has investigated and filed hundreds of preference actions, complex fraudulent conveyance actions and suits alleging breach of fiduciary duty against former principals of a debtor. In addition to prosecution of and administration of claims, Ellen has supervised the liquidation of real property, all manner of equipment and large machinery, thoroughbred horses, accounts receivable and general personal property. This experience ensures that she is adept at managing the liquidation and distribution process and coordinating the efforts and resources needed to ensure creditors' interests are protected and the intended resolution is reached.

Counsel for Elizabeth Z. Woodward, Receiver, In re Zayat Stables, LLC

Ellen represented Elizabeth Z. Woodward in her role as court appointed receiver in the case MGG Investment Company v. Zayat Stables LLC et al, and successfully defended a challenge to the continued receivership when Zayat Stables, LLC filed for bankruptcy protection. Zayat Stables, LLC was the owner of the 2015 Triple Crown and Breeders Cup Classic winner American Pharoah, and more than 70 thoroughbreds when the receiver action was filed. The receiver was tasked with locating and physically securing the Zayat Stables horses, which were being boarded and trained all over the country and selling them through a combination of auctions at Keeneland Association, Inc., Fasig-Tipton Co. and private sales. Through the sales process, Ellen assisted the receiver in evaluating asserted lien claims and making the appropriate distributions out of sale proceeds. The receiver was also tasked with racing decisions, which required placing horses in appropriate races along with the administrative work of securing insurance and care for horses as may be necessary, determining ownership of breeding rights which had been assigned to others by Zayat Stables, collecting unclaimed purses at race courses across the

country, settling unresolved claims against Zayat Stables filed before racing authorities in several states and filing her accounting with the presiding courts.

Healthcare

Ellen has served as counsel for a community hospital which filed Chapter 11 and ultimately sold to a nearby metro hospital system, a Chapter 11 Trustee appointed to liquidate an operating hospital, counsel for an unsecured creditors committee in a Chapter 11 case in which the debtor was an operating hospital which emerged from the bankruptcy process pursuant to a plan of reorganization, and the principal owners of a small regional hospital which was ultimately sold. Through this work, Ellen is well-versed in the unique challenges of operating a healthcare business in and out of the bankruptcy context. She has experience dealing with administrative agencies such as the United States Department of Health and Human Services and similar state agencies for the purpose of collecting Medicare/Medicaid reimbursements and navigating the setoff process for the benefit of her clients. As a participant in the sales of hospitals and clinics, Ellen is aware of the challenges in selling health care assets, and knows how to transfer operational permits and patient data in compliance with applicable state and federal law.

Natural Resources

Ellen represented clients in several capacities in Chapter 11 Cases involving coal, gas and oil companies. She has represented debtors, trustees, unsecured creditor committees, lenders, lessors, critical vendors, and general unsecured creditors in Chapter 11 cases of debtors operating in the natural resource industry. Representing clients in such a variety of roles has given Ellen unique insights into the coal and natural gas business in terms of financing, budgeting, operations, liquidation, negotiation of coal supply contracts, lease assumption analysis and negotiation, as well as addressing transportation and labor issues in compliance with state and federal law. Over the course of her career, Ellen has assisted both debtors and bidders in the sales of dozens of properties and understands the complex permit transfer process that accompanies such sales.

Unsecured Creditor Committees

Ellen has served as counsel for unsecured creditor committees in chapter 11 cases which cover a wide array of industries, including coal, agriculture, and retail. She has also served as counsel for many more creditors appointed to serve on committees, assisting with the work of the committee group as well as protecting her client's individual interests as necessary.

Corporate Reorganization and Membership Unit Sale

This transaction involved a corporate reorganization of several limited liability companies which collectively owned or controlled certain coal producing and related assets followed by the sale of all of the membership units for approximately \$20,000,000 to a publicly traded company. Our firm's experience in mergers and acquisitions, natural resources and tax matters enabled the client to maximize membership unit value and complete this transaction in an efficient and timely manner.