Michael A. Rosenthal

Retired Partner

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Michael A. Rosenthal is a retired partner in the New York and Texas offices of Gibson, Dunn & Crutcher. He was previously Co-Chair of Gibson Dunn's Business Restructuring and Reorganization Practice Group for over 30 years. Mr. Rosenthal has extensive experience in reorganizing distressed businesses and related corporate reorganization and debt restructuring matters. He has represented complex, financially distressed companies, both in out-of-court restructurings and in pre-packaged, pre-negotiated and freefall chapter 11 cases, acquirors of distressed assets and investors in distressed businesses. Mr. Rosenthal's representations have spanned a variety of business sectors, including investment banking, private equity, energy, retail, shipping, manufacturing, real estate, engineering, construction, medical, airlines, media, telecommunications and banking. He has been recognized for his ability to build consensus, to mediate disputes, and to bring practical results to complicated business situations.

Mr. Rosenthal has broad experience in representation of the debtors in some of the most significant and unique multi-jurisdictional chapter 11 cases filed in the Southern District of New York: Arcapita Bank B.S.C.(c) (SDNY, Bahrain, Cayman Islands); and Almatis B.V. (SDNY, Netherlands, Germany).. Other debtor clients have included, among others, Mesquite Energy, Inc. (as successor to Sanchez Energy), TBS International, Ltd.; Building Materials Holding Corporation; Prentiss Copley Investment Group; FINOVA; FLAG Telecom; Atlantic Coast Airlines; First Republic Bank Corporation; Resorts International; Financial News Network (now known as CNBC); and National Gypsum Company (now known as Asbestos Claims Management Corporation). Non-debtor clients have included, among others, AIG, Truck Insurance Exchange, the George Kaiser Foundation (as the largest investor in Solyndra LLC), Investcorp and various of their portfolio companies, First Reserve and various of their portfolio companies, Intel, General Electric Credit Corporation, Textron Financial, L Catterton Partners, Oldcastle, Q Investments, Tenet Healthcare, Cooper Industries, Jacobs Engineering, Bechtel, The Shaw Group Inc. and Bernhard Capital Partners LLC

Mr. Rosenthal has been active in representing and providing advice to entities regarding their rights and exposure related to difficulties in the financial services sector, including issues related to loan restructurings, spin-offs, derivative products, securitizations and customer account issues. Among others, he has represented PWC (Zurich) as foreign representative in the chapter 15 case of Lehman Brothers Finance A.G. (SDNY, Switzerland), (the Swiss affiliate of Lehman that originated much of Lehman's non-U.S. derivatives business), the Lehman Brothers Private Equity Funds and various other large, public companies involved in the global restructuring of Lehman and its affiliates. In the aftermath of the financial crisis, Mr. Rosenthal played an important role in providing input and advice regarding proposed U.S. financial regulatory reform legislation—recently enacted as the Dodd-Frank Financial Reform Regulatory Act— including testifying before the House Judiciary Committee on issues related to the new Orderly Liquidation Authority enacted to facilitate the efficient resolution of systemically significant financial companies.

Capabilities

Business Restructuring and Reorganization
Energy and Infrastructure
Environmental
Finance
Financial Institutions
Insurance and Reinsurance
Power and Renewables
Transnational Litigation

Credentials

Education

University of Chicago - 1979 Juris Doctor
University of Virginia - 1976 Bachelor of Arts

Admissions

Texas Bar
New York Bar

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In addition to debtors, acquirors and investors, Mr. Rosenthal has represented creditors' committees, secured and unsecured creditors, bondholders and trustees. He also has substantial experience in advising private equity firms and others on distressed and fulcrum security investing strategies. In this regard, Mr. Rosenthal is frequently consulted to analyze the capital structure of companies and to advise on first lien/second liens issues and the strengths, weaknesses and relative priorities of outstanding bond and/or equity security issues.

Mr. Rosenthal is one of the country's leading lawyers on restructuring issues related to companies with asbestos, sex abuse and other mass tort liability. He has advised the trustees of some of the largest section 524(g) asbestos settlement trusts, companies seeking to resolve their asbestos, sex abuse and other mass tort exposure, insurers that provide coverage for mass tort liabilities, and entities seeking to acquire or invest in companies that have such exposure. Most recently, he is advising the AIG Member Companies in connection with their potential exposure for the sex abuse liability of the Boy Scouts of America and their affiliated local counsel and chartered organizations, and of various Catholic dioceses and archdioceses. And, he represented Truck Insurance Exchange in a recent landmark United States Supreme Court decision which unanimously rejected the insurance-neutrality doctrine and held that an insurer with financial responsibility for a bankruptcy claim is a 'party in interest that may object to a reorganization plan under Chapter 11 of the Bankruptcy Code.' *Truck Insurance Exchange v. Kaiser Gypsum, Inc.*, 144 S. Ct. 1414 (2024).

Mr. Rosenthal has lectured and published at the national and local levels on matters involving bankruptcy and creditors' rights. He has also published and written extensively on directors' fiduciary obligations in the context of distressed businesses. Mr. Rosenthal is consistently ranked as one of the best bankruptcy lawyers in the United States. He has been ranked in *Chambers USA: America's Leading Lawyers for Business, Who's Who Legal, The Daily Deal*, *The Legal 500*, *The Best Lawyers in America*® and Texas, New York *Super Lawyers* and Legal Media Group's Expert Guides *Guide to the World's Leading Banking, Finance and Transactional Lawyers*. *Chambers* has described Mr. Rosenthal as "a seasoned and experienced lawyer" and notes that clients appreciate his "help in navigating difficult bankruptcy issues," finding him "efficient, thoughtful and proactive" in his approach.

Mr. Rosenthal received his Juris Doctor in 1979 from the University of Chicago and his Bachelor of Arts degree *summa cum laude* in 1976 from the University of Virginia. He also studied at the London School of Economics and Political Science.

Mr. Rosenthal is a member of the Bars in New York and Texas.

Mr. Rosenthal has been responsible for or active in the representation of the following debtors, either in out-of-court restructurings or Chapter 11 cases or as reorganized entities:

- Mesquite Energy, Inc. (as successor to Sanchez Energy); Represented the reorganized entity, a Texas-based oil and gas producer which filed a chapter 11 case in the Southern District of Texas, in its post-effective date operations and liquidation which resulted in net asset value that vastly exceeded the emergence net asset value.
- Arcapita Bank B.S.C.(c): Representation of Arcapita Bank, a Bahrain-based investment bank and private equity company, and its affiliates, in their Chapter 11 cases filed in the Southern District of New York and in ancillary proceedings in the Cayman Islands. At the time of its chapter 11 filing, Arcapita, a leading global manager of Shari'ah-compliant alternative investments, had approximately $7 billion in assets under management related to approximately 30 portfolio companies located around the world. The cross-border and Shari'ah-compliant aspects of the Arcapita restructure were both complicated and unique. The confirmed chapter 11 plan of reorganization for Arcapita went effective on September 17, 2013. Gibson Dunn received *The American Lawyer*'s 2014 Global Legal Award, for "Global Finance Deal of the Year: Restructuring and Insolvency

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(Middle East)," and The *M&A Advisor's* 2014 Turnaround Award for "Cross-Border Restructuring Deal of the Year (Over $1 Billion)" for its work on the Chapter 11 restructuring of Arcapita Bank B.S.C.

- TBS International Ltd.: Representation of TBS International and its affiliates in their recent, successful Chapter 11 cases in the Southern District of New York. TBS is an international ocean shipping company. In April 2012, scarcely 50 days after filing for Chapter 11, TBS confirmed its prepackaged Chapter 11 plan.
- Almatis, B.V.: Representation of Almatis and its affiliates in their Chapter 11 cases filed in the Southern District of New York. The Frankfurt-based, Netherlands-incorporated debtors are one of the world's leading suppliers of alumina products. Despite a hotly contested valuation litigation surrounding the filing of a prepackaged plan of reorganization, a Chapter 11 plan of reorganization was, in a short five-month time frame, confirmed by the Bankruptcy Court and consummated.
- Building Materials Holding Corporation: Representation of Building Materials Holding and its subsidiaries in their successful, pre-negotiated Chapter 11 cases filed in Delaware. The debtors have a significant national presence in the building materials and construction services sectors, and confirmed a pre-negotiated plan of reorganization that, among other things, implemented a debt to equity conversion of the debtors' secured revolver and term debt owed to a 70-member bank/hedge fund syndicate.
- Lehman Brothers Finance, S.A.: Representation of PwC, as liquidator of Lehman Brothers Finance, A.G., a Swiss affiliate of Lehman that originated much of the non-U.S. derivatives business. The representation has involved advising PwC on its rights and obligations as liquidator, including those rights and obligations arising from the filing on behalf of the liquidator of a petition under Chapter 15 of the Bankruptcy Code for Lehman Brothers Finance, S.A., and on the tens of billions of dollars of intercompany claims between LBF and Lehman Brothers Holding Inc.
- Dexia, Ltd.: Represented Dexia, a large French/Belgian insurance holding company, on its exposure, investment and ownership interest in Financial Security Assurance Holdings, Inc. ("FSAH"), a U.S. entity that owns FSA Inc., one of the three largest U.S. monoline insurance carriers, and several non-insurance entities that issued billions of dollars of underwater Guaranteed Insurance Contracts. Mr. Rosenthal advised Dexia on its options relative to the sale of FSAH and/or the financial restructuring of these entities, and ultimately, assisted Dexia in the sale of FSAH to Assured Guaranty, Ltd.
- FINOVA Group Inc., *et al*.: Representation of Chapter 11 debtor in stand-alone reorganization involving approximately $11 billion of debt. Plan confirmed less than six months after filing.
- FLAG Telecom Holdings Limited: Representation of London-based Chapter 11 debtor in its six-month reorganization case that restructured more than $3 billion in debt.
- Building Industry Restructurings: Representation of various major U.S.-based construction and homebuilding entities in their out-of-court restructuring efforts. The names of these entities cannot be disclosed at this time.
- Prentiss/Copley Investment Group: Representation of The Prentiss/Copley Investment Group in connection with an out-of-court restructuring of 122 office buildings and industrial properties located throughout the United States.
- Kalikow Real Estate Company: Representation of New York developer Peter Kalikow in simultaneous restructuring negotiations and Chapter 11 cases. Continued representation to enforce discharge provisions of plan.
- Asbestos Claims Management Corporation: Representation of Chapter 11 debtor with billions of dollars of asbestos-related liabilities. The plan, which was confirmed and consummated less than a year after the case was commenced, resulted in the creation of one of the few asbestos trusts that is operational and well-funded today.

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- Resorts International, Inc.: Representation of Chapter 11 debtor in the pre-packaged stand-alone reorganization of high-profile Merv Griffin Casino in Atlantic City, and in the sale of Paradise Island, Bahamas Casino, which is now known as The Atlantis. The case was concluded in a matter of months.
- First Republic Bank Corporation: Representation of First Republic Bank, one of the largest bank holding companies ever to seek Chapter 11 protection, in a vigorously contested Chapter 11 case in which pension fund surpluses were preserved for creditors of insolvent bank holding companies through a settlement negotiated with the FDIC.
- Hawaiian Airlines, Inc.: Representation of Hawaiian Airlines in its Chapter 11 case, including labor negotiations, aircraft lessor litigation and formulation of code share/frequent flyer alliance with American Airlines.
- The Shaw Group/Military Housing: Representation of The Shaw Group in connection with restructure at privatized Army, Navy and Air Force military housing projects.
- American Pad & Paper Company: Representation of Chapter 11 debtor that was one of the largest manufacturers and marketers of nationally branded and private label paper-based office products in the North American office products industry.
- Financial News Network: Representation of Chapter 11 debtor, including its highly publicized section 363 auction between Dow Jones/Westinghouse and General Electric's NBC unit, which led to the formation of NBC's cable news affiliate, CNBC. The Second Circuit decision upholding the sale established new precedent concerning flexible auction procedures.
- Money's Foods U.S., Inc.: Representation of Chapter 11 debtor in stand-alone reorganization of second-largest mushroom producer in North America. During the case, the company sold several of its operating farms pursuant to section 363 sales.
- Graham-Field Health Products, Inc.: Representation of Graham-Field Health Products, Inc. and its affiliates, suppliers of medical and home health care products, in their Chapter 11 cases.
- NACO Finance Corporation: Representation of NACO Finance Corporation in complex reorganization.
- Sunnyside Cogeneration Associates: Representation of Sunnyside Cogeneration Associates, a Utah cogeneration facility, in an out-of-court restructuring.
- AutoFuel Company: Representation of AutoFuel d/b/a AFCO, a distributor of motor fuels in the Southwest and Hawaii, in its Chapter 11 case in the Northern District of Texas.
- Metrocall: Representation of debtor in Chapter 11 case in the Northern District of Texas.
- Comtel Telcom Assets, L.P.: Representation of debtor in Chapter 11 case in the Northern District of Texas.

Mr. Rosenthal has been responsible for or active in the representation of the following entities involved in mass tort cases:

- AIG: Representation of AIG as insurer in hotly contested litigation surrounding responsibility for legacy sexual abuse liability of Boy Scouts of America as well as various Catholic dioceses or archdioceses.
- Truck Insurance Exchange: Representation of Truck Insurance Exchange as the primary insurer of Kaiser Gypsum Company, including in connection with successful petition for certiorari to United States Supreme Court which resulted in landmark decision establishing principle that insurers have standing to be heard regarding any aspect of a chapter 11 plan or reorganization.
- Koch Industries: Representation of ultimate parent of Bestwall LLC in connection

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with asbestos related advice regarding Bestwall case and funding of qualified settlement trust.

- Yarway Corporation: Representation of chapter 11 plan sponsor (Tyco International) that contributed $325 million to establish section 524(g) asbestos settlement trust.
- Grinnell LLC: Representation of Tyco International plc in establishing and funding a qualified settlement fund to resolve asbestos claims.
- Asbestos Claims Management Corporation: Representation of chapter 11 debtor (formerly known as National Gypsum Company) with billions of dollars of asbestos-related liabilities in connection with successful chapter 11 case that resulted in creation and funding of NGC Settlement Trust.
- NGC Settlement Trust: Representation of the settlement trust created in the chapter 11 reorganization of National Gypsum Company to resolve billions of dollars in asbestos-related claims.
- Cooper Industries/Federal Mogul: Representation of Cooper Industries in connection with its asbestos issues arising in connection with the chapter 11 cases of Federal Mogul, Inc. and its affiliates.
- Confidential Liability Management Representations: Confidential representation of a number of major companies seeking advice on asbestos liability management.
- DII Industries Asbestos PI Trust: Representation of DII Industries Asbestos PI Trust, the multibillion dollar trust funded by Halliburton Company to resolve the asbestos claims against Halliburton, DII Industries and other Halliburton affiliates. The trust is one of the largest of its kind ever to be created.
- Participation in most major asbestos cases: Participated in most of the major asbestos-related cases that have been filed over the years.

Mr. Rosenthal has been responsible for the representation of the following acquirors of substantially all of the business and assets of Chapter 11 debtors:

- GCL Poly-Energy Holdings Limited: Representation of GCL Poly-Energy Holdings Limited, one of the world's largest solar photovoltaic enterprises, in its acquisition of the Solar Materials division of SunEdison, a Chapter 11 debtor in the Southern District of New York.
- Celanese/Clear Lake Cogeneration: Representation of Celanese, one of the world's largest chemical companies, in connection with negotiation of agreements with Clear Lake Cogeneration, a Chapter 11 debtor and affiliate of NRG Energy, also a Chapter 11 debtor, to restructure and, in certain instances, acquire cogeneration assets critical to continued, uninterrupted, operation of Celanese's largest chemical plant in Clear Lake, Texas.
- NRG Energy/Cajun Electric: Representation of NRG Energy in acquisition of the electric generating assets of Cajun Electric Power Cooperative, Inc., a Chapter 11 debtor in the Middle District of Louisiana. Cajun Electric is the utility provider to virtually all of rural Louisiana.
- NRG/O'Brien Environmental: Representation of NRG Energy in the acquisition of a controlling interest in O'Brien Environmental Energy, Inc., a Chapter 11 debtor in the District of New Jersey, through a competing plan of reorganization and highly contested auction.
- The Shaw Group/IT Group: Representation of The Shaw Group, a worldwide engineering and construction company, in its acquisition of substantially all of the assets of IT Group, Inc., another large worldwide engineering and construction company, which is a debtor in a Chapter 11 case in the District of Delaware.
- Tenet Healthcare/Allegheny Health: Representation of Tenet Healthcare in the purchase of eight Philadelphia area hospitals and the medical school owned by Allegheny Health, Education and Research Foundation and its affiliates, which are

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debtors in Chapter 11 cases in the Western District of Pennsylvania.

- TELUS/PSINet: Representation of TELUS, one of Canada's largest telecommunication providers, in its acquisition of Canadian assets of PSINet, Inc., a Chapter 11 debtor in the Southern District of New York.
- Jacobs Engineering/Stone & Webster: Representation of Jacobs Engineering Group in the highly contested auction to acquire the assets of Stone & Webster, Inc., a Chapter 11 debtor in the District of Delaware.

Mr. Rosenthal also spearheaded the successful representation of creditors, equity holders and Official Unsecured Creditors' Committees in the following Chapter 11 cases:

- Solyndra: Representation of affiliates of the George Kaiser Foundation and the Rob Walton Foundation, as principal lenders to and investors in Solyndra LLC, a solar energy firm that filed a Chapter 11 case in the District of Delaware. These affiliates provided debtor in possession financing to and sponsored the successful chapter 11 plan of reorganization for Solyndra.
- Lehman Brothers: Representation of all of the Lehman Brothers Private Equity Funds, and various other parties, in connection with their rights and obligations related to the Chapter 11 filing of Lehman Brothers Holdings Inc. and the Securities Investor Protection Act case filed against Holdings' broker-dealer subsidiary, Lehman Brothers Inc.
- Zale Official Unsecured Creditors' Committee: Representation of the Official Committee of Unsecured Creditors of Zale Corporation, the largest jewelry store chain in the United States with thousands of retail locations.
- I.C.H. Official Unsecured Creditors' Committee: Representation of the Official Committee of Unsecured Creditors of I.C.H. Corporation, a large U.S. insurance holding company.
- KCS Energy Official Unsecured Creditors' Committee: Representation of the Official Committee of Unsecured Creditors of KCS Energy, Inc.
- Sunrise Energy Official Unsecured Creditors' Committee: Representation of the Official Committee of Unsecured Creditors of Sunrise Energy Company and Sunrise Energy Management Company, which successfully concluded their Chapter 11 proceedings in seven months.
- DII Industries Asbestos PI Trust: Representation of DII Industries Asbestos PI Trust, the multibillion dollar trust funded by Halliburton Company to resolve the asbestos claims against Halliburton, DII Industries and other Halliburton affiliates. The trust is one of the largest of its kind ever to be created.
- Textron Financial/Brooke: Representation of loan servicing in issues related to financial distress at Brooke Capital Corporation and Brooke Credit Corporation.
- NGC Settlement Trust: Representation of the settlement trust created in the Chapter 11 reorganization of National Gypsum Company to resolve billions of dollars in asbestos-related claims.
- Atlantic Coast/United Airlines: Representation of Atlantic Coast Airlines, as a creditor in the Chapter 11 cases of UAL Corporation and its affiliates currently pending in the Northern District of Illinois.
- Shaw Communications/360 Networks: Representation of Shaw Communications, Canada's largest cable TV provider, in the 360Networks case pending in the Southern District of New York.
- Nortel Networks/GST Telecom: Representation of Nortel Networks, a creditor in the GST Telecom, Inc. Chapter 11 case in the District of Delaware.
- Cooper Industries/Federal Mogul: Representation of Cooper Industries in connection with its asbestos issues arising from the Chapter 11 cases of Federal Mogul, Inc. and its affiliates currently pending in the District of Delaware.

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- Crosby Capital/Aviva America: Representation of Crosby Capital, a secured lender in the Aviva America, Inc. Chapter 11 case in the Northern District of Texas.
- Potomac Electric/Ferranti International: Representation of Potomac Electric Power Company as large unsecured creditor in the Ferranti International Controls Corporation Chapter 11 in the Southern District of Texas.
- Bank of Nova Scotia: Representation of The Bank of Nova Scotia in various troubled credits.

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