



## John David Folds

Shareholder

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David Folds concentrates his practice in bankruptcy and commercial litigation matters.

Mr. Folds regularly represents financial institutions, commercial and retail landlords, and other entities in resolving disputes through workouts, alternative dispute resolution, and litigation in federal, state and bankruptcy courts.

In his bankruptcy practice, Mr. Folds frequently represents secured creditors, landlords, and other stakeholders in all aspects of business reorganizations. He has substantial experience in retail and health care bankruptcy proceedings in numerous jurisdictions around the country. In his litigation practice, Mr. Folds focuses on representing secured creditors with exposures in multiple industries such as hospitality, multifamily housing, senior living, and health care. He also represents parties in real estate disputes in the commercial, office, retail, and telecommunications sectors.

### Representative Matters

#### Bankruptcy

- Represented national financial institution in two-week bench trial in action seeking judicial foreclosure of 400+ unit multifamily property in Connecticut; obtained judgment of foreclosure and substantial damages against borrower and management company.
- Represented health care real estate investment trust in chapter 11 reorganization of tenant health care facility in Delaware, including negotiating and documenting new lease with purchaser of facility.
- Represented national financial institution in contested proceedings to obtain appointment of receiverships for automotive dealerships in two states, and in the sale of the underlying dealerships.
- Representing numerous commercial landlords in chapter 11 cases filed by regional and national retailers in bankruptcy courts in Virginia, Delaware, New Jersey, Texas and other jurisdictions.
- Represented senior lender in HUD-insured mortgage loan in reorganization of 100+ bed senior living facility in the Eastern District of Kentucky, including cash collateral issues and negotiation of consensual plan of reorganization.
- Represented national medical practice service provider in chapter 11 proceedings filed by physician practice in United States Bankruptcy Court for the Eastern District of Virginia, including section 363 sale and structured dismissal.
- Represented lender with HUD-insured mortgage loans in chapter 11 proceeding brought in Southern District of Texas by borrower long term care facilities, including issues related to debtor-in-possession financing, use of cash collateral, and sale of facilities.
- Represented prospective purchaser in bidding for assets of owner of a group of senior living facilities in chapter 11 proceedings in the Western District of Washington.
- Represented secured lender in enforcing rights against owners of seven multifamily properties in D.C., including obtaining appointment of receiver in state court litigation and in subsequent chapter 11 proceedings in the United States Bankruptcy Court for the District of Columbia.
- Represented office landlords in Subchapter V reorganization proceedings filed by parking management company in the District of Maryland.
- Represented lender with HUD-insured mortgage loan in multi-day, contested confirmation hearing in chapter 11 proceeding filed by owner of multifamily property in Richmond, Virginia.

- Represented examiner in conducting investigation and evaluating proposed settlement in Chapter 11 proceedings of major national retail bank in Delaware.
- Defended creditors in preference and avoidable transfer adversary actions filed in numerous bankruptcy proceedings.
- Represented a real estate investment trust as landlord in the Chapter 11 bankruptcy reorganization of its tenant, an acute care center. Negotiated with the debtor regarding an asset purchase agreement and lease assignment, resulting in the trust's entry into a new lease agreement with the purchaser.
- Represented multiple landlords in the bankruptcy case of a global cinema company. Negotiated a lease modification and assumption.

### Litigation and Alternative Dispute Resolution

- Obtained judgment enforcing a right of first refusal against a municipal landlord following a two-day bench trial in Prince William County, Virginia.
- Successfully defended telecommunications provider in litigation brought by adjacent property owner in Virginia circuit court seeking to preclude construction of mobile communications tower.
- Represented subcontractor in dispute with prime contractor under Department of Defense contract in litigation in the United States District Court for the Eastern District of Virginia.
- Defended national household services provider in consumer protection action brought in District of Columbia Superior Court and in successful mediation of claims.
- Defended major agricultural in contract claim brought by producer in North Carolina state court; obtained summary judgment on all claims.
- Represented national talent agency in action to confirm arbitration award in the United States District Court for the Eastern District of Virginia.
- Defended telecommunications provider in ejectment and trespass action brought in Virginia circuit court and in successful mediation of competing claims.
- Settled a lease restructure dispute with a tenant on behalf of a large commercial landlord.
- Won a dispositive motion in Virginia state court on behalf of a major cellular services company.



### Professional Honors & Activities

- Listed in *The Best Lawyers in America*<sup>®</sup> for Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law (2020 – 2025); Litigation - Bankruptcy (2023 – 2025)
- Listed in *Washington, D.C. Super Lawyers* in Bankruptcy: Business (2020, 2024)
- Named a BTI Client Service All-Star for 2024
- Board of Directors – Washington Lawyers' Committee for Civil Rights and Urban Affairs
- Board Member – Idjwi Island Education Fund
- Advisory Board – American Bankruptcy Institute Southeast Bankruptcy Workshop (2021 and 2022)
- Chair – Pro Bono Committee, Washington, D.C. Office
- Capital Pro Bono High Honor Roll (2012, 2013); Honor Roll (2011, 2014, 2015, 2016, 2017)



### Publications

- "What to Do When a Long-Term Healthcare Borrower is in Financial Distress," *abf Journal* (October 2021)
- "What to Do When Your Borrower/Operator is in Financial Distress" (August 2021)
- "Force Majeure Clause May Excuse Debtor's Payment of Postpetition Rent in Bankruptcy " (July 6, 2020)
- "Retail Tenant Bankruptcies," *CCIM Institute* (March 2015)



### Speaking Engagements

- "Health Care and Senior Living Bankruptcies," Judge Joe Lee Bankruptcy Institute, Rosenberg College of Law, University of Kentucky (June 2023)

- "Curbside Restructuring: Distress in Restaurants and Retail," American Bankruptcy Institute, Southeast Bankruptcy Workshop, Palm Beach, Florida (July 2021)
- Panelist – "Retail Apocalypse or Transformation? A Look into the Evolving Retail Industry," TMA Houston (February 2018)
- "Retail Bankruptcies: What do I need to know?," International Women's Insolvency & Restructuring Confederation, New Orleans (July 2017)
- "Executory Contracts and Unexpired Leases," Northern Virginia Bankruptcy Bar Association (September 2015)
- "Chapter 11 Plan Confirmation Issues," Mid-Atlantic Institute on Bankruptcy and Reorganization Practice, Charlottesville, Virginia (September 2015)



## Education

- University of North Carolina at Chapel Hill, J.D., 1993
- London School of Economics and Political Science, M.S., 1991
- Sewanee: The University of the South, B.A., 1989



## Admissions

- District of Columbia, 1996
- North Carolina, 1993
- Virginia, 1999
- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. Court of Appeals for the Fourth Circuit