

Practices

Commercial Loan Enforcement and Secured Financing Litigation

The commercial lender's relationship with a borrower can change overnight, and when it does, the loss of collateral (or the priority of security interests) can have devastating consequences. To maintain profitability, lenders must be able to rely on experienced and sophisticated counsel to employ a wide range of options to bring non-performing loans on distressed assets to an efficient and effective resolution.

Akerman just does that. We represent a wide variety of lenders and secured creditors, including global and publicly traded financial institutions, special asset and distressed property groups, private equity lenders, and special servicers in large commercial loan workouts and foreclosures, including Commercial Mortgage-Backed Securities (CMBS) foreclosures.

Our firm has been recognized by *Best Lawyers* and *Law360* as a top litigating force nationwide, and has specifically earned national acclaim for its work in complex commercial litigation, including a national tier one ranking from *Best Lawyers* and recognition from *Chambers USA* as a "solid team... noted particularly for its expertise in matters relating to the financial services, [and] real estate sectors."

Akerman's Commercial Loan Enforcement and Secured Financing Litigation Practice is well-versed in all aspects of foreclosures, UCC remedies,

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Our Team

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receiverships, restructuring, and commercial loan workouts, including enforcement of loan agreements and guarantees, asset seizure, and loan modification, as well as defense of lender liability claims and intercreditor disputes. We have experience with a wide variety of loan structures and programs, including SBA, USDA, and other government-guaranteed loan programs, and we have protected our clients' rights in all types of collateral, from straightforward foreclosure of real property to large-scale repossessions of fleet vehicles, aircraft, heavy equipment, and livestock.

Whether a loan is secured by real property or by tangible or intangible personal property, such as intellectual property, inventory, receivables, furniture, fixtures, equipment, LLC membership interests, or stock, our team employs every tool the law provides — including self-help repossession, prejudgment replevin, receiverships, and judicial and non-judicial foreclosures — to protect our clients' rights.

Additionally, our bankruptcy lawyers assist lenders throughout the U.S. in the representation of secured and unsecured creditors in bankruptcy, addressing the restructuring of loans, obtaining relief from the automatic stay, drafting and confirming creditor-friendly plans of reorganization and/or liquidation, and protecting creditor clients from bankruptcy trustees seeking to “spread the wealth.”

We also advise clients on a range of issues adjacent to foreclosures, including title examination, title claims, alternative sale procedures (including sales by receivers), construction lien law, survey law, boundary law, land use, condominium law, development rights, entitlements, zoning, environmental compliance, and permitting.

Akerman is not just experienced with secured financing and commercial loan litigation — it sets the standard. Our attorneys stay apprised of developments in the law and educate others

practicing in the same space by publishing articles, giving lectures for continuing legal education (CLE) credit, and authoring practice guides for a leading global research platform widely used by professionals in the field.

From routine issues, which we handle efficiently and cost-effectively, to complex matters where client security interests are under attack or difficult to enforce, Akerman has the experience and ability needed to bring commercial loan and secured financing litigation to an expedient and favorable outcome.

What We Do

- Complex commercial loan workouts and mortgage foreclosures on real and personal property, including multiple property portfolios spanning multiple jurisdictions
- Article 9 foreclosures and sales
- Judicial replevin
- Self-help repossessions
- Forbearance/workout agreements
- Appointment and representation of receivers
- Deficiency claims against borrowers and guarantors and enforcement and collection of deficiency judgments
- Defense of borrower claims and counterclaims, including lender liability claims
- Chapter 7, 11, and 13 bankruptcy cases and assignments for the benefit of creditors
- Post-petition financing, cash collateral, and adequate protection payments disputes
- Sales of assets under Section 363 or through a Chapter 11 plan