

Michael J. Fencer



Practice Areas

- Construction Law & Litigation
- Bankruptcy & Restructuring
- Litigation

Contact

fencer@casneredwards.com
617.426.5900

Michael J. Fencer focuses his practice on commercial insolvency and reorganization, bankruptcy litigation, construction law and complex construction litigation, commercial litigation, and administrative law. He represents corporate and other business debtors and debtors-in-possession, creditors, official committees, trustees, asset buyers, and other parties in commercial bankruptcy proceedings in United States bankruptcy courts across numerous districts, including Massachusetts, New York, Delaware, Florida, Virginia, and Texas. Michael also represents property owners, construction managers, general contractors, and subcontractors in common and complex construction disputes in both state and federal courts.

Michael has prosecuted and defended claims on behalf of clients in state and federal trial and appellate courts involving fraudulent and preferential transfers, director and officer liability and insurance coverage claims, construction defects, construction claims for lost productivity and other claims for extra-contractual compensation, and the enforcement of construction liens and bonds. Michael also has advised and represented various parties to distressed merger and acquisition transactions, as well as asset and stock transactions. He also represents licensed professionals and tradesmen in administrative enforcement and disciplinary proceedings before various state licensing boards and commissions.

Prior to entering private practice, Michael served as a law clerk to the Honorable Joel B. Rosenthal (ret.) of the United States Bankruptcy Court for the District of Massachusetts. Michael is licensed by the Commonwealth of Massachusetts as a Master Electrician and a Journeyman Electrician, and by the Federal Aviation Administration as a private single engine and multi-engine airplane pilot.

Admissions

- Massachusetts
- U.S. District Court for the District of Massachusetts
- U.S. Court of Appeals for the First Circuit

Education and Experience

JD, *cum laude*, Suffolk University Law School
BS, *magna cum laude*, Suffolk University

Bankruptcy, Insolvency & Restructuring

- Co-counsel to the official creditors' committee in the Chapter 11 cases of an international barge company.

Michael J. Fencer

- Lead counsel to the official creditors' committee in the Chapter 11 cases of a regional waste hauling company in its effort to restructure its various secured and unsecured debts through a consolidated plan of reorganization, achieving a substantial dividend for unsecured creditors through a consensual confirmed plan of reorganization.
- Lead counsel to the official creditors' committee in the Chapter 11 cases of an international shipping company, achieving a substantial dividend for unsecured creditors after payment through a consolidated liquidating plan of the remaining secured debt and substantial administrative expenses.
- Lead counsel to commercial lender in the Chapter 11 case of an owner of commercial property leased to a national brand fuel station, achieving a restructured secured mortgage providing for full payment, and all of the lender's attorneys' fees, and costs.
- Lead trial counsel to a Chapter 7 bankruptcy trustee in obtaining approval after evidentiary hearings of the compromise of a personal injury claim opposed by the purportedly injured bankruptcy debtor, resulting in a six-figure recovery by the trustee for the estate.
- Lead counsel to a five generation family-published newspaper in the sale of its publishing business and assets and its commercial real estate, and the successful wind down and termination of its underfunded defined benefit pension plan.
- Special bankruptcy counsel to a state court-appointed receiver to contest an involuntary bankruptcy proceeding initiated by creditors against a leading sleep medicine provider with offices in multiple states, and successfully negotiated a consensual dismissal of the bankruptcy proceeding to allow the proposed asset sale by the receiver under the supervision of the state court to be closed.
- Counsel to the official creditors' committee in the Chapter 11 cases of a prominent Boston hotel and condominium project, achieving full payment for unsecured creditors through a plan of reorganization that restructured a substantial amount of secured debt.
- Lead bankruptcy court and appellate counsel to petitioning creditors in a hotly-contested involuntary bankruptcy case against a real estate developer, resulting in an order for relief on summary judgment that was later sustained on appeal by both the District Court and the United States Court of Appeals

Michael J. Fencer

for the First Circuit.

- Special counsel to Chapter 7 trustee of involuntary bankruptcy debtor to recover numerous transfers of cash and cash equivalents by the debtor to his spouse and myriad special purpose entities culminating in a substantial six-figure recovery by the trustee.
- Lead counsel to the bankruptcy trustee of an e-commerce software development company seeking the recovery as fraudulent conveyances excess compensation, bonuses, and severance payments made to insiders resulting in the payment to the bankruptcy estate of a substantial six-figure settlement through informal mediation and settlement exchanges.
- Lead counsel to the official creditors' committee in the Chapter 11 case of a multi-divisional electrical contractor that included the successful recovery and collection of a substantial judgment for fraudulent conveyance and improper shareholder distribution claims against one of the debtor's former shareholders.
- Represented the creditors' committee and then the post-confirmation Liquidating Supervisor of a credit card servicing company in suits against former officers and employees.
- Lead defense counsel for the former president of a commercial and industrial oven manufacturer in an action involving claims of breach of fiduciary duty, and successfully obtaining full insurance coverage and other indemnity for the client on those claims.
- Special counsel to Chapter 7 bankruptcy trustee of a large excavation and site contractor to recover on fraudulent conveyance and civil fraud conspiracy claims, resulting in the recovery of a substantial six-figure settlement.
- Lead bankruptcy and state court counsel to national energy industry contractor to enforce its mechanic's lien on a hydro-electric power plant, resulting in full payment of its seven-figure claim.
- Lead counsel to assignee for benefit of creditors of a biomedical company that developed DNA based diagnostic testing protocols, which resulted in distributions to unsecured creditors from sale proceeds of intellectual property.
- Lead counsel to assignee for benefit of creditors of company that developed three dimensional video modeling software resulting in distributions to unsecured creditors from the sale of technology assets.

Michael J. Fencer

- Lead counsel to assignee for benefit of creditors of business-to-business seller of manufacturers' commerce solutions, resulting in distributions to unsecured creditors after the sale of intellectual property.
- Counsel to the official creditors' committee in the Chapter 11 case of a high-end jewelry and watch retailer.
- Counsel to the official creditors' committee in the Chapter 11 case of a multi-state clothing retailer.

Construction Law & Litigation and Commercial Litigation

- Lead trial counsel for a large energy industry supplier and contractor in state court litigation involving the prosecution of multi-million dollar back charge and indemnity claims, and the defense of the client against a subcontractor's multi-million dollar claims for delay, inefficiency, and lost productivity in the course of a retrofit installation of mercury and sulfur dioxide emissions reduction equipment on two 250 megawatt fossil-fueled steam electric generating units in Somerset, Massachusetts.
- Lead counsel for a consultant in defense of directors and officers claims, and the successful resolution of an insurance coverage dispute to obtaining the payment of defense costs and claim indemnity.
- Lead counsel for the general partner of a limited partnership operating a low-income tax credit housing project in litigation to recover unpaid capital contributions of other partners and other damages.
- Lead trial counsel for a large electrical subcontractor in state court litigation involving the prosecution of multi-million-dollar delay, inefficiency, and lost productivity claims against a construction manager and a prominent Massachusetts university, resulting in a substantial recovery for the subcontractor and its trade creditors.
- Lead counsel for a subcontractor in the prosecution of Miller Act claims and other related claims for delay and inefficiency damages arising on a federal project in Boston, Massachusetts.
- Lead counsel for a subcontractor in the prosecution of mechanics lien and bond claims for Boston hotel project, securing full payment for the client.
- Initiated bankruptcy and state court litigation on behalf of a cabinet and millwork supplier to create, perfect and enforce its state law mechanic's lien and related payment bond claims, resulting in a six-figure settlement recovery for the client.

Michael J. Fencer

- Documented, investigated and successfully resolved, through litigation and mediation, construction defect claims and related claims for breach of contract, negligence and unfair trade practices, with damages totaling in excess of \$2 million, asserted on behalf of the owner of a residential apartment building.

Mergers & Acquisitions

- Represented buyer in bankruptcy of substantially all of the assets of a national flower bulb and perennials sales and distribution business, obtaining bankruptcy court approval of the private asset sale, and of the buyer as fulfillment agent to operate the distribution business pending the approval and closing of the sale.
- Represented buyer in bankruptcy of substantially all of the assets of a national perennials grower and distributor operating from locations in five states, obtaining bankruptcy court approval of the asset sale, which included the resolution of numerous trademark, patent, and other intellectual property and royalty rights in certain inventory purchased.
- Represented buyer in bankruptcy of substantially all of the assets of a national perennials grower and distributor operating from locations in five states, obtaining bankruptcy court approval of the asset sale, which included the resolution of numerous trademark, patent, and other intellectual property and royalty rights in certain inventory purchased.

Michael J. Fencer

Membership and Committees

- Member, Boston Bar Association
- Member, Massachusetts Bar Association
- Member, American Bankruptcy Institute
- Member, Turnaround Management Association

Publications and Seminars

Publications

- Co-author, “Impact of Intercreditor Agreements on Subordinated Secured Claims in Bankruptcy,” *New England Bankruptcy Law 2013*, Massachusetts Continuing Legal Education
- Co-author, “Section 507(b) Superpriority Administrative Expense Claims Loom Large When “Adequate Protection” of Secured Interests Fail,” *New England Bankruptcy Law 2013*, Massachusetts Continuing Legal Education
- Co-author, “Objection to Discharge and the Advice of Counsel Defense,” Massachusetts Continuing Legal Education, 2010
- Board of Editors, Boston Bar Association Bankruptcy Law Section Newsletter and Blog, 2009-2010

Seminars

- Panel Speaker, 19th Annual New England Bankruptcy Law Conference, “Construction Liens in Bankruptcy,” Massachusetts Continuing Legal Education, 2017
- Panel Speaker, 27th Annual Bankruptcy Bench Meets Bar, “The Demise of Structured Dismissals?” Boston Bar Association, 2017
- Panel Speaker, 15th Annual New England Bankruptcy Law Conference, Massachusetts Continuing Legal Education, 2013
- Panel Speaker, “The Morning After: Coping with the Consequences of the Failed LBO/Leveraged Recap Transaction,” American Bankruptcy Institute Northeast Bankruptcy Conference, 2013
- Panel Speaker, 12th Annual New England Bankruptcy Law Conference, Massachusetts Continuing Legal Education, 2010
- Panel Speaker, “How to Organize a Privately Owned Business,” Massachusetts Continuing Legal Education, 2010
- Panel Speaker, “Diagnosing Causes of Business Failure,” American Bankruptcy Institute Northeast Bankruptcy Conference, 2008
- Panel Speaker, “Kicking Over the Chessboard: Everything a Civil Litigator Needs to Know When Another Party Files Bankruptcy,” Massachusetts Continuing Legal Education, 2006
- Panel Speaker, “Representing Low-Income Debtors in Bankruptcy,” Massachusetts Continuing Legal Education, 2005
- Panel Speaker, “De-Mystifying Bankruptcy,” Boston Bar Association, 2003

Michael J. Fencer

Honors and Awards

- Legal 500, US City Elite: Boston rankings - Banking & Finance (including restructuring), 2026
- Massachusetts Lawyers Weekly, “Go To Construction Lawyer,” 2023, 2025
- The Best Lawyers in America - Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law, Construction Law, 2020-2026
- Boston Magazine, “Top Lawyers” - Bankruptcy & Workout, 2022-2025
- Massachusetts Super Lawyers, 2011-2026
- Chambers USA - America’s Leading Business Lawyers, since 2018
- Martindale-Hubbell, “Top Bankruptcy Lawyer,” 2012
- Massachusetts Super Lawyers, “Rising Star,” 2005-2009
- AV Peer Review Rated