

Jeffrey K. Garfinkle

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Shareholder

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Areas of Practice & Industry Specialties

Insolvency & Financial Law Group; Health Care Law; Apparel & Consumer Products; Entertainment Industry Law; Fiduciaries, Receivers & Trustees; Health Care/Life Sciences; Equipment Leasing; Alternative Lenders

Jeff Garfinkle represents secured and unsecured creditors, creditors' committees, trustees, equity receivers, debtors, and other parties in a variety of bankruptcy, restructuring cases and collection matters, including out of court workouts. Jeff also specializes in matters pertaining to Articles 2 and 9 of the Uniform Commercial Code and asset sales of bankrupt and financially-troubled companies.

Jeff is regarded as one of the nation's leading healthcare and pharmaceutical insolvency attorneys. For 25 years, he has served as primary U.S. insolvency, bankruptcy and collections counsel to the world's largest healthcare corporation. In this capacity, Jeff has handled hundreds of healthcare and pharmaceutical-related bankruptcy and restructuring matters. Beyond this work, Jeff has represented committees, debtors, creditors and other parties in dozens of other healthcare bankruptcy cases. The depth and extent of Jeff's healthcare and pharmaceutical bankruptcy expertise is unparalleled.

As a recognized expert on bankruptcy, healthcare, pharmaceutical, debt financing, and commercial law issues, Jeff has spoken at numerous conferences, including those held by the National Conference of Bankruptcy Judges, American Bankruptcy Institute, and American Bar Association.

For 2024, Jeff again is recognized as one of the Best Lawyers in America in the area of Bankruptcy and Creditor Debtor Rights and Insolvency and Reorganization Law. Jeff is Vice President of the Board of Governors of the Financial Lawyers Conference and recently served as Chair for the Commercial and Regulatory Law Committee of the American Bankruptcy Institute.

Jeff joined Buchalter in 2003 following 12 years with an international law firm and a one-year clerkship with the Honorable Louise DeCarl Adler, United States Bankruptcy Judge for the Southern District of California. In addition to practicing before the United States Supreme Court, Jeff has argued appeals in six Federal Courts of Appeals and handled bankruptcy and bankruptcy-related litigation matters in dozens of districts throughout the United States.

Representative Matters

Mr. Garfinkle routinely represents clients throughout the United States. Some of the recent notable bankruptcy cases Mr. Garfinkle has handled include:

- *Endo Pharmaceuticals* (New York, NY; 2022-present); *Mallinckrodt* (Wilmington, DE; 2020-present), *Purdue Pharma* (New York, NY; 2019-present), and *Insys Therapeutics* (Wilmington, DE; 2019-present): Counsel to trade creditor and product distributor to opioid pharmaceutical companies.
- *Neopharma* (Greeneville, TN; 2020-present): Counsel to creditors' committee in bankruptcy case of the only remaining penicillin manufacturer in the Western Hemisphere.

- *Specialty Retail Shops Holding (Shopko)* (Omaha, NE; 2019-present): Counsel to pharmaceutical supplier to hundreds of in-store pharmacies and co-chair of creditors' committee.
- *Verity Health Systems* (Los Angeles, CA; 2018-2020): Counsel to Allscripts Healthcare, an IT software licensee and co-chair of creditors' committee, in Chapter 11 cases of owner of multiple hospitals throughout California. Also, counsel to a senior secured creditor, to one of the debtors.
- *21st Century Oncology* (New York, NY; 2017): Counsel to largest unsecured creditor and chair of creditors' committee in the Chapter 11 cases of approximately 100 radiation oncology facilities and related physician practices throughout the United States.
- *Adeptus Health* (Dallas, TX; 2017): Counsel to billing and collection company in the Chapter 11 cases of the largest operator of free-standing emergency rooms (around 140) located throughout the United States.
- *A&P Supermarkets* (New York, NY; 2010-2012; 2015-present): Counsel to large trade creditors and defendants in \$68 million preference lawsuits.
- *ThinkFilm, et al.* (Los Angeles and London; 2011-2015): Counsel to senior secured creditors of multinational film production and distribution companies. Defendants to multiple adversary proceedings. Total secured debt in excess of \$120 million.
- *Westcliff Laboratories* (Santa Ana, CA; 2010-2013): Counsel to creditors' committee to multi-facility medical laboratory and testing company.

Throughout his career, Mr. Garfinkle has been lead counsel in notable bankruptcy appellate decisions issued by Federal Courts of Appeals. They include:

- *Ameriquest v. Nosek*, 544 F.3d 34 (1st Cir. 2008)—first appellate court decision holding that Bankruptcy Code § 1322(b) does not require home mortgage lenders to conform internal accounting practices to the repayment structures authorized by chapter 13 plans, thereby resulting in a reversal of \$750,000 in sanctions awarded against the mortgage servicer.
- *Phar-Mor, Inc. v. McKesson*, 534 F.3d 502 (6th Cir. 2008)—landmark appellate court decision establishing the senior priority of reclaiming sellers over all secured creditors and the right of reclaiming sellers to receive administrative claims on account of goods sold on the eve of bankruptcy. In this decision, the 6th Circuit rejected numerous contrary lower court decisions.
- *In re Rainbow Magazine, Inc.*, 77 F.3d 278 (9th Cir. 1996)—recognizing the inherent power of bankruptcy courts to sanction, and in so doing, reversed prior case law in 9th Circuit.

In addition, Mr. Garfinkle has been involved with numerous disputes that resulted in reported appellate, district and bankruptcy court decisions. They include *In re Orexigen Therapeutics, Inc.*, 990 F.3d 748 (3rd Cir. 2021), 2020 WL 42824 (D. Del. 2020), and 596 B.R. 9 (Bankr. D. Del. 2018); *In re Homestead at Whitefish LLC*, 2020 Bankr. 1571; 2020 WL 7414410 (Bankr. D. Mont. 2020); *Screen Capital Int'l Corp. v. Library Asset Acquisition Co., Ltd. (In re ThinkFilm, LLC)*, 510 B.R. 266 (C.D. Cal. 2014); *In re Karykeion, Inc.*, 435 B.R. 663 (Bankr. C.D. Cal. 2010); *In re S&B Surgery Centers, Inc.*, 421 B.R. 546 (Bankr. C.D. Cal. 2009); *In re Women First Healthcare, Inc.*, 345 B.R. 131 (Bankr. D. Del. 2006); *Homestead Holdings, Inc. v. Broome & Wellington (In re PTI Holding Corp.)*, 346 B.R. 820 (Bankr. D. Nev. 2006); *In re Phar-Mor, Inc.*, 301 B.R. 482 (Bankr. N.D. Ohio 2003); *In re Jaeger*, 213 B.R. 578 (Bankr. C.D. Cal. 1997); *In re Maruko, Inc.*, 206 B.R. 225 (Bankr. S.D. Cal. 1997); *In re San Diego Symphony Orchestra Ass'n.*, 201 B.R. 978 (Bankr. S.D. Cal. 1996); *In re Maruko, Inc.*, 200 B.R. 876 (Bankr. S.D. Cal. 1996); and *In re Warner Springs Partnership*, 193 B.R. 28 (Bankr. S.D. Cal. 1995).

Presentations

- Panelist, "Bigfoot of the Bankruptcy World: The Mythical Bankruptcy Jury Trial," The Ninth Judicial Circuit Historical Society, February 22, 2024
- Speaker, "Reevaluating Class Proofs of Claim," American Bankruptcy Institute's 2022 Annual Spring Meeting, April 30, 2022

- Panelist, "The Interests of State Government in Commercial Bankruptcy Cases," American Bankruptcy Institute Webinar, March 10, 2022
- Panelist, "Mass Tort Update," American Bankruptcy Institute Caribbean Insolvency Symposium, February 8, 2022
- Speaker, "Third Party Releases, Injunctions, and Exonerations in Chapter 11 Plans and Settlements," Financial Lawyers Conference, October 21, 2021
- Speaker, "Anatomy of a Pharmaceutical Bankruptcy Case," American Bankruptcy Institute, December 3, 2020
- Speaker, "Regulatory Framework," American Bankruptcy Institute Complex Restructuring Program Panel, February 26, 2020
- Presenter, "Bankruptcy Hardball: Do Bankruptcy Courts Unfairly Advantage Debtors to the Detriment of Creditors," San Francisco Bar Association Luncheon, December 17, 2019
- Speaker, "Healthcare Receiverships: Emerging Issues and Alternative Solutions," Loews Vanderbilt Hotel in Nashville Tennessee, June 15, 2018
- Speaker, "Bankruptcy Bypass: Recent Use of State Court Healthcare Provider Receiverships in lieu of Bankruptcy," May 3, 2018
- Panelist, "Navigating Health Care Bankruptcies to Maximize Creditor Recovery," American Bankruptcy Institute, Livestream, September 8, 2017
- Panelist, "The Healthcare Industry Post-Affordable Care Act: A Bankruptcy Perspective," Emory Bankruptcy Developments Journal Symposium, February 26, 2015
- Guest, "Examining Orchestra Bankruptcy Filings," American Bankruptcy Institute Podcast, June 2, 2011
- Panelist, "Let the Advisor Beware: Ethics Missteps and Lessons in Client Management, Representations and Advocacy Found in Recent Rulings," American Bankruptcy Institute, Annual Spring Meeting, April 16, 2010

Education

Mr. Garfinkle earned his J.D. degree in 1990 from Emory University School of Law. He received his B.A. degree from the University of Florida in 1987.

Bar Admissions

- California
- Washington

Court Admissions

- Supreme Court of the United States
- Court of Appeals for the First Circuit
- Court of Appeals for the Second Circuit
- Court of Appeals for the Third Circuit
- Court of Appeals for the Sixth Circuit
- Court of Appeals for the Eighth Circuit
- Court of Appeals for the Ninth Circuit
- District Court for the Central District of California
- District Court for the Eastern District of California

- District Court for the Northern District of California
- District Court for the Southern District of California
- District Court for the Eastern District of Michigan
- District Court for the Western District of Washington
- U.S. District Court for the District of Colorado

Community

- Orchestrated, on a pro bono basis, the successful Chapter 11 reorganization of the San Diego Symphony, during which he devoted 1,000 hours and was awarded an honorary lifetime membership in the American Federation of Musicians. Twenty-five years after emerging from bankruptcy, the San Diego Symphony continues to thrive and is one of the largest endowed orchestras in the United States.
- For the last decade, Jeff has served as an advisor to the law student-run *Emory Bankruptcy Developments Journal*.