



Barry P. Caplan

PARTNER
BUSINESS GROUP CHAIR

bcaplan@sussmanshank.com

O: 503.243.1627

My Assistant

Janine E. Hume 503.243.1661 x269

Barry Caplan is the most senior lawyer at Sussman Shank. In his career with the firm he has handled matters in many areas of the firm's practices. This included litigation emphasis in his earlier years. Later, he represented many business and lender clients in a variety of matters.

In the last 25 years, his focus has been primarily on Debtor-Creditor matters in and out of Bankruptcy. He has served as Debtor Counsel in several sizable Chapter 11 cases including the Oregon Arena Case and the Hanna Car Wash Case. He also has represented Receivers in both Federal and State Court receiverships in which large business were sold or liquidated in creative and effective ways resulting in payment of the secured debt and in large distributions to the unsecured creditors. Barry's experience in business with his family and his practical approach to problem solving and his effective presentations to courts have all proved beneficial to achieving such good results.

Although Barry has vast experience in many areas of practice, one of his significant contributions to the firm has been in management. Barry was the firm's first managing partner from 1980-86, served on the management committee several times, and chaired the Bankruptcy Practice Group. Presently, he is the chair of the firm's Business Group. His leadership in these roles and on other firm committees have been invaluable in the continuing success of the firm over many years.

Industries

Banking and Finance

**Privately Held and Family-Owned
Businesses**

Practices

Business Law

**Business Restructuring and
Bankruptcy**

Education

B.A., University of Washington
Business Administration

LL.B., University of California at
Berkeley

Admissions

- Oregon State Bar
- United States District Court for
the District of Oregon

Honors

- Oregon Super Lawyers® (2006 –
2024)

“Barry Caplan used his skills, knowledge and reputation to allow our company to avoid Bankruptcy and to continue to operate and improve its long-term financial outlook.”

“I relied on Barry Caplan to deal with an existential threat to my electrical contracting company. He was able to save my business and myself from disaster and did so with skillful negotiation of a workout plan.”

“Barry Caplan represented our out of state bank in a large Oregon Chapter 11 case with over 150 Lenders involved. With Barry’s guidance and strategies we were able to obtain relief from stay for our bank ahead of the numerous other banks seeking the same relief from the same judge in the same case.”

THE ADVANTAGE OF WORKING WITH ME

I have an emphasis for seeking practical solutions for companies who are in distress with existential threats to their continuation. In two of my largest matters in recent years, the clients were referred to me for the filing of Chapter 11 Reorganization cases. Instead, I was able to carve out and structure paths with the creditors including large lenders and thereby avoid the need for filing Bankruptcy. Using those techniques, I was able to navigate the creditors through litigation, negotiation, mediation and carefully thought out strategies to survival and significant improvement in their financial condition. Both companies have survived and continued operations, one of which retaining the most valuable portion of their business while selling a smaller part. Throughout my career I have been referred and attracted many clients due to my reputation as a problem solver. These clients have accepted my advice and trusted my judgment of proper steps to save their businesses or maximize realization on their assets and minimization of their liability for debt that the owners may have personally guaranteed.

REPRESENTATIVE WORK

Alpenrose Dairy



Our team represented clients who were co-owners of one of the oldest dairies in Oregon. They were sued by minority interest holders who wanted to enjoin the sale of the dairy to a third party. The plaintiffs contended that they had or wanted to make a higher and better offer. However, their contention was not correct and actually was causing diminution in value due to the delay and publicity from the lawsuit. Our clients with other majority owners prevailed after a 5-day contested hearing. The sale was completed and closed prior to the start of the Covid-19 pandemic which might have made it difficult to complete any sale.

North Pacific Group of Companies

Served as lead counsel to the federal court receiver appointed to liquidate the assets of the North Pacific debtor companies. Our attorneys, Barry Caplan and Jeff Misley, led a team that promptly sold the company's major assets, paid its secured creditors in full within weeks of the receiver's appointment, and implemented a further liquidation strategy for the remaining assets and for distributions to creditors.

Sunwest Companies

Represented a group of financial institution lenders in one of the largest and most complex Chapter 11 bankruptcy cases ever filed in the state of Oregon involving assisted living and nursing homes located throughout the United States. Successfully asserted and protected our lender clients' rights and remedies regarding their collateral in the negotiation of a \$1.2 billion sale of the companies' assets.

Douglas Wilson, Receiver

Represented a nationally known receiver in a Superior Court of Washington case in which a large national bank was foreclosing on valuable property in downtown Seattle. Although defendants both delayed and defended the matter, we helped the Receiver find a stalking horse bidder and subsequently obtained bidding procedures whereby a competitive bid led to an auction which tripled the proceeds from the sale (and was the largest per square foot amount paid for undeveloped property to that date in Seattle). The sale was approved free and clear of liens under the Washington Receivership Statute.

Troutman's Emporium

Represented Creditors' Committee as co-counsel with a New York law firm in a Chapter 11 of a sizable chain of stores. As part of the case, was able to submit a joint plan of reorganization which

allowed for the orderly liquidation of the stores, their inventories (undergoing out-of-business sales and later liquidation sales), and by selling the designation rights to the leases at several locations in shopping centers and elsewhere. All secured creditors were paid in full, and creditors got a substantial dividend.

Oregon Arena Corporation

Represented as local counsel (with nationally known lead counsel) a corporation in Chapter 11 which owned the arena in which the Portland Trail blazers of the NBA were the lead tenant. In addition, many other events were held in the arena. Owner had dispute with Secured Lenders resulting in a contested plan of reorganization in the matter. Dispute was ultimately resolved between the parties after Lenders acquired the arena, but owner reacquired and revitalized the arena after the case was completed.

United Pipe

Represented federal court receiver in aid of liquidation of sizable Oregon company in foreclosure by bank. Successfully liquidated all assets and were able to pay secured debt and ultimately a 50% dividend to unsecured creditors.

Camera World

Represented the assignee for the benefit of creditors of a major in-store and website camera retailer in two multi-million dollar sales of the company's assets. Prepared the formal asset assignment agreement and sale documents, and handled creditor-related claim and payment issues. All secured and priority claims were paid in full, with unsecured creditors receiving a large percentage of their claims through an earn-out.

Purchasing Assets Through Bankruptcy

Represented a well-known Oregon company who desired to purchase assets and Portland-area locations of a well-known Chapter 11 debtor. There were competing bidders from two other states. The combined bids of our client and one other party were greater than the single bid from two out-of-state bidders, each of whom wanted all of the locations of the debtor. Prepared pleadings to obtain appropriate bidding procedures to enable our client to "partner" with another interested party from Oregon. Client was successful in obtaining the highest bid at an auction for the assets the client wanted. Prepared or approved all of the necessary documentation to finalize the sale of those assets. Success of our efforts enabled the acquisition of the operations synergistic to our client's existing business.

Wind-Down of Business Operations

Represented a long-time Portland retailer at several locations in a year-long program involving reduction of operations and ultimately a going-out-of-business sale. Advised client on steps to take which enabled all priority and secured debt to be satisfied. Successful in enabling company to satisfy secured debt (and, in turn, minimize individual owner's guaranty exposure to lender).

PUBLICATIONS

Oregon State Bar Continuing Legal Education

- Bankruptcy Law
 - "Consummating the Chapter 11 Plan of Reorganization"
- Civil Litigation Manual
 - "Collection of Judgments"
- Creditors' Rights and Remedies
 - "Provisional Process"
 - "Supplemental Proceedings"

NACM-Oregon, Inc.

- Business Credit Journal
 - "Setoff & Recoupment" Pamphlet
 - "Proofs of Claim in Bankruptcy"
- Credit Today Magazine
 - "You Take the Gavel - Subordinate Debentures"

Oregon Business Lawyer

- "How the Recent Bankruptcy Law Changes Affect the Use of Chapter 11 by Business"

The Oregon Certified Public Accountant

- "New Bankruptcy Law Impacts Corporate Debtors"

SPEAKING ENGAGEMENTS

- "Bankruptcy Overview and Related Topics", *NACM Commercial Services National Forest Products Group* (2019)
- "Best Practices of Unsecured Creditors Pre and Post Bankruptcy of Customers", *NACM Northwest* (2017)
- NACM Western Region & CFDD National Conference (2015)
- Oregon Executive Forum
- Opportunities to Profit in Chapter 11 - Hidden Benefits for You and Your Business

ORGANIZATIONS

Professional Organizations

- American Bar Association
 - Business Law Section, UCC (Secured Transactions) and Leasing Committees
- Commercial Financial Services Committee
- American Bankruptcy Institute (Unsecured Trade Creditors' Committee)
- Multnomah County Bar Association (CLE and Professionalism Committees)
- Oregon State Bar
 - Debtor/Creditor Section
 - Business Law Section
- Oregon Law Commission Receivership Working Group (2016-2017)
- Board of Bar Examiners (1977-1980, Chairman 1980)
- Commercial Law League of America
 - Chairman, Western Region (1986 - 1987)
- National Association of Credit Management-Oregon
 - Board of Directors (1993 - 1999); Chairman (1997 - 1998)

Civic Organizations

- Gearhart Green Condominium Association, Inc.
 - Board Member (2022)
- Jewish Federation of Portland
 - Board of Directors (1990-1996); Vice President (1994-1996)

PERSONAL INTERESTS

I am a native Oregonian who grew up in a prominent Oregon business family. Outside of the office, I enjoy spending time with my wife of 61 years, my children and 4 grandchildren (when they are home from college). I enjoy playing golf and spending time walking or exercising. I also enjoy reading especially American History and John Grisham novels. My wife and I enjoy traveling to Europe and are planning trips in the future.