

Judith Greenstone Miller

PARTNER

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Practice Areas

- ▷ Insolvency & Reorganization
- ▷ Data Privacy & Cybersecurity
- ▷ Litigation & Dispute Resolution

Education

- ▷ Wayne State University Law School
J.D., *cum laude*
- ▷ University of Michigan
B.A., *cum laude*

Bar Admission

- ▷ Michigan

Court Admissions

- ▷ U.S. District Court for the Eastern District of Michigan
- ▷ U.S. District Court for the Western District of Michigan
- ▷ U.S. Court of Appeals for the Sixth Circuit

Overview

Judith Greenstone Miller is an attorney in our Insolvency & Reorganization and Data Privacy & Cybersecurity practice groups. She specializes in bankruptcy, insolvency, creditors' rights and commercial litigation. Her practice involves representing debtors, secured and unsecured creditors, creditors' committees, and trustees in bankruptcy proceedings, primarily involving Chapter 11 reorganizations. Judy also represents parties in litigation in complex commercial disputes. She has testified numerous times on pending bankruptcy legislation before the National Bankruptcy Review Commission, the Judiciary Committees of the United States House of Representatives, and the United States Senate. Judy is a frequent lecturer nationally and has authored and co-authored many articles on bankruptcy law and procedure, revised Article 9 of the Uniform Commercial Code, and state law creditor rights issues, including receiverships and domestic asset protection trusts.

Significant Matters

- ▷ Reported decision in *In re Trident Associates, L.P.*, 53 F.3d 127 (6th Cir. 1995)

Publications

- ▷ *The New Small Business Bankruptcy Law: What You Need to Know*, _ Mich.Bus.L.J._ (Fall, 2019), co-authored by Judith Greenstone Miller and Paul R. Hage
- ▷ "The New Michigan Commercial Real Estate Receivership Act" (May 2018)
- ▷ "The New Michigan Domestic Asset Protection Trust Statute and Its Impact on Fraudulent Transfer Law," 38 Mich.Bus.L.J. 24 (Spring 2018)
- ▷ "The New Michigan Domestic Asset Protection Trust Statute" (October 2017)
- ▷ "The Sixth Circuit Court of Appeals Holds That a Perfected Assignment of Rents Enforced Pre-Petition Excludes Such Rents From Being Property of the Bankruptcy Estate," 37 Mich.Bus.L.J. 37 (Spring 2017)
- ▷ "The FTC's Expansive "Watch Dog" Role in Questions – How Business Should Respond" (2017)
- ▷ "New Ruling by U. S. Supreme Court on Standing to Pursue Litigation – Alleging a "Mere Statutory Violation" Is Not Sufficient to Confer Article III Standing for a Federal Cause of Action," 36 Mich.Bus.L.J. 39 (2016)
- ▷ "Summary of Powers of an Emergency Manager Under Public Act 436" (July 2014)
- ▷ "Summary of Options for Local Governments Determined to be in a Financial Emergency to Elect Under Michigan Public Act 436" (July 2014)
- ▷ "A Guide to Chapter 9 of the Bankruptcy Code: What You Need to Know" (2013)
- ▷ "The Constriction of Bankruptcy Court Jurisdiction: The Limitations of Post-Confirmation Jurisdiction and Impediments to Pursuing Causes of Action" (2012)

- ▶ “Of Claims, Planes and Automobiles — Recent Developments on Section 503(b)(9) and Reclamation Claims,” American Bar Association Newsletter (2009)
- ▶ “503(b)(9) Claimants-The New Constituent, A.K.A The 500 Pound Gorilla’ at the Table,” DePaul Bus. & Comm.L.J., Vol. 5, No. 3 (2007)
- ▶ “Waivers of Automatic Stay: Are They Enforceable,” Real Property, Probate and Trust Journal, Vol. 41, Number 2 (2006)
- ▶ “Protecting Professional Fees From Disgorgement: Obtain Carve-Outs From Secured Creditors to Safeguard Against Uncertainties,” American Bankruptcy Institute Journal, Vol. XXV, No. 5 and No. 6 (2006)
- ▶ “Lenders Best Practices, Rights and Remedies, Michigan Special Tools and Mold Lien Act” (February 2005)
- ▶ “The Plan of Reorganization: A Thing of the Past: Pushing the Envelope in Liquidation of the Estate: Reexamining Sections 363 and 365 of the Bankruptcy Code,” Journal of Bankruptcy Law and Practice, Vol. 13 (August 2004)
- ▶ “The Ultimate Garage Sale – Disposing of a Troubled Company,” Business Law Today, Vol. 14, No. 1, pg. 11 (Sept./Oct. 2004)
- ▶ “Waivers of Automatic Stay,” 26 Mich. Real Property Review 195 (2000)
- ▶ “U.S. Supreme Court Rules on “New Value” or Does It?,” 26 Mich. Real Property Review 67 (1999)
- ▶ “Sales of Real Estate and Other Property of Bankruptcy Estates Under the Revised Local Bankruptcy Rules of the U.S. Bankruptcy Court for the Eastern District of Michigan,” 26 Mich. Real Property Review 19 (1999)
- ▶ “The “New Value” Exception: Myth or Reality After *Bank of America National Trust & Savings Association v. 203 N. LaSalle Street Partnership*,” 104 Comm.L.J. 147 (1999)
- ▶ “Recent Developments in New Value and Single Asset Real Estate Cases,” 24 Michigan Real Property Review 23 (1998)
- ▶ “Valuation After *Commercial Associates Corp. v. Rash*; Landlord Beware! What Happens to the Option to Renew When the Tenant Files Bankruptcy,” 24 Mich. Real Property Review 135 (1997)

Speaking Engagements

- ▶ Understanding the Nuts & Bolts of the “New” Subchapter V Small Business Chapter 11, American Bankruptcy Institute Webinar (May 7, 2020)
- ▶ *Discovery Rules Evening Forum, “ESI (“Electronically Stored Information”) Under the New Michigan Court Rules,”* Michigan Association for Justice, September 26, 2019
- ▶ Presentation of the New Commercial Real Estate Receivership Act, Michigan Judicial Institute, Business Law Judges (June 25, 2018)
- ▶ Moderator, “The “New” (Not So New) Uniform Assignment of Rents Statute – A Sign of Better Things to Come?,” American Bar Association, Business Bankruptcy Committee (April 13, 2018)
- ▶ Assignment of Rents and Bankruptcy, State Bar of Michigan, Debtor/Creditor Rights Committee (August 9, 2017)
- ▶ “Electronic Discovery (ESI) Issues For Business Lawyers,” ABA Business Law Section, Spring Meeting (April 2016)
- ▶ Moderator, “The New Playing Field for State Court Receivership: The View from the Bench”. State Bar of Michigan Business Law Section (Spring 2015)
- ▶ American Bankruptcy Institute, 2015 Chicago Consumer Bankruptcy Conference, Keynote Luncheon Speaker, “Ethics – Honor the Profession,” Chicago, Illinois, (October 12, 2015)
- ▶ “Electronically Stored Information (“ESI”) and Discovery Issues in Bankruptcy,” Federal Bar Association, Western District of Michigan, 27th Annual Bankruptcy Seminar (July 31, 2015)
- ▶ Moderator, “All You Ever Wanted to Know (And Were Afraid to Ask But Now Can!) About the Detroit Bankruptcy,” Joint Program of the Debtor-Creditor Rights Committee of the Business Law Section of the State Bar of Michigan and the Bankruptcy Section of the Federal Bar Association of the Eastern District of Michigan (July 2015)
- ▶ “Electronically Stored Information (“ESI”) Discovery for Bankruptcy Practitioners,” Debtor-Creditor Rights Committee of the Business Law Section of the State Bar of Michigan (May 15, 2015)
- ▶ Campbell Law School Symposium on Municipal Restructurings, October 17, 2014
- ▶ “Take the Fight Outside! Dispute Resolution in Commercial Finance – Protecting the Value of the Deal, Use and Enforcement of Arbitration Provisions in Workouts and Bankruptcy

Bankruptcy Committee, and the Bankruptcy Court Structure and Insolvency Process Committee Roundtable, March 6, 2014

- ▶ "The ABI National Ethics Task Force Report," Cleveland Bar Association, 2013 O'Neill Institute (June 7, 2013)
- ▶ "Presentation of the Final Report of the Ethics Task Force," American Bankruptcy Institute, 31st Annual Spring Meeting (April 21, 2013)
- ▶ "Complex Bankruptcy Litigation in a Stern World." American Bankruptcy Institute, 24th Annual Winter Leadership Conference (November 30, 2012)
- ▶ "I Consent [To the Bankruptcy Court Hearing] – Not So Fast!!!," American Bar Association, Business Bankruptcy Committee, Business Law Section (November 27, 2012)
- ▶ "It's Never Over: Post-Confirmation Jurisdiction, Liquidating Trusts and the Continuing Pursuit of Assets," Commercial Law League of America, Current Developments in Hot & Emerging Areas of Bankruptcy, National Conference of Bankruptcy Judges (October 25, 2012)
- ▶ "What Non-Bankruptcy Attorneys Need to Know About Bankruptcy," State Bar of Michigan, Solo and Small Practitioner's Section (October 2012)
- ▶ "What Have You Done to Me Lately? *Stern v. Marshall* and Bankruptcy Court Jurisdiction," American Bankruptcy Institute, 18th Annual Central States Bankruptcy Workshop (June 8, 2012)
- ▶ "Managing Ethical Dilemmas in Restructuring and Turnaround Ethic and Professional Responsibility," Joint TMA/IWIRC Presentation on Ethics (May 16, 2012)
- ▶ "21st Century Ethics – Part I," American Bankruptcy Institute, Annual Spring Meeting (April 2012)
- ▶ "Ethics – National Standards for Professional Conduct by Lawyers in Bankruptcy Cases," State Bar of Wisconsin, Bankruptcy, Insolvency & Creditors Rights Section (March 1–2, 2012)
- ▶ "Ethical Standards Reexamined – A Discussion of New National Ethics Standards for Practitioners," 2012 National CLE Conference (January 6, 2012)
- ▶ "Getting What You Bargained For: Hot Issues Impacting the Chapter 11 Confirmation Process, 2012 National CLE Conference, January 6, 2012
- ▶ "*Stern v. Marshall* and Bankruptcy Court Jurisdiction," Commercial Law League of America and its Bankruptcy Section, National Webinar (October 4, 2011)
- ▶ "Actions to Avoid and Recover Fees," American Bankruptcy Institute, Annual Spring Meeting (April 2011)
- ▶ "Title II, The Orderly Liquidation Authority Under the Dodd-Frank Wall Street Reform and Consumer Protection Act," The University of Miami Law School, The Business and International Comparative Law Symposium (April 2, 2011)
- ▶ Moderator, "Lehman Failure Replayed: Would FDIC Liquidation Be More Orderly Than Bankruptcy?," American Bar Association, Spring Business Law Meeting, Joint Presentation of the Business Bankruptcy Committee and the Banking Committee (April 2011)
- ▶ "Navigating Through the Ethical Maze of Fiduciary Duties: Ratting on Clients and Other Hazards," American Bankruptcy Institute, Valcon Conference (February 25, 2011)
- ▶ "Current Issues in Chapter 11, The Estate Versus the Debtor in Possession – To Whom Do You Owe Fiduciary Duties and the Implications of Breaching that Duty and Recent Case Law Update," National CLE Conference (January 6, 2011)
- ▶ "*Iqbal & Twombly*: Application of the New Heightened Pleading Standard in Bankruptcy Cases," National CLE Conference (January 6, 2011)
- ▶ "Bankruptcy Basics – What You Need to Know," Michigan Association of CPA's Construction Industry Conference (August 2010)
- ▶ "The New Financial Reform Act: What Does It Mean For Your Practice?," American Bar Association, National Webinar on Dodd-Frank Wall Street Reform and Consumer Protection Act (August 2010)
- ▶ "Ethics & Professional Responsibility – the Basics, Professional Standards for Retention, Disclosure, Disinterestedness, Duty of Confidentiality, Inadvertent Disclosure, Conflicts of Interest, Mobility of Counsel and E-Discovery Issues," American Bankruptcy Institute, 28th Annual Spring Meeting, Nuts & Bolts Program (April 29, 2010)
- ▶ "Dealing With the 800lb Gorillas – The Practical Guide to Chapter 11 Administration, Priority and Reclamation Claims," National CLE Conference (January 6, 2010)
- ▶ "Litigation: Ethics – Professional Conflicts and Disclosures," Southeastern Bankruptcy Institute (April 23, 2009)
- ▶ "Retail Issues – Reclamation and Section 503(b)(9) Claims," Southeastern Bankruptcy Institute (April 23, 2009)

- ▶ “What Commercial Litigators Need to Know About Bankruptcy,” State Bar of Michigan, Business Law Section, Commercial Litigation Committee (April 30, 2008)
- ▶ “Navigating the Complex Web of Ethical Issues in Business Bankruptcies: Conflicts of Interest, Disclosure, Disinterestedness, Disgorgement and Other Issues,” Alleghany Bankruptcy Association, 20th Annual Bankruptcy Symposium (November 30, 2007)
- ▶ “Ouch – Administrative Insolvency and Disgorgement of Fees – Case Strategies,” American Bankruptcy Institute, Central States Bankruptcy Workshop (June 14, 2007)
- ▶ “The Application of State Ethics Rules in Bankruptcy: Are We Just Holding Our Noses and Looking the Other Way?,” American Bankruptcy Institute, 25th Annual Spring Meeting (April 12, 2007)
- ▶ “Recent Developments Affecting Business and Chapter 11 Cases Under the Bankruptcy Abuse Prevention and Consumer Protection Act,” American Bankruptcy Institute, Annual Winter Leadership Conference (December 1, 2006)
- ▶ “Everything You Always Wanted to Know (And Didn’t Necessarily Ask) About Creditor Committee Representation, Negotiating the Ethical Minefield of Creditors Committee Representation – Luring, Landing and Keeping the ‘Big Fish,’” Commercial Law League of America, 21st Annual Current Developments in Hot & Emerging Areas, National Conference of Bankruptcy Judges (November 2, 2006)
- ▶ “Bankruptcy Ethics,” Detroit Bankruptcy Bar, BAPCPA: One Year Later, A Columbus Day Seminar (October 9, 2006)
- ▶ “Recent Developments Affecting Businesses and Chapter 11 Cases Under the Bankruptcy Abuse and Consumer Protection Act,” American Bar Association, Annual Meeting, Presentation of the Business Bankruptcy Committee (August 5, 2006)
- ▶ “Analysis of New Bankruptcy Law, Amendments Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Chapter 11 and Business Bankruptcy Amendments,” Commercial Law League of America, Midwest Regional Meeting (April 8, 2005)
- ▶ “Proposed Revisions to Bankruptcy Code From S.256 as Relates to Avoidance Actions,” American Bar Association, Spring Meeting of the Business Law Section (March 31, 2005)
- ▶ Moderator, “Getting to a Verdict – Evidence to Successfully Prove an Avoidance Action Through the Use of Expert and Consulting Witnesses,” American Bar Association, Spring Meeting of the Business Law Section (March 31, 2005)
- ▶ “Tenancy by the Entireties,” American Bankruptcy Institute, 16th Annual Winter Leadership Conference (December 2, 2004)
- ▶ “The Plan of Reorganization – A Thing of the Past? Pushing the Envelope in Liquidation of the Estate,” American Bankruptcy Institute, Central States Bankruptcy Workshop (June 3, 2004)
- ▶ “Acquisition of the Troubled Company,” American Bar Association, Business Law Section, 8th Annual National Institute on Negotiating Business Acquisitions (November 6, 2003)
- ▶ Moderator, “The Power of the Bankruptcy Court to Issue Sanctions and Penalties – The Origin of the Power – The Necessity Doctrine and Section 105 of the Bankruptcy Code,” American Bar Association, Business Bankruptcy Committee (October 17, 2003)
- ▶ Forum Shopping, First Day Order and Case Management Issues in Bankruptcy and Fiduciary Duties: Indemnification, Pre-Petition and Pursuing Actions Before Filing, DePaul Business and Commercial Law Journal Symposium on “Mega-Bankruptcies: Representing Creditors and Debtors in Large Bankruptcies” (April 10, 2003)

Affiliations

- ▶ State Bar of Michigan
- ▶ State Bar of Michigan, State Bar Civil Discovery Court Review Special Committee
- ▶ State Bar of Michigan, Business Law Section, Co-Chair, Debtor-Creditor Rights Committee (2000—Present); Receivership Task Force and the Assignment of Rents Task Force; and Business Council (2010—2013).
- ▶ American Bar Association, Business Law Section, Business Bankruptcy Committee, Chair, Legislation Sub-Committee (2008—2014; 2017—Present); Chair of the Membership Subcommittee and Director of Membership Committee of the Business Law Section (2012—2015); Co-Chair, Bankruptcy Appeals Subcommittee (2005—2008); Chair, Litigation Subcommittee (2002—2005).
- ▶ American Bar Association, Business Law Section, Committee on Bankruptcy Court Structure and the Insolvency Process, Chair of the Attorney Discipline Task Force; Co-Chair of Task Force on Bankruptcy Rules; Member, Electronic Discovery Task Force, Katrina Hurricane

- ▶ Mediation Panel for the U.S. Bankruptcy Court, E.D. Mich.
- ▶ Chapter 11 Rules Committee for U.S. Bankruptcy Court, E.D. Mich.
- ▶ Bankruptcy Judges Tribute Dinner Committees for the U.S. Bankruptcy Court, E.D. Mich.
- ▶ American Bankruptcy Law Journal, Member, Advisory Editorial Board (2013—2016)
- ▶ American Bankruptcy Institute, Chair of the National Ethics Standards Task Force (2010—2013); Co-Chair of Ethics and Professional Compensation Committee (2008—2011); and Member of the Central States Bankruptcy Workshop Advisory Board (1998—2003).
- ▶ Commercial Law League of America, Bankruptcy and NCBJ Committee Sections, Chair of the Bankruptcy Section (2002); Chair of the NCBJ Committee (2007—2012) and Member (2007-present)
- ▶ Detroit Chapter of the American Jewish Committee, Board of Trustees (1998—2008, 2015—2017), Vice President (2005—2007), Secretary (2003—2004), Treasurer (2000—2003), Chair of the Nominating Committee (2000—2006) and Member of Executive Committee (2000—2008).
- ▶ The Eisenhower Dance Company, Board of Directors (2003—2010)
- ▶ Great Lakes Chamber Music Festival, Board of Directors
- ▶ Gleaners Food Bank of Southeastern Michigan, Member and Vice-Chair of the Development Committee
- ▶ The Heidelberg Project, Board of Directors (2010—2012)
- ▶ American Jewish Committee, Member, Executive Committee, Chair of Nominating Committee (1998-2014)
- ▶ Jewish Community Relations Council/American Jewish Committee, Governmental-Relations Committee

Recognition

- ▶ American Lawyer Media and Martindale-Hubbell Top Rated Lawyer in Commercial Litigation 2013
- ▶ Best Lawyers in America, 2020, 2021
- ▶ Michigan Super Lawyer, 2006—2019
- ▶ HOUR Detroit Magazine: Top Women Attorneys in Michigan, 2015
- ▶ Recognized as local practitioner that is a nationally recognized bankruptcy leader by the Michigan Consumer Bankruptcy Association, 2000