



## James D. Silver

Partner

Fort Lauderdale

(954) 370-9970

jsilver@kklaw.com

### Overview

## Biography

James Silver is an “AV” rated Partner and Business Unit Leader for the firm’s **Commercial Creditors Rights Bankruptcy Practice**. With over 40 years of experience, James is a commercial litigator who concentrates his practice on **business bankruptcies, receiverships, the enforcement of creditors’ rights, and complex commercial litigation**.

As a trial attorney, James has handled commercial disputes in a wide variety of practice areas. His experience includes individual and class shareholder actions, Ponzi scheme litigation, shareholder derivative suits, fraudulent transfer litigation, disputes between owners and among shareholders or stakeholders, lender liability claims, litigation arising in connection with distressed assets, securities litigation, class action defense, banking litigation, misappropriation of trade secrets and general bankruptcy litigation.

James also represents fiduciaries, including receivers, assignees for the benefit of creditors, and trustees in all forums. His practice covers a full spectrum of complex insolvency issues for clients in diverse industries, including real estate, financial and economic services, state and local governments, e-commerce, and telecommunications.

James is a certified Circuit Court Mediator in Florida and has mediated cases involving legal malpractice, Chapter 11 Bankruptcy, and state court creditors’ rights litigation. He is rated AV Preeminent by Martindale-Hubbell since 1992, which indicates a demonstration of the highest professional and ethical standards and is the highest rating a lawyer can receive.

James graduated in the top 3% of his law school class and served as the Associate Research Editor of the University of Miami Law Review.

## Admissions

- ▶ Florida
- ▶ United States District Court, Southern District of Florida
- ▶ United States District Court, Middle District of Florida
- ▶ United States District Court, Northern District of Florida

## Education

- ▶ University of Miami School of Law, J.D., *magna cum laude*, 1982
- ▶ Arizona State University, B.S., 1979

## Representative Cases

- ▶ Represented over 80 victims in matters associated to the Rothstein Rosenfeld Adler, P.A. Chapter 11 Bankruptcy case relating to a multi-billion dollar Ponzi scheme perpetrated by the law firm’s CEO and 50% owner Scott Rothstein.

- ▶ Served as Lead counsel for the City of Port Saint Lucie in successfully obtaining a receiver for a non-profit biomedical research institute over substantial opposition. The receiver was sought in connection with the non-profit entity's default on over \$60 million in municipal financing used to acquire a 100,000 square foot state-of-the-art building to house the institute.
- ▶ In an SEC enforcement action by United States District Court, Middle District of Florida, over various entities engaged in a multi-state Ponzi-scheme involving wireless credit card terminals: 1) Appointed as the Receiver; 2) Administered the receiver estate, oversaw and participated in the investigation and litigation to recover funds for the defrauded investors; 3) Developed and oversaw the claims procedure for the receivership and distribution of the recovered funds on account of claims in the receivership; and 4) Testified at the Texas trial of the principal of receivership entities who was found guilty and sentenced to 99 years in prison.
- ▶ Assisted with the representation of the State of Florida Department of Economic Opportunity, Palm Beach Capital, and the City of Port Saint Lucie in connection with fraud and other claims against former officers and directors of a digital effects company, which filed a Chapter 11 bankruptcy case in Delaware. Attended mediations to assist in negotiating global settlement, and ultimately served as Lead Counsel in documenting bankruptcy settlement details with attorneys for various officers and directors, attorneys for class action and other plaintiffs, attorneys for the Creditors Committee, and attorneys for the senior lenders, and obtaining bankruptcy court approval for the settlement.
- ▶ Represented a diverse group of plaintiffs who were seeking recovery of over \$225 million in investor losses resulting from a billion dollar structured settlement Ponzi scheme. This nationally publicized case focused on a national Bank's role in facilitating this criminal enterprise asserting novel claims that the Bank willfully aided and abetted the Ponzi fraud. After months of litigation, the matter was resolved through settlement resulting in the clients receiving the highest percentage of recovery for victims entangled in a Ponzi scheme
- ▶ Served as the Court-appointed Receiver in connection with an S.E.C. Enforcement Action relating to an approximately \$22 million Ponzi scheme and oversaw the extensive investigation and litigation of the fraudulent scheme, the dissipation of assets, and the fraudulent transfers.
- ▶ Represented a Receiver in a telecommunications corporation receivership relating to a fraudulent wireless cable venture.
- ▶ Represented an Unsecured Creditors Committee and the Liquidating Trustee in connection with the bankruptcy of one of the largest wholesale distributors of brand-name fragrances in the United States. Also oversaw the investigation and handled related litigation arising from alleged fraudulent scheme relating to \$65 million line of credit and alleged inflating of the sale for S.E.C. filings.
- ▶ Served as lead bankruptcy counsel for a Bank assignee in a Chapter 11 bankruptcy of an affiliate of an individual corporate guarantor against whom a judgment for over \$40 million had been entered, and against whom a freeze order had been introduced, freezing more than \$40 million in assets held in an offshore Cayman Island trust. Ultimately, negotiated a settlement for more than \$30 million.
- ▶ Served as lead counsel representing a lab in connection with a Chapter 11 bankruptcy of a rural hospital in which the Debtor and Creditors Committee asserted that bankruptcy estate had over \$67 million in claims against the client. Participated in a two-day mediation in Orlando which resulted in a settlement term sheet. Currently finalizing negotiation of the final settlement agreement, which includes a bar order against various third-party claims.

## Practice Areas

- ▶ Business Bankruptcy and Creditors' Rights
- ▶ Complex Commercial Litigation

## Accolades, Associations & News

### Awards

- ▶ *Best Lawyers®*, "The Best Lawyers in America®", Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law, Commercial Litigation, 2018 - 2022
- ▶ *South Florida Legal Guide*, "Top Lawyers," 2007, 2013 - 2017, 2020 - 2021
- ▶ *Fort Lauderdale Illustrated*, "Top Lawyer", Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, 2020 - 2021
- ▶ *Martindale-Hubbell*, AV® Preeminent™, since 1992
- ▶ *Daily Business Review*, "Most Effective Lawyer", Bankruptcy Category, 2013
- ▶ The University of Miami Law Review, Associate Research Editor, 1982
- ▶ *Super Lawyers* magazine, Florida "Rising Stars," Bankruptcy:Business, 2022



## Associations

- ▶ Broward County Bar Association (BCBA)

## Speaking Engagements

- ▶ Presenter, *The In Pari Delicto Defense to Bankruptcy and Other Claims Against Directors, Officers, and Third Parties*, June 2020
- ▶ Panelist, *Bankruptcy, Contract Renegotiations, and Other Legal Tools to Survive*, Hispanic Unity of Florida's 2020 Entrepreneur Summit, August 2020

## Media

- ▶ Quoted, "[Why Small Business Bankruptcy Could Lead a National Insolvency Wave](#)," *Daily Business Review*, April 2022
- ▶ Quoted, "[The Days Of 'Eerie' Bankruptcy Silence Are Numbered](#)," *Law360*, August 2021
- ▶ Quoted, "[Bernie Madoff is Dead: Where Does That Leave His Victims' Cases?](#)", *Daily Business Review*, April 2021
- ▶ Quoted, "[South Beach Nightclub Is Priced in Bitcoin — But What About Volatility?](#)", *Daily Business Review*, March 2021
- ▶ Quoted, "[Expiring Debt Cap To Limit Small Business Bankruptcy Fast Lane](#)", *Bloomberg Law*, March 2021
- ▶ Quoted, "[Bankruptcy Practice's Human Element Also Fell To COVID-19](#)", *Law360*, March 2021
- ▶ Quoted, "[Landlords Are Accepting Partial Rent Payments. Ruling Shows This Might Be a Mistake](#)", *Daily Business Review*, March 2021
- ▶ Quoted, "[The Fight Over JCPenney's Real Estate Foreshadows the Fate of Malls](#)", *Commercial Observer*, December 2020
- ▶ Quoted, "[Coronavirus Relief Bill Could Complicate PPP Precedent in 11th Circuit](#)", *Daily Business Review*, December 2020
- ▶ Featured, "[Inside Retail Bankruptcies](#)", *Reuters*, December 2020
- ▶ Quoted, "[J.C. Penney to Exit Longtime Custom-Built Headquarters](#)", *CoStar*, November 2020
- ▶ Quoted, "[Bankruptcy Judge Approves J.C. Penney's Plan to Emerge From Chapter 11](#)", *CoStar*, November 2020
- ▶ Quoted, "[YouFit Health Clubs' Bankruptcy Petition Is Another Hit to Mall Operators](#)", *Daily Business Review*, November 2020
- ▶ Quoted, "[Dave & Buster's Seeks Liquidity From \\$500 Million Junk Bond](#)", *Yahoo Finance*, October 2020
- ▶ Quoted, "[Dave & Buster's Seeks Liquidity From \\$500 Million Junk Bond](#)", *MSN*, October 2020
- ▶ Quoted, "[Dave & Buster's Seeks Liquidity From \\$500 Million Junk Bond](#)", *Bloomberg News*, October 2020
- ▶ Quoted, "[Decision Limits Receivers Power to Recover Torts Damages from Third Parties in Fraud Cases](#)", *Daily Business Review*, June 2020
- ▶ Quoted, "[Lawyer Guidance: Advise Clients of New Ruling and Hidden Consequences of Garnishment Writs](#)", *Daily Business Review*, May 2020
- ▶ Featured, "[South Florida \(and everywhere\) facing Avalanche of Bankruptcies](#)", *Channel 10*, April 2020
- ▶ Featured, "[610 WIOD Radio Interview on Bankruptcy Options for Businesses](#)", 610 WIOD Radio, April 2020
- ▶ Quoted, "[Here Come the Lawyers: A Look at the Key Players in the Sears' Chapter 11 Case](#)", *Daily Business Review*, October 15, 2018
- ▶ Featured, "[One Liners Broward](#)", *South Florida Business & Wealth*, October 2018
- ▶ Featured, "[People on the Move](#)", *Sun-Sentinel*, September 16, 2018
- ▶ Featured, "[On the Move](#)", *Florida Bar News*, September 15, 2018
- ▶ Featured, "[People on the Move](#)", *South Florida Business Journal*, September 4, 2018
- ▶ Featured, "[On the Move](#)", *Daily Business Review*, August 31, 2018
- ▶ Featured, "[Kelley Kronenberg taps Veteran Litigator To Lead Firm's Commercial Creditors Rights Bankruptcy Group](#)", *Attorney at Law Magazine*, August 22, 2018
- ▶ Featured, "[Movers](#)", *Miami Herald*, August 20, 2018
- ▶ Featured, "[People on the Move](#)", *Sun-Sentinel*, August 16, 2018
- ▶ Featured, "[People on the Move](#)", *South Florida Business Journal*, August 14, 2018
- ▶ Featured, "[Kelley Kronenberg taps Veteran Litigator To Lead Firm's Commercial Creditors Rights Bankruptcy Group](#)", *Legal Learning Series*, August 14, 2018
- ▶ Featured, "[Bankruptcy Expert Silver Joins Kelley Kronenberg as Partner](#)", *ABF Journal*, August 10, 2018
- ▶ Featured, "[Kelley Kronenberg Appoints James D. Silver To Lead Firm's Commercial Creditors Rights Bankruptcy Group](#)", *CityBizList South Florida*, August 9, 2018
- ▶ Featured, "[Kelley Kronenberg Taps Veteran Litigator to Lead Firm's Commercial Creditors Rights Bankruptcy Group](#)", *Accesswire*, August 2018

## Publications

- ▶ Author, “When Business Goes Bad, Know Your ABCs”, *Bloomberg Law*, April 2021
- ▶ Author, “For Commercial Landlords, a Shift in Courts’ Sentiments Could Spell Trouble With Tenants”, *Daily Business Review*, February 2021
- ▶ Author, “Business in a Cash Crunch Should Consider Chapter 11”, *South Florida Business and Wealth*, March 2020

## Blogs

- ▶ <https://www.kelleykronenberg.com/combating-bad-faith-bankruptcy-filings/> , July 2022

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## News & Insights

- ▶ Four Kelley Kronenberg Partners Recognized in The Best Lawyers in America © 2022
- ▶ Kelley Kronenberg Attorneys Receive 2021 AV Preeminent Rating from Martindale-Hubbell
- ▶ Five Kelley Kronenberg Attorneys Recognized as “2021 Top Lawyers” by Fort Lauderdale Illustrated