

Profiles in Delaware Law



By Ian Connor Bifferato, Esquire

Mark D. Collins

Biographical Information

Born: July 8, 1965

Education:

Rutgers University, B.A., Economics, 1987

American University's Washington College of Law, J.D., summa cum laude, 1991

Admission to the Bar: 1991

Family Background:

Lauren (15), Caroline (14), Charlie (12)

History of experience as a Delaware lawyer

- Started at Skadden Arps in 1991, then transferred to Richards, Layton & Finger, P.A., in 1993;
- Former Chair of the Delaware Bankruptcy Court's Local Rules Committee;
- Current Chair of the Legislation Committee of the Bankruptcy Section of the Delaware State Bar Association;
- Chair, Finance & Banking Committee of the American Bankruptcy Institute;
- Listed in *The Best Lawyers in America*, *Delaware Super Lawyers*, *Chambers USA – America's Leading lawyers for Business*, *The International Who's Who of Insolvency & Restructuring Lawyers*, and *The Deal* as a leading bankruptcy attorney.

In Re: You are Chair of the Restructuring and Bankruptcy Department for Richards, Layton & Finger, P.A., which has certainly provided you with significant experience in the filing trends in the United States Bankruptcy Courts and in particular the District of Delaware. Do you have any insights into

what the recent increase in large Chapter 11 filings means for the near future of the economy, both nationally and locally?



Photos by Luigi Ciuffetelli

MDC: The Delaware Bankruptcy Court is in many ways a national court for large corporations that are experiencing significant financial distress. As a result, what we see happening in the Delaware Bankruptcy Court is a reflection of what is

happening throughout corporate America. In that regard, we have seen a dramatic increase in corporate bankruptcy filings since January. Over the past few years, corporate bankruptcy filings were really focused in just a few industries, such as the subprime mortgage, automotive parts, and telecommunication sectors. Today, however, we're seeing corporate failures across all industries—from financial firms, to retailers, to homebuilders, to industrial manufacturers. I think our Bankruptcy Court will be a very busy place over the next 18 to 24 months. In many ways, today's uncertainty in the national credit markets and the number and types of companies experiencing financial distress is very reminiscent of the late 1980s and early 1990s where there was an explosion of chapter 11 filings following the collapse of the junk bond market.

In Re: What do you think the benefits are to corporations that are considering filing for Bankruptcy protection in filing their cases in the District of Delaware?

MDC: It really all boils down to the expertise and demeanor of our Bankruptcy Judges and Bankruptcy Court personnel. We have been extremely fortunate to have a thriving bankruptcy practice in Delaware for about 18 years now. This length of time and the level of activity in our Bankruptcy Court has allowed our Bankruptcy Judges and the Delaware Bankruptcy Bar to deal with virtually every type of issue that can arise in complex corporate bankruptcies. This experience has resulted in a great deal of legal precedent on a wide range of bankruptcy issues. That precedent, along with the great skill and experience of our Bankruptcy Judges, creates an expert Bankruptcy Court, which then produces

consistency, efficiency and predictability—the hallmarks of a great court.

In Re: Despite some vocal groups that would like to see many areas of practice leave Delaware, including commercial bankruptcy filings, Delaware still seems to be a popular choice of forum. Do you see anything on the horizon that would be a significant threat to Delaware as a popular forum in general?

MDC: Our Bankruptcy Court has never been stronger—we have six well known and respected jurists, great Court personnel, and a very experienced bankruptcy Bar. The future is certainly very bright for Delaware’s bankruptcy practice. The one issue that has dogged us for many years now is the ongoing effort by certain individuals to modify the venue provisions under the Bankruptcy Code to eliminate state of incorporation as a basis for venue. Our congressional delegation, led by Senator Biden, has done a terrific job in protecting our Bankruptcy Court and our bankruptcy practice. I think this issue will be out there for as long as Delaware remains a top jurisdiction for complex corporate bankruptcies.

In Re: So many “pedigreed” law students and new lawyers come to Delaware to clerk for the various courts, get experience in Delaware law and practice and then take that experience to jurisdictions like New York. Do you have any advice for new lawyers taking the Delaware Bar Exam and considering staying in Delaware?

MDC: I would really encourage them to stay in Delaware. One of the advantages we have as a Delaware lawyer is the opportunity to work with lawyers in major law firms throughout the country and to see first hand what their practice is like, the demands placed on them, and their quality of life. After working with so many different lawyers in so many different parts of the country, I truly believe that we in Delaware have the best combination of interesting legal work, a great judiciary, a tight close-knit Bar, and a quality of life outside the office that is unparalleled. Simply put, the opportunity to develop your legal skills, build your reputation, and create your own network of clients is as good in Delaware as it is anywhere in the country. ☺