

Terence G. Banich

Partner

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Practices

FOCUS: Insolvency and Restructuring
Appeals and Critical Motions
Fiduciary and Private Client Litigation

Education

JD, Loyola University Chicago School of Law, *cum laude*
BA, University of San Diego, *magna cum laude*

Bar Admissions

Illinois
California
District of Columbia

Court Admissions

United States Supreme Court
US Court of Appeals, Sixth Circuit
US Court of Appeals, Seventh Circuit
US Court of Appeals, Tenth Circuit
US Court of Appeals, Eleventh Circuit
US District Court, Central District of California
US District Court, Southern District of California
US District Court, Northern District of Florida
US District Court, Northern District of Illinois
US District Court, Eastern District of Michigan
US District Court, Western District of New York

Terence Banich has more than 20 years of in-depth experience managing complex litigation and first-chairing evidentiary hearings and trials in bankruptcy cases and proceedings, as well as federal equity receiverships and civil actions. He has represented nearly every type of constituent in Chapter 7 and 11 cases, including Chapter 7 trustees, Chapter 11 trustees, debtors, debtors in possession, secured creditors, unsecured creditors, committees of unsecured creditors, insiders of debtors and adversary defendants. Terry is also one of the most experienced federal receivership lawyers in the country, having represented several federal equity receivers appointed in civil enforcement actions commenced by government agencies, such as the Securities and Exchange Commission and the Federal Trade Commission, as well as civil actions filed by private plaintiffs.

Deftly handling disputes both in and out of court

Clients rely on Terry's decades of experience in both civil actions and bankruptcy cases to achieve their business objectives. He consistently provides creative, cost-effective, business-driven solutions to all types of disputes through negotiation, mediation and litigation. From large multinational corporations to single-asset limited liability companies, Terry is strategic in his approach to handling disputes of varying levels of complexity, resolving matters by negotiating with counterparties and redrafting critical agreements. Clients particularly value Terry's clear and persuasive writing and effective and eloquent oral advocacy, as well as his professionalism and civility.

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Community Involvements

WINGS Program, Inc., Board of Directors
National Association of Federal Equity
Receivers, Amicus Committee
Seventh Circuit Bar Association

Terry has spoken to organizations on receivership law and procedure and construction law issues. He has served on the *Banking Law Journal's* Board of Editors and authored a column called "Banking Briefs," which highlighted notable federal and state court cases touching on interesting issues of banking law. Terry also served on the Board of Editors of *Pratt's Journal of Bankruptcy Law* and authored the column "From a Litigation Perspective," which commented on interesting litigation issues arising in bankruptcy cases and proceedings.

Terry is an adjunct professor at Loyola University Chicago School of Law, where he periodically teaches a course on advanced civil procedure. He also is a professional guitarist and bass guitarist.

Representative Experience

- Serve as principal attorney for federal equity receiver appointed to investigate transactions and recover assets resulting from largest Ponzi scheme perpetrated in the Central District of California.
- Represent debtors as first-chair litigation attorney in large preference campaign in Sears and K-Mart Chapter 11 cases.
- Represented independent directors of debtors in Chapter 11 cases of Le Tote, Inc., and defended same in litigation pertaining to contested motion to settle with secured creditor and creditor's committee motion for derivative standing.
- Represented independent directors appointed to evaluate debtors' proposed transactions in out-of-court restructuring of major aircraft ground support equipment supplier.

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- First-chaired nine-day trial in defense of liquidating trustee's claims against former insiders of bankrupt scrap aluminum company for equitable subordination, recharacterization of debt to equity and breach of fiduciary duty. Bankruptcy court rejected all claims except for equitable subordination, which the district court reversed on appeal. Resulted in complete victory for clients. Principal attorney in all appellate briefing and proceedings.*
- First-chaired bench trial representing federal equity receiver in cross breach of contract claims over failed sale of \$30 million hotel. Managed years of discovery and briefing.*
- Managed litigation for large music corporation as largest unsecured creditor in its judgment debtor's Chapter 11 case. Resulted in conversion to Chapter 7 following discovery, extensive briefing and evidentiary hearings. Principal attorney for all discovery, briefing and evidentiary hearings.*
- Managed several related fraudulent transfer adversary proceedings on behalf of Chapter 7 trustee involving complex and novel issues of "mere conduit" status under 11 U.S.C. § 550(a). First-chaired multi-day bench trial that resulted in judgment for trustee and eventual favorable settlements.*
- Defended Chapter 7 trustee of bankrupt futures commission merchant in claims brought by debtor's former foreign exchange customers. First-chaired trial that resulted in judgment for trustee, handling all appellate briefing and proceedings, including argument before the US Court of Appeals for the Seventh Circuit.*
- Managed litigation defending corporate borrower's former directors and officers against multimillion-dollar tort lawsuit brought by secured lender and bankruptcy trustee. Obtained dismissal of all claims with prejudice. US Court of Appeals for the Seventh Circuit affirmed.*
- Defended debt relief agency and its lawyers in four-day trial against claims brought by US Trustee. Principal attorney in all appellate briefing and proceedings, including 3+-hour oral argument before the Chief US District Judge for the Western District of Virginia. Resulted in reversal of significant monetary sanctions.*

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- Successfully prosecuted administrative expense claim asserted by president of "racino" in Chapter 11 over vociferous opposition by senior and mezzanine creditors. Managed extensive discovery, including testimony of gaming expert on value of client's management services.*
- Managed litigation to enforce client's large money judgment against judgment debtors. Client prevailed before the federal district court. US Court of Appeals for the Seventh Circuit affirmed.*
- Managed litigation to protect priority of bank's mortgage lien in and to assets of insolvent Florida condominium developer against competing construction liens, mortgage liens and purported equitable liens.*
- Managed avoidance, recovery, turnover and claim-objection litigation for real estate developer and machine tool distributor in Chapter 11 proceedings.*
- Protected bank's secured claim against insolvent offshore gaming company's estate from competing claim asserted by an injured seaman. Persuaded bankruptcy court and, on appeal, district court that seaman's claim was untimely and improper. Client obtained favorable settlement.*
- First-chaired six-day trial against the former principals of bankrupt telecommunication company in which client, as Chapter 7 trustee, obtained a judgment that the defendants were not entitled to bankruptcy discharges.*
- Protected bank's secured claim against bankrupt rubber and vinyl manufacturer's estate in dispute with pension insurer over lien validity and priority, and with the debtor over confirmation of its "new value" Chapter 11 plan of reorganization. Client obtained favorable settlement.*
- Represented federal equity receiver in recovering approximately 68% of investor funds in litigation arising out of an SEC civil enforcement action against church organization for improperly selling securities to its congregation.*

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- Defended former senior officers of a bankrupt pharmaceutical company in a putative class action adversary proceeding brought by certain debtor equity holders seeking to subordinate the officers' claims. Won dismissal of the subordination claim with prejudice.*

*Experience prior to Katten

Recognitions

Recognized or listed in the following:

- *The Legal 500 United States*
 - Recommended Attorney, 2022
- *Super Lawyers*
 - Illinois, 2023–2024

News

- Katten Attorneys Named to 2024 Illinois Super Lawyers, Rising Stars Lists (January 25, 2024)
- Katten Attorneys Selected to 2023 Illinois Super Lawyers, Rising Stars Lists (January 24, 2023)
- *Global M&A Network* Honors Katten's Insolvency and Restructuring Team With Turnaround Atlas Awards (August 11, 2022)
- Katten Insolvency and Restructuring Team's 2021 Achievements Recognized with *M&A Advisor Awards* (June 13, 2022)
- Katten Awarded Top Ranking in Structured Finance: Securitization in The Legal 500 United States 2022 (June 8, 2022)

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- *Global Restructuring Review* Profiles Katten's US and UK Insolvency and Restructuring Practice (December 3, 2021)
- Katten Receives High Marks in Derivatives, M&A and Securitization in The Legal 500 United States 2021 Guide (June 10, 2021)
- Katten's Insolvency Practice Swells as Bankruptcy Work Grows (September 1, 2020)

Publications

- The Man on Five Sometimes Ends Up With Zero | *Pratt's Journal of Bankruptcy Law* (June 2017)
- The *Barton* Doctrine: A Penetrable Shield | *Pratt's Journal of Bankruptcy Law* (April/May 2017)
- You Can't Sue a Rubric, or a River for That Matter | *Pratt's Journal of Bankruptcy Law* (February/March 2017)
- In Pari Delicto: The Seventh Circuit Gives New Life to Evil Zombies | *The Bankruptcy Strategist* (August 2012)
- What You Need to Know about *Twombly* and *Iqbal* | American College of Bankruptcy (Spring 2010)
- Banking Briefs | *The Banking Law Journal* | Monthly (January 2003 to March 2007)
- Chapter 11 'New Value' Plans of Reorganization: Panacea or Pandora's Box | *Bloomberg Corporate Law Journal* | Vol. 1, Issue 3 (Summer 2006)
- Protecting Contractor Rights in Public Construction Projects in Illinois | *Real Estate Finance Journal* (Spring 2003)
- Pay When Paid Clauses, An Important Consideration for General Contractors and Subcontractors | *Real Estate Finance Journal* (Winter 2003)