



# Jonathan Guy

## Senior Counsel

Washington, D.C.

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### Practice Areas

- Restructuring
- Bankruptcy Litigation
- Complex Litigation & Dispute Resolution

### Honors

- Recognized in *Chambers USA*: D.C., Bankruptcy/Restructuring 2016 - 2019 as a leading lawyer
- Member, *Stanford Law Review*
- Recognized in *Chambers USA* - America's Leading Business Lawyers 2007 to 2017
- Recognized in *Legal 500*, United States, 2009 as a leading lawyer
- Recognized by Thomson Reuters Washington, D.C., Super Lawyer, Business Litigation, 2012 to 2017

### Education

- B.S.C., Economics, London School of Economics and Political Science, 1983, *Honors*
- J.D., Stanford Law School, 1993

Jonathan Guy has extensive experience as lead counsel in complex commercial litigation matters in trial and appellate courts throughout the United States. He has represented clients in numerous industries, including finance, commodity trading, energy, real estate, telecommunications, manufacturing and health care.

*Chambers USA* has variously described Mr. Guy as someone who is a “zealous advocate for his clients,” is “valued for his quick and practical advice,” “makes fantastically impressive presentations in court,” is able to “listen to a large amount of information” in court and “reduce an argument to its essence,” and is an “expert in commercial and bankruptcy-related litigation.”

Mr. Guy is consistently ranked in *Chambers USA* as a leading lawyer for Bankruptcy/Restructuring in Washington, D.C., and in the Thomson Reuters Washington, D.C., Super Lawyers category for business litigation. *He is the* Chair of the Community Responsibility Committee for the Washington, D.C., office and has long been active in numerous pro bono cases.

During law school, Mr. Guy worked at the Public Defender Service for the District of Columbia. Prior to law school, Mr. Guy worked for the U.S. Export-Import Bank, Commerzbank, AG (U.K.) and Swiss Bank Corporation (U.K.). At Swiss Bank, he was in charge of the operations department of the bank's global derivatives group.

### Representative Engagements

The following are some of his notable clients and matters.

- **California Franchise Tax Board.** Mr. Guy represents the California Franchise Tax Board in bankruptcy litigation across the United States.
- **Commonwealth of Pennsylvania.** Mr. Guy represents the Commonwealth in litigation concerning the Master Settlement Agreement with various tobacco companies and in 2014 was successful in reversing an arbitration award against the Commonwealth.
- **Garlock Sealing Technologies.** Mr. Guy represents the court-appointed future claimants' representative in complex litigation involving the debtor Garlock Sealing.
- **Delmarva Power & Light.** Mr. Guy represented Delmarva Power & Light in connection with a proposed offshore wind power purchase agreement, and certain onshore wind contracts, the first for any Delaware utility.

## Memberships

- The District of Columbia Bar
- New York State Bar Association
- American Bankruptcy Institute
- Law Society of England and Wales
- International Energy Credit Association
- **Federal Mogul.** Mr. Guy represented Cooper Industries, a principal creditor and holder of an indemnity claim of over \$450 million, in connection with the restructuring of Federal Mogul, a worldwide manufacturer and distributor of automotive and other products.
- **Mirant.** Mr. Guy represented Potomac Electric Power Company (Pepco) in complex, cutting-edge litigation concerning the ability of Mirant, a debtor power company, to reject electric power contracts. Pepco prevailed through three appeals against Mirant before the United States Court of Appeals for the Fifth Circuit and extensive litigation before the bankruptcy court, the district court and FERC, obtaining a precedent-setting ruling against Mirant that requires bankruptcy courts to take the public interest into consideration when determining whether a debtor may reject electric power contracts. In a subsequent settlement, Mirant paid Pepco in excess of \$720 million, including all of its legal fees.
- **NRG Energy.** Mr. Guy represented Niagara Mohawk Power Corporation and various affiliates as creditors/utility providers and as a member of the creditors' committee in the NRG Energy, Inc. Chapter 11. Mr. Guy was lead counsel for the negotiation of a pass-through arrangement whereby his clients' receiving a full recovery.
- **USGen New England, Inc.** Mr. Guy represented National Grid USA and related companies in litigation relating to USGen's asset sales. Jonathan's clients' claims, which exceeded \$200 million, were paid in full.

Mr. Guy, the partner in charge of pro bono for Orrick's Washington, D.C., office, has long been active in numerous pro bono matters, including the following.

- *NAACP v. Maryland State Police* and *Wilkins v. Maryland State Police*, a ground-breaking racial profiling case, which resulted in comprehensive reform of policies and procedures of the Maryland State Police.
- Successful challenge of a proposed federal law seeking to remove patients at St. Elizabeth's Hospital, D.C., found not guilty by reason of insanity to remote federal facilities across the country.
- Successful appeals from involuntary military discharges under the Don't Ask Don't Tell policy.
- Successful appeals on behalf of African-American farmers in *Pigford v. Venemana*, class-action case regarding race discrimination in the award of benefits and subsidies by the U.S. Department of Agriculture.
- Advisor to the bipartisan Presidential Commission for the National Museum for African American History.
- Successfully representing the American Civil Liberties Union of Maryland in an eminent domain/freedom of information case before the Maryland Court of Appeals.
- Successfully representing an Ocean City boardwalk musician in a free speech case.
- Successfully representing various applicants of disability benefits, individuals in various immigration proceedings, and victims of domestic abuse.

## Publications

- "SDNY Holds Trustee Cannot Evade Section 546(g) Safe Harbor by Bringing Avoidance Action Under State Law," Orrick Client Alert, June 2013

- “Second Circuit Rules That Payments Made To Purchase Notes Are Exempt from Avoidance Under Section 546(e) of the Bankruptcy Code,” Orrick Client Alert, June 2013
- “When Your IP Licensor Files for Bankruptcy,” *Commercial Bankruptcy Litigation*, April 2013
- “Fifth Circuit Holds that Supply Agreement is a 'Forward Contract' for Bankruptcy Avoidance Protection,” Orrick Client Alert, August 2012
- “Supreme Court Confirms that Secured Creditors Have a Presumptive Right to 'Credit Bid' in a Sale of Their Collateral Conducted Pursuant to a Chapter 11 Bankruptcy Plan,” Orrick Client Alert, June 2012
- “Tousa Roller Coaster,” Orrick Client Alert, May 2012
- “The Price of Admission to an Ad Hoc Creditor Group in US Bankruptcy Court: Full Disclosure?” (with Charity R. Clark), *International Corporate Rescue*, Vol. 7, Issue 3, June 2010
- “Caveat Venditor: Ensure Debtor Has Authority To Pay,” (with James W. Burke), *Law360*, April 2010
- “Lehman Limits Exercise Of Setoff Right In ISDA Pacts,” (with Courtney Rogers), *Law360*, May 2010
- “Third Circuit Affirms Decision Allowing Chapter 11 Debtors to Sell Collateral Free of Liens Under a Plan of Reorganization Without Providing Secured Creditors an Opportunity to 'Credit Bid',” Orrick Client Alert, March 2010
- “Cutting Back on Credit Bids: Pacific Lumber and Philadelphia Newspapers,” (with James W. Burke) *International Corporate Rescue*, 2010

### Speeches and Programs

- “The Kodak Moment: What happens to my IP rights when my licensee/licensor/litigation opponent files for bankruptcy?,” April 2012
- “Bankruptcy Basics,” July 2011
- “Bankruptcy Cases and Lessons from 2009-2010,” IECA Presentation, October 2010
- “Peering Over the Cliff of Bankruptcy, Strategies and Developments,” August 2009
- “Latest Developments in Bankruptcy,” IECA Presentation, March 2009
- “What Keeps a Bankruptcy Lawyer Up at Night... And What We Would Do in Your Shoes,” March 2009
- “When the Music Stops, Key Considerations in Termination and Close-Out,” IECA Panel, October 2008
- “Navigating the Hazardous Waters of Bankruptcy, Challenges and Opportunities in the Structured Finance Market,” April 2008
- “Troubled Deals and Bankruptcy,” March 2008
- Mr. Guy is a frequent speaker on litigation-related insolvency issues.

### Admissions

- District of Columbia
- New York
- England and Wales (not currently practising as an English Solicitor)

### Court Admissions

- **United States Courts of Appeals | District of Columbia Circuit**
- **United States Courts of Appeals | Third Circuit**
- **United States Courts of Appeals | Fourth Circuit**
- **United States Courts of Appeals | Fifth Circuit**
- **United States Courts of Appeals | Ninth Circuit**
- Supreme Court of the United States
- Superior Court of the District of Columbia