



Emil A. Kleinhaus

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Emil A. Kleinhaus joined Wachtell Lipton in 2004 and became a partner in 2012. He focuses on litigation and advisory work relating to bankruptcy, insolvency and creditors' rights. His areas of expertise include chapter 11 reorganizations, fraudulent transfer and fiduciary claims, and disputes under credit agreements and indentures.

Emil has been recognized as a leading lawyer by [Chambers USA](#), which describes him as “one of the most thoughtful bankruptcy litigators in the field” and “very academic and intelligent.” He has also been recognized as a Litigation Star by [Benchmark Litigation](#), an elite bankruptcy and restructuring lawyer by [Lawdragon](#), and a “rising star” by [Law360](#).

Emil is a Contributing Author for *Collier on Bankruptcy* – the leading bankruptcy treatise. He is a Conferee of the National Bankruptcy Conference. In recent years, Emil served as co-chair of the Bankruptcy Litigation Committee of the Federal Bar Council and chair of the New York City Bar Association's Subcommittee on Fraudulent Conveyance Law. In 2018, Emil received the James H. Fogelson Emerging Leadership Award from the Lawyers Division of the UJA Federation of New York.

Emil has played a leading role in various significant matters. Following the 2008 financial crisis, Emil was a lead member of teams representing JPMorgan Chase in wide-ranging litigation arising out of the Bernard Madoff fraud, the General Motors bankruptcy and the Lehman Brothers bankruptcy. As

counsel for Education Management in its out-of-court restructuring, Emil [argued](#) and won a [precedent-setting appeal in the Marblegate case](#) from a judgment under the Trust Indenture Act. Among other recent matters, Emil represented Mallinckrodt plc, as a chapter 11 debtor, in its successful challenge to approximately \$100 million of “makewhole” claims, and Intralot SA in defeating an attempt by dissident noteholders to enjoin the company’s out-of-court restructuring.

Emil received a B.A., *summa cum laude*, and Phi Beta Kappa, from Yale College, and a J.D. from Yale Law School, where he was an Articles Editor of the Yale Law Journal. Following law school, he served as a law clerk for Chief Judge Michael B. Mukasey of the U.S. District Court for the Southern District of New York and for Judge José A. Cabranes of the U.S. Court of Appeals for the Second Circuit.

Clerkships

Honorable José A. Cabranes, United States Court of Appeals, Second Circuit, 2003 – 2004

Honorable Michael B. Mukasey, United States District Court, Southern District of New York, 2002 – 2003

Recent Publications

[The UK’s Restructuring Plan – Ahead of the Pack or Playing Catch Up?](#), in The International Comparative Legal Guide to: Restructuring & Insolvency, Global Legal Group Ltd., Eighteenth ed. 2024.

[Second Circuit Holds that Term Loan Is Not a Security](#), in NYU Law School’s Blog on Compliance and Enforcement, September 27, 2023.

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[Corporate Bankruptcy and Restructuring 2016/2017](#), in *Columbia Law School's Blog on Corporations and the Financial Markets*, January 20, 2017.

['Codere': A New Model For Cross-Border Restructurings](#), in *New York Law Journal*, January 15, 2016.

[U.S. Court of Appeals Reaffirms High Standard for Failure-of-Oversight Claims against Directors](#), in *Harvard Law School Forum on Corporate Governance and Financial Regulation*, dated January 15, 2016.

[Let's Rethink Moore v. Bay](#), in *ABI Journal*, Volume 34 No. 9, September 2015.

[Supreme Court Permits Bankruptcy Courts to Issue Final Judgments with Parties' Consent](#), in *Harvard Law School Bankruptcy Roundtable*, June 9, 2015.

[Delaware Court of Chancery Revisits Creditor Derivative Standing](#), in Harvard Law School Forum on Corporate Governance and Financial Regulation, May 13, 2015.

[Update on Directors' and Officers' Insurance in Bankruptcy](#), in The Harvard Law School Forum on Corporate Governance and Financial Regulation, September 24, 2014.

[Federal District Court Holds That U.S. Bankruptcy Code Does Not Permit Recovery of Extraterritorial Transfers](#), in The Harvard Law School Forum on Corporate Governance and Financial Regulation, July 15, 2014.

[Recognition of Offshore Insolvency Proceedings: 'Fairfield Sentry'](#), in New York Law Journal, May 7, 2013.

[Mandatory Withdrawal of the Bankruptcy Reference in Brokerage Liquidations: Madoff and MF Global](#), in Pratt's Journal of Bankruptcy Law, Volume 5, April/May 2013.