



## **SCOTT B. COHEN**

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**Scott B. Cohen** is a Phoenix based commercial bankruptcy attorney who represents banks, lenders, landlords, guarantors, committees, and other creditors in bankruptcy, creditors' rights matters, loan workouts, business turnarounds, Chapter 11 reorganizations, receiverships, bankruptcy litigation, and commercial litigation. Scott's practice includes representing lending institutions in preparing custom loan documents and credit facilities. He assists lender clients in the entire life cycle of a loan from due diligence to enforcing defaults. He regularly appears in U.S. Bankruptcy Court and state court proceedings involving liquidations, Chapter 11 reorganizations, receiverships, and commercial lawsuits. Scott is a leading member of Arizona's bankruptcy law community, as exemplified by his chairmanship (2011-2012) of the Bankruptcy Section of the State Bar of Arizona. He is a Certified Specialist in Business Bankruptcy Law (American Board of Certification) and also serves as an expert witness in bankruptcy and anti-deficiency matters.

### **PRACTICE AREAS**

- Bankruptcy and Reorganization
- Business and Financial Restructuring
- Business Formation & Transactions
- Buying/Selling Businesses
- Cannabis
- Commercial Landlord Tenant Law
- Commercial Litigation
- Creditors' Rights
- Loan Documentation
- Loan Workouts
- Receiverships

### **EDUCATION**

- University of Iowa, J.D. with distinction, 1992 (Iowa Law Review, Articles' Editor)
- University of Iowa, B.A. Political Science, 1989

### **ADMISSIONS**

- Arizona U.S. District Court District of Arizona
- Colorado District Court

### **INDUSTRIES**

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| <ul style="list-style-type: none"><li>• Adult Care Facilities</li><li>• Banking and Finance</li><li>• Education</li><li>• Equipment Leasing</li><li>• Healthcare</li></ul> | <ul style="list-style-type: none"><li>• Municipalities</li><li>• Non-profits</li><li>• Real Estate</li><li>• Restaurants and Hospitality</li><li>• Restructuring</li></ul> |
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- Multi-Family Housing

- Retail

## PROFESSIONAL

- American Board of Certification, Board Member and Faculty Committee
- State Bar of Arizona
- Bankruptcy Section of the State Bar of Arizona, Past Chair, 2011 – 2012
- Arizona State Bar Convention for the Bankruptcy Section, Chair
- Contributor, Norton Bankruptcy Law and Practice (3rd ed.)
- Advisory Board, Norton Bankruptcy Law Adviser
- Faculty, Norton Institutes on Bankruptcy Law
- Faculty for WestLegal Edcenter on Bankruptcy
- State Bar of California
- American Bar Association
- American Bankruptcy Institute
- Federal Bar Association
- Maricopa County Bar Association
- Advisory Board, Legus International
- Bankruptcy Section of the Maricopa County Bar Association, Past Chair
- Professional Liability Defense Federation – Lender Liability
- Turnaround Management Association
- Arizona Turnaround Management Awards Program, Co-Chair, 2012

## CLIENTS

- Banks
- Brokers/Developers
- Business Owners
- Doctors
- Commercial and Asset Based Lenders

- Financial Institutions
- Investors
- Landlords
- Medical Practices

## RECOGNITION

- Recognized in The Best Lawyers in America® in Phoenix, AZ, in the fields of Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, since 2020; and Litigation – Bankruptcy, since 2021
- Selected to Southwest Super Lawyers, Bankruptcy, General Litigation, Banking, Creditor Debtor Rights, 2008, and since 2013
- Phoenix Magazine, Top Attorneys in Arizona, 2015
- AV-Rated by Martindale-Hubbell®
- Board Certified – Business Bankruptcy Law – American Board of Certification

## CAREER HIGHLIGHTS

Typical of Scott's legal engagements are his representation of:

Certain private equity in the Chapter 11 bankruptcy of the National Hockey League's Phoenix Coyotes.

A regional hospital and other out-of-network providers in an involuntary bankruptcy of a third party administrator plan that was wholly owned by another regional hospital, through which Scott worked with his client in the client's role as chair of the Unsecured

Creditors' Committee to collaborate with debtor's counsel to confirm a full-payment, Chapter 11 reorganization plan.

A REIT in the Chapter 11 reorganization of a publicly traded private school involving multiple locations and a buyback by the parents.

In addition, Scott has Served as:

Counsel to the Arizona Bankers Association.

Subject Matter Expert on Arizona's anti-deficiency statutes.

Expert witness on Arizona's foreclosure laws.

An Unsecured Creditors' Committee in a currency exchange bankruptcy case involving fraud allegations against the debtor and against a large European bank.

Lead bankruptcy trial counsel on the successful reorganization of an operating company with obligations of approximately \$40 million.

Lead bankruptcy trial counsel on the successful reorganization of 150 unit affordable housing project, resulting in a confirmed Chapter 11 plan of reorganization with a 40 year straight amortization and a 4.4% interest rate on the secured debt.

Lead bankruptcy trial counsel in six involuntary bankruptcy cases, representing petitioners in some cases and putative debtors in others.

Creditors' rights counsel for multiple Arizona municipalities in bankruptcy cases in Arizona and California.

An expert witness in bankruptcy malpractice issues.

An expert witness on Arizona's anti-deficiency statutes.

## **PUBLISHED OPINIONS**

- In re Sunnyslope Hous. Ltd. P'ship, 859 F.3d 637, 640 (9th Cir. 2017), as amended (June 23, 2017)
- Compass Bank v. Bennett, 2016 WL 3063779, \_\_ Ariz. \_\_ (App. May 31, 2016)
- In re Sunnyslope Hous. Ltd. P'ship, 838 F.3d 975, 976 (9th Cir. 2016)
- Arizona Bank & Trust v. James R. Barrons Trust, 237 Ariz. 401 (App. 2015)
- In re Mortgages Ltd., 444 B.R. 585 (Bankr. D. Ariz. 2011)
- In re Tuli, 143 Fed.Appx. 849 (9th Cir. 2005)
- In re Rollinson, 322 B.R. 879 (Bankr. D. Ariz. 2005)
- In re Tuli, 21 Fed. Appx. 567 (9th Cir. 2001)
- In re Sanner, 218 B.R. 941 (Bankr. D. Ariz. 1998)
- In re Hashim, 188 B.R. 633 (Bankr. D. Ariz. 1995)
- In re Clark, 179 B.R. 898 (Bankr. D. Ariz. 1995)
- In re Rhead, 179 B.R. 169 (Bankr. D. Ariz. 1995)

## **PUBLICATIONS**

- *"Imputed Fraud: The Supreme Grant Cert in Bartenwerfer v. Buckley"* 2022 No. 8 Norton Bankr. L. Adviser NL 1 (August 2022)

- *“The Bloom is Off the Rose: Sub Rosa Objections to Rule 9019 Settlements”* 2021 No. 10 Norton Bankr. L. Adviser NL 1 (Oct. 2021) (co-authored with Rachel Phillips and Rahul S. Jayaraman)
- *“Uneven Dischargeability Standards”* 26 No. 4 J. Bankr. L. & Prac. NL Art. 1 (August 2017) (co-authored with Professor Laura N. Coordes)
- *“Patel: A Sidestep Toward the Definition of ‘Projected Disposable Income’ in Chapter 11 Cases?”* 2020 No. 11 Norton Bankr. L. Adviser NL 1 (Nov. 2020) (co-authored with Bradley D. Pack)
- *“Why Become an American Board of Certification (ABC) Member”* ABI Journal, April 2020
- *“Not So Clear or Convinced: The Burden to Appoint a Trustee under 11 U.S.C.A. § 1104(a),”* 2019 No. 5 Norton Bankr. L. Adviser NL2, August 2019
- *“Involuntary Bankruptcy Petitions and Bad Faith as Grounds for Dismissal,”* Norton Bankr. L. Adviser, March 2016
- *“An Armistice in the Fight for Anti-Deficiency Reform,”* Co-Author, Arizona Attorney Magazine, January 2015
- *“Madeleine Wanslee, ABC – Certified Specialist, Takes the Bench,”* ABI Journal, July 2014
- *“A Primer on the Valuation of Affordable Housing in Chapter 11,”* Co-Author, XXXII ABI Journal 4, 52-53, 102-03, May 2013
- *Norton’s Bankruptcy Law and Practice, 2nd and 3rd Editions, Contributing Author*
- *“Ragsdale and Its Progeny: A History of Uncertainty and A Way to Predict Decisions Under 11 U.S.C. Section 523(a)(4),”* Co-Author, Texas Bankruptcy Court Reporter (also published in the California Bankruptcy Court Reporter, the Colorado Bankruptcy Court Reporter, and a bankruptcy court reporter which covers the 4th Circuit)
- *“Zohlman v. Zoldan: A Marked Improvement in the Jurisprudence of 11 U.S.C. Section 523(a)(4),”* Co-Authored, published in Bankruptcy Court Decisions
- *“Arizona Anti-Deficiency Laws: A Guide to Navigating Uncertainty,”* Co-Author, May 2008

## **PRESENTATIONS**

- Groundwater Wells, Rights & Uses at Groundwater Wells Seminar, Phoenix, February 2010 and February 2007
- Groundwater Wells, Rights & Uses at Groundwater Wells Seminar, Scottsdale, February 2009
- Shared Well Agreements at Groundwater Wells Seminar, Phoenix, February 2008
- The Arizona Water Settlements Act: Negotiation, Enactment, and Implementation, March 2005
- Arizona Groundwork: Zoning and Land Use Planning Seminar, June 2003