



## MATTHEW W. CHENEY

### PARTNER

WASHINGTON, D.C.

mcheney@crowell.com

Phone: 202.624.2903

Fax: 202.628.5116

1001 Pennsylvania Avenue NW

Washington, D.C. 20004-2595

## PRACTICES

- Financial Services
- Litigation & Trial
- Bankruptcy & Creditors' Rights
- Restructuring & Creditors' Rights
- Commercial Real Estate
- Regulatory & Policy

**Matthew W. Cheney** is a partner in the firm. He litigates bankruptcy and complex commercial credit-related disputes, enforces secured creditors' rights against commercial real estate through receiverships and foreclosures, and counsels clients on a variety of credit and risk mitigation strategies. Matt also is a transactional lawyer with experience counseling, negotiating and documenting commercial transactions and loan workout agreements. He is a member of the Maryland and Washington, D.C. bars, as well as the United States Supreme Court and several federal bankruptcy, district, and appellate courts.

Matt's financial services practice involves representations in a range of other industry sectors, including automotive, energy, health care, hospitality, manufacturing, real estate, and retail. With broad experience in business bankruptcy and creditors' rights matters, Matt has extensive experience representing financial institutions, special servicers, hedge funds, and other creditors on a variety of litigation and transactional matters relating to the range of issues that can result from extending credit, making investments, and doing business with companies in financial distress. Matt also has represented debtors-in-possession and trustees in bankruptcy cases.

A sample of Matt's notable matters include:

- Lead counsel for special servicers in connection with multi-million dollar CMBS loans that are in default. The matters involve creditors' rights litigation (such as a federal receivership and foreclosure proceedings) and/or workouts of loans secured by commercial properties in Maryland, the District of Columbia, and Pennsylvania.
- Lead counsel for a large hedge fund as a secured creditor in state court receivership and subsequent bankruptcy proceedings of a chain of 130+ convenience stores and gas stations in the Midwest. Within four months of the bankruptcy filing, the hedge fund's collateral was sold at auction and it

was paid in full, including all yield maintenance amounts, default interest and attorneys' fees and costs.

- Member of the firm's team representing Enron Creditors Recovery Corp. in connection with documenting and obtaining Bankruptcy Court approval of a mammoth settlement of various litigation between Enron and Citigroup. The settlement includes the payment of \$1.66 billion by Citigroup, a waiver of certain indemnification claims (as to which the Bankruptcy Court established a \$4 billion claim reserve) and a waiver of an additional \$249.4 million of claims asserted against Enron entities.
- Lead counsel for a Chapter 7 Trustee in the liquidation of several manufacturing companies. One matter involved a former medical device manufacturer. The matter includes a multi-million dollar sale of substantially all of the company's assets and hiring a team to collect Medicare claims on a contingency basis. Another matter involved a former manufacturer of customized power boats. The matter involved trials involving questions of first impression under the Maryland Uniform Commercial Code and resulted in two published decisions. *See In re Carman*, 399 B.R. 158 (Bankr. D. Md. 2009) (holding that title to unfinished boat had not passed to buyer under prepetition contract because no "good" was in existence and no good had been "identified" to the contract); and *In re Carman*, 399 B.R. 599 (Bankr. D. Md. 2009) (holding that unfinished shell of a boat was not an existing "good" in which buyer was vested with a "special property" interest).
- Member of the firm's team representing a significant bondholder in the Lyondell Chemical bankruptcy proceedings. The matter involved credit default swaps and a preliminary injunction issued to protect foreign, non-debtor affiliates.
- Successfully obtained confirmation of a Chapter 11 plan of liquidation on behalf of the owner and operator of a 158 unit luxury-style apartment complex in Texas in this single asset real estate case involving HUD-insured financing.
- Represented a large financial institution in connection with an equipment lease workout. The multi-million dollar facility involves obligors and collateral in New York, California and Delaware.

Matt also has significant experience assisting a variety of constituents in the energy industry impacted by energy bankruptcies, including utility companies and independent system operators. For example, before joining Crowell & Moring, Matt was one of the main lawyers on the following matters:

- Represented Potomac Electric Power Company (Pepco) in complex, cutting edge bankruptcy and appellate litigation concerning the ability of Mirant Corporation, a debtor power generator, to reject electric power supply obligations. The defense of Pepco resulted in new Fifth Circuit law, which requires courts to consider the public interest before authorizing the rejection of a contract involving power supply obligations. Ultimately, Pepco was paid in full on allowed claims exceeding \$500 million.
- Represented National Grid, as committee member and creditor in the NRG Energy, Inc. case in New York. The engagement resulted in an agreement for National Grid's complex indemnity and other claims to flow through and be unaffected by NRG's bankruptcy.
- Represented National Grid as one of the largest creditors in the USGen New England, Inc. case in Maryland. The matter resulted in a settlement under which National Grid held more than \$200 million in allowed claims, which ultimately were paid in full under the Chapter 11 plan of liquidation.

Matt began his legal career by serving as a judicial law clerk for the Honorable E. Stephen Derby and the Honorable James F. Schneider in the U.S. Bankruptcy Court for the District of Maryland. Before starting his legal career, Matt served on the staff of former Congressman and Democratic Whip David E. Bonior (D-MI).

### **Admissions/Affiliations**

Admitted to Practice: Maryland, District of Columbia, Supreme Court of the United States, United States Court of Appeals for the Fourth Circuit, United States District Court for the District of Columbia, United States District Court for the District of Maryland, United States Bankruptcy Court for the District of Columbia, United States Bankruptcy Court for the District of Maryland

### **Education**

- Michigan State University, B.A. (1993)
- Ohio Northern College of Law, J.D. (1997) managing editor, *Law Review*