

United States Bankruptcy Court  
Eastern District of New York

October 2023

Alan Kolod  
Moses & Singer LLP  
405 Lexington Avenue, 12th Floor New York, NY 10174  
D.D.: (212) 554-7866  
Fax: (917) 206-4366  
akolod@mosessinger.com

<b>I.</b>	<b><u>Profession</u></b>	<b><u>Accrediting Agency or Jurisdiction</u></b>	<b><u>Dates of Admission</u></b>
	Attorney	New York, Appellate Division, Second Dept.	1974
		United States District Court for the Southern District of NY	1975
		United States Court of Appeals for the Third Circuit	2013
		United States Court of Appeals for the Second Circuit	2014 (renewal)

<b>II.</b>	<b><u>Professional Organizations</u></b>	<b><u>Date of Admission</u></b>	<b><u>Active /Inactive</u></b>
	New York City Bar Association	1986	Active
	New York City Bar Association	1997	Active
	American Bar Association	2022	Active

Member and past Chair of the New York City Bar Association Commercial Law and Uniform Laws Committee, and Vice-Chair of the sub-committees which drafted reports recommending enactment in New York state of (i) the Uniform Voidable Transactions Act; (ii) a remote electronic notarization law, and the (iii) the proposed 2022 Technology Amendments to the NY Uniform Commercial Code. Member of City Bar ADR Committee.

**III. General Professional Experience:**

Senior Counsel employed by the law firm of Moses & Singer LLP. Managing Partner from 1997 through 2006 and Chair of the Firm's Management Committee from 2006 through 2022. I have served as Chair of the Corporate Trust and Agency practice and

co-Chair of the Firm's Reorganization and Bankruptcy group and have practiced in the areas of bankruptcy and litigation since 1974.

#### **IV. Experience and Familiarity with Bankruptcy Law:**

I have over 45 years' experience in bankruptcy, insolvency and creditors' rights under both the Bankruptcy Act and Code. I have represented numerous clients before various United States District Courts and Bankruptcy Courts throughout the country in connection with proceedings under Chapters 7, 11 and 15 of the Bankruptcy Code. My experience includes the representation of debtors-in-possession, official committees of unsecured creditors, secured and unsecured creditors, holders of public debt, indenture trustees, foreign representatives and plan funders.

I have prosecuted and defended many actions to avoid preferences and fraudulent transfers, including a 6-week jury trial in the District of Massachusetts concerning fraudulent transfer and breach of fiduciary duty liability arising from a failed leveraged buyout. During the course of these representations, I have litigated many issues under the Bankruptcy Code, from initial filings to plan confirmation, including structured dismissal of an administratively insolvent Chapter 11 case, trustee appointment, equitable subordination of creditor claims, effect of leveraged buyout on subordination of bonds, relative priority of senior and junior subordinated debt, indenture trustee fiduciary duties, fiduciary duties of board of directors to parent and subsidiary debtor corporations, debtor's duties to creditors in connection with sales of business and lender's duties to insolvent debtor.

#### **V. Mediation Training:**

I attended Basic Mediation Training: Conflict Resolution Theory & Techniques, a four-day program sponsored by the New York City Bar Center for Continuing Legal Education. The course was held at the City Bar Center, New York, New York, on January 23 and 24 and February 6 and 7, 2012, between 9 and 5 each day (31 CLE credit hours). The program was led by Carol B. Liebman, Clinical Professor, Columbia Law School, and Dina Jansenson.

#### **VI. Mediation Experience:**

I have participated in a number mediations involving both complex claims and single discreet claims. My experience as mediator during the first term of my appointment has been successful except in one case. The most effective mediations, regardless of whether the issues were complex or straight forward, are those in which the mediator is fully prepared and engages the parties on the facts and merits, pointing out the weaknesses to each party of its position. I have also found that it is important for the mediator not to give up prematurely and to be persistent in pressing the parties to see the advantage of a negotiable settlement. It is also my experience that the pressure of external events or deadlines is a significant factor for mediation success.

**VII. Area of Expertise:**

My areas of expertise are in Bankruptcy, Litigation and Fiduciary law.

**VIII. General Pertinent Business or Legal Experience:**

I taught the Bankruptcy and Collective Remedies Course at New York Law School in 1986 and 1987.

I have been admitted to practice before the following federal courts: United States Supreme Court; United States Courts of Appeals for the Second, Third, Fourth and Seventh Circuits, and the United States District Courts for the Eastern and Southern Districts of New York and the Districts of Delaware and South Carolina. I have been admitted to Bankruptcy Courts in the District of Delaware and South Carolina, and the Western District of Virginia, Southern District of Mississippi, Northern Districts of Alabama, Texas, Illinois, Indiana and the Middle District of Georgia.

I have participated in a wide variety of litigation in federal and state courts. My experience includes serving as primary trial counsel in both jury and non-jury trials. As primary trial counsel, I have been involved in litigations addressing, inter alia, equitable subordination, substantive consolidation, enterprise valuation, fraudulent conveyances, breach of fiduciary duty, breach of contract, fraud, successor liability, secured and unsecured financings, letters of credit, foreclosures and the enforcement of guaranties. I also have significant experience with regard to the duties of corporate directors under Delaware law.

I have been a director of two public corporations, The Telemundo Group and Daticon, Inc. I became a director in connection with the Chapter 11 reorganization proceedings of each company.

I have been a member of the Boards of three New York not-for-profit corporations: the Center Against Domestic Violence; The William Alanson White Institute of Psychiatry, Psychology and Psychoanalysis; and the Urban Resource Institute-NY. I am currently a member of the Board of the Urban Resource Institute-NY, which became the largest provider in the U.S of shelter and services to survivors of domestic violence, as a result of the 2017 merger of the Center Against Domestic Violence, of which I was board chair, with URI.

**IX. Other Pertinent Information:**

I am co-author of the Chapter on the Enforcement of Subordination Agreements in Bankruptcy, in Commercial Bankruptcy Litigation, 2d, 2018 Ed.: Chapter 18 Intercreditor Agreements (Clark Boardman Callaghan).

I have been a member of the drafting committee for reports issued by the New York City Bar Association concerning enactment in New York of the Uniform Voidable Transaction Act, the New York Remote Section Notarization Act, the Uniform

Commercial Code 2022 Amendment relating to digital assets, and the Uniform Special Deposits Act.

My other articles include:

Enforcing Intercreditor Agreements: ‘Silenced’ Juniors Aren’t Always Quiet June 2012;

*Caveat Venditor*: Building Strategy Based on Recent Reclamation and Section 503(b)(9) Developments April 2010;

Madoff - Analysis of the Recent Decision Regarding the Scope of SIPA Protection March 2010;

New Model Order of Maritime Attachment May Reduce Burden on Banks May 2009;

SDNY Judge Strikes Back Against Oppressive Maritime Attachments February 2009;

Substantive Consolidation: Getting Back to Basics May 2006.

**X. Fee Structure (Compensation and Expense Reimbursement):**

My hourly rate for mediation is \$550 plus reimbursement of reasonable out-of-pocket expenses.

**XI. Pro Bono Preference: Brooklyn**