

CO-MANAGING PARTNER

Brian F. Plunkett

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PRACTICE AREAS

Banking & Commercial Finance

- Acquisition Financing
- Asset-Based Loans
- Commercial & Industrial Lending
- Commercial Loan Modifications
- Commercial Real Estate Finance
- ESOP Financings
- Franchise Lending
- Healthcare Finance
- Hospitality Lending
- Leveraged Loans
- Participations & Syndications
- Search Fund & Private Equity Financing
- Small Business Lending (SBA)
- Subordination & Intercreditor Arrangements

Bankruptcy & Creditors Rights

- Commercial Mortgage Foreclosures

OVERVIEW

Brian Plunkett's practice is concentrated in commercial lending and commercial real estate finance. He has represented both lenders and borrowers in the following types of transactions:

- Middle-market and lower middle-market loans of all types ranging in loan size from under $1.0MM individual term or revolving loan facilities up to multiple facility loans exceeding $75MM
- Commercial and industrial loan transactions secured by all types of collateral including owner-occupied real estate
- Commercial real estate lending transactions including mortgage term loans, construction loans of all types, subdivision and condominium loans, and 40B projects
- Multi-lender syndicated deals and loan participations
- Asset-based lending transactions
- Equipment lending and leasing facilities
- SBA-guaranteed Section 7(a), Section 504, and SBA Express lending transactions for national and local SBA lenders
- Secured transactions involving investment accounts, equipment, accounts receivables, intellectual property, equity interests, motor vehicles, rolling stock, vessels, aircraft, liquor licenses, and tort and judgment claims
- Documentation and negotiation of intercreditor and subordinated debt agreement including: franchise lending, commercial lease finance transactions, Search Fund lending and private equity sponsored deals, and

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- Restructuring & Workout

Business & Corporate Law
- Entity Formation
- Mergers & Acquisitions

Commercial Real Estate
- Purchase & Sale

EDUCATION

J.D., *cum laude,* University of Pennsylvania Law School, 1988

B.A., *cum laude,* Brown University, 1984

ADMISSIONS

Massachusetts

AFFILIATIONS

Member, Boston Bar Association

Member, Massachusetts Bar Association

Member, Secured Finance Network

Member, Turn-Around Management Association

Member, Risk Management Association

financing for merger and acquisition transactions

Brian's practice has always included an extensive creditor's rights, loan workout, and liquidation component. Brian has had extensive experience since the recession of the early 1990s in representing lenders in loan workouts, troubled debt restructures, mortgage foreclosures, UCC secured party sales, deeds in lieu of foreclosures, and pre-bankruptcy analysis. He continues to represent lenders in troubled loan matters from the initial default stage to final liquidation of collateral or the resolution/restructure of indebtedness.

Brian also assists individual and corporate clients in business transactions and commercial real estate matters including the documentation of business asset purchase agreements, purchase contracts for the sale of real property, and commercial leasing.

Brian has previously represented lending institutions such as Bank of New England (and its successors RECOLL Management and the FDIC), Shawmut Bank, Bank of Boston, Baybank, USTrust, Fleet National Bank, and Sovereign Bank among others. He currently represents Citizens Bank, Eastern Bank, Rockland Trust, Brookline Bank, Santander Bank, TD Bank, M&T Bank, and various other community banking institutions in Massachusetts.

Originally from Newton, Massachusetts, Brian now spends time in both Marblehead and West Tisbury, Massachusetts.

EXPERIENCE

Publications

Commenced the firm's "Why Do We Care?" series of posts in April, 2020 that has covered the following topics:

- Attorney Client Privilege – March, 2021
- Automatic Stay in Bankruptcy – February, 2025
- Bankruptcy waiver language in settlement agreements – September, 2020
- Bond Reissuance issues – July, 2020
- Bonded Receivables – September, 2020
- Conflict Waivers – May, 2023
- Consideration for Guaranties – April, 2022
- Control Liability – April, 2021
- "Crossing" provisions (i.e., Cross-default, cross-guarantee, cross-termination)- October, 2023

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- Death of a guarantor/obligor – July, 2021
- Demand vs. Committed Lines of Credit – October, 2023
- Demanding a Demand Loan- September, 2021
- Disclaimers- why you should use them- February, 2021
- Dragnet Clauses – March, 2022
- E-Notes- should a lender accept electronic signatures? – August, 2022
- Equity Pledges- June, 2024
- Forbearance Agreements – May, 2020
- Forbearance Agreements Vs. Loan Modification Agreements – July, 2024
- Fraud by a Borrower – February, 2021
- Ground lease mortgage financing – October, 2022
- Guaranties -Key Provisions- May, 2022
- Joint vs. Several Guaranties – November, 2021
- Landlord Waivers – April, 2020
- Legal Opinions by Borrower's Counsel- March, 2023
- Lender Liability -Leading a Borrower down the "Primrose Path" – July, 2020
- Leveraged Buy-Outs – November, 2022
- "MAC" clause – October, 2020
- Mortgagee in Possession – March, 2024
- Mortgage Foreclosures – November, 2024
- Motor Vehicle liens- how to perfect – May, 2021
- Name Changes by a Borrower – November, 2020
- Non-Recourse Guaranties – August, 2021
- Notary Clauses – December, 2023
- Payoff Letters – March, 2021
- Possession of Collateral – August, 2020
- Pre-Judgment Remedies – December, 2022
- Privacy Concerns- March, 2021
- Purchase-Money Security Interests, 2024

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- Right of Setoff by Lender – August, 2020
- Secured Party Sales – July, 2022
- SNDAs and why they matter- November, 2020
- Subordination Agreements for junior creditors – June, 2020
- Swap Breakage – December, 2020
- Term sheets vs. Commitment Letters – November, 2021
- Title Insurance for a lender – September, 2020
- Turnaround Consultants – July, 2020
- Waivers of Financial Covenants – June, 2023
- Workout Consultants – April, 2023
- Zoning opinions vs. Zoning Endorsements – January, 2022

Presentations

- Defensive Banking 101 Seminar
- Recession Training 101 Seminar
- Loan Document Review Training Seminar

HONORS

- Massachusetts Super Lawyer 2004 – 2006, 2023 – 2025

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