

**PARTNER**

## David C. Phalen

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**DIRECT**

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### PRACTICE AREAS

Banking & Commercial Finance

Commercial & Industrial Lending

Commercial Loan Modifications

Commercial Real Estate Finance

Small Business Lending (SBA)

Bankruptcy & Creditors Rights

Bankruptcy

Commercial Mortgage Foreclosures

Restructuring & Workout

Business & Corporate Law

Mergers & Acquisitions

Commercial Real Estate

Leasing

Purchase & Sale

Litigation & Dispute Resolution

Banking & Lender Liability Litigation

Business Litigation

Real Estate Litigation

### OVERVIEW

David Phalen represents a wide variety of clients in his commercial lending, business litigation, and business bankruptcy practice ranging from national banks to community lenders to small, closely-held businesses.

Typical engagements include:

- the representation of lenders in new financings;
- the restructuring of existing loans;
- the representation of secured creditors in the workout of non-performing loans including business bankruptcy cases;
- counseling of business clients in connection with acquisitions, financings, and business disputes;
- commercial litigation in the Massachusetts Superior Court, United States District Court and the federal bankruptcy courts; and
- the representation of commercial landlords.

Transactions include asset-based lending, commercial real estate, commercial leasing, restaurant/liquor license, general contracting, manufacturing, technology, health care/skilled nursing/senior living, and auto finance. Dave has many years of experience crafting solutions to troubled debt situations including receiverships, assignments for the benefit of creditors, trust mortgages, secured party sales, Section 363 sales, and Chapter 11 plans.

Representative clients include national and regional banks, state and federal agencies, not-for-profit and community lenders, equipment lessors, technology

## EDUCATION

J.D., *cum laude*, Boston  
College Law School, 1983

B.A., Williams College, 1980

## ADMISSIONS

Massachusetts

U.S. Court of Appeals for  
the First Circuit

U.S. District Court, District  
of Massachusetts

## AFFILIATIONS

Member, Boston Bar  
Association

Member, American  
Bankruptcy Institute

lenders, real estate investors, family businesses, and individual entrepreneurs.

As a former prosecutor in the early days of his career, Dave's rare blend of trial expertise together with years of transactional experience have equipped him with the instincts and insights to protect client's interests while still finding common ground to "get a deal done" or secure a favorable outcome to a dispute.

Dave is a member of the Boston Bar Association and the American Bankruptcy Institute. Dave has served as a panelist on educational programs covering loan documentation, insolvency, and litigation issues.

Dave resides in Needham, Massachusetts where he is active in the civic and religious life of the community.

## EXPERIENCE

- Represented commercial real estate lender in real estate loan secured by Mountain West ranches
- Represented commercial real estate lender in \$40MM loan secured by Boston commercial properties
- Successfully protected lender's rights in Chapter 11 bankruptcy leading to the sale of a CCRC- senior living facility
- Successfully advised developer in the acquisition of skilled nursing facility from federal court receivership.
- Favorably resolved condominium dispute for owner of multiple units in Boston to permit sales of units and reduce litigation delay and expense
- Negotiated substantial out-of-court recovery for former partner in biotech company
- Obtained after trial from the US Bankruptcy Court a fraud judgement in favor of client title insurer
- Negotiated multiple commercial office and retail leases for CDC developer in Boston's Roxbury neighborhood
- Represented community lender in C&I loan to general contractor secured by all business assets and property in three states
- Represented lender in mixed income workforce development construction loan
- Represented lender in Northern New England timber loan

## Publications

- Co-authored part of the Firm's "Why Do We Care?" series covering diverse legal issues for commercial lending clients
- BBA Materials for Suretyship Seminar
- ABI Materials for Financial Credit Seminar

## Presentations

- ABI NE Bankruptcy Conference Seminar
- BBA Seminars
- Defensive Banking 101 Seminar
- Recession Training 101 Seminar
- Solar Lending Seminar