

Snell & Wilmer



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Main Bio

David Leta is a financial problem solver. For over 43 years, he has represented debtors, creditors, trustees, creditor committees, asset purchasers, vendors, equity holders and other parties in all aspects of financial disputes, including collections, foreclosures, workouts, receiverships and bankruptcy. David's experience enables him to analyze a financial situation from multiple perspectives and design creative, durable solutions. As an advocate, he handles litigation for clients involving the United States Bankruptcy Code, the Federal and Bankruptcy Rules of Procedure, the Uniform Commercial Code and applicable state laws. David also serves as a neutral in mediating financial disputes for non-clients.

Representative Experience

Recent Major Engagements

- Lead counsel for largest senior secured creditor (claims exceeding \$100M) in Chapter 11 bankruptcy of debtor company involved in media advertising.
- Lead local bankruptcy counsel in the successful asset sale and reorganization of a large open pit copper mine in southern Utah that resulted in a significant dividend to general unsecured creditors.
- Lead counsel for Utah sports equipment vendors with reclamation and unsecured claims in large, national Chapter 11 bankruptcy of sporting goods retail company.
- Lead counsel to the Committee of Unsecured Creditors in the reorganization of the largest dairy operation in Utah
- Lead bankruptcy counsel to a consortium of senior secured creditors with liens against one of the largest tar sands processing facilities in Eastern Utah
- Lead counsel in prosecuting and defending \$100M+ preference, fraudulent transfer and equitable subordination claims
- Lead counsel in complex claims litigation involving multi-million dollar intellectual property rights as assets of the bankruptcy estate
- Lead counsel to Unsecured Creditors' Committee in connection with multi-state real estate sales agent franchise business
- Lead counsel to creditors in connection with prosecution and defense of their claims, as well as purchase by them of business from the estate
- Lead counsel to senior secured creditors in prosecuting and defending \$60M+ claims secured with debtor's assets, as well as negotiation, drafting and consummating settlement and sale of the claims

to third-party buyer

- Lead counsel to largest unsecured creditor in prosecuting non-dischargeability complaint against individual debtor, and assisting the Chapter 7 Trustee to investigate, prosecute and recover possible fraudulent transfers from third parties
- Lead counsel to senior secured lender in pursuing remedies against debtor and its assets, and in negotiating plan terms
- Lead counsel to lender in judicial foreclosure action involving complicated SWAP litigation
- Lead counsel to largest supplier of inventory in large, multi-state residential security system bankruptcy case and related proceedings
- Lead counsel to debtor's largest secured creditor in obtaining appointment of receiver and collection of amounts due under defaulted loan secured with over \$250M in distressed credit card receivables
- Lead counsel to largest secured creditor of fabrication business in obtaining appointment of a receiver, in selling assets and in collecting collateral
- Lead counsel to largest secured creditor in pending judicial foreclosure action involving complicated title issues on unfinished commercial real estate development
- Counsel to largest, senior secured creditors to advance and prosecute senior secured claims, and to recover collateral in the pending Chapter 11 bankruptcy cases, including resolution of complicated plan terms involving development of large tar sands resources project
- Lead counsel to largest secured creditor in connection with post-nonjudicial foreclosure deficiency action, with complicated issues involving water shares separate from real property assets
- Lead counsel to largest senior secured creditor in complicated tiered lending arrangement involving multiple loans and real estate assets
- Lead counsel to lender in judicial foreclosure and collection of multi-million dollar claim secured with real property assets in Southern Utah
- Counsel to senior secured lender in large, multi-affiliate bankruptcy proceeding involving secured and unsecured claims against one of the debtor's affiliates
- Lead counsel to senior secured creditor in bankruptcy and post-bankruptcy foreclosure in connection with incomplete casino project in Las Vegas
- Lead counsel to senior creditors and shareholders in bankruptcy and post-bankruptcy proceedings to enforce claims and acquire data center business
- Lead counsel to senior secured creditors in multi-state rental car business bankruptcy proceeding, including defense of lender liability claims
- Special counsel to Chapter 7 Trustee to prosecute multi-million dollar fraudulent transfer claims arising out of the pre-petition purchase of debtor's life settlement contracts
- General bankruptcy counsel to large developer of golf and residential properties
- Lead counsel to governmental agency in bankruptcy action involving over 1400 acres of environmentally sensitive development property
- Lead counsel to owners in connection with resolution of actual and contingent liabilities arising out of failed casino businesses, including negotiation of complicated plan terms that were largely based on tax considerations
- Lead counsel to senior secured creditor in connection with bankruptcy case of large regional tractor and trailer dealership

- Lead counsel to largest senior secured creditor in connection with Chapter 11 bankruptcy case of large regional construction equipment rental business
- Lead counsel to largest senior secured creditor in connection with bankruptcy case of large Southern California construction equipment rental business
- Counsel to Unsecured Creditors' Committee in Chapter 11 bankruptcy case involving large failed real estate development
- Counsel to individual business debtor in a Chapter 7 bankruptcy case involving complicated dischargeability issues under DOMA and the definition of "spouse" in the bankruptcy code
- Counsel to individual debtor in complicated bankruptcy case involving tax, trust and fraudulent transfer issues
- Counsel to buyer in connection with matters related to the acquisition of large copper processing and mineral assets
- Counsel to licensor in connection with complicated, multi-state license dispute, including dispute with bankruptcy estate of prior licensor
- Lead counsel to credit card processing company in connection with security interest, reserve account and chargeback claims under merchant agreement of a bankrupt credit card merchant
- Counsel to senior secured lender in connection with failure to three separate hotel properties on public land leases
- Lead counsel to lender in pursuit of a multi-million dollar deficiency judgment related to mega-home in Alpine, Utah, and defense of various claims asserted against lender arising out of the transaction
- Lead counsel to large secured and unsecured creditor in pursuing and collecting claims against individual debtor entrepreneur with over \$70M in liabilities, and involving complicated jurisdictional issues of exemptions, absolute priority rule, nondischargeability and plan terms

Education

- University of Utah College of Law (aka S.J. Quinney College of Law) (J.D., 1976)
 - Editorial Board, Law Review
 - Order of the Coif
 - Phi Beta Kappa
- State University of New York at Binghamton, Harpur College (B.A., highest honors, 1973)

Professional Memberships & Activities

- American College of Bankruptcy, Fellow (2003-present)
 - Director, American College of Bankruptcy Foundation
 - Member, Pro Bono Committee of the Foundation
 - Member, Senior Fellows Committee
- American Bankruptcy Institute
 - Rocky Mountain Bankruptcy Conference
 - Advisory Board (2008-2015)
 - Chair (2004-2008)
- American Bar Association

- Litigation Counsel of America, Fellow (2014-present)
- Salt Lake Chamber of Commerce, Leader Utah Program Member (2018)
- State Bar of Utah
 - Fund for Client Protection Committee
 - Bankruptcy Section, Organizer and First Chairman
 - Bar Exam Grader – UCC questions
 - Utah Licensed Paralegal Practitioners - Examination and Testing Standards Committee for Debtor-Creditor specialization
 - New Lawyer Mentor Program, Mentor
- Utah Bankruptcy Lawyers Forum, Organizer and Initial Trustee
- University of Utah College of Law, Adjunct Professor of Commercial Law (1978-1982, 2012-2017)
- University of Miskolc Law Department, Visiting Professor, Miskolc, Hungary (Fall 2006)

Representative Presentations & Publications

Publications

- "Strategic Alternatives For and Against Distressed Businesses," Chapter Author, Thomson West (2016, 2018 ed.)
- Reporter and author, two chapters of Strategic Alternatives for and Against Distressed Businesses, Friedland, Hammeke, Vandesteeg, Thomson Reuters, 2019 Edition -- Chapter 36, Vol. I, on Utah Assignments for the Benefit of Creditors, and Chapter 71, Vol. II, on Utah Receiverships.
- Trigild, 2009 Deskbook, Guide to Receivership & Foreclosure, Author of Chapter on Utah.
- "Inside the Minds™, Chapter 7 Commercial Bankruptcy Strategies," Chapter Author, Practical Guidelines for Efficient Chapter 7 Filings, Thomson Reuters/Aspatore (2010 ed.)
- **Articles Published**
- "UCRERA: Coming to Your State?" Author, Receivership News - A Publication of the California Receivers Forum (Summer/Fall 2017)
- "Utah Becomes First State to Enact the Uniform Commercial Real Estate Receivership Act," Author, Utah Bar Journal (Volume 30 Number 4 July/August 2017)
- "UCRERA: Coming to Your State?" Author, American Bankruptcy Institute Journal, Vol. XXXVI, No. 7, at page 28. (July 2017)
- "Stern v. Marshall Changes the Landscape of Bankruptcy Court Jurisdiction," Utah Bar Journal, Vol. 26, No. 2, p. 34 (March/April 2013)
- "Do the Ends Justify the Means Test," ABI Law Journal (2008)
- "Circuit Notes," American Bar Association, 10th Circuit Editor (2008)
- "Checklist for Small Business Cases Under Chapter 11," Utah Bar Journal (2007)
- "Valuing Intangibles," Utah Bar Journal (February 2005)
- "Highlights of the Bankruptcy Reform Act of 2004," Utah Bar Journal (2004)
- "My Evolution from Paper-pusher to Key-clicker," Author, Utah Bar Journal (June/July 2004)
- "Rebirth of Article 9," Author, Utah Bar Journal (November 2000) Speeches & Panel Participations
- "Not Just a New Tool, But a New Toolbox: Utah's New Statute on Commercial Real Estate

- Receiverships," Panelist, Utah State Bar Summer Convention, Sun Valley, Idaho (July 27, 2018)
- "Effective Motion Practice: Pointers, Checklists, Templates, Best Practices and More" Panelist, Rocky Mountain Bankruptcy Conference (January 25, 2018)
 - "Proposed Rule Changes to the Federal Rules of Bankruptcy Procedure to Address Stern v. Marshall Jurisdictional Issues," Presenter, Utah State Bar Annual Convention, Snowmass, Colorado (July 2013)
 - "Stern v. Marshall Panel Discussion re Jurisdictional Issues," Presenter/Moderator, ABA 2012 Rocky Mountain Bankruptcy Conference (January 2013)
 - "Stern v Marshall One Year After: What About Bankruptcy Court Jurisdiction," Utah State Bar Annual Meeting, Sun Valley, Idaho (July 18-21, 2012)
 - "New Bankruptcy Rules Effective December 1, 2011," Snell & Wilmer, Webcast Presentation to GE Capital (November 15, 2011)
 - "So You Have a Judgment, Now What? Bankruptcy and Judgment Enforcement in Utah," Lorman Education Services, Advanced Judgment Enforcement in Utah, Salt Lake City, Utah (November 11, 2011)
 - "Uniform Commercial Code Articles 2A Leases," Snell & Wilmer, Presentation to GE Capital, Equipment Finance, Cedar Rapids, Iowa (September 20, 2011)
 - "The Good, The Bad and the Ugly, 10th Circuit Bankruptcy Judges Poll," American Bankruptcy Institute, Rocky Mountain Bankruptcy Conference, Denver, Colorado (January 27-28, 2011)
 - "Mergers and Acquisitions After the Financial Crisis," Snell & Wilmer, Corporate Counsel Forum, Newport Beach, California (October 8, 2010)
 - "SARE's and SPE's in Bankruptcy," Utah State Bar, Banking & Finance Annual Meeting, Salt Lake City, Utah (April 13, 2010)
 - "D&O Liability: Navigating the Regulatory Landscape," Snell & Wilmer, Presentation to Banks and Credit Unions (April 2010)
 - "Staying Out of the Water-Works and Structured Deals," Lorman Education Services, Navigating Bankruptcy in Troubled Times: Options for Creditors and Debtors, Salt Lake City, Utah (December 11, 2009)
 - "Remedies Under Article 9 of the UCC, Deeds in Lieu of Foreclosure, Forbearance Agreements, Secured Liens and Lender Risks, Receiverships, Deficiency Judgments and Pursuit of Guarantors," National Business Institute, Negotiating Real Estate Loan Terms and Workout Options, Salt Lake City, Utah (February 5, 2009)
 - "So You Have a Judgment, Now What? Bankruptcy and Judgment Enforcement in Utah," Lorman Education Services, Judgment Enforcement, Salt Lake City, Utah (November 2, 2008)
 - "Executory Contracts and the Application of 11 U.S.C. § 365," Snell & Wilmer, Bankruptcy Practice Group Meeting (March 6, 2008)
 - "An Overview of Defaults and Remedies in Lending Transactions," Utah State Bar, Mid-Year Meeting, St. George, Utah (February 7, 2008)
 - "Mechanics Liens, Fraudulent Transfers, Preferences and Pre-Bankruptcy Documentation; Executory Contracts and the Application of 11 U.S.C. §365 with Drafting Suggestions," Lorman Education Services, Bankruptcy, A Creditor's Perspective in Utah, Salt Lake City, Utah (December 16, 2006)
 - "Business and Individual Bankruptcy Proceedings in the United States of America," Center for International Legal Studies, Lecture Series, University of Miskolc, Hungary (October 1-30, 2006)

- "Implications of New Bankruptcy Act on Business Bankruptcies," Snell & Wilmer Presentation to GE Capital Franchise Finance Corporation (May 19, 2006)
- "Nondischargeable Restitution Obligations-Collection Hammer for Creditor Victims," Idaho State Bar, 24th Annual Commercial Law & Bankruptcy Seminar, Coeur d'Alene, Idaho (February 16-18, 2006)
- "Battle of the Codes; The Bankruptcy Bully vs. the Tax Tyrant (Tax Liens, 505b Determinations, Sovereign Immunity & New Disclosures)," American Bankruptcy Institute, Rocky Mountain Bankruptcy Conference, Denver, Colorado (January 26-29, 2006)
- Utah State Bar, Ethics Advisory Committee, Presentation to the Utah Supreme Court Rules Committee re Opinion No. 05-03; Salt Lake City, Utah (January 23, 2006)
- "Pre-Petition Sanctions, Contempt (Civil/Criminal), Penalties and Punitive Damages: Allowability and Enforceability," American Bankruptcy Institute, Winter Leadership Conference, Palm Springs, California (December 1-3, 2005)
- "Overview of Major Changes in Chapter 7; Other Changes Affecting Particular Creditors or Industries," National Business Institute, Aligning Your Practice With the Bankruptcy Abuser Prevention Act of 2005, Salt Lake City, Utah (October 14, 2005)
- "So You Have a Judgment, Now What? Bankruptcy Enforcement in Utah-Recent Rule and Code Changes," Lorman Education Services, Judgment Enforcement in Utah, Salt Lake City, Utah (July 8, 2005)
- "Implications of New Bankruptcy Act on Business Bankruptcies," Snell & Wilmer presentation to GE Commercial Finance, Scottsdale, Arizona (May 19, 2005)
- "A Bankruptcy Lawyer's Take on Asset Protection," Utah State Bar, Estate Planning Section Lunch Meeting, Salt Lake City, Utah (May 10, 2005)
- "Valuing Intangibles," Valcon, Legal and Financial Perspectives on Business Valuations and Restructuring, Las Vegas, Nevada (March 3-4, 2005)
- "Are There Universal Standards, or Do the Ends Define the Rules?," American Bankruptcy Institute, Rocky Mountain Bankruptcy Conference, Denver, Colorado (February 10-12, 2005)
- "Bankruptcy: a Creditor's Perspective in Utah, Mechanics Liens, Fraudulent Transfers, Preferences and Pre-Bankruptcy Documentation; Executory Contracts and the Application of 11 U.S.C. § 365 with Drafting Suggestions," Lorman Education Services (December 16, 2004)
- "Homeland Security-Keeping the Bankruptcy Barbarians Off Your Assets," Snell & Wilmer Presentation to GE Commercial Finance, Bellevue, Washington (November 17, 2004)
- "So You Have a Judgment, Now What? Bankruptcy and Judgment Enforcement in Utah," Lorman Education Services, Advanced Judgment Enforcement in Utah, Salt Lake City, Utah (November 11, 2004)
- "Daubert v. Merrill Dow Pharmaceuticals, Inc. and Till v. SCS Credit Corporation and its Possible Application to Chapter 11 Cram Down Interest Rates," Utah Bankruptcy Lawyers' Forum, Autumn 2004 Forum, Salt Lake City, Utah (September 21, 2004)
- "Liens and Credit Issues in Bankruptcy," National Business Institute, An Advanced Look at Utah Real Estate Law, Salt Lake City, Utah (September 1, 2004)
- "Dischargeability, Reaffirmation, Abandonment, Setoff and Use of Assets," Lorman Education Services, Protecting and Collecting Assets in Bankruptcy in Utah, Salt Lake City, Utah (August 18, 2004)

- "Executory Contracts," Snell & Wilmer, Practice Group Training Program, Salt Lake City, Utah (April 28, 2004)
- "Treatment of Secured Claims in U.S. Bankruptcy Cases," Center for International Legal Studies, Secured Transactions and Insolvency (January 11-17, 2004)
- "So You Have a Judgment, Now What? Bankruptcy and Judgment Enforcement in Utah," Lorman Education Services, Advanced Judgment Enforcement in Utah, Salt Lake City, Utah (November 11, 2003)
- "Recent Developments: Sections 523(a)(2), (4) and (6)," Utah Bankruptcy Lawyers' Forum, Autumn 2003 Forum, Salt Lake City, Utah (September 16, 2003)
- "Dischargeability, Reaffirmation, Abandonment, Setoff and Use of Assets," Lorman Education Services, Protecting and Collecting Assets in Bankruptcy in Utah, Salt Lake City, Utah (August 19, 2003)
- "Electronic Banking and Commerce; Ethical Issues," National Business Institute, Challenges in Utah Commercial Lending Practices, Salt Lake City, Utah (July 27, 2003)
- "Treatment of Successor Liability in Connection with Sales Under Section 1123(a)(5)(d) and 1141(c) of the Bankruptcy Code, and Under Section 363," American Bankruptcy Institute, Rocky Mountain Bankruptcy Conference
- "So You Have a Judgment, Now What? Bankruptcy and Judgment Enforcement in Utah," Park City Bar Association, Brownbag CLE, Park City (Utah, May 1, 2003)
- "Protecting the Creditor's Position," National Business Institute, Fundamentals of Bankruptcy Law & Procedure in Utah, Salt Lake City, Utah (December 11, 2002)
- "Bankruptcy: A Creditor's Perspective in Utah, Executory Contracts and the Application of § 365 With Drafting Suggestions and Mechanics Liens, Fraudulent Transfers, Preferences and Pre-Bankruptcy Documentation," Lorman Education Services, Salt Lake City, Utah (October 10, 2002)
- "So You Have a Judgment, Now What? Bankruptcy and Judgment Enforcement in Utah," Utah State Bar, Annual Convention, Sun Valley, Idaho (June 29, 2002)
- Snell & Wilmer Presentation to GE Capital Business Asset Funding, Bellevue, Washington (October 29, 2001)
- "OK Corral," NITA Trial Preparation Program, Phoenix, Arizona (October 24-25, 2001)
- "Bankruptcy: A Creditor's Perspective in Utah, Mechanics Liens, Fraudulent Transfers, Preferences and Pre-Bankruptcy Documentation," Lorman Education Services, Salt Lake City, Utah (October 11, 2001)
- "Training on the New Revised Article 9," Snell & Wilmer presentation to Bank of Utah (June 7, 2001)
- "The Bankruptcy Court and Ethics," National Business Institute, Basic Bankruptcy Litigation, Salt Lake City, Utah (December 14, 2000)
- Robert Morris Association Luncheon of Northern Utah Chapter, Banker's Association, Ogden, Utah (November 15, 2000)
- "Enforcement of Judgments in Utah and Ethical Considerations, Enforcement and Collection of Judgments in Utah," National Business Institute, Salt Lake City, Utah (July 29, 1999)
- "The New (and Improved?) Bankruptcy Code and Rules-Highlights of Proposed Changes," Utah State Bar, Annual Meeting, Sun Valley, Idaho (June 30-July 3, 1999)
- "Intersection Between Domestic and Bankruptcy Law, Discharge and Dischargeability of Domestic

Relations Debts," Utah Bankruptcy Lawyers' Forum and Family Law Section of the Utah State Bar, Salt Lake City, Utah (June 8, 1999)

- "Executory Contracts and the Application of the Bankruptcy Code to Nonresidential Real Property Leases," Snell & Wilmer presentation to American Stores Properties and Jewell Food Stores Property Management Staff, Chicago, Illinois (August 7, 1998)
- "Executory Contracts and the Application of the Bankruptcy Code to Nonresidential Real Property Leases," Snell & Wilmer presentation to In-House Legal Staff of American Stores Properties, Inc. and American Stores Company, Salt Lake City, Utah (May 28, 1998)
- "Loan Documentation," Snell & Wilmer presentation to Bank of Utah Loan Officers (April 15, 1998)
- "Fundamentals of Bankruptcy Law and Procedure in Utah," National Business Institute, Salt Lake City, Utah (October 21, 1997)
- "Bankruptcy Issues," Snell & Wilmer presentation to Bank of Utah Branch Managers and Officers (August 13, 1997)
- "The Impact of Bankruptcy on Dissolution of Marriage in Utah," National Business Institute (June 24, 1997)
- "Intellectual Property Rights and Bankruptcy," Lorman Education Services, Judgment Enforcement Seminar, Salt Lake City, Utah (April 29, 1997)
- "Issues and Considerations in the Creation and Use of 'Bankruptcy Remote' or 'Special Purpose Entities' for Asset Based Lending," Utah State Bar, Real Estate Section Meeting, Salt Lake City, Utah (October 24, 1996)
- "Fundamentals of Bankruptcy Law and Procedures in Utah," National Business Institute, Salt Lake City, Utah (September 26, 1996)

Professional Recognition & Awards

- The Best Lawyers in America®, Bankruptcy and Creditor-Debtor Rights/Insolvency and Reorganization Law, Bankruptcy Litigation (1995-present)
- Utah's Legal Elite: Bankruptcy/Workout, Utah Business Magazine (2005-2006, 2009-present)
- Mountain States Super Lawyers, Bankruptcy (2007-2019)
 - Top 10 (2014)
 - Top 25 (2012)
 - Top 100 (2012, 2015, 2016, 2018)
- National Academy for Bankruptcy Attorneys (NAFBA) - America's Top 10 Attorney Award - Utah (2014)
- Top 100 Litigation Lawyers in the State of Utah, American Society of Legal Advocates (2013, 2016)
- Top 100 Attorneys in the Mountain States, Salt Lake City Magazine (2013)
 - Top 25 Attorneys in Salt Lake City (2013)
- Lawdragon Top 3000 Leading Lawyers in America (2010-2011)
- Super Lawyers®, Bankruptcy - Business Edition (2011)
- Super Lawyers®, Bankruptcy - Corporate Counsel Edition (2009-2010)
- Utah 100 Elite, Utah Business magazine (2004-2006)
- Who's Who Legal USA (2006); Insolvency and Restructuring (2014)

Community Involvement

- Fourth Street Clinic, Board Member, Vice-President elect
 - Co-Chair, Advancement Committee
 - Member, Corporate Council Committee
- American Bankruptcy Institute's Rocky Mountain Bankruptcy Conference, Advisory Board, Ex-Officio Member
- S.J. Quinney College of Law
 - Board of Trustees
 - Former President
 - Member, Fundraising Committee
 - Executive Committee Member
- Utah Dispute Resolution, Board Member (2014-2019)
- Trout Unlimited, Stonefly Society (Salt Lake County affiliate)
 - Board member
 - Youth programs coordinator

Bar Admissions

- Utah

Court Admissions

- Supreme Court of Utah
- United States Supreme Court

- United States District Court, District of Utah
- United States District Court, District of Colorado
- United States Court of Appeals, Ninth Circuit
- United States Court of Appeals, Tenth Circuit
- United States Tax Court