



## Eric D. Madden

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Eric Madden is a partner with Diamond McCarthy. He has handled a variety of complex litigation matters, including business fraud, director and officer liability, professional malpractice, and shareholder derivative actions. He also has substantial experience in bankruptcy-related litigation and environmental litigation. His representative cases include:

- Representation of the USACM Liquidating Trust in connection with various litigation claims arising out of the collapse of USA Commercial Mortgage Company, a commercial loan servicer with more than \$950 million in outstanding loans. Substantial claims against several of the company's former professional advisors have recently been settled for confidential amounts. In addition, Eric served as lead counsel in a bench trial against a reputed member of the Gambino crime family, resulting in a \$4.2 million judgment.
- Representation of the post-confirmation trustee for LJM2 Co-Investment, LP, the Enron-affiliated partnership formerly run by Andrew Fastow, in connection with claims against its former counsel, accountants, and investment bankers. The claims were settled for confidential amounts prior to filing suit and after mediation and/or substantial negotiations.
- Representation of a minority shareholder in a derivative suit filed in the Delaware Chancery Court, involving breach of fiduciary duty and other torts related to the misallocation of the \$2.5 billion purchase price paid by Bacardi Limited to acquire the Grey Goose Vodka label. The action successfully settled for a confidential amount following the Court's issuance of a 58-page published opinion denying the defendants' motion to dismiss. See *Bakerman v. Sidney Frank Importing Co.*, 2006 WL 3927242 (Del. Ch. 2006).
- Representation of the Chapter 7 trustee for Precept Business Services, Inc., a former NASDAQ-traded company, in connection with claims against its former officers, directors, and professional advisors, as well as preference claims against multiple defendants. See, e.g., *Turoff v. Jackson Walker, LLP (In re Precept Business Services, Inc.)*, 2004 WL 2074169 (Bankr. N.D. Tex. 2004).
- Representation of taxpayers in connection with claims against major insurance companies and their agents related to the marketing and sale of abusive tax shelters. See, e.g., *Kennard v. Indianapolis Life Ins. Co.*, 420 F. Supp. 2d 601 (N.D. Tex. 2006); *Cotner v. Hartford Life & Annuity Ins. Co.*, 2008 WL 59174 (N.D. Tex. 2008).
- Representation of the post-confirmation trustee for Agribiotech, Inc., a former NASDAQ-traded company, in connection with claims against its former officers, directors, and professional advisors.
- Representation of a Philippine province in connection with environmental claims against a multi-national Canadian mining company.

### Location:

Dallas, Texas

### Education:

University of Kansas, B.A.,  
English and Environmental  
Studies, with honors, 1996

- Phi Beta Kappa
- Honors thesis in  
environmental policy

University of Kansas  
School of Law, J.D., 1999

- Order of the Coif
- Editor-in-Chief,  
*Kansas Law Review*

### Areas of Practice:

Director/officer liability  
Professional liability  
Bankruptcy-related litigation  
Derivative and class actions  
Environmental litigation  
Business torts

### Admitted to Practice:

Texas, 1999



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For the fourth consecutive year (2004-2007), Texas Monthly magazine has named Eric as a "Texas Rising Star," a distinction reserved for the top 2.5% of Texas attorneys who are under 40 years of age or have been practicing law less than 10 years.

Eric has also written and spoken on a variety of topics, including the following:

- Speaker and author, *Recovering from the "Bad Guys" and Their Advisors - Fiduciary Duties to Creditors, Deepening Insolvency, and In Pari Delicto*, presented at Bankruptcy Institute 2007, sponsored by the Houston Bar Association (Feb. 2007).
- Speaker and author, *Fiduciary Duties in Distressed Corporations: Avoiding Director Liability in the Zone of Insolvency*, presented at the Northern District of Texas Bankruptcy Bench-Bar Conference (Sept. 2006).
- Co-author, *Recovering for the Wrongful Death of a Company: A Dialogue on the Rights and Remedies Available to Victims of a Corporate Collapse*, ATLA's Trial magazine (June 2006).
- Author, *Keeping the Catch - Post-Confirmation Jurisdiction*, presented at *Bankruptcy Litigation: Advanced Pre-Trial Practice and Procedure Workshop* (Feb. 2006), sponsored by the State Bar of Texas and the University of Texas School of Law.
- Speaker, *Developing and Pleading Effective Causes of Action in Bankruptcy Cases*, presented at *Bankruptcy Litigation: Advanced Pre-Trial Practice and Procedure Workshop* (Jan. 2005), sponsored by the State Bar of Texas and the University of Texas School of Law.
- Speaker and co-author, *Deepening Insolvency: Practical Reality and Emerging Legal Theory*, presented to the Dallas Bar Association, Bankruptcy Section (Nov. 2003).
- Co-author, *Shareholder Litigation in the Shadow of Bankruptcy: The Low Priority Claimants' Search for Justice*, presented at *Lessons from Enron - The Issues We Face When Big Companies Fail*, a seminar sponsored by the Houston Bar Association (April 2002).
- Author, *The Voluntary Cleanup and Redevelopment Act: The Limits of the Kansas Brownfields Law*, 46 Kan. L. Rev. 593 (1998).

Eric received his J.D. degree from the University of Kansas School of Law, where he served as Editor-in-Chief of the *Kansas Law Review* and was elected to the Order of the Coif. He received his B.A. degree in English and Environmental Studies from the University of Kansas, where he graduated with honors and was elected to Phi Beta Kappa. Prior to joining the firm, he was an associate with Carrington, Coleman, Sloman & Blumenthal, LLP.

Eric is a member of the American Bar Association, the State Bar of Texas, the Dallas Bar Association, the Dallas Association of Young Lawyers, and the American Bankruptcy Institute. He is admitted to practice in all state and federal courts in Texas, and before the United States Supreme Court.

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