

Subcommittee on Loan Workouts

Steven B. Soll, Chair, Cathy L. Reece, Vice Chair

The Loan Workout Subcommittee of the Commercial Finance Committee, in conjunction with the Lender Liability Subcommittee, will jointly present a panel at the Fall Meeting in San Francisco, California entitled: ***Nightmare on Main Street – What Keeps Lenders Up at Night?*** The panel will be moderated by Steven B. Soll, a Member of the Firm of Otterbourg, Steindler, Houston & Rosen, P.C. The panelists will consist of Cathy L. Reece, Esq., a Member of the Firm of Fennemore Craig, P.C., Harvey I. Forman, Esq., Partner, Blank Rome LLP, and Mr. Howard Bailey, GE Commercial Finance. The panel will address a number of legal issues relating to lender liability and bankruptcy that impact lenders. The issues to be addressed by the panel include matters pertaining to (i) traditional lender liability theories – breach of commitment, fraud and inducement, misrepresentation, lack of good faith and damage theories, and recent trends or decisions relating thereto, (ii) intercreditor issues relating to, among other matters, DIP financing/cash collateral, asset sales and voting rights, (iii) recharacterization or subordination of indebtedness, (iv) cram down of secured debt under a plan of reorganization (value, modification of terms), and (v) disallowance of prepayment premiums. The panel will distribute written materials in advance of the meeting. The panel anticipates a robust interactive discussion with attendees on the various topics.