



# Albert N. Kennedy



## PARTNER

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## LEGAL SERVICES

Bankruptcy & Reorganization

## EDUCATION

J.D., Vanderbilt University, 1976  
A.B., Economics, Brown University, 1973

## BAR & COURT ADMISSIONS

Oregon State Bar, Debtor-Creditor Section  
State Bar of Michigan  
Washington State Bar Association  
U.S. District Court, Western District of Michigan  
U.S. District Court, District of Oregon  
U.S. District Court, Western District of Washington

## AWARDS & RECOGNITIONS

**The Best Lawyers in America**  
1989-2022, Bankruptcy & Creditor Debtor Rights Law/Insolvency & Reorganization Law  
2014-2022, Bet-the-Company Litigation  
2012-2022, Litigation – Bankruptcy  
2012, Lawyer of the Year – Litigation: Bankruptcy, Portland  
2011, Lawyer of the Year – Bankruptcy & Creditor Debtor Rights Law/Insolvency & Reorganization Law, Portland

**Martindale-Hubbell**  
AV Preeminent

**Super Lawyers**  
2016, Top 10 Oregon Super Lawyers  
2012-2021, Top 50 Oregon Super Lawyers  
2006-2021, Oregon Super Lawyer – Business Bankruptcy

**Turnaround Management Association**  
2011, Large Company Turnaround Transaction of the Year

Al's practice focuses on complex corporate reorganizations and restructuring. He has expertise in all areas of commercial, bankruptcy, and creditors' rights law. He has represented creditors (including a variety of financial institutions) and debtors in bankruptcy proceedings, commercial litigation, and real estate foreclosures before both federal and state courts. He also has extensive experience in the negotiation and documentation of out-of-court workouts and commercial loan transactions.

In recent years, Al has been lead debtor or committee counsel attorney in some of the most significant commercial and business bankruptcy cases filed in Oregon and Southwest Washington.

Al began his legal career as an associate attorney with Russell, Ward, Hodgkins & Heaney in Grand Rapids, Michigan. He became Vice President, Assistant General Counsel and Supervisor of the Litigation Division of Orbanco Financial Services Corporation's Legal Department in Portland in 1981. He joined Tonkon Torp in 1984, becoming a partner in 1986. Al enjoys skiing and bicycling.

Al is a frequent speaker on bankruptcy and is the author of numerous articles on bankruptcy-related topics. He is the author of Chapter 16, Development, Confirmation, and Consummation of Chapter 11 Plans, 2 Oregon Law (Oregon CLE: 1999) and the 2007 Supplement.

## Representative Matters

*In re Stayton SW Assisted Living, L.L.C.* (the Consolidated Sunwest Related Entities) — (Bankr. D. Or.) Tonkon represented debtor, Stayton SW Assisted Living, L.L.C., and over 700 substantially consolidated affiliates, in a Chapter 11 proceeding that resulted in a confirmed Plan of Reorganization. The biggest and most complex bankruptcy case ever filed in Oregon, the consolidation, restructuring and \$1.2 billion sale involving over 700 Sunwest entities demanded legal expertise in bankruptcy, securities, tax, real estate, corporate governance, litigation, mergers and acquisitions, regulated industries, and commercial transactions. Al Kennedy and Tim Conway worked with a team of Tonkon lawyers and paralegals who developed and executed a complex resolution that restructured obligations owing to over 90 secured lenders, sold 146 senior living facilities (including

approximately 1,200 tenant-in-common interests held by investors), and resulted in distributions to creditors and investors exceeding 100% of their claims.

*In re C & K Market, Inc.* (Bankr. D. Or.) — Headquartered in Brookings, Oregon, C & K Market is an independently-owned grocery store chain located primarily in small communities in southern and central Oregon and northern California. Tonkon Torp represented the company in its Chapter 11 case, which recapitalized the company through a debt-for-equity exchange and enabled the company to emerge with a strong balance sheet and solid earnings. During the seven-month reorganization, the company sold its 15 pharmacy operations, sold or closed 20 of its original 60 grocery stores, and refinanced its secured debt. A team comprised of

## PROFESSIONAL MEMBERSHIPS

Multnomah Bar Association

Turnaround Management Association

## COMMUNITY INVOLVEMENT & ACTIVITIES

High Desert Museum

Board of Trustees

bankruptcy lawyers Al Kennedy, Mike Fletcher, and Ava Schoen led extensive negotiations with the grocer's secured and unsecured creditors to ensure the uninterrupted support of trade creditors, manage PACA liabilities, and confirm and implement the plan.

*In re Williams, Love, O'Leary & Powers, P.C.* (Bankr. D. Or.) — Williams, Love, O'Leary & Powers, P.C. ("WLOP") is a nationally recognized plaintiffs' medical products liability firm that represents clients who suffer injuries caused by dangerous or defective medical products. Tonkon represented WLOP in its Chapter 11 case, which resulted in a confirmed Plan of Reorganization through which all creditors were paid in full and the firm emerged viable and recapitalized. We believe this is the only law firm Chapter 11 in the United States in which the firm emerged intact as an operating firm continuing to serve its clients.

*In re Total Mechanical, Inc.* (Bankr. D. Or.) — Total Mechanical, Inc. is a design-build mechanical contractor. When a large judgment was entered against it, Total Mechanical turned to Tonkon to file a Chapter 11 case on its behalf. Within 10 weeks of the filing of its bankruptcy case, the judgment was settled, Total Mechanical was recapitalized, and the bankruptcy case was dismissed.

*In re Roman Catholic Archbishop of Portland* (Bankr. D. Or.) — On behalf of the Tort Claimants' Committee, Al Kennedy led a team of Tonkon lawyers in the first-ever bankruptcy filing by a Catholic Archdiocese. Tonkon successfully navigated numerous issues of first impression arising from the intersection of real estate, corporate, constitutional, bankruptcy, charitable trust, and religious institutions law. All claimants were paid in full, with interest, after each claim was individually mediated.

*In re Beall Corporation* (Bankr. D. Or.) — Beall Corporation manufactured truck tanks and trailers at multiple factories, and operated sales and service branches across the western United States. Tonkon represented Beall in its Chapter 11 case. The company's divisions were sold as going concerns to four different purchasers and a Plan of Liquidation is scheduled for confirmation in September of 2013.

*In re HemCon Medical Technologies, Inc.* (Bankr. D. Or.) — HemCon Medical Technologies, Inc. develops, manufactures, and sells a line of wound care products throughout the world. When faced with a disastrous patent infringement judgment, HemCon turned to Tonkon to represent it in its Chapter 11 bankruptcy case. Through its bankruptcy case, HemCon was able to sell certain non-core product lines, attract new equity investment, restructure its secured and unsecured debt, including the judgment debt, and emerge from bankruptcy as a viable, operating, recapitalized business.

*In re Western Communications, Inc.* (Bankr. D. Or.) — Western Communications, Inc. owns eight newspapers, including the Bend Bulletin, La Grande Observer, Baker City Herald, Redwood Spokesman, Curry Coastal Pilot, Central Oregon Nickel Ads, Daily Triplicate, and Sonora Union Democrat. Tonkon represented the company in its Chapter 11 case, through which the company restructured its debts and emerged within nine months.

*In re Don J. Simplot* (Bankr. D. Id.) — Don J. Simplot is the oldest son of the legendary J. R. Simplot of Idaho. The principal assets in Mr. Simplot's case were his partnership interests in DJS Properties, L.P., a limited partnership he formed with his children and grandchildren. Tonkon successfully represented DJS Properties L.P. in defending against the efforts of the bankruptcy estate representative to force a dissolution and liquidation of the partnership and its assets.

*In re Society of Jesus, Oregon Province* (Bankr. D. Or.) — Tonkon represented Seattle University in defending against efforts by the Claimants' Committee to consolidate the assets of the University into the bankruptcy estate. All claims against Seattle University were waived and released without payment or contribution by the University.

## Presentations & Publications

Al is a frequent speaker on bankruptcy and is the author of numerous articles on bankruptcy-related topics. He is the author of Chapter 16, Development, Confirmation, and Consummation of Chapter 11 Plans, 2 Oregon Law (Oregon CLE: 1999) and the 2007 Supplement.

"Insurance in Bankruptcy: Asset, Liability or Both?" 30th Annual Northwest Bankruptcy Institute, 2017

"Bankruptcy in the Cathedral," Federal Bar Association – Oregon, 2014

"Challenges in Retail Restructurings: Landlords, Liquidations, Lender Concerns and other Issues," TMA's Thirteenth Annual Northwest Cross-Border Conference, 2012

"Forum Shopping and the Venue Market Failure in Bankruptcy," Oregon State Bar Debtor-Creditor Section CLE and Annual Meeting, 2012

"The State of Corporate Reorganization," Lewis & Clark Law School Business Law Roundtable, 2012

"Strategies for Valuation in Bankruptcy," 2011 Oregon State Bar Debtor-Creditor Section CLE and Annual Meeting

"Bankruptcy Trusts: One Size Does Not Fit All," Turnaround Management Association, 2011

"Reorganization v. Liquidation in Chapter 11 Cases," 24th Annual Northwest Bankruptcy Institute, 2011

"Bankruptcy and the Secured Creditor," Lorman Education Services, 2008

"Dates, Deadlines and Avoiding Pitfalls in Business Bankruptcies," 21st Annual Northwest Bankruptcy Institute, 2008

"Fiduciary Obligations in the Vicinity of Insolvency," The Seminar Group, The Best of CLE, 2008

"Loan Workout and Collateral Liquidation," Lorman Education Services, 2008

"The Wheel of Misfortune," 19th Annual Northwest Bankruptcy Institute, 2006

"Commercial and Real Estate Loan Documents in Oregon," Lorman Education Services, 2004

"Real World Evidence," 17th Annual Northwest Bankruptcy Institute, 2004

"Receiverships v. Bankruptcies," Turnaround Management Association, 2004

"Contested Chapter 11 Plan Hearings," Oregon State Bar Debtor-Creditor Section CLE, 2004

