



## **SPECIAL SERVICERS**

# **Changing Conditions**

Barnes & Thornburg has decades of experience working with special servicers. We assist special servicers with commercial mortgage-backed securities (CMBS), defaults and portfolio performance. Our team has represented more than a dozen special servicers, including some of the largest in the United States.

Our Special Servicer team is trained in the areas of loan documentation, workout, litigation, foreclosure, and bankruptcy. Accordingly, when properties are thrown into bankruptcy, the same lawyers who managed the foreclosure are available to assist the special servicers in the bankruptcy. As a full-service law firm with more than 20 U.S. offices, we have experience in jurisdictions across the U.S.; the firm is uniquely qualified and has the resources and knowledge to represent special servicers in multiple locations.

Our attorneys assist special servicers with a variety of issues, including:

## **Pre-Foreclosure Issues**

We have experience preparing collateral review letters, in which, among other things, we analyze the loan documents to ensure that all interests and claims have been properly assigned to the trust. We also analyze the title commitment and other related documents, and make recommendations on any defects.

## **Default Notices**

We draft default notices and are sensitive to the timing issues associated with the distribution of such notices.

## **Forbearance Agreements**

## **Why Barnes & Thornburg?**

Finding new ways to help clients identify solutions and new business opportunities, across industries, is at our core. We are, at times, more than lawyers, we are advisers bringing new ideas to light. We understand what keeps you up at night and work collaboratively to find practical and creative solutions, at the heart of business.

## **RELATED PRACTICES**

Creditors' Rights, Restructuring and Bankruptcy

Receiverships

We draft forbearance agreements that address the waiver of redemption rights, consents to receivership, forbearance fees, deeds in lieu and other types of complicated concessions that a special servicer may require.

## Receivership Orders

Our team is experienced in crafting receivership orders that allow the receiver to sell property, if so desired by the special servicer, and also give the receiver the authority to reject or assume executory contracts within the receivership context.

## Related Litigation

We have litigated “put-backs,” guaranty issues, and complex collateral waste issues in the CMBS context.

## Bankruptcy

We have represented special servicers in various aspects of bankruptcy proceedings, including cash collateral disputes, 363 sales, motions for relief from the stay, and plan confirmation hearings. Not all special servicers operate in the same way. Some prefer the creation of a special purpose entity to pursue the foreclosure lawsuit. Others prefer that the lawsuit be in the name of the trust, acting by and through its special servicer. We have experience with both.

Having represented some of the largest special servicers across a number of states, the members of the team are well aware of the foreclosure laws in Delaware, Indiana, Illinois, Michigan, Minnesota, Ohio, Kentucky, Pennsylvania and Georgia. Our lawyers also have significant litigation experience, and have litigated issues with regard to pooling and servicing agreements, ownership of loans entering foreclosure, and other similar standing/ownership issues.

In addition, our attorneys remain actively involved in the special servicing community. Barnes & Thornburg is a member of the Commercial Mortgage Securities Association, and has been a participant in the Trigild Conference and the CRE Finance Council (CREFC) conferences for a number of years.

## Practice Leaders



**Alan K. Mills**  
Of Counsel  
(Retired)

P 317-231-7239