

South Florida Lawyers Are Raking In Millions Working in Bankruptcy Court

It might sound counterintuitive, but bankruptcy can be lucrative.

By Raychel Lean | March 25, 2019



South Florida bankruptcy lawyers Glenn Moses of Genovese, Joblove & Battista, Joel Tabas of Tabas Soloff and Michael Budwick of Meland, Russin & Budwick. Courtesy photos.

Editor's note: This is the first in a series of stories taking a deep dive into the U.S. Bankruptcy Court for the Southern District of Florida.

It pays to work in bankruptcy law — sometimes to the tune of millions of dollars.

It seems counterintuitive.

Bankruptcy court is a federal court where litigants seek protection while looking to discharge or repay debts. Debtors there are often in financial distress and unable to repay creditors. By filing for bankruptcy protection, they give the court jurisdiction over their assets, which it then uses to satisfy their debts.

But an independent study by ALM's Daily Business Review found millions of dollars from debtors' estates went to lawyers and other professionals

(<https://drive.google.com/file/d/10Ha8Wam6xhzLfiWNWINuwlIUvyDshVd-/view?usp=sharing>). It also uncovered multiple cases with thousands of court filings—each prepared by attorneys charging by the hour—that generated years of litigation and billing. One case, the most expensive in the district

(<https://drive.google.com/file/d/19dQJGTYxjpX0GNaaaxcP7fdnxBUG5why/view?usp=sharing>), has included nearly 3,600 filings since 2009 and cost tens of millions of dollars.

South Florida attorneys, consultants and other bankruptcy professionals collectively charged more than \$191 million in fees and requested about \$8.5 million in reimbursements in the past three years, according to the Daily Business Review study.

Of 48,000 bankruptcies in the Southern District of Florida

(<https://www.flsb.uscourts.gov/statistics/annual-total-case-filing-statistics>) from 2016 to 2018, only 619 were Chapter 11 cases aimed at reorganizing corporations in debt. But the top earners all specialized in complex commercial bankruptcy.

The list is also male dominated—without a single woman in the top 10.

But who made the most? Miami Genovese, Joblove & Battista partner Glenn D. Moses (<https://www.gjb-law.com/Attorneys/Glenn-D-Moses-Custom.shtml>) led the pack, billing more than \$10.1 million between 2016 and 2018. But Moses stressed that's not actually what he took home. Fee awards tend to go to firms first, which pay operating expenses like rent, payroll and insurance, then distribute a portion to the attorney based on their salary or pay arrangement.



Who Made More Than \$3M in Bankruptcy Court?

Here's a look at all the professionals who billed more than \$3 million working bankruptcy cases between Jan. 1, 2016 and Dec. 31, 2018.

Source: U.S. Bankruptcy Court filings for the Southern District of Florida.



What Are the Most Lucrative Professions in Bankruptcy Law?

Attorneys for trustees far outearned other professionals working bankruptcy cases in the Southern District of Florida from 2016 to 2018. They got paid more than \$82 million in fees and expenses during that period—a commanding lead over the second highest paid group debtor attorneys, who got more than \$38 million from bankruptcy estates during that period.

Here's a look at payments by expertise.

One of Moses' most significant cases involved US Capital/Fashion Mall LLC (<https://www.law.com/dailybusinessreview/2018/09/11/settlement-reached-in-litigation-over-controversial-fashion-mall-project-in-broward/>), in which he represented trustee Kenneth Welt. This bankruptcy was its own animal, stemming from a fiery feud between two Chinese businessmen over ownership of a defunct Plantation mall.

Moses also represented trustee Barry E. Mukamal—another high earner—in a bankruptcy involving Majorca Isles Master Association Inc. Three years in, his firm landed a \$4 million contingency fee after clinching a \$16 million judgment (<https://www.law.com/dailybusinessreview/sites/dailybusinessreview/2017/07/17/hoattorneys-saved-a-miami-gardens-hoa-before-getting-it-11-million/>) against one of the country's largest homebuilders, D.R. Horton, at trial.

The way Moses sees it, being a bankruptcy lawyer means wearing an assortment of hats, including accountant, businessman, financial adviser and litigator—and that means higher rates. In Moses' case, \$525 per hour for work on the Fashion Mall case.

Search DBR's database of all professional fees paid in bankruptcy cases in the Southern District of Florida from 2016 to 2018

Master sheet--Proff fees-UPDATED : Sheet1	
Recipient	Type
Aaronson Schantz Bailey	Attorney-Creditor
Aaronson Schantz Bailey	Attorney-Trustee

Sheet1 >
<

"In many business bankruptcy cases, the fees awarded may be among the highest in the community in a given period," Moses said. "However, the issues in those cases are often complex and require considerable effort to resolve, whether through litigation, negotiation or a combination thereof."

Moses also said that in 2017, his firm donated \$50,000 of its \$5.9 million in fee awards to the Bankruptcy Bar Foundation to assist with pro bono services.

Click here for a breakdown of billing rates in the Fashion Mall litigation

(https://drive.google.com/file/d/146SzwBThCm8NdK_ateXnqKQrWaf47OiO/view)

Joel L. Tabas (<http://www.tabasfreedman.com/attorneys/joel-l-tabas>) of Tabas Soloff in Miami billed the second highest fees, clocking \$7.8 million. Tabas disputes the numbers, arguing that although the court's fee report attributes certain figures to 2016 to 2018, it might reflect work billed in previous years.

"Along with significant overstatements of the amounts billed during the relevant time frame, in multiple instances there is also a double count of billings when an interim application and a final application are filed during the period covered in the article," Tabas said via email. "We are proud of our work and welcome questions about fees but are disappointed about the article's mistaken conclusions with respect to these issues."

Michael S. Budwick (<http://melandrussin.com/attorney/michael-s-budwick/>) of Meland, Russin & Budwick generated \$5.4 million in fees over three years.

"I definitely have never been paid \$5 million by a bankruptcy estate," said Budwick, who also said the money went to his firm first.

Budwick's largest case was also South Florida's biggest, linked to the Petters Co. Inc. bankruptcy in Minneapolis—the aftermath of the third-largest Ponzi scheme in history, led by convicted fraudster Tom Petters. Budwick represented Florida hedge fund Palm Beach Finance Partners L.P., which lost \$650 million to the fraud.

Budwick said his fee arrangements tied pay to performance and results. He said in his biggest case, he reduced his hourly rates to 75 percent to ease the burden on the estate, with a partial contingency of 10 percent. With the discount, Budwick's hourly rate was \$375 when the case began, but hit \$506 by 2018.

Some aspects of the case saw Budwick work on pure contingency. He's invested seven years without compensation into a lawsuit against GE Capital Bank for joining the fraud—a case likely headed to trial this year.

"Professionals in bankruptcy cases should be prepared to explain why their fees are fair and the benefits they provided," he said. "This is especially so in Ponzi cases where the creditors are crime victims."

Lawyers dominate in terms of fees, but accountants Mukamal and Soneet Kapila (<http://www.kapilamukamal.com/soneet/>), and financial adviser Alan Barbee (<https://www.glassratner.com/alan-barbee>) also made it over the \$3 million mark, averaging about \$1 million a year.

According to Broward bankruptcy veteran Thomas M. Messana, (<http://www.mws-law.com/attorneys.html>) it's hard to judge fees without comparing them to how much was recovered.



**Thomas
Messana,
Messana
P.A., Fort
Lauderdale.
Photo: Clay
Wieland**

“To me it boils down to one thing. What value did the lawyers or the professionals deliver to the case to justify this fee?” Messana said. “It’s hard to justify fees in millions of dollars unless you’ve delivered multiples of that in value.”

Messana represented debtor US Capital in the Fashion Mall case, and the data shows he charged about \$1.3 million in fees and more than \$53,000 in expenses between 2016 and 2018. His rate is \$600 an hour, compared with a first-year associate who would get about \$205.

According to the trustee’s latest report

(https://drive.google.com/file/d/1FbxaxRxS1Z2hHGdU5H5t4_2t8TFgjznP/view?usp=sharing) in that case, the estate has received about \$43.5 million and disbursed about \$32.2 million to date, including about \$7.2 million to one of the largest secured creditors, Tangshan Ganglu Iron & Steel Company Ltd., whose principal Zhen Zeng Du claims he invested more than \$160 million in the failed mall redevelopment.

“The reason it costs so much money is, when it’s done right, you’re talking about very high levels of sophistication with lawyers who have been doing it for decades,” Messana said. “It goes back to judgment, that’s what people pay me for. And that judgment’s based on education and experience.”

Bankruptcy is a second chance that doesn't come cheap, according to Kristopher E. Aungst (<http://www.wargofrench.com/attorneys/kristopher-e-aungst>) of Wargo French in Miami.

"It allows businesses to restructure, save jobs and fix problems without simply collapsing, and to do that type of work you have to be a specialist in a lot of different areas of law, finance and accounting, and bring all those pieces together in a highly technical, complex case that can go on for years," Aungst said. "This is never an enterprise that is going to be extremely cheap."

The 13th highest biller, Aungst racked up about \$2.7 million in fees and expenses over three years. He worked on the Chapter 11 restructuring of life settlement company Mosaic Management Group Inc., the sixth most expensive case between 2016-2018. In Aungst's view, helping a business riddled with financial troubles isn't altogether different from operating on a sick patient.

"You want to leave everything that's good there and remove the bad stuff," Aungst said. "And it can be really delicate in certain parts of those cases, where doing the wrong thing or making the wrong choice can have really dire consequences for the business."

Related stories:

Bankruptcy Billing Rates See Slight Uptick, and Attorneys Note Indicators of Recession (<https://www.law.com/dailybusinessreview/2019/03/18/bankruptcy-billing-rates-see-slight-uptick-and-attorneys-note-indicators-of-recession/>)

How Attorneys Saved a Miami Gardens HOA — Before Getting It \$11 Million (<https://www.law.com/dailybusinessreview/sites/dailybusinessreview/2017/07/attorneys-saved-a-miami-gardens-hoa-before-getting-it-11-million/>)

Settlement Reached in Litigation Over Controversial Fashion Mall Project in Broward (<https://www.law.com/dailybusinessreview/2018/09/11/settlement-reached-in-litigation-over-controversial-fashion-mall-project-in-broward/>)

