

**MORRISON**  
**FOERSTER**

# ANNUAL

Business Restructuring  
+ Insolvency 2016



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# 2016

2016 was a year of three-dimensional growth for Morrison & Foerster's Business Restructuring + Insolvency Group. We advanced our reputation as a go-to firm for creditors' committee representations through our successes representing the committees in chapter 11 cases such as Peabody Energy, Republic Airways, and UCI International. We continued to build our debtor-side practice through our representation of Maxus Energy in its bankruptcy proceedings and the conclusion of a successful representation of HOVENSA in its chapter 11 case. We also expanded our capabilities by welcoming lateral partners Jon Levine and Dennis Jenkins, who each bring extensive experience representing bondholders and ad hoc committees, and of counsel Mark Lightner.

The following pages highlight our accomplishments over the past year and introduce our newest team members.

As we look ahead to 2017, we would like to thank our clients and friends for your continued support. We look forward to working with you next year and beyond.





## Peabody Energy Corporation

We represent the official committee of unsecured creditors of Peabody Energy Corporation, the world's largest privately owned coal producer. Together with 153 subsidiaries, Peabody filed for bankruptcy in April 2016 in the Eastern District of Missouri, listing \$10.1 billion in liabilities and \$11 billion in assets. Peabody filed for bankruptcy to restructure its debt obligations as a result of weakened commodity pricing, making this case strongly representative of industry trends at the time of its filing. As commodity prices rose during the last quarter of 2016, so did the prospects for unsecured creditor recoveries.



“They are a first-rate firm, and the level of service you get is excellent.”

— *Chambers USA*





## UCI International

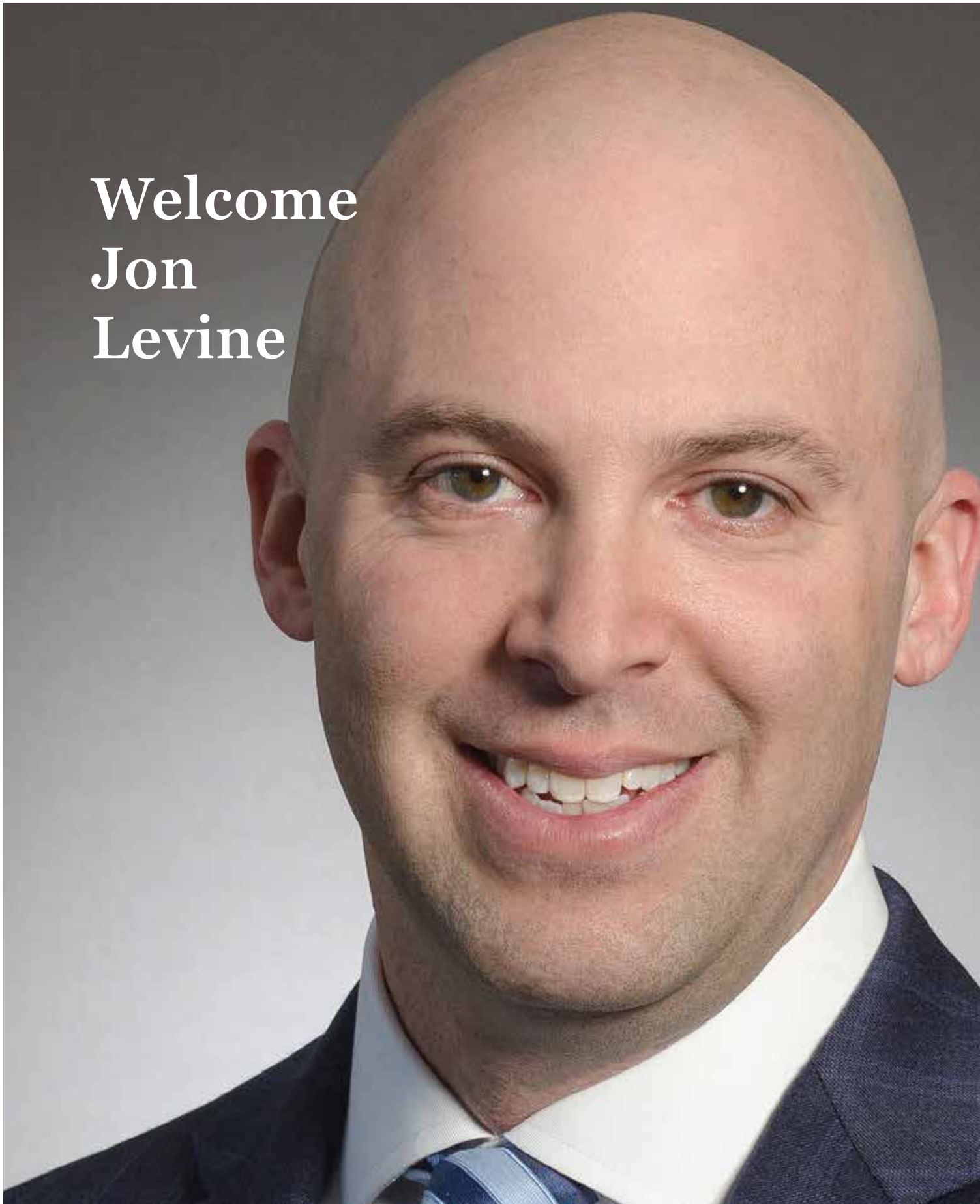
We are counsel to the official committee of unsecured creditors of UCI International, one of North America's largest designers, manufacturers, and distributors of vehicle replacement parts, in its chapter 11 case. On December 6, 2016, UCI confirmed its plan of reorganization, of which the committee was a co-proponent. The plan restructured the debtors' \$500 million in liabilities and provided for the assumption of the debtors' pension plans by a former non-debtor affiliate.






A “premier firm for large restructurings”  
– *Legal 500 US*

Welcome  
Jon  
Levine





Jonathan Levine joined the firm in February 2016. His practice includes representing chapter 11 debtors, creditors' committees, creditors, investors, and other parties in interest in all aspects of complex corporate restructurings, including chapter 11 cases, out-of-court restructurings, and distressed acquisitions. Jon's clients regularly include bank groups, ad hoc creditors' committees, indenture trustees, equity committees, and strategic investors. His restructuring work has spanned a range of industries, including telecommunications, mining, energy, oil and gas, airline cargo, maritime shipping, trucking, manufacturing, and technology.

Jon also regularly advises private investment firms with respect to debt and equity investments in public and private companies, and counsels clients on general corporate and securities matters. He has represented issuers and underwriters in public offerings and private placements of equity and debt securities; has facilitated public and private mergers and acquisitions, venture capital financings, and joint ventures/corporate partnering arrangements; and has counseled clients on contractual, banking, and finance matters.





## Republic Airways

We are counsel to the official committee of unsecured creditors of Republic Airways Holdings, Inc. Republic provides regional passenger services through its wholly owned subsidiaries, Shuttle America and Republic Airlines, which operate approximately 1,000 flights daily through fixed-fee codeshare agreements with United, Delta, and American. Republic has used the bankruptcy process to renegotiate its codeshare agreements, streamline its operations and fleet, and secure additional liquidity to allow it to exit bankruptcy as a reorganized company.



“They really know the guts of the Bankruptcy Code and the practical ‘how-to’ of implementing a plan.”

— *Chambers USA*



## Maxus Energy Corporation

We represent Maxus Energy Corporation and four affiliated debtors in their chapter 11 cases. Maxus is engaged in the business of managing oil and gas-related interests, as well as providing environmental remediation management services. At the time of filing, Maxus had over \$12 billion in alleged liabilities relating to environmental remediation obligations, litigation claims, and retiree benefits. The chapter 11 cases are premised on Maxus' \$130 million settlement with its parent company YPF SA, Argentina's state-run oil company, for alter ego liability in connection with the cleanup of New Jersey's contaminated Passaic River.





## Energy Future Holdings

We were counsel to the official committee of unsecured creditors of Texas Competitive Energy Holdings Corp. (TCEH) and certain debtor affiliates in connection with the chapter 11 case of TCEH's parent corporation, Energy Future Holdings Corp. (EFH)—one of the largest power producers in Texas. This was one of the most challenging cases in recent years because it involved various groups of creditors with opposing interests and objectives, even within the creditors' committee itself. We played a critical role in uniting committee members to form a collective voice of reason before the court. A plan of reorganization for TCEH and its subsidiaries went effective on October 3, 2016.

# Welcome Dennis Jenkins

Dennis Jenkins joined the firm in December 2016. His practice includes representing debtors, creditors' committees, ad hoc bondholder groups, individual creditors, and other interested parties in major domestic and international corporate and debt restructurings, exchanges, distressed mergers and acquisitions, and bankruptcy cases.

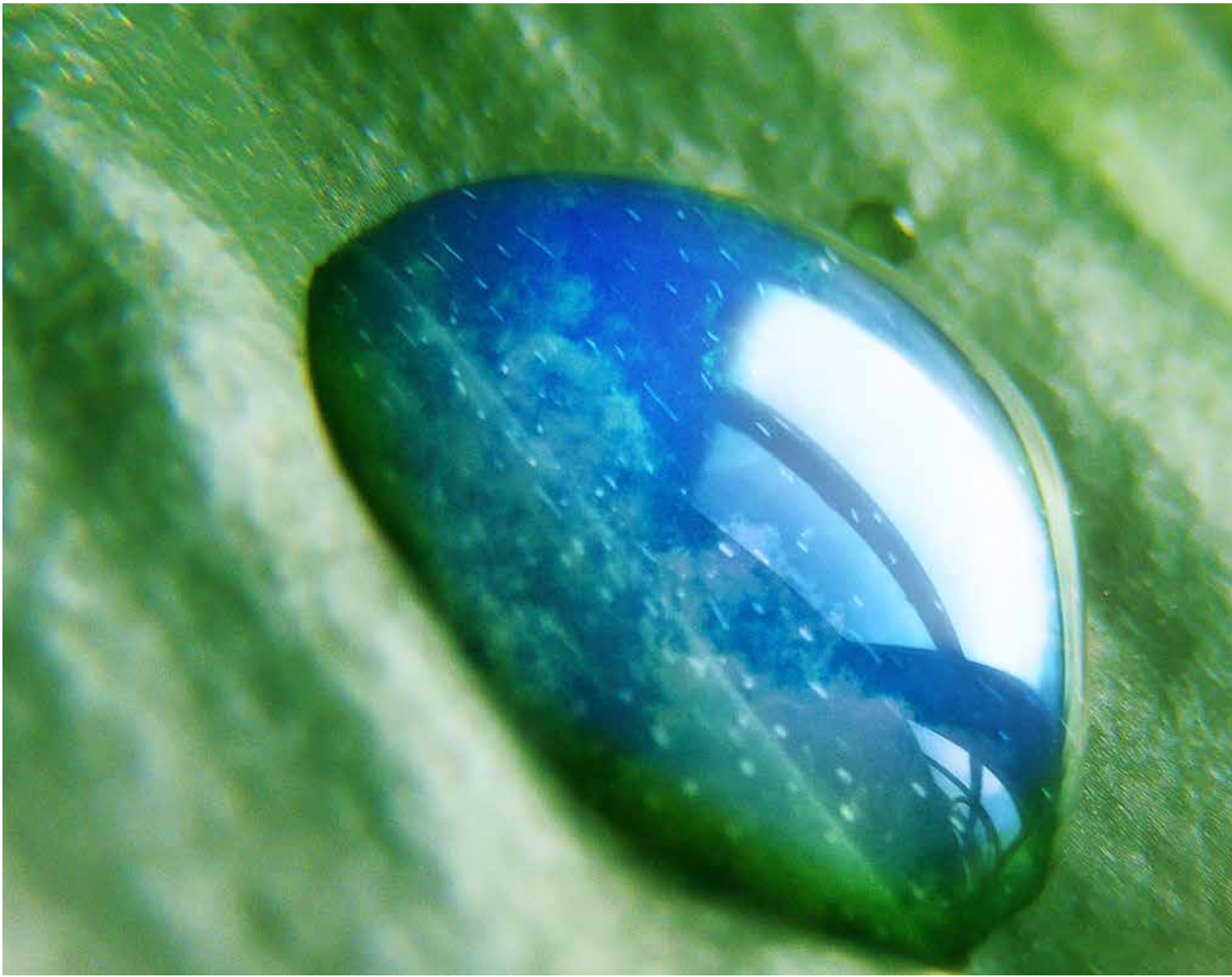
Dennis has extensive experience in debt finance, counterparty risk, distressed corporate transactions, derivatives, securities transactions, and other domestic and

international financial transactions. His nearly 20 years of restructuring experience spans a broad range of industries, including energy, retail, telecommunications, trucking, aviation, manufacturing, satellites, and high technology.

Prior to joining Morrison & Foerster, Dennis worked at the Boston office of a prominent international law firm. He is recognized as a Massachusetts leader in bankruptcy law in *Chambers USA*.







## SunEdison

We are Special Renewables Counsel to the official committee of unsecured creditors of SunEdison, Inc., the world's largest renewable energy developer, in its chapter 11 case. Over the past two years, SunEdison, in a drive to create equity value, embarked on an extremely aggressive plan that required it to make significant investments and/or acquisitions, which resulted in an overleveraged capital structure and, ultimately, an unsustainable debt load and inability to access the capital markets. Our renewable energy team is playing a central role in conducting due diligence of SunEdison's complex project organizational structure and in managing the sale of SunEdison's assets, including in evaluating the bids and negotiating the transaction documents.



“Their knowledge and ability to maneuver within the system are very strong and they are able to come up with creative solutions to major problems.”

– *Chambers USA*

Welcome  
Mark  
Lightner







Mark Lightner joined the firm in September 2016. His practice focuses on restructuring and litigation, and he has experience representing debtors, creditors, and other parties in interest in complex corporate and municipal debt restructurings. His practice also includes advising senior management, boards of directors, and public figures on all aspects of debt restructuring and litigation.

Prior to joining Morrison & Foerster, Mark was an attorney in the New York office of a prominent firm, where he most recently represented the Government Development Bank for Puerto Rico as the fiscal agent and financial advisor to Puerto Rico and its government instrumentalities in the largest municipal debt restructuring effort in the history of the United States, involving over

\$70 billion. He also represented the court-appointed bankruptcy examiner in the Lehman Brothers bankruptcy and served as counsel in other large bankruptcies, including those of American Airlines, Inc., Residential Capital, LLC, and The Budd Company, Inc.

Mark served as a law clerk to the Honorable Rebecca White Berch, Chief Justice of the Arizona Supreme Court, and then as a law clerk to the Honorable Robert D. Drain of the U.S. Bankruptcy Court for the Southern District of New York. He earned his J.D., magna cum laude, from Arizona State University in 2007.



## HOVENSA

We represented HOVENSA LLC as the debtor in its chapter 11 case—the largest chapter 11 case ever filed in the U.S. Virgin Islands. HOVENSA was once one of the ten largest oil refineries in the world, employing nearly 25 percent of St. Croix’s workforce. As of its bankruptcy filing, HOVENSA had over \$2 billion of prepetition indebtedness exclusive of significant legacy liabilities, primarily in the form of environmental obligations, pension obligations, and retiree benefits. We led HOVENSA through the sale of its assets for \$320 million and its chapter 11 plan process, through which we established an environmental trust that will comply with HOVENSA’s environmental obligations going forward.



## Navajo Nation

We represent the Navajo Nation in connection with its general restructuring matters, including that of the Navajo Nation Oil and Gas Company.





## Patriot Coal

We were counsel to the official committee of unsecured creditors of Patriot Coal Corporation. On October 9, 2015, the bankruptcy court confirmed a chapter 11 plan that contemplated the sale of substantially all of the debtors' assets through two separate, value-maximizing transactions. The confirmed chapter 11 plan addressed approximately \$790 million in funded debt, as well as complex legacy and environmental liabilities.



## Walter Energy

We are counsel to the official committee of unsecured creditors of Walter Energy, Inc., a major producer of coal and natural gas that was forced to seek bankruptcy protection in light of the rapid decline in metallurgical coal prices in 2015. We facilitated agreements among the debtors and the debtors' key creditor constituencies in an effort to effectuate a job-preserving, going-concern sale of Walter Energy's Alabama operations and provide a recovery to general unsecured creditors.





## LBI (f/k/a Landsbanki) Winding-Up Board

We represented the Winding-Up Board of LBI with respect to LBI's global composition (similar to a plan of reorganization) in its chapter 15 case. In October 2015, the Winding-Up Board became the first of the three large Icelandic banks to launch its proposal for composition, representing the concluding chapter of LBI's winding-up proceedings. The Winding-Up Board convened a Composition Meeting on November 23, 2015, at which the composition proposal was approved by creditors representing 96.67 percent of all claims against LBI. The district court of Reykjavik held a hearing on December 15, 2015, and issued an order approving the LBI composition plan on December 18, 2015.





## Madoff Clawback Proceedings

We represent the liquidators of multiple Cayman Islands and British Virgin Islands investment funds, as well as individuals, in U.S. bankruptcy court proceedings for the Southern District of New York. We are defending against claims seeking to clawback and recover significant sums claimed to be “Customer Property,” allegedly received from Bernard L. Madoff Investment Securities LLC, prior to discovery of the Madoff Ponzi scheme.



## Lehman Brothers International (Europe)

We continue to represent one of the members of the senior creditor group in the ongoing ‘waterfall’ series of cases involving Lehman Brothers International (Europe) (in administration) (LBIE). In 2016, a hearing was held in the UK Supreme Court on various issues, including the existence of currency conversion claims and their ranking in a UK administration. The court has not yet handed down its decision. Currency conversion claims were held by the court of appeal last year to exist and rank as non-provable claims. The senior creditor group was defending this decision.





“The team provides good, intellectual, strategic analysis in developing solutions to difficult and complex problems.”

– *Chambers USA*





## OW Bunker

We are advising ING as facility agent and security agent in connection with the enforcement of its security interests against assets of OW Bunker, one the world's largest marine fueling companies with operations in 29 countries.





“I have tremendous respect for them—they are very skilled lawyers.”

— *Chambers USA*



## Tata Steel UK

We represent a number of directors of the financial troubled British steel company, Tata Steel UK Limited (TSUK). The future of TSUK has been closely watched in the UK, as it is directly linked to the future of steel manufacturing in the country, and because the company had a significant deficit in the British Steel Pension Scheme.





“We made the right choice to work with them.”

– *Chambers USA*

# Pro Bono

Pro bono work is at the heart of who we are as a firm and as lawyers. In 2016, members of our team worked on a variety of pro bono matters that benefited from our lawyers' skills, passions, and interests.

## Women's Studio Center

Larren Nashelsky, Melissa Hager, and Rahman Connelly, along with a team of tax attorneys, are advising the nonprofit Women's Studio Center on its potential dissolution and bankruptcy. The organization has ceased operations and has significant unpaid debts. One debt, for New York state taxes, has resulted in a tax lien being placed on the individual account of the founder as an officer of the organization. We are addressing that lien as well. This matter was referred to the firm by Volunteer Lawyers for the Arts.

## Transgender Legal Defense and Education Fund

In a matter referred by the Transgender Legal Defense and Education Fund, Melissa Hager successfully obtained a legal name change for a low-income transgender client. Securing a legal name change is an important step for transgender people, allowing their legal identities to match their lived experience. A lack of appropriate identity documents can deter transgender people from applying for jobs, school, and public benefits, and can lead to discrimination.

## Center for NYC Neighborhoods

Jennifer Marines and Benjamin Butterfield are advising the Center for NYC Neighborhoods on how to preserve its lien on a home whose owner has filed a chapter 7 petition. The Center for NYC Neighborhoods' mission is to promote and protect affordable homeownership in New York so that middle- and working-class families are able to build strong, thriving communities.

## Upsolve

The firm represents Upsolve, a startup that is aiming to use technology to assist pro se filers who are seeking self-help access to bankruptcy relief. The firm has provided pro bono legal services that include counsel on corporate formation and research to assist this innovative service. Larren Nashelsky and James Peck are on Upsolve's board of advisors. Rahman Connelly has also been actively involved in these matters.

## Lawyers' Committee for Civil Rights

Erica Richards was part of a team that worked with the Lawyers' Committee for Civil Rights to investigate whether certain localities in Arkansas were enforcing laws against low income individuals in a manner that violated constitutional prohibitions on debtors' prisons. The results of the investigation were used to prepare a class action complaint that was filed in

August in the Eastern District of Arkansas to challenge unconstitutional proceedings in the City of Sherwood and Pulaski County. The case is still pending.

### Safe Passage Project

Brett Miller learned that one of his son's soccer teammates, a teenager originally from Mali, was abused, neglected, and abandoned by his parents in Africa and was hoping to get a green card to remain in the U.S. with his sister. Brett and Samantha Martin, together with the Safe Passage Project (a not-for-profit corporation formed to address the unmet needs of immigrant children living in New York), successfully obtained the requisite orders from Bronx County family court granting guardianship to his sister and making special findings regarding the young man's family circumstances. Brett and Samantha recently submitted his petition for special immigrant juvenile status to the U.S. Citizenship and Immigration Services.

### Bronx Defenders

Gary Lee and James Newton, together with Morrison & Foerster litigators, act as co-counsel in a recently filed federal lawsuit challenging the constitutionality of multi-year delays faced by misdemeanor defendants in Bronx criminal court when they demand a bench trial or trial by jury.

### Piece Project

Piece Project engaged an external contractor to deliver a summer school project, and the parties are now in dispute about the amounts which should be paid for its delivery. We are currently

providing advice concerning Piece Project's rights in this situation and how it might reach an amicable solution. The matter is ongoing.

### Internal Fire Museum of Power

Our London team is working with the Internal Fire Museum of Power (IFM) with respect to two antique aircraft engines that were gifted by the Imperial War Museum, which are currently in the possession of another entity that has failed to relinquish them. We are providing advice regarding IFM's rights and facilitating an amicable resolution of the situation.

### Reprieve

Our London team is assisting Reprieve, an organization that works on death penalty issues around the world, with a factual research project. The project's goal is to ensure that the UK police work within their published guidelines in cases where they are assisting foreign governments with murder investigations when the death penalty may be imposed.

### Anti-Semitism in Europe Project

Peter Declercq continues to provide legal assistance to Human Rights First in relation to its Anti-Semitism in Europe project, focused on Greece, France, and Hungary.

### New York City Family Court

Jordan Wishnew and Lacey Laken provide legal advice to multiple unrepresented litigants in New York City family court.





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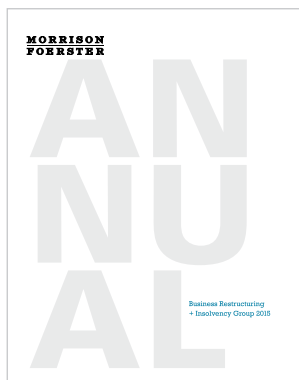
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2015 Annual Review



2014 Annual Review



2013 Annual Review





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