

Kevin J. Simard

PARTNER

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Kevin Simard works with clients to help them think out of the box and utilize creative structures in order to provide greater value to their borrowers. He has extensive experience advising national banks and private lenders on all aspects of providing asset-based credit facilities to borrowers in various industries, with a particular emphasis on retail and consumer products. With the perspective on both the upfront structuring and the back-end wind-down of facilities that comes from extensive experience, Kevin and his team represent clients for the full life cycle of their deals, from complicated front-end structuring, negotiation and documentation of transactions, to work outs and restructurings, to bankruptcy and exit financings.

Kevin's clients have included Bank of America, Bank of Montreal, Callodine Commercial Finance, Carlyle Private Credit, Citizens Bank, Eclipse Business Capital, First Eagle Alternative Credit, Gordon Brothers Funding LLC, Pathlight Capital, ReStore Capital, SLR Credit Solutions, and Wells Fargo. He has been at the center of some recent notable and high-profile bankruptcies in the country, including Rite Aid, Yellow Corporation, Sears Holdings, Tuesday Morning, Serta, J. Crew, Brooks Brothers, Lucky Brands, The McClatchy Companies, The Great Atlantic & Pacific Tea Company, Payless Shoes, Sports Authority and Borders Books.

Kevin plays an active role in the management of various aspects of the firm.

Focus Areas

- Finance and Restructuring
  - Asset-Based Lending
  - Independent Directors & Special Committees
  - Restructuring and Bankruptcy

Recognition

- *The Legal 500* (2012-2026)
- *Chambers USA* (2013-2026)
- *Best Lawyers in America* (2013-2027)
- *Business Today* "Top 10 Banking and Finance Legal Influencers in Massachusetts 2023"

Representative Engagements

Bankruptcy and Restructuring

- Citizens Bank, N.A. as agent with respect to a $450 million revolving credit facility in connection with the Chapter 11 proceeding of Yellow Corporation, one of the largest less than full load trucking company in the United States.
- Bank of America, N.A. in connection with $3.35 billion multi-tranche debtor in possession financing facility for Rite Aid, Inc.
- Wells Fargo Bank, N.A. as agent for a $110 million, multi-tranche asset-based credit facility in connection

with Chapter 11 proceeding of Tuesday Morning Inc., the discount closeout retailer specializing in name brand merchandise for the home.

- Eclipse Business Capital in connection with $100 million debtor in possession financing to Serta Inc.
- Wells Fargo Bank, N.A. as joint leader arranger and collateral agent in connection with $1.86 billion debtor in possession credit facility to Sears Holdings.
- Wells Fargo Bank, N.A. as agent for a $330 million asset based revolving credit and FILO facility in connection with the Chapter 11 proceeding of Brooks Brothers, Inc.
- Wells Fargo Bank, N.A. as agent for a $178.5 million debtor in possession financing to Lucky Brands Dungarees, a nationwide retailer of jeans and casual wear.
- Carlyle Private Credit in connection with the Chapter 11 proceeding of Le Tote, Inc, the owner of Lord & Taylor.
- Wells Fargo Bank, N.A. in connection with the Payless Shoe matter, including with respect to the initial acquisition financing, various debt restructurings, the initial Chapter 11 proceeding including $305 million debtor in possession credit facility, $260 million emergence facility, and subsequent Chapter 11 proceeding involving a full chain liquidation.
- Various financial institutions in connection with numerous insolvency proceedings particularly in the retail sector, including addressing debtor in possession financing, cash collateral usage, 363 sales, and plan process.
- Various secured, unsecured, and cash flow lenders in connection with restructuring of troubled loans secured by business assets and real estate.

Asset Based Finance

- HGCS Americas, LLC, as agent in a $60,000,000 revolving credit facility to Turnspire Capital Partners LLC for the acquisition of Hulcher Services Inc., a railroad service contractor.
- Wells Fargo Bank, N.A. as agent for a $2.53 billion revolving credit facility and FILO facility to United Natural Foods, the largest publicly traded wholesale distributor of natural, organic, specialty, and conventional food in the United States and Canada.
- Wells Fargo Bank, N.A. as agent for a $433 million revolving credit facility to The Children's Place, a national retailer operating brick and mortar stores, online sales and wholesale business, including The Children's Place and Gymboree brands.
- Citizens Bank, N.A. as agent for a revolving credit facility to Thyrv, Inc. a publicly traded software as a service company, and operator of Yellow Pages, with operations in the United States and Australia.
- Eclipse Business Capital LLC as agent for an asset-based credit facility to Kent Outdoors, an industry-leading manufacturer of outdoor recreation equipment.
- Bank of America, N.A. as agent for a $380 million revolving credit facility to Barnes and Noble Education, a provider of books and other resources to students at hundreds of colleges and universities throughout the country.
- Pathlight Capital as agent for $355 million credit facility to iFit, Inc., an international fitness brand and owner and distributor of Nordic Track.
- Wells Fargo Bank, N.A. as agent for a $2.7 billion revolving credit facility and FILO facility to United Natural Foods, the largest publicly traded wholesale distributor of health and specialty food in the United States and Canada.
- Restore Capital in connection with term loan facility to celebrity owned and operated luxury brand retail company.
- Bank of America, N.A. as agent in connection with $400 million exit asset-based revolving credit facility to J. Crew and several of its affiliates in connection with their exit from their Chapter 11 proceedings.
- First Eagle Alternative Credit in connection with a $30 million FILO term loan facility to West Marine, an omnichannel supplier and retailer of aftermarket marine products and services.

- Citizens Bank N.A. in an amendment to its existing revolving credit facility with Yellow Corp., a public company providing transportation and logistics services internationally to a wide range of customers and industries. This transaction was completed under the CARES Act of 2020.
- Restore Capital as term agent for a syndicate of lenders in connection with a $65 million senior secured asset-based term loan facility established for Express, LLC and certain of its affiliates.
- Citizens Bank, N.A. in connection with syndicated asset-based revolving credit facility to national cold storage and logistic company used to fund the acquisition of a strategic business, refinance indebtedness and to support working capital and future acquisitions.
- Citizens Bank, N.A. as agent in connection with a senior secured revolving loan to Luxury Brand Holdings, Inc., a specialty retailer of luxury jewelry and the parent company of the designer jewelry brand Ross-Simons.
- Pathlight Capital in connection with term loan facility to cloud-based full-service waste and recycling company.
- Encina Business Credit as agent in $50 million senior secured revolving credit facility. The proceeds will be used to finance the acquisition of the assets of The McClatchy Company in connection with its Chapter 11 proceeding. McClatchy has been a preeminent national news provider for over 150 years.
- Agent in connection with unitranche asset-based facility to a leading digital solutions provider.
- Citizens Bank, N.A., as agent, in connection with a $150 million senior secured revolving credit facility to Steven Madden, Ltd. and its domestic subsidiaries and Hong Kong subsidiary.
- Term agent in connection with unitranche credit facility to international brand and licensing company.
- Wells Fargo Bank, N. A. as agent in connection with $300 million asset-based revolving credit facility to Jeld-Wen Inc. an international window and door manufacturer.
- Agent in connection with $100 million senior secured credit facility in connection with acquisition financing of luxury brand wholesaler and retailer.
- Agent in connection with $190 million unitranche facility to brand retailer and wholesaler.
- Agent in connection with credit facility including a revolving credit and term loan to wholesaler of private label products to larger retail chain.
- Agent in connection with credit facility to online auto parts company.
- Various financial institutions in connection with agented and single lender revolving and term asset-based credit facilities to public and private companies, throughout the United States, Canada, the U.K., and Australia.

Education & Credentials

- Boston College Law School, JD (1989) *cum laude*
- College of the Holy Cross, BA (1986)

Admissions

- Massachusetts
- New York
- U.S. Court of Appeals, First Circuit
- U.S. District Court, Massachusetts