



# BASES LOADED

**Stephenie Anthony and Frank Lafalce offer sophisticated lenders a range of services, including documentation of new commercial loans, restructure of loans inside and outside of chapter 11, bankruptcy and loan enforcement litigation, and high end judgment enforcement.**

As the nationwide economy struggles to rebound after several years of sustained recession, two experienced attorneys offer a complementary range of skills and experiences to financial institutions and

other sophisticated lenders to address varying opportunities and needs for legal services.

Stephenie Anthony's 16 years of experience in Florida's bankruptcy courts and state and federal litigation has enabled her to adapt to the changing economy, and the changing goals and expectations of bankers, and other creditors in bankruptcy, and loan enforcement litigation.

Frank Lafalce draws on decades of experience as a bank president, bank general counsel, and transactional attorney in private practice to close new loans and

demonstrate innovation in restructuring those that have underperformed in a harsh economy. But their true talents emerge when they work in synergy.

Here they discuss the way in which economic changes have impacted their practice and their team.



**Frank Lafalce and  
Stephenie Biernacki Anthony**

**In what ways have the needs of financial institutions changed during the past year from your vantage point?**

**Frank:** The most obvious change in my practice in recent months has been the return of commercial lending. The economy's recovery, although tentative and fragile, has unlocked a large volume of pent-up demand for capital. Financial institutions have returned to the market place and are actively seeking new loan opportunities. Proactive commercial lenders strive to maximize these opportunities and look to me for wise advice, skillful drafting, rapid turnaround, and a competitive rate. In this way, we are staying ahead of the curve by returning to the basics of commercial lending.

**In what ways do you see a change in chapter 11 bankruptcy work and related litigation?**

**Stephenie:** Reorganization and loan enforcement during the first years of the recession broadly impacted the entire economy, and many well run businesses found themselves struggling based upon bad luck or financial management not sufficiently tailored to these unexpected circumstances. Accordingly, prudent lenders and their lawyers were the first form of reality check for management of struggling enterprises. And despite the best efforts of businesses that were unlucky or not sufficiently equipped to handle the downturn, many necessarily failed. But in the recovering economy, two trends emerged. First, many businesses that find themselves in bankruptcy or in other insolvency proceedings enjoy a business and financial atmosphere conducive to debt restructure. Second, there is an increased frequency of fraud, opportunistic bankruptcy filings, and confrontational litigation practice that was not apparent when lenders and their corporate borrowers were both suffering in the midst of the recession.

**How do you seek to maximize debt restructure opportunities for your creditor clients and their borrowers in light of the first trend you have identified?**

**Stephenie:** Five years ago it was commonplace to foreclose within six months of default on multi-million dollar acquisition and development loans for subdivisions that resembled pastures and not neighborhoods. Borrowers were unlucky, or unsophisticated, and financial institutions had to take their lumps and move on. The businesses now finding themselves in chapter 11 generally have more specific business problems than the effects of the recession, and I enjoy working with special asset officers and others to understand the overall legal, business, and financial dynamics of a credit, so that the flexibility of chapter 11 can be utilized for the benefit of the creditor client. Chapter 11 is at its most useful as a vehicle for solving problems that are not simply bilateral, and that is where sophistication and experience pay off. Moreover, because chapter 11 can contemplate loan restructure and sophisticated commercial transactions, we benefit greatly from Frank's experience and expertise in complex reorganizations.

**How do you see loan restructure services changing in light of positive economic trends?**

**Frank:** When a lender looks at a non-performing asset, the first question is whether or not the loan can be restored as a performing loan. Sometimes defaults and financial covenants can actually be corrected in the context of a chapter 11 plan. For example, when debt service on undersecured debt, accumulated trade debt, or an unexpected litigation reversal impact a lending relationship, it may be that the lender client seeks to preserve the going concern as the source of repayment of a commercial debt, rather than simply taking back and liquidating collateral. And as we strive to get loans repaid rather than swell the inventory of foreclosed real estate of our clients, we benefit greatly from Stephenie's bankruptcy background. Her insights make our clients cognizant of potential for chapter 11 down the road in a workout, and plan

the right strategy with that in mind. When chapter 11 occurs, either as part of a broader arrangement with the client or unexpectedly, Stephenie and I work together to develop an exit strategy that dovetails with the realities of the case and meets client expectations.

**What about those lending relationships that become progressively more contentious in an improving economy?**

**Stephenie:** We have a large number of clients who hold many millions of dollars of deficiency claims against obligors who have failed during recent years. Some have been reduced to judgment, and others are at risk of being barred by the statute of limitations or on other equitable grounds. Many deficiency claims have been resolved in workout agreements that we have handled, but there are many situations where obligors with significant assets are attempting to shield them from legitimate debts, whether through aggressive use of chapter 7, through contrivances using Florida's broad exemptions and entireties laws, or through sophisticated fraudulent transfer activities. I have recovered on countless fraudulent transfer claims and other sophisticated judgment enforcement representations, but it is particularly beneficial to involve Frank when complex conveyances, conflicting financial statements, and peculiar financial activity need to be scrutinized.

**Frank:** I agree with Stephenie, that five years ago we were not disagreeing with

defaulting principals over large deficiency claims at the level that Stephenie and I are encountering these days. Moreover, these days are different because concessions that lenders used to find appropriate in a down economy are no longer acceptable, and lenders are entitled to better treatment in the context of an improving economy. The question in many instances is no longer whether a given exit strategy proposed by a business is feasible, but whether it gives the lender client the full benefit it is due. I have closed many loan restructures and deficiency repayment agreements, but it is extremely helpful when the bargaining gets contentious to have Stephenie next to me in the board room in cases where obligors and their counsel turn adversarial, and start making threats about lien stripping, cramdown, lender liability, and things of that nature.

*One can see how Frank Lafalce and Stephenie Anthony and their teammates are able to cover all of the bases for financial institutions and other creditors in a range of contexts. They and their team are uniquely poised with "bases loaded" as the economy recovers.*

**Learn More:**

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