

## Jennifer M. Marcus, OF COUNSEL

Jennifer Marcus has been a well-experienced asset recovery attorney for nearly two decades. She zealously represents financial services companies in all forms of litigation and other dispute resolution in New York and New Jersey. Her background before joining ZEK includes substantial trial experience gained as an Assistant Corporation Counsel for the City of New York and many years of practice as a creditors' rights and banking attorney at a creditors' rights boutique law firm. Jennifer represents financial institutions of all sizes and geographic footprints in the recovery of delinquent commercial and consumer loan obligations backed by all forms of security including real and personal property. She has a well-deserved reputation for legal creativity in complex creditor litigation, effecting excellent tangible results. Jennifer has also litigated material non-monetary defaults and breaches of contractual covenants, including unauthorized transfers of business interests and assets. She also has substantial experience in handling complex title issues, lien priority disputes, and ejectment and eviction actions. Jennifer has also been successful in uncovering and tracing fraudulent transfers and hidden assets. She is an experienced bankruptcy court practitioner, representing creditors in litigating preferences, fraudulent transfers, non-dischargeability claims, and stay relief applications. Moreover, not only a plaintiffs' attorney, Jennifer is also a skilled defense attorney, having successfully defended banking clients against federal and state claims, including claims made under TILA, RESPA, FDCPA, and the consumer fraud statutes.

### **PRACTICE AREAS:**

**Creditor's Rights and Asset Recovery** - Jennifer has a proven track record of aggressively pursuing recovery for her clients of delinquent commercial and consumer obligations including the foreclosure of millions of dollars of real and personal property and pursuit of guarantors. When appropriate, Jennifer utilizes her client's right to pursue simultaneous and cumulative relief to apply maximum pressure upon debtors. This often results in successful workouts on terms favorable to her creditor clients. An example of Jennifer's creative strategy involves a post-judgment matter in which the creditor successfully obtained a money judgment and order entitling it to repossession of its personal property. At the same time, Jennifer demonstrated to the Court that the creditor exhausted its remedies to execute upon the money judgment and obtained the right to commence foreclosure proceedings on its subordinate lien, notwithstanding the election of remedies statute. Jennifer also represented a plaintiff in a matter in which the defendant contested plaintiff's foreclosure of its SBA mortgage arguing it had priority over plaintiff's lien since it refinanced the existing first mortgage, and plaintiff's lien was subordinate at the time of plaintiff's loan origination. The Court ruled in plaintiff's favor after it produced a preliminary title report with a telefax stamp of defendant showing the existence of plaintiff's mortgage.

**Financial Institution Defense Litigation** - Jennifer's practice includes defending banks and other financial institutions from claims ranging from breach of contract, breach of fiduciary duty, breach of the implied covenant of good faith and fair dealing, fraud, and fraudulent transfers. Jennifer has successfully defended banking clients against federal and state claims, including those made under TILA, RESPA, FDCPA, and the consumer fraud statutes. She is experienced in defending clients in cases arising under Articles 3, 4 and 4A of the Uniform Commercial Code involving checks, wire transfers and bank customer contracts.

**Bankruptcy Practice including Litigation** - Jennifer's pursuit of recovery continues should a bank borrower file for bankruptcy. She is an experienced bankruptcy practitioner, known to the bankruptcy court judges and practitioners, with the experience to know when to file prompt stay relief applications, when to oppose the confirmation of unfeasible or unwise Chapter 11 and Chapter 13 plans and when to pursue claims for non-dischargeability when appropriate based upon borrower misrepresentations, concealment of legal and equity interests in property and failure to maintain financial records. For example, on Jennifer's application, a bankruptcy court granted summary judgment in favor of Jennifer's bank client denying debtors' discharge because the bank set forth proof that debtors were concealing interests in a business and income from that business through a relative.

### **Education:**

Pace University Elisabeth Haub School of Law (JD, 2004)  
Rutgers University (BA, Political Science, 2000)

### **Admissions:**

New York  
New Jersey  
United States District Court for the District of New Jersey  
United States Bankruptcy Court for the District of New Jersey  
United States District Court for the Eastern District of New York  
United States District Court for the Southern District of New York  
United States Bankruptcy Court for the Southern District of New York  
United States Bankruptcy Court for the Eastern District of New York