



## Daniel E. Burgoyne

Counsel

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### Practice Areas

Commercial Finance  
Corporate & Business  
Litigation & Disputes

### Education

Boston College Law School, J.D.

Providence College, B.A., Quantitative  
Economics and Mathematics, magna cum  
laude

### Bar Memberships & Admissions

Rhode Island

Massachusetts

U.S. District and Bankruptcy Courts, District  
of Rhode Island

U.S. District and Bankruptcy Courts, District  
of Massachusetts

U.S. Court of Appeals for the First Circuit

Dan serves as Counsel in the firm's Litigation Practice Group, focusing on commercial litigation and insolvency. Dan has extensive experience representing banks and other lenders in bankruptcy and receivership proceedings, actions seeking affirmative recovery, defense of claims against lenders, and matters affecting lenders' collateral. He has developed relationships with many area professionals, such as auctioneers, appraisers, accountants, and other attorneys, who are often necessary to successfully resolve troubled loans for his lender clients.

Dan has also handled a variety of litigation matters in the courts of Rhode Island and Massachusetts and has successfully argued four appeals. Dan generally handles commercial litigation matters such as disputes over the formation, interpretation, and performance of contracts, fraudulent transfer claims, construction disputes, successor liability, piercing the corporate veil, and internal disputes among business owners. However, he also has experience in a wide range of cases including professional malpractice, personal injury, insurance defense and coverage, real estate title, estate and trust, and landlord-tenant disputes.

Before joining PS&H, Dan served as law clerk to The Honorable Michael J. Silverstein of the Rhode Island Superior Court, and was a shareholder at Roberts, Carroll, Feldstein & Peirce in Providence.

### Honors

- Fellow of the Rhode Island Bar Foundation, June 23, 2022

### Representative Publications

- Rhode Island Modernizes its Receivership Law By Enacting the Commercial Receivership Act July 1, 2022
- How to Prevent Frivolous Appeals from Derailing Receivership Sales of Rhode Island Real Estate June 15, 2022
- Secured Creditor's Last-Minute Credit Bid Rejected at Receivership Auction January 28, 2022
- The Supreme Court Teaches A Lesson In Passive Non-Aggression: City of Chicago v. Fulton February 16, 2021

### Representative Speaking Engagements

- Partnership and Closely Held Business Conflicts in the Age of COVID-19 November 20, 2020

### Recognitions

- Rhode Island Monthly Recognizes 23 PSH Attorneys in 2023 Professional Excellence in Law Issue June 14, 2023
- Three Partridge Snow & Hahn Attorneys Selected as Fellows of Rhode Island Bar Foundation July 27, 2022
- Partridge Snow & Hahn Quietly Grows: Adds 9 Attorneys During the Course of the Pandemic March 8, 2022
- Partridge Snow & Hahn Attorneys Named 2020 Super Lawyers and Rising Stars October 2020

### Representative Cases

#### CREDITORS' RIGHTS

#### Insolvency and State Receivership Proceedings

- Extensive experience representing creditors in consumer and business cases under Chapters 7, 11, and 13 of the Bankruptcy Code.
- Motions involving relief from the automatic stay and related matters involving multiple or bad-faith filers.
- Motions seeking dismissal for bad-faith filings.
- "First-day" motions involving use of cash collateral or debtor-in-possession financing.
- Sales of assets under Section 363.
- Claim objections.
- Disputes concerning confirmation of plans.
- Single-asset real estate cases.
- Defense of claims involving fraudulent or preferential transfers.
- Petitions for the appointment of a liquidating receiver for business organizations or real estate.
- Receivership proceedings brought by municipalities under Rhode Island statutes pertaining to abandoned properties.
- Priority disputes with other lenders.
- Sales of assets free and clear of liens.

- Non-liquidating receivership to collect rent and preserve property pending foreclosure sale.

#### Affirmative Recovery of Assets

- Obtained injunction on behalf of client bank, compelling fraudulent transferee of construction equipment to surrender it to bank prior to conducting secured party sale.
- Obtained unsecured or deficiency judgments and pursued post-judgment collection via wage and bank account attachments, judgment liens on real estate, asset examinations, and other equitable proceedings.
- Advised client creditors in all aspects of liquidating personal property business assets, through public and private sales conducted under Article 9 of the UCC, often in conjunction with or following termination of bankruptcy or receivership proceedings.
- Foreclosure of real estate either via exercise of power of sale, or through judicial proceedings, and related post-foreclosure litigation including eviction of occupants and defense of wrongful foreclosure claims or other matters affecting title to foreclosed property.
- Worked with sheriffs and other vendors to perform self-help repossession of assets such as construction equipment, vehicles, or vessels.
- Enforcement of judgments obtained in other jurisdictions.

#### Defense of Lender Liability Claims

- Successfully litigated matters involving various federal lending statutes including Fair Credit Reporting Act, Fair Debt Collection Practices Act, Truth-in-Lending Act, Real Estate Settlement Procedures Act.
- Prevailed in appeal before U.S. Court of Appeals for the First Circuit, which upheld a lower court summary judgment that federal Truth-in-Lending Act did not apply to client's mortgage loan.
- Obtained dismissal of claim that client violated debt-validation requirement of Fair Debt Collection Practices Act.
- Defended contract claims alleging violations of terms of loan documents.
- Defended claims for violation of usury and other state consumer protection statutes, including Massachusetts chapter 93A claims.

#### Matters Involving Lender's Collateral

- Briefed and argued motion in state court mechanics lien action, preserving the priority of his client's mortgages over competing mechanic's lien claimants.
- Defended client lender in claim that mortgage on condominium development had become void due to expiration of time for exercise of development rights under Rhode Island condominium law.
- Obtained summary judgment, which was affirmed on appeal, evicting two tenants of foreclosed commercial real estate. The Court agreed with Dan's lender client that the mortgage on which the lender foreclosed had priority over the tenants' unrecorded leases which allegedly predated the mortgage. See *CFS 915, LLC v. Unetixs Vascular, Inc.*, 226 A.3d 1058 (R.I. 2020).
- Extensive experience conducting and defending against foreclosure of right of redemption under municipal and governmental tax liens.
- Quieting title or reforming deeds in order to correct errors in loan documentation.
- Advising clients in the purchase or sale of loans.

#### COMMERCIAL LITIGATION

- Represented client title insurer in case involving misappropriated funds from real estate refinance transaction, investigated bank records to trace disposition of funds, and negotiated return of substantial portion of funds from transferee.
- Represented purchaser of business in dispute with former owner concerning interpretation of earn-out clause in post-sale employment agreement.
- Represented owner of downtown building in lease dispute with mobile communications provider that had installed communications tower on roof of building and which sought early termination of lease.
- Internal business disputes.
- Successor liability, alter ego, or "piercing the corporation veil" claims.

- Claims involving forged signatures on checks or other instruments.

#### MISCELLANEOUS EXPERIENCE

- Assisted as Rhode Island counsel for GTE Reinsurance Company, Ltd. in implementing the first commutation plan under Rhode Island's Voluntary Restructuring of Solvent Insurers Act, which at the time was the only statute of its kind in the United States.
- Obtained summary judgment, which was affirmed on appeal, on behalf of client insurer in an insurance coverage dispute. See *Quality Concrete Corp. v. Travelers Prop. Cas. Co. of Am.*, 43 A.3d 16 (R.I. 2012).
- Represented various clients in disputes concerning adverse possession, prescriptive easements, and other real estate disputes.
- Represented insured in claim against insurer for breach of business interruption insurance policy in case arising out of water loss to medical practice that closed practice for several days.
- Represented various parties in disputes amongst beneficiaries of estates and trusts.
- Represented client against former lawyer in case of legal malpractice involving documentation of security interests under the Uniform Commercial Code.
- Represented various healthcare providers in claims of medical malpractice.