

Kimberly A. Wachen

PARTNER

Kimberly advises major publicly traded corporations, investors, and lenders on the structuring, negotiating, and closing of complex real estate, finance, and corporate transactions.



Industries

Hospitality
Long Term Care & Senior Living
Real Estate

Practices

Corporate & Securities

Education

University of Pennsylvania Law School JD
Duke University AB, cum laude

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Kimberly's approach to practicing law is to partner with her clients and deliver high quality work under tight deadlines while being sensitive to costs. She is recognized as one of the top real estate lawyers in the country by *Chambers USA*, *Legal 500*, and leading industry publications. She is a partner in the firm's Business Department and Real Estate group, and chairs the firm's Hospitality industry practice group.

Recent Recognitions

- Rated as a leading real estate lawyer in Washington, DC by *Chambers USA* (2010-2019) and *Legal 500 USA* (2011-2016, 2019)
- Rated as a leading hospitality lawyer in Washington, DC by *Chambers USA* (2016-2019)
- Selected as the "Leading Real Estate Lawyer" in Washington, DC by *Legal Times*
- Recognized as a "Woman of Influence" by the *Real Estate Forum*
- Recognized as a "Woman of Influence in Commercial Real Estate" by *Bisnow* (2017)
- Recognized as one of Washington DC's "Best Lawyers" by *Washingtonian* magazine (2011, 2015, 2017, 2018)
- Recognized as a leading real estate lawyer in Washington, DC by *Super Lawyers* magazine (2011-2019)
- Recognized by *American Lawyer* as "Top Rated Lawyer" and *Martindale-Hubbell* as "AV Preeminent Lawyer" (2011-2019)

Client Work

Real Estate

Kimberly represents investors, developers, and managers in large commercial real estate transactions, ranging from the purchase and sale of individual properties (e.g., office buildings, hotels, senior living facilities, multi-family buildings, and shopping centers) to multi-state portfolio purchases and asset sales. She has handled matters for properties in over 35 states. She has significant experience in the negotiation of purchase, sale, development, and management agreements for hotel and resort properties, office buildings, and senior living facilities.

Kimberly also advises clients on ground leasing and other leasing transactions. Her leasing experience includes large headquarters complexes, office and retail properties, restaurants, industrial/flex (e.g., refrigerated warehouse space), and equipment.

Financing

Kimberly handles complex financing transactions for commercial real estate portfolios representing both borrowers and lenders. She is particularly skilled in structuring and negotiating financing arrangements, including construction loans, mezzanine loans, inter-creditor agreements, and take-out financing, for large real estate projects. Such projects include office buildings, hotels and senior living, multifamily units, shopping centers, and educational and governmental facilities.

Kimberly represents lenders and private equity in the acquisition of portfolios of performing and non-performing loans.

She also represents borrowers, lenders, and other loan participants in loan modifications, payment deferrals, forbearance arrangements, recapitalizations, entity restructuring, and other workout arrangements.

Corporate

Kimberly's corporate experience, representing both public and private companies, includes the structuring and negotiation of national and international acquisitions, mergers, reorganizations, and joint ventures ranging in size from \$30 million to \$1 billion. She is familiar with all types of equity participation in large real estate projects, including joint ventures, sale-leaseback transactions, preferred equity, and other equity infusion structures.

Sample Transactions

Recent examples of Kimberly's real estate, financing, and corporate practice include representing:

- Goldman Sachs in connection with the development, acquisition, sale and financing of senior living facilities across the United States with GS's multiple joint venture partners. Arent Fox handled the negotiation of joint venture documents at the property and upper-tier investment level and assisted in construction, financing, management, regulatory and diligence matters. The 50+ facilities are located in 18 states and are valued at more than \$1 billion.
- Colony Capital and publicly traded investment companies in the negotiation of purchase agreements, joint venture agreements, development agreements, leases, management, and financing agreements for senior living portfolios throughout the United States. The facilities are located in 24 states and are valued at more than \$1 billion.
- Sunrise Senior Living in the negotiation of joint venture, development, management, and financing agreements for nine portfolios, consisting of more than 100 properties, with seven separate joint venture partners, and several different lenders. The facilities are located in 21 states and were valued at more than \$1 billion.
- Marriott International in the development of its US Edition brand hotels in Manhattan and Miami Beach, the JW Marriott San Antonio Hill Country

- Resort and Spa (includes a 1,000-room JW Marriott hotel, two TPC golf courses, and an elaborate spa), and the Grande Lakes Resort & Spa in Orlando, Florida (consists of a 1,000-room JW Marriott hotel, a 584-room Ritz-Carlton hotel, and a Greg Norman championship golf course).
- Hotel owners (i.e., Capstone Development, Hospitality Investors Trust, Legacy Hotel Group LLC, Salvation Army) in the acquisition, sale, joint ventures, and financing of hotels throughout the United States.
 - Multiple publicly traded companies (including Nasdaq), in their capacity as tenants, in connection with leasing office space throughout the United States and internationally, including Nasdaq's headquarter campus at 4 Times Square, NY.
 - Borrowers in the negotiation of original loans, loan modifications, payment deferrals, forbearance agreements, and other workout arrangements with numerous institutional lenders such as Bank of America, Barclays Capital Real Estate, JPMorgan Chase Bank, N.A., KeyBank National Association, Manufacturers & Traders Trust Company, Millennium Bank, The PrivateBank and Trust Company, The Prudential Insurance Company of America, Sovereign Bank, and Wells Fargo Bank.
 - A publicly traded REIT in the \$318 million sale of a trophy-class office building in Washington, D.C.
 - A German investment company in the \$150 million acquisition of the Converse Headquarter Building in Boston.
 - Publicly traded companies in the acquisition and disposition of grade A office buildings throughout the United States.
 - Lenders in financing office buildings and multi-family units throughout the United States.
 - Private Internet-based start-up companies relating to joint ventures with private equity investors, financing, and services agreements; and acted as de facto in-house general counsel.
 - A multi-national privately held company in obtaining state grants for developing a large manufacturing facility and offices in various states.
 - Hospitals and medical practices in the negotiation of venture agreements, asset purchase agreements, financings, and purchase contracts and leases with suppliers of medical equipment.

Work Philosophy

Kimberly treats her clients as if she were an in-house lawyer, always focusing on the best interests of the client. She listens closely to her clients' needs and combines her own real estate and tax background with the skill of other attorneys at her firm to offer constructive and practical legal and business advice. She has a reputation for vigorously advancing her client's positions during negotiations, and obtaining desired results, without antagonizing other parties to the transaction.

Previous Work

Prior to law school, Kimberly, a CPA, worked as a tax accountant for one of the "Big 4" international accounting firms.

Professional Activities

Kimberly is a member of the Commercial Real Estate Women Association (CREW) and is on the advisory board for Georgetown University's annual Hotel and Lodging Legal Summit.

Presentations

Kimberly's numerous speaking engagements include:

- Lecturer at American University, Washington School of Law's Hospitality and Tourism Law Program, 2014-2019
- "2018 Investments, Deals, Acquisitions & Outlook," Bisnow's Lodging Investment and Innovation Series, 2018
- "Hot Button Legal Issues for Hotel Owners," Georgetown University's Hotel and Lodging Legal Summit, 2017
- "Hotel Owner 2017 Outlook Panel," Bisnow's Lodging Investment and Innovation Series, 2017
- "Interview with Morris Moinian, CEO of Fortuna Realty Group," 7th Annual NYC Hotel Investment and Development Summit, 2017
- PLI's Hotels 2016: Law and Practice program, "Hotel Purchase and Sale Transactions"
- "2016 State of the Lodging Industry," Bisnow's Lodging Investment and Innovation Series, 2016
- "Interview with Steven Witkoff, CEO of Witkoff Group," 6th Annual NYC Hotel Investment and Development Summit, 2016
- "Finding Financing: What is going on in the debt & equity markets?," Bisnow's Lodging Investment and Innovation Series, 2015
- PLI's Hotels 2015: Law and Practice program, "Hotel Purchase and Sale Transactions"
- "Interview with Patrick Denihan, CEO of Denihan Hospitality Group," 5th Annual NYC Hotel Investment and Development Summit, 2015
- "Current Legal Issues in Hotel Financing: Subordination & Other Agreements & Their Challenges," Georgetown University's Hotel and Lodging Legal Summit, 2014
- PLI's Hotels 2014: Law and Practice program, "Negotiation of Hotel Purchase Agreements"
- "Owners Outlook - Getting Deals Done in 2014," Bisnow's Lodging Investment Summit, 2014
- "Hotel Development, Acquisition and Financing from Owner's Perspective," 4th Annual NYC Hotel Investment Summit, 2014

Bar Admissions

District of Columbia

Maryland

New York