

Collen 2-for-2 in amicus briefs before SCOTUS

By Patricia Manson
Law Bulletin staff writer

With a lawyer for a father and an actress for a mother, it's almost natural that [John Collen](#) became a litigator.

Stage presence, diction and the ability to stay on-message are important to both crafts, Collen said.

And, he said, there is something else members of both professions have in common.

"Lawyers, like good method actors, need to believe in what they're doing," he said.

A partner in SmithAmundsen LLC's Chicago office, Collen handles such sophisticated bankruptcy matters as Chapter 11 reorganizations, out-of-court workouts, transactions that involve financially troubled entities and litigation on behalf of creditors.

In addition to secured and unsecured creditors, Collen's clients include debtors, receivers, trustees, landlords, creditors' committees and asset buyers.

During the most recent term of the U.S. Supreme Court, Collen successfully submitted two friend-of-the-court briefs for cases before the justices. In each case, the nation's highest court sided with his position.

Collen was counsel of record in a friend-of-the-court brief filed on behalf of the Community Bankers Association of Illinois in a case decided in June.

In *Bank of America N.A. v. David B. Caulkett, et al.*, Nos. 13-1421 and 14-163, the high court ruled unanimously that underwater junior liens — liens on homes that are not worth even the value of the mortgage — may not be stripped off, or voided, in a Chapter 7 liquidation.

Collen said he's "gratified" the court adopted his client's position.

"It's an important holding because it allows second liens to be passed through bankruptcy, and if the property appreciates in the future the lender can recover the value of the lien," he said.

Some analysts described the *Caulkett* ruling as a setback for struggling homeowners. Collen, however, said it will benefit consumers "because it makes banks more willing to lend."

Writing the brief with Collen were SmithAmundsen partners [Michael G. Cortina](#) and [William S. Hackney](#).

In addition to practicing law at SmithAmundsen, Collen serves as an adjunct professor at St. John's University School of Law in New York in its bankruptcy LL.M. program.

In that capacity, Collen joined a friend-of-the-court brief arguing that the U.S. Bankruptcy Code does not allow counsel for a trustee or a debtor-in-possession to recover fees solely for defending a fee application.

Collen was of counsel in the brief. Richard Lieb, a research professor at St. John's, was counsel of record.

The Supreme Court adopted the brief's reasoning in June in *Baker Botts LLP v. Asarco LLC*, No. 14-103.

SmithAmundsen was launched in October 1997, and Collen joined it in April 2014.

[Glen E. Amundsen](#), chairman of the firm's executive committee, described Collen as "an amazingly talented guy."

"He's brought a lot of stature and gravitas to our practice in bankruptcy and creditors' rights matters," Amundsen said. "He's a recognized expert in the field. He's helped bring the firm's name squarely into the spotlight."

In his 35 years of practice, Collen has been involved in the reorganization proceedings of such entities as Goldblatt's Department Stores, Handy Andy Home Improvement Centers Inc., Kmart, United Airlines and New England Compounding Co.

Collen is a founding co-chair of the American Bankruptcy Institute's Committee on Real Estate Bankruptcies.

Collen, 60, grew up in the Lakeview neighborhood.

His grandfather, Jacob Cohen, was born in what now is Moldova and emigrated to the United States.

Cohen — who changed the family name to Collen — earned a degree at Northwestern University School of Law in 1912.

While at Northwestern, he helped John Henry Wigmore, the school's dean, research and draft the treatise known as "Wigmore on Evidence."

Collen's late father, Sheldon O. Collen, was a founding member of the former law firm Friedman & Koven.

An antitrust litigator himself, Sheldon Collen argued a precedent-setting case before the Supreme Court.

The high court held that obtaining a patent by fraud was not a per se violation of the antitrust laws. *Walker Process Equipment Inc. v. FMC Corp.*, 382 U.S. 172 (1965).

Collen's late mother was a professional actress who performed under the name Ann Blager in New York and the Midwest.

Collen's son, Joshua D. Collen, 27 is a recent graduate of Illinois State University. Joshua served in the Marines as an infantryman and fought in Afghanistan.

Another son, Joel, 19, is also a Marine infantryman. He is now completing advanced training at the Marine School of Infantry at Camp Pendleton in California.

"Nothing I've done in the law holds a candle to what my sons have done," Collen said.

Collen's 23-year-old daughter Sarah just graduated from cosmetology school. A fourth child, Benjamin, died in 2008 at the age of 19.

Collen is to be married late this fall to Martha Schwartz.

He earned a bachelor's degree in philosophy in 1977 at Dartmouth College and a J.D. in 1980 at Georgetown University Law Center.

While in law school, he taught legal research and writing and won the Leahy Moot Court Competition.

After earning his degree, Collen joined Peterson, Ross, Schloerb & Seidel.

He became involved in increasingly sophisticated bankruptcy matters at the firm.

As a result, he got an unsolicited offer to join Nachman, Munitz & Sweig, which he describes as “the premier bankruptcy boutique in Chicago.”

Lawyers typically have to work for years before handling complex, high-profile Chapter 11 cases, Collen said.

“But we had such a wealth of cases and such a dearth of lawyers, even though people were quite talented, all of us were fighting above our weight class,” he said.

As a fourth-year associate, he argued for the confirmation of Rock Island Railroad’s reorganization plan before the late U.S. District Judge Frank J. McGarr.

“I was very spoiled,” he said. “People usually don’t get to do things like that until they’re much older.”

After leaving the Nachman firm, Collen spent the next three decades working at other firms.

Last year, [Eric M. Fogel](#), the co-head of SmithAmundsen’s business transactions division, suggested Collen join the firm.

“He described a very exciting evolution of the firm in the direction of a full-service business firm,” Collen said, “from its historical antecedents as an insurance-defense and -coverage firm.”

After what he described as “a whirlwind courtship,” Collen joined SmithAmundsen’s Chicago office.

His practice offers him plenty of variety, Collen said.

“You never really know what you’re going to be working on next year,” he said. “And in my field in particular, every case is very different — unique facts and legal issues — which makes it very stimulating.”

SmithAmundsen has more than 150 lawyers in Chicago, St. Charles, Rockford, Woodstock, St. Louis, Indianapolis and Milwaukee.

In addition to insurance, other practice areas at the firm include financial services, commercial litigation, intellectual property, banking and financial institutions, corporate and securities law and health care.

Collen and Cortina head the financial services group.

Collen said SmithAmundsen is continuing to evolve.

“Other firms have had to contract or stagnate,” he said. “We’ve been growing. We’ve been expanding. We’ve been diversifying.”

For example, he said, four prominent banking and bankruptcy lawyers joined SmithAmundsen’s Indianapolis office in the last month, “which adds a wonderful depth to our national capabilities.”

“We are definitely a firm to watch over the next five years,” Collen said. “We are really going places.”

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