

# Restructuring Pros Weigh in on Past Year, Share 2020 Outlook

01/22/20

Turnarounds & Workouts spoke with leading bankruptcy experts about the biggest stories of 2019 and the cases that took a surprising turn.

Partner Maria Ginzburg pointed to net-short debt activism, which made headlines in 2019. In one such case, activist hedge fund Aurelius Capital Management directed an indenture trustee to sue Windstream Services LLC for defaulting on certain notes.

"Media speculation arose that Aurelius was really motivated by a much deeper CDS short position rather than its position as a creditor," Ginzburg said. "Windstream sought to cure its default through a new lending transaction that would have a majority of creditors waive the default, but the Court ruled for the trustee and issued a no-nonsense decision, upholding the black-letter terms of the indenture and ordering Windstream to pay over \$300 million on its debt."

Windstream then immediately filed for bankruptcy.

Ginzburg remarked that, "Aurelius' reported strategy generated both criticism and support: on the one hand, the fund was upholding creditors' rights to remedy a default; on the other hand, a company was forced into bankruptcy because a creditor may have been motivated by profits on its separate CDS position. As a result, corporations must now consider drafting their lending agreements around this potential scenario, restricting creditors' voting rights to investors who do not simultaneously own CDS."

"Activist investors look for these types of opportunities in deteriorating markets," she explained, "where defaults can be triggered and profits can be made. If lenders continue to be under economic pressure next year, we are sure to see additional opportunistic plays by market participants."

[Read the full report here](#) (subscription required).

## More About Ginzburg's Practice

Maria Ginzburg is an experienced litigator whose practice focuses on complex commercial, financial and bankruptcy disputes. She handles high-stakes cases involving mortgage-backed securities—where she has recovered nearly \$3 billion for clients—CLOs, CDOs, swaps and other structured products, as well as fraudulent conveyance, insider trading and Ponzi schemes.

Learn more about her [work and experience here](#).

### Attorney

- Maria Ginzburg

### Practices

- Bankruptcy and Insolvency
- Private Equity, Venture Capital, and Hedge Funds