

# Daniel Friedemann Fritz

## Partner



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## Overview

Daniel Friedemann Fritz is a partner in Dentons' Frankfurt office. He is a member of the Restructuring practice and focuses on restructuring and insolvency law related matters, incl. European and international insolvency law. Daniel has extensive experience in insolvency administration and representing enterprises, management and creditors in restructuring, debtor-in-possession and regular insolvency proceedings, where he acts as a legal counsel or Office Holder (Chief Insolvency Officer). Daniel regularly advises in (distressed) M&A transactions. He represents his clients in and out of court in commercial and insolvency matters related to the resolutions or defense of claims by negotiation and litigation and arbitration. Daniel's industrial focus includes the automotive, retail and healthcare sectors.

Daniel F. Fritz serves as Private Expert to the European Commission in relation to the introduction of a preventive restructuring framework and as speaker of the Working Group Europe of the German Bar Association's (DAV) restructuring and insolvency wing. He regularly publishes and comments on German and European insolvency law.

## Experience

- **IFC Composite GmbH:** Providing advice in Debtor-in-Possession proceedings and acting as Chief Insolvency Officer due to client's insolvency caused by pandemic and its impact on the automotive sector.
- **Stadtbackerei Münster:** Advising in Debtor-in-Possession proceedings and acting as Chief Insolvency Officer due to insolvency caused by pandemic and its impact on the retail sector.
- **Mobisol:** Restructuring of Mobisol GmbH, a manufacturer of grid-independent solar systems, including solar-compatible TV sets and charging stations, initially outside then in a bankruptcy in a self-administration procedure, acting as Chief Insolvency Officer in the context of self-administration, while clarifying complex security issues, especially in Africa, with major creditors FinnFund, SIMA and responsAbility, then conducting a full M&A process and finally selling assets to Engie, making Engie the market leader in Africa in this segment.
- **Paracelsus-Kliniken Deutschland GmbH & Co. KGaA:** Acting as Chief Insolvency Officer for the restructuring of a major German hospital chain and their subsidiaries (having 5,0000 employees in various

hospitals and rehabilitation centers) within the framework of insolvency proceedings in self-administration, including a complex bidding process and supporting the operative implementation of the restructuring by way of an insolvency plan within the space of four months.

- **The Royal Bank of Scotland, PLC:** Representing and advising the bank in relation to the restructuring and then insolvency of German DIY groups Praktiker and Max Bahr. Member of all of the groups creditors' committees.
- **Various subsidiaries of insolvent entities:** Advising on the solvent liquidation and serving as liquidator.
- **International and German companies:** Defending clients against avoidance and claw back actions and general representation of creditors in insolvency proceedings.
- **Trusteeship:** Acting as a trustee for suppliers and OEMs (e.g. Volkswagen, Daimler, BMW) as customers affected by insolvency proceedings of their suppliers and for sellers and purchasers in distressed M&A situations.
- **Confidential client:** Defending the managing director following a failed debtor-in-possession insolvency of an international solar energy group against damage claims raised by the insolvency administrator.
- **Healthcare:** Advising on restructuring matters and on distressed M&A transactions in relation to small and large cap companies.
- **German machine builder (part of an international group):** Advising the management in a restructuring situation and in relation to the drafting and successful implementation of a restructuring plan.
- **Companies and Management:** Counselling in crisis situations and protection from personal liability and in relation to the assessment and resolution of an insolvency situation or with regard to a structured insolvency proceeding or debtor-in-possession proceeding.
- **Anton Schlecker:** Advising an international investor as bidder in insolvency proceedings.
- **Alkor Venilia Group:** Acting as counsel to the major creditor and member in the creditors committee.
- **DuraTufting:** Coordinating creditors' committees and providing legal advice in relation to the continuation of the business under insolvency conditions in one of the first landmark proceedings under the new German insolvency law "ESUG."
- **National and international investors:** Advising the buy side with regard to the acquisition of insolvent targets (legal due diligence, legal documentation and negotiations with the insolvency administrators).
- **Slovakian insolvency administrator:** Successfully representing the administrator of a Slovakian plant manufacturer in a damage claim compensation case against a US corporate giant.
- **Wilhelm Karmann group:** Representing the insolvency administrator in the administration and sale of the insolvent entities subsidiaries in the USA, Mexico and Poland; sale of the main plant in Osnabrück to Volkswagen.
- **Woolworth Germany:** Providing conception, preparation and lead counsel for the disposal of nearly all of the insolvent entities shops to the acquirer of the NewCo and of additional stores to competitors including Schlecker, dm and Rossmann.
- **Georg von Opel group:** Advising in relation to the continuation of the business of this car dealership group under insolvency conditions and lead counsel for the continuation agreements with OEMs and suppliers; comprehensive representation of the insolvency administrator and leading the sales process of the car dealerships.
- **Japanese group (labelling hardware):** Advising on the world-wide spin-off, resp. the sale of operating facilities in a restructuring situation as lead counsel Europe and supervising local counsels for other jurisdictions.
- **EganaGoldpfeil Europe:** Acting as lead counsel for the disposal of the insolvent groups solvent subsidiaries

(including luxury brands licensees), including the sale of all the European activities of Salamander (shoe retail) group; coordination of creditors' committees.

- **Philipp Holzmann:** Assisting the insolvency administrator with the administration, disposal and liquidation of subsidiaries (including major infrastructure projects, e.g. runway extensions and railway tunneling) in England, the Netherlands, the USA and BVI; coordination of various matters including creditors' committees; amicable settlement of an insolvency filing in excess of 500 million DM; amicable settlement of US government antitrust claims and lifting the penal pledge on US subsidiaries of the German group; leading the legal team to assess and settle insolvency law related claims.
- **Boeder group:** Representing the insolvency administrator with the administration, disposal and liquidation of subsidiaries in Poland, France and Hong Kong.

## Recognition

*JUVE Handbuch Wirtschaftskanzleien*, 2020/2021 recognizes Daniel Fritz as an „often recommended” lawyer. *JUVE Handbook*, 2019 acknowledges Daniel Fritz for his "high technical and economic expertise", which is why he is often recommended as an expert. *The Legal500*, 2017 yearbook highlights Daniel F. Fritz as recommended for restructuring and insolvency law and acclaims his “pragmatic approach.” The restructuring section of the *JUVE Handbook German Commercial Law Firms 2014/2015* lists Daniel as a frequently recommended lawyer for restructuring and as a “practicable corrective in insolvency situations with respect to impractical solutions of others.”

## Insights

### Articles

- “Droht Deutschland eine Insolvenzswelle?,” *Börsen-Zeitung*, Edition 175, September 11, 2020, p. 13
- “Neues aus Brüssel”, *INDat Report*, re. harmonisation of insolvency law within the EU, edition 06/2020, July 29, 2020
- “Die Aussetzung der Insolvenzantragspflicht nach dem COVInsAG und ihre Folgen in der Praxis,” *ZRI 2020*, 217
- Co-author (with Mag. iur. Lorenz Scholtis), “EuGH: Anwendbares Recht bei Klagen des Insolvenzverwalters auf Vertragserfüllung,” *IWRZ*, 2020, p. 35
- Co-Autor (with Mag. iur. Lorenz Scholtis), “Die künftige Rolle des Restrukturierungsbeauftragten im Lichte des präventiven Restrukturierungsrahmens,” *NZI*, 2020, p. 49
- “Die Restrukturierungsrichtlinie – vom Mut, die Möglichkeiten der Sanierung rechtzeitig zu nutzen,” *Betriebs-Berater*, 10/2019, p. 1
- Co-author (with Mag. iur. Lorenz Scholtis), “Rechtsprechungsübersicht im internationalen Insolvenzrecht 2018/2019,” *IWRZ*, 2019, p. 147
- Co-author (with Mag. iur. Lorenz Scholtis), “Anwendbarkeit der Brüssel I-VO bei Schadensersatzklagen des Insolvenzverwalters aus unerlaubter Handlung (Anm. zu EuGH, Urteil v. 6.2.2019, C-535/17),” *IWRZ*, 2019, p. 135
- Co-author (with Mag. iur. Lorenz Scholtis), “Ausschließliche internationale Zuständigkeit für Anfechtungsklagen (Anm. zu EuGH, Urteil v. 14.11.2018, C-296/17, „Wiemer & Trachte“),” *IWRZ*, 2019, p. 139
- “Die Weichen für die Restrukturierungsrichtlinie sind gestellt – Der präventive Rahmen kommt,” *InDat Report*, 2019
- “Anm. zu BGH, Beschluss v. 2. März 2017 (Az. IX ZB 70/16), Zuständigkeit deutscher Gerichte für die

Eröffnung unselbständiger Schuldner nach Art. 3 Abs. 1 EulnsVO,” *IWRZ*, 2017

- “Ein Blick über den Deutschen Tellerrand, Europäischer Roundtable zum präventiven Restrukturierungsrahmen,” *INDat Report*, edition 03/2017
- “Die Ergebnisse von Evaluation und Folgenabschätzung – Grundlegende Überlegungen zum vorbeugenden Sanierungsverfahren,” *NZI*, supplement 1/2017 to edition 5/2017
- “Besser Sanieren in Deutschland? Wesentliche Aspekte der Einpassung der Europäischen Insolvenzverordnung in das deutsche Recht,” *Betriebs-Berater*, edition 4/2017
- “Anm. zu EUGH, Urteil v. 26. Oktober 2016 (C-195/15, „Senior Home“), Sicherung der Erhebung der Grundsteuer durch auf dem Grundbesitz ruhender öffentlicher Last – Bedeutung von Art. 5 EulnsVO,” *NZI*, 2016
- “Überschuldung muss nicht der Eintritt sein,” *INDat Report*, edition 09/2016
- “Anm. zum Schlussantrag des Generalanwalts (EuGH) vom 26. Mai 2016 (C-195/15, „Senior Home“) zur Einordnung der öffentlichen Last als dingliches Recht im Rahmen des europäischen Insolvenzverfahrens – Bedeutung von Art. 5 EulnsVO,” *NZI*, 2016
- “Liquidationsnetting-Klauseln im Fall von Aktienoptionsgeschäften für unwirksam erklärt, soweit sie § 104 InsO widersprechen,” *IWRZ*, edition 5/2016
- “Novellierung von § 104 InsO – Klares Bekenntnis des Gesetzgebers notwendig,” *InsolvenzBlog*, 25 October 2016
- “Fluch oder Segen für die Gläubiger?“, *Börsen-Zeitung*, edition 194/2016
- “Vorinsolvenzliche Sanierung – Der Entwurf der EU- Kommission steht!“, *Handelsblatt Rechtsboard*, 9 December 2016
- “Got a license to act? Mindeststandards. Best Practise, Harmonisierung – kommt der europäische Insolvenzverwalter?“, *InDat Report*, edition 06/2016
- Co-author, “Summary of the survey on the state of affairs of European insolvency office holders and recommendations for minimum standards; Survey conducted from December 2015 to May 2016 on behalf of and presented to the European Commission, DG Justice in July 2016 by the Co-Chairs of the Insolvency Office Holders Forum,” *INSOL Europe*
- “Anm. zu BGH, Grenze für insolvenzrechtliche Annexverfahren nach Art. 3 Abs. 1 EulnsVO,” *IWRZ*, edition 1/2016
- “Die Neufassung der Europäischen Insolvenzverordnung: Erleichterung bei der Restrukturierung in grenzüberschreitenden Fällen?“, *Der Betrieb*, edition 34/2015
- “Germany, New insolvency laws. Three years of ESUG, Wind of change or same procedure under new label?“, *Eurofenix*, Autumn Edition 2015
- “Harmonization of insolvency law at EU level: Avoidance actions and rules on contracts,” *retrievable as document No. PE 432.767 under <http://www.europarl.europa.eu/studies>*, 2011
- “Die Rolle der Gläubiger in der Insolvenz – Bisherige Praxis und Reformvorstellungen,” *FINANCE, Markt und Mittelstand, Jahrbuch Restrukturierung*, 2011
- Co-author, “Harmonisation of insolvency law at EU level,” *retrievable as document No. PE 419.636 under: <http://www.europarl.europa.eu/studies>*, 2009
- “Insolvenzrecht in Polen und Tschechien,” *Tagungsband 5. Leipziger Insolvenzrechtstag*, Logos-Verlag, 2004
- “Philipp Holzmann AG – Insolvency of a construction giant,” *Tolley’s Insolvency Law and Practice*, London, 2004

- Co-author, “Die Europäische Verordnung über Insolvenzverfahren – Herausforderung an Insolvenzverwalter und Gerichte,” *DZWiR*, 2001

## Books

- Publisher and co-author, “COVAbmildG, COVInsAG, Kommentar zum Gesetz zur Abmilderung der Folgen der COVID-19-Pandemie, Erläuterungen der zivil-, insolvenz-, aktien- und gesellschafts- und umwandlungsrechtlichen Ausnahmeregelungen sowie der steuerrechtlichen Sonderregelungen,” RWS-Verlag, 2020
- Annotations to Art. 31 and Art. 72 to 77 EIR, in *EulnsVO Kommentar*, Vallender (editor), RWS-Verlag, 2017
- Co-author, “Vergütung der Verfahrensbeteiligten,” *Praxis des Insolvenzrechts*, Vallender/Undritz (editor) ZAP Verlag, 2nd edition, 2017
- Co-author, “Betriebsfortführung im Konzern – aus Sicht des Insolvenzverwalters,” *Handbuch Betriebsfortführung in Restrukturierung und Insolvenz*, Prof. Rolf-Dieter Mönning (editor), RWS Verlag, 3rd edition, 2016
- Co-author, “Internationales Insolvenzrecht – Länderberichte und Vorlagen,” *Formularbuch Insolvenzrecht*, Haarmeyer/Pape/Stephan/Nickert (editor), LexisNexis, 2009
- Editor (together with Ottmar Hermann), “Die Private Limited Company in Deutschland,” LexisNexis, 2008

## Interviews

- “Zwischen Lackmustest und zu ängstlicher Betrachtung,” *INDat Report*, edition 08/2017

# Activities and Affiliations

## Presentations

- Online seminar speaker, “Anfechtungsprivilegien nach COVInsAG – was bleibt?” Online-Seminar: “NIVD / Wiesbadener Frühjahrswoche”, May 2021
- Online seminar speaker, “Grundzüge des „Dutch Scheme“ (WHOA),” Deutscher Anwaltverein, Online-Seminar: „Restrukturieren in Deutschland nach dem StaRUG,“ November 23, 2020
- Online seminar speaker, “Überblick über die Instrumente des Restrukturierungsrahmens und Einstieg in die Sanierung im Gefüge dynamischer Insolvenzgründe,” Deutscher Anwaltverein, Online-Seminar: “Restrukturieren in Deutschland nach dem StaRUG,“ November 23, 2020
- Moderator, “Akzeptanz und Relevanz der Sanierung durch Mehrheitsentscheid aus Sicht der Unternehmen,“ Deutscher Anwaltverein, Online-Seminar: “Restrukturieren in Deutschland nach dem StaRUG,“ November 23, 2020
- Speaker, “Praktiker-Webinar - Das neue Normal im Insolvenzrecht [§ 15 FAO] [GOI],” RWS-Seminare, October 6, 2020
- Online seminar speaker, “Die Umsetzung der Richtlinie über Restrukturierung und Insolvenz in Deutschland,” ZRI-Jahrestagung 2020, September 25, 2020
- Online seminar speaker, (with Dr. Stefan Weniger, RSP GmbH/Mobisol GmbH), “Case Study Mobisol GmbH, Impact Investing Roundtable,” June 26, 2020
- Online seminar speaker, “Unternehmen im Sog von Corona – was muss ich zum Insolvenzrecht und zur Haftungsvermeidung wissen?,” Deutscher Anwaltstag, June 15, 2020
- Panelist (with Dr. Stefan Weniger, Mobisol GmbH), “Lichtblick – Wie Mobisol in Eigenverwaltung früh auf

Afrikavorbilder reagierte,” return-Unternehmerforum 2020, March 3, 2020

- Speaker (with Dr. Martin Jawanski, Clifford Chance) “Umsetzung der Richtlinie zum präventiven Restrukturierungsrahmen – Die neue Rolle des Restrukturierungsbeauftragten,” Deutsche Kreditmarkt-Standards DKS und Law – Made in Germany, Frankfurt, February 13, 2020
- Speaker, “Umsetzung der Richtlinie zum präventiven Restrukturierungsrahmen – Insbesondere: Die neue Rolle des Restrukturierungsbeauftragten,” 12th NIVD Annual Conference, Berlin, December 13, 2019
- Moderator, “Lessons learned – where to next?”, 8th European Insolvency & Restructuring Congress, German Bar Association (Deutscher Anwaltverein), Brussels, June 27, 2019
- Panelist, “Challenges for preventive restructurings of SMEs – a German view, Main Challenges and Trends in Insolvency Proceedings,” Restructuring and Discharge of Debt, Varna, Bulgaria, May 18, 2018

## Memberships

- Co-Chair Insolvency Office Holders Forum, INSOL Europe (until autumn 2017)
- Speaker Working Group Europe of the German Bar Association’s restructuring and insolvency law wing, including responsibility for the technical content of the European Insolvency and Restructuring Conference in Brussels and contribution to various official statements of the German Bar Association with regard to European insolvency law
- Conferee of Conference on European Restructuring and Insolvency Law

## Prior and Present Employment

- Partner, Dentons, 2017 to date
- Partner, hww hermann wienberg wilhelm, 2014-2017, Frankfurt am Main
- Partner, HERMANN RWS, 2009-2014, Frankfurt am Main
- Junior Partner, HERMANN RWS, 2005-2008, Leipzig and Frankfurt am Main
- Associate, HERMANN RWS (formerly Hermann, Bähr, Michl, Lenhard), 1999-2004, Leipzig

## Areas of focus

### Practices

- Restructuring, Insolvency and Bankruptcy
- Insolvency Proceeding Financing
- Debtor Representation
- Distressed M&A, Investing and Debt Trading
- Cross-Border Restructuring Matters
- Creditor and Equity Committee Representation
- Independent Advice to Directors of Distressed Companies
- Insolvency Administrators, Monitors, Receivers, Trustees and Other Officeholders
- Insolvency Litigation and Enforcement

- Corporate
- Corporate in Germany
- Mergers and Acquisitions
- Litigation and Dispute Resolution
- Litigation and Dispute Resolution in Germany
- Protective Shield Proceedings
- Restructuring in Germany
- Supplier and Customer Representation in Restructurings
- Real Estate
- Real Estate in Germany

## Industry sectors

- Manufacturing
- Automotive
- Automotive in Germany
- Financial Institutions
- Retail
- Life Sciences and Health Care
- Health Care in Germany
- Health Care
- Luxury, Fashion and Beauty

## Education

- Legal clerkship, 1996-1999, Cottbus/Potsdam
- University of Heidelberg, 1996, Legal studies
- Friedrich Schiller University Jena, 1994, Legal studies

## Admissions and qualifications

- Admitted to the bar, Germany, 2000

## Languages

- English
- German