Counting the Costs: Two Alumni Shine in High-Profile National Bankruptcy Cases

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Recommended Citation
Available at: https://digitalcommons.law.buffalo.edu/ub_law_forum/vol22/iss1/6

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Counting the costs
Two alumni shine in high-profile national bankruptcy cases

By Jeffrey L. Tanenbaum ’76, a partner in the New York City firm Weil, Gotshal & Manges, worked on the General Motors reorganization under Chapter 11 of the U.S. Bankruptcy Code, and continues to work on the longstanding bankruptcy reorganization of Delphi Corp., the automotive parts supplier that GM spun off in 1999. Marc E. Hirschfield ’92, a partner with the New York City firm Baker & Hostetler, is immersed in a series of claims resulting from the massive fraud perpetrated by now-jailed financier Bernard Madoff, who perpetrated the biggest Ponzi scheme in history.

Most of Tanenbaum’s recent work has been on the Delphi case. “It’s been a major struggle reorganizing that company,” he says. “We always thought we would have that resolved long before GM resolved its financial dilemma.”

As it turns out, Tanenbaum, who teaches a bankruptcy course as part of the Law School’s New York City Program in International Finance and Law, was able to bring some of his experience with the Delphi case into the classroom. “Delphi is a case study on what happens during bankruptcy,” he says. “It has everything you can imagine, good or bad—labor negotiations, buyers of assets, hedge funds reneging on commitments to fund Delphi’s exit from bankruptcy and litigation surrounding all of the above. It’s a profile of everything that could possibly happen in a bankruptcy case.”

In the larger General Motors case, Weil, Gotshal represented the automaker as it worked to sell some assets, restructure its debt, cancel contracts, close some operations and secure financing to emerge from bankruptcy as a new legal entity.

The legal work is a massive undertaking, made possible, Tanenbaum says, only because “we’re very team-oriented. When we have these large Chapter 11 cases, we reach out to all of the various departments in the firm. One of the reasons we are so successful at doing this work is that we have expertise throughout our firm in various departments in the bankruptcy arena. We have a paralegal team that works with us; we have an outside party that does the mass filings of pleadings for us, keeps track of pleadings that are filed, and manages the mass mailings that we have to do.

“There are a lot of meetings, numerous conference calls and significant negotiations. Bankruptcy is the essence of negotiation, trying to bring disparate interests together to agree on a distribution of the assets of a company, the wealth of a company, and doing that in compliance with the bankruptcy code. You have to look from the senior creditors to the most junior creditors, figure out the value of that enterprise, and distribute that value fairly to the various constituencies.”

Tanenbaum says he and his colleagues recognize the historic import of the GM case. “It’s a thrill to be part of a group that gets to work on situations involving companies that are icons of American corporate history,” he says. “I represented Bethlehem Steel several years ago. We’ve represented Texaco, Continental Airlines, Eastern Airlines, Macy’s. We’ve worked with some of the great companies of our time.”

“It does make you feel you’re doing something productive, and also that you’re part of history, when you see...
Douglas J. Sylvester ’94 is thinking big—and also small. Really, really small.

As a research fellow at Arizona State University, where he teaches IP law and serves as an associate dean, he has immersed himself in the global issues arising from nanotechnology, the emerging science of machines and materials measured in billionths of a meter. Especially he studies and writes about the human impacts of such microscopic technology, which some say may revolutionize the way we live.

“Change bothers people. But one of the things the law does really well is to allow technologies to disperse and be accepted by society,” Sylvester says.

In his writing, Sylvester explores the psychology of how humans accept or reject new technologies. He also thinks and writes about privacy issues that arise from new technologies, taking issue with those who assert that individual privacy should always trump social concerns. “The concern I have always had about lawyers and law professors,” he says, “is that we look for people who are losers and say everything is about protecting their rights. I tend to think that is wrong. If individuals lose a degree of privacy, there are many beneficial results for society.”