

Q&A With Baker Donelson's Jan Hayden

Law360, New York (April 09, 2013, 1:01 PM ET) -- Jan M. Hayden is a shareholder in Baker Donelson Bearman Caldwell & Berkowitz PC's New Orleans office. She has handled bankruptcy and insolvency issues for more than thirty years. A leader of the firm's financial institutions group, she focuses her practice on assisting clients with workouts and reorganizations under Chapter 11 of the U.S. Bankruptcy Code. Hayden has represented creditors and debtors in mass tort bankruptcies. She represents trustees, debtors-in-possession, committees and creditors in a range of industries that includes manufacturing, real estate, hotels, gambling, nursing homes, airlines, convenience stores and retail operations as well as individuals. Hayden was named the 2011 "Woman of the Year in Restructuring" by the International Women's Insolvency and Restructuring Confederation (IWIRC).

Q: What is the most challenging case you have worked on and what made it challenging?

A: I think it had to be my first large oil and gas exploration case. What made it so challenging was that it had everything: a showboating ex-governor at the 341 meeting, complex and unsettled oil and gas issues, angry trade creditors, a client representative who ignored court orders, at least five law firms handling many more than that number of litigation matters, a weeks-long cramdown hearing, appeal after appeal followed by one after another market challenges. It lasted forever. I started as an associate and ended the case as the partner in charge, but never stopped learning.

Q: What aspects of your practice area are in need of reform and why?

A: The rules governing venue. The concentration of venue for even the mid-sized cases now into a limited geographical area drives up restructuring costs for cases and limits the ability of creditors, employees and other community stakeholders to participate in the process.

Q: What is an important issue or case relevant to your practice area and why?

A: *Stern v Marshall*. Some argue that it has dramatically changed the authority and jurisdiction of the bankruptcy court, others scoff at that notion and maintain that the ruling has little practical effect on the courts' authority. It is the most important issue for that very reason; there appears to be little agreement as to its effect. This uncertainty has parties trying to figure out how their position is affected

by Stern and how they can use Stern to their advantage. This uncertainty will drive up litigation and transaction costs until the effect of the ruling is fully vetted.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: This one is easy. Edward Heller, my mentor of 30-plus years. Of course, he taught me much about bankruptcy and insolvency, both the substantive law and the strategy. The example he set of the consummate professional — courteous, straight shooting, studied, good natured and patient — was invaluable to me and all of my contemporaries in the field. My generation learned what it meant to be a professional from him. We lost Edward this February but each of us was fortunate to know him.

Q: What is a mistake you made early in your career and what did you learn from it?

A: I was involved in a case where my client and his opponent had become vicious enemies. Anger can be contagious, and it spread quickly to both my opposing counsel and myself. Soon we both lost our tempers and shared some very cross words. Fortunately, it did not take either of us long to realize the error of our ways. We apologized and have remained close colleagues for the last 25-plus years. I learned an important lesson then: My clients don't need me to emote for them, they are perfectly capable of getting angry and frustrated all on their own. What they do need for me to do, and what they are paying me to do, is help them find a reasoned solution to their problem.

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