AMERICAN BANKRUPTCY INSTITUTE

Southeast Bankruptcy Workshop

Public Perception of Bankruptcy

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U.S. Bankruptcy Court (E.D. La.) | New Orleans

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Topic:

In recent years, chapter 11 proceedings have garnered increasing attention from the media and the public in general. With congressional hearings on mass-tort bankruptcies, Texas-Two Steps and venue reform, politicians have sought soundbites about bankruptcy law to drive media coverage. Additionally, high-profile events tied to bankruptcy filings, like the collapse of FTX and other cryptocurrency firms, have drawn the attention of many who otherwise ignore the goings on of bankruptcy courts. This panel will discuss these current public perceptions (and misperceptions) of bankruptcy proceedings and how they affect the day-to-day practices of lawyers and judges.

Background:

Media coverage of high-profile bankruptcy cases points to a growing public and legal-expert dissatisfaction with certain chapter 11 procedures and strategies. The backlash against focuses on the use of third-party releases, the Texas Two-Step method, which some have claimed are detrimental to the legal process and undermine public confidence in the fairness of bankruptcy law. Others have pointed out the academic and media characterizations of these issues has been misleading or at least lacked nuance to accurately convey what is actually going on.

These materials present excerpts from and summarize articles and reports related to these topics.

The Populist Backlash in Chapter 11

David Skeel

Brookings.edu

January 12, 2022

Professor Skeel argues that the bankruptcy practice is facing a crisis related to a populist backlash. He notes that a similar backlash rose up against financial bailouts after the financial crisis of 2008. He writes that this backlash has appeared in the wake of the COVID pandemic:

> The current crisis has prompted another populist backlash, as can be seen in controversies that have arisen in the Purdue Pharma opioid bankruptcy and in the bankruptcy of USA Gymnastics after revelation of horrendous sexual abuse by former team doctor Larry Nassar. Unlike the Tea Party and Occupy Wall Street, the current outrage is directed at the bankruptcy process itself. There is a growing populist perception that Chapter 11—the bankruptcy provisions used to restructure financially distressed businesses—has become deeply unfair. It benefits insiders—the "haves"—at the expense of outsiders—the "have nots."

He suggests that the closest analogy to this backlash is not the 2008, but rather the backlash that followed the Great Depression in the 1930s. In that instance, the result was major reform litigation:

> In the 1930s, New Deal reformers such as William Douglas—a Yale law professor who became chairman of the Securities & Exchange Commission and later a Supreme Court Justice—concluded that the Wall Street banks and lawyers were profiting (through the fees they charged and by assuming positions of control) at the expense of the investors they purposed to represent. The reformers ripped control from Wall Street by persuading Congress to enact, and President Roosevelt to sign, the Chandler Act of 1938. The Chandler Act prohibited bankers or lawyers that had represented a company before bankruptcy from representing it after the bankruptcy filing, which meant the company's underwriters could no

> longer run the reorganization process. Within a few years, Wall Street had disappeared from bankruptcy.

Today, critics complain about forum shopping, insider control, bonuses paid to executives, and mass tort cases. While these issues have all existed for years, Skeel writes:

> During the pandemic, discontent with current bankruptcy practice has grown considerably.[7] Lawmakers have introduced a spate of bills, each of which has been prompted by populist dissatisfaction with current Chapter 11 practice.

Skeel argues that the backlash may have pushed the system to a near breaking point and may lead to a reform movement if not addressed:

> If these problems continue to fester, the populist backlash may lead to sweeping bankruptcy reform. Such reform is unlikely to be carefully tailored to the problems that prompted it. It could even destroy traditional Chapter 11 practice, much as the Chandler Act of 1938 brought an end to the reorganization framework that presaged current Chapter 11.
>
> Although the pandemic did not overwhelm the bankruptcy system as many expected, it did bring a spate of preexisting conditions to light.[28] The lesson for bankruptcy insiders, the "haves" of the bankruptcy process, seems to be "Physician, heal thyself," before it's too late.

Skeel also notes that venue shopping plus high lawyers' fees approved by the courts (the same ones that the lawyers select) add to the public skepticism.

Other Venue Shopping Critiques

Similar critiques of forum shopping were raised more recently with regard the bankruptcy of Sorento Therapeutics, where the parties' sought sanctions and a venue transfer where the debtor was accused of using measures to create proper venue in Texas. Ultimately, the requests for sanctions and transfer were denied, but the media still report heavily on the tactics. See for example, **Dietrich Knauth, Latham, Jackson Walker avoid sanctions over bankruptcy forum shopping dispute, Feb. 27, 2024 (Reuters).**

On January 19, 2024, a group of academics, the Creditors Rights Coalition, and the Loan Sales & Trading Association penned a letter and proposal to the Committee on Rules of Practice and Procedure calling for venue reform. The academics argued:

> A Federal Rule is necessary to provide uniformity across all bankruptcy courts to provide a level playing field and to avoid debtors creating the perception of a two-tiered justice system. Judge shopping has already damaged public confidence in the fairness of the judicial system, particularly given the ethics scandal unfolding in the Southern District of Texas, and it is time for that to be restored. Adopting such a change through rulemaking would promote public confidence in judicial impartiality.

In Defense of Mass Tort Bankruptcy
Anthony Casey & Joshua Macey
University of Chicago Law Review, 2023
&
Bankruptcy by Another Name
Anthony Casey & Joshua Macey
Yale Law Journal Forum, April 16, 2024

In 2023 Professors Casey and Macey took to defending chapter 11 procedures in the mass tort context. In the article they argued that the most-criticized tools of chapter 11—the third-party release and the divisional mergers (the Texas Two Step)—actually add value to the process:

> This Essay argues that bankruptcy proceedings are well-suited to resolving mass tort claims. Mass tort cases create a collective action problem that encourages claimants who are worried about available recoveries to race to the courthouse to collect ahead of others. This race can destroy going concern value and lead to the dismemberment of valuable firms. Coordination among claimants is difficult as each one seeks to maximize its own recoveries. These are the very collective action and holdout problems that bankruptcy proceedings are designed to solve. As such, bankruptcy proceedings are appropriate means of resolving mass torts as long as they leave tort victims no worse off than they would have otherwise been. We further argue that legal innovations such as third-party releases and divisional mergers, which facilitate efficient bankruptcy proceedings and reduce holdout problems, should be welcomed as long as courts are attentive to the potential for abuse.

Their original article received large academic criticism and in 2024, Casey and Macey penned a response piece pointing out the various factual mischaracterizations found in the work of academics criticizing the bankruptcy process. They argue that critics

> work from an inaccurate view of the bankruptcy process. They assume an ethereal "bankruptcy culture" that ruthlessly pursues efficiency while preventing bankruptcy

> courts from developing law, reviewing cases on the merits, and providing victims with an opportunity to be heard. They argue that bankruptcy prevents plaintiffs from testing novel tort theories,16 that it fails to protect future claimants, and that it limits discovery that supports future regulation.18 These descriptions, however, do not match reality.

Casey and Macey go on to explain:

> In practice, bankruptcy can and often does support public-regarding, noneconomic values, often more effectively than nonbankruptcy alternatives. The Bankruptcy Code already requires judges to provide many of the procedures that bankruptcy skeptics complain it lacks—including review of substantive law, referral of cases for trial, extensive discovery, and the broadest protection of victim's rights to be found in any existing aggregated judicial procedure—and it affords bankruptcy judges the power and discretion to go even further to enhance plaintiffs' voice and certify trials to state and district courts.

In particular, they refute several false academic claims:

- For one, it is simply not true that bankruptcy keeps information about corporate misconduct out of the public's eye. Bankruptcy judges cannot cut off discovery to facilitate an efficient reorganization. To the extent that plaintiffs are not satisfied with a debtor's disclosure statement, they can veto a reorganization plan until the debtor produces additional information. It therefore provides an enormous amount of information that can support legislation to reduce the risk of future corporate misconduct.

- Nor is bankruptcy incompatible with federalism values. To the contrary, it can facilitate the development of substantive state law in a variety of ways, including bellwether trials, transferring cases to other courts for trial, and certification to state and federal courts. Bankruptcy provides a forum in which plaintiffs lead negotiations with the debtor and a robust procedure for court-supervised supermajority voting among claimants, one which does not exist anywhere else in our legal system. In short, the bankruptcy process

empowers victims and makes their participation as plaintiffs a condition of any reorganization plan.

- [Academics] repeatedly lament that bankruptcy courts rarely "hear testimony from tort victims anxious to have their day in court." Id. at 525; see id. at 527, 536, 551, 553. But .. more victims were heard in the Purdue Pharma bankruptcy than most mass-tort cases. [Casey Macey then note that the critics discount victim voice:] they subordinate victim voice to public discovery: "The victim impact statements that Joshua C. Macey & Anthony J. Casey laud as coming forth in the bankruptcy process are not the same as discovery from the companies about questionable industry practice."

Responding the false claim that bankruptcy proceedings don't even use the words victim or plaintiff, Casey and Macey write:

> The word victim is regularly used in bankruptcy proceedings, as a search of the docket of the major cases reveals. In Purdue there are several references to victims including several filings by the Ad Hoc Committee of Individual Victims of Purdue Pharma L.P. See Purdue Pharma L.P., Case No. 19-23649, KROLL (Feb. 26, 2024). The same is true in Mallinckrodt where there was an Ad Hoc Group of Personal Injury Victims. The same is true in the Boy Scouts bankruptcy, where the parties regularly refer to the "Abuse Victims." Court Docket, Omni (Apr. 12, 2024),. Moreover, in Purdue, the Supreme Court Brief filed by the debtor uses the word victim thirteen times and argues, "That is why the victims with the greatest reason to seek retribution against the Sacklers—including over a hundred thousand individuals and state and local government entities across the country—overwhelmingly support the plan." Brief for Debtor Respondents, Harrington v. Purdue Pharma L.P., 144 S. Ct. 44 (2023) (No. 23-124). The brief filed by individual victims supporting the plan uses the word seventy times Brief for Respondent Ad Hoc Group of Individual Victims of Purdue Pharma, L.P. et al., Harrington v. Purdue Pharma L.P., 144 S. Ct. 44 (2023) (No. 23-124).

Responding to a false description of a trial against Johnson & Johnson as a "jury trial":

> While [the other academics] refer to this case as a "jury trial," Gluck, Burch & Zimmerman, supra note 7, at 558, it was in fact a bench trial. See State ex rel. Hunter v. Johnson & Johnson, 499 P.3d 719, 722 (Okla. 2021) ("The district court conducted a 33-day bench trial . . . .").

Responding to the claim that bankruptcy courts do not refer cases for trial:

> Examples of such cases are easy to find. See, e.g., In re Arnott, 512 B.R. 744, 757 (Bankr. S.D.N.Y. 2014) ("For the foregoing reasons, the Court grants the motion to lift stay to allow Plaintiff's [personal injury tort] claims to proceed outside of this Court."); Desimone Hosp. Servs., LLC v. W. Va.-Am. Water Co., No. AP 2:14-2008, 2014 WL 1577051, at *3 (S.D.W. Va. Apr. 16, 2014) ("Inasmuch as many of these related-to cases involve traditional personal injury tort claims of a non-core variety, the better course is to withdraw reference immediately to assure efficient case administration."); In re Gordon, 646 B.R. 903, 910 (Bankr. D. Idaho 2022) ("Creditor's claims constitute personal injury torts. As such, the liquidation and estimation of these claims is a non-core matter, and this Court cannot enter final judgment. . . . [T]he Court will grant Creditor relief from the automatic stay to permit the parties to return to the Central District of California."); In re Gary Brew Enters. Ltd., 198 B.R. 616, 620 (Bankr. S.D. Cal. 1996) (remanding personal injury tort claims to the district court for a jury trial); In re Pilgrim's Pride Corp., No. 08-45664 DML, 2011 WL 3799835, at *3 (Bankr. N.D. Tex. Aug. 26, 2011) ("The court will not exceed its jurisdiction and so concludes that Wheatley's claim for sexual harassment must be tried, if at all, before the District Court."); Moore v. Idealease of Wilmington, 358 B.R. 248, 252 (E.D.N.C. 2006) ("Because plaintiff alleges personal injury tort claims against defendants, this court retains jurisdiction over those claims pursuant to 28 U.S.C. § 157(b)(5)."); In re Stewart, 649 B.R. 755, 759 (Bankr. N.D. Ill. 2023) (lifting the automatic stay and noting that "[b]ecause the claim is one for a 'personal injury tort,' it must be liquidated in the district court or the state court. 11 U.S.C. § 157(b)(5)."); In re Ice Cream Liquidation, Inc., 281 B.R. 154 (Bankr. D. Conn. 2002) (granting a motion to lift the automatic stay to allow pretrial and trial of personal injury tort claims in district court); In re Roman Cath. Church for Archdiocese of New Orleans, No. CV 21-1238, 2021 WL 3772062 (E.D. La. Aug. 25, 2021) (granting a

motion to withdraw the reference in favor of a jury trial for personal injury tort claims); In re Mason, 514 B.R. 852, 860 (Bankr. E.D. Ky. 2014) (granting a motion to lif the stay because the bankruptcy court did not have authority to liquidate personal injury tort claims); In re Basic Energy Servs., Inc., No. 21-90002, 2023 WL 8000290, at *2 (Bankr. S.D. Tex. Aug. 7, 2023) (recommending that the district court withdraw the reference because the bankruptcy "[c]ourt does not have the authority, absent consent, to liquidate personal injury tort claims for purposes of distribution in a chapter 11 case"); see also Roman Cath. Diocese of Rockville Ctr. v. Certain Underwriters at Lloyds, London & Certain London Mkt. Cos., 634 B.R. 226, 240 (S.D.N.Y. 2021) (granting a motion to withdraw the reference in favor of a jury trial for mass-tort-related claims against an insurer); In re Cachet Fin. Servs., 652 B.R. 341, 350 (C.D. Cal. 2023) (granting a motion to withdraw the reference in favor of a jury trial for tortious interference claims); Desmond v. Ng, 552 B.R. 781, 790 (D. Mass. 2015) (granting a motion to withdraw the reference in favor of a jury trial for contract and tort claims); In re Bateman, 601 B.R. 700, 707 (D. Mass. 2019) (granting a motion to withdraw the reference in favor of a jury trial reference for a fraudulent transfer claim); In re EPD Inv. Co., LLC, 594 B.R. 423, 426 (C.D. Cal. 2018) (same).

Responding to the claim that bankruptcy cases are less transparent than other cases:

- Court dockets for Chapter 11 cases are, in fact, among the most publicly accessible of any court system in the world. To any reader in doubt, we suggest they run searches to try to find court documents for Chapter 11 cases and then do the same for any other case. Elizabeth Chamblee Burch notes that MDL dockets can be frustratingly hard to find. "Google 'pelvic mesh litigation,'" she writes, "and the MDL court's seven websites, one devoted to each proceeding, appear nowhere in the first twelve pages of results." Elizabeth Chamblee Burch & Margaret S. Williams, Perceptions of Justice in Multidistrict Litigation: Voices from the Crowd, 107 CORNELL L. REV. 1835, 1922-23 (2022). To compare, we tried the following searches, and for each, the bankruptcy docket was the first result:
    - "purdue bankruptcy docket"

- "j&j bankruptcy docket" (even though the actual debtor was technically LTL) (this was the 2023 docket, which provides a link to the 2021 docket)
- "boy scouts bankruptcy docket"
- "mallinckrodt bankruptcy docket" (the 2020 docket was the first result, the 2023 docket was the second)
- "3M bankruptcy docket" (technically Aearo)
- "bestwall bankruptcy docket"
- "st gobain bankruptcy docket" (technically DBMP LLC)
- "revlon bankruptcy docket" (technically RMC LLC)

We did not come up with any searches where the free and public bankruptcy docket was not the first result. We tried several non-tort bankruptcies—FTX, Blockfi, Hertz, Bed Bath & Beyond, WeWork—with the same results.

The Moral Limits of Bankruptcy Law
Melissa Jacoby
New York Times, June 4, 2024

In an essay in the New York Times, Professor Melissa Jacoby previews her book arguing about that bankruptcy process has become unjust:

> If companies instead turn to bankruptcy to permanently and comprehensively cap liability for wrongdoing — the objective not only of Purdue Pharma but also of many other entities over recent decades — they can shortchange the rights of individuals seeking accountability for corporate coverups of toxic products and other wrongdoing. And in a country that relies on lawsuits and the civil justice system to deter corporate malfeasance, permanently capping liability using a procedure focused primarily on debt and money could be making us less safe.

She also criticizes the Texas Two-Step

> The two-step provokes costly and time-consuming legal challenges, and even if they succeed, the bankruptcy filing typically results in the cancellation of scheduled jury trials in other courts in the meantime — to the companies' benefit. The corporate giant Johnson & Johnson has already filed *two* two-step bankruptcies in its effort to cap liabilities for accusations that it ignored alleged cancer risks stemming from its talc-based personal hygiene products. Although both attempts were eventually dismissed because the entity was not in financial distress, Johnson & Johnson is planning to file a third time.

She concludes:

> The looming question remains whether we the people may be at greater risk — monetarily, bodily, constitutionally — when a system designed for restructuring the debt of financially distressed companies is retrofitted for other policy problems.

Survivor Statements

Countering the negative narrative, several news outlets have reported on the use of survivor statements in bankruptcy proceedings. Proceedings before Judge Harner in Maryland has received significant attention for including these statements. According to one report:

> Archbishop William Lori and federal judge Michelle Harner listened to agonizing stories about how the abuse has impacted their lives.
>
> …These stories, they were gut-wrenching," survivor Teresa Lancaster said. "These things ruined lives." The survivors detailed the long-lasting trauma clergy abuse has had on them, including one who told the judge he and his family saw priests as an "extension of God."
>
> Another testified, "nobody ever came to help me. This was my cross to bear and I had to bear it alone. I cry every day for the life that might have been."

See https://www.cbsnews.com/baltimore/local-news?ftag=CNM-16-10abg0dPainful accounts of sexual abuse shared by survivors at Archdiocese of Baltimore bankruptcy hearing, CBS News, May 21, 2024 at https://www.cbsnews.com/baltimore/news/survivors-of-sex-abuse-to-testify-in-archdiocese-bankruptcy-case/.

Faculty

Prof. Anthony J. Casey is the Donald M. Ephraim Professor of Law and Economics at The University of Chicago Law School in Chicago. He is also the faculty director of the Law School's Center on Law and Finance. Prof. Casey is an expert on business law, finance and corporate bankruptcy, and he teaches courses and seminars in corporate governance, business law, bankruptcy and reorganization, finance, litigation strategy, civil procedure, and law and technology. His research — which has been published in the *Yale Law Journal*, the *Columbia Law Review*, the *Supreme Court Review* and the *University of Chicago Law Review* — examines the intersection of finance and law, with a focus on corporate bankruptcy. He has also written about the role of intellectual property law in the organization and financing of creative projects, and about how technological innovation is changing the foundations of our legal system more generally. He also has written about asset valuation, creditor priority, the constitutionality of bankruptcy courts and intercreditor agreements. Before entering academics, Prof. Casey was a partner at Kirkland and Ellis, LLP and an associate at Wachtell, Lipton, Rosen & Katz. His legal practice focused on corporate bankruptcy, merger litigation, white-collar investigations, securities litigation and complex class actions. After law school, he clerked for Chief Judge Joel M. Flaum of the U.S. Court of Appeals for the Seventh Circuit. Prof. Casey was recognized in 2017 as one of ABI's inaugural "40 Under 40" honorees. He received his J.D. with high honors from The University of Chicago Law School, where he was awarded the John M. Olin Prize for outstanding student of law and economics.

Hon. Robert D. Drain is Of Counsel with Skadden, Arps, Slate, Meagher & Flom LLP in New York and previously served for 20 years as a U.S. bankruptcy judge for the Southern District of New York, presiding over many impactful business and consumer cases. Before retiring from the bench in 2022, Judge Drain oversaw proceedings ranging from large chapter 11 corporate restructurings — including Loral, RCN, Cornerstone, Refco, Allegiance Telecom, Delphi, Coudert Brothers, Frontier Airlines, Star Tribune, Readers Digest, A&P, Hostess Brands, Christian Brothers, Momentive, Cenveo, 21st Century Oncology, Tops, Global A&T, Sears, Full Beauty Brands, Sungard, Windstream, Purdue Pharma, Jason Industries, OneWebb and Frontier Communications — to chapter 15 and other cross-border cases, such as Varig, S.A., Yukos (II), SphinX, Galvex Steel, TBS Shipping, Excel Maritime, Nautilus, Landsbanki Islands, Roust and Untrapetrol. He also served as a court-appointed mediator in numerous cases, including New Page, Cengage, Quicksilver, Advanta, LightSquared, Molycorp, Breitburn Energy, China Fishery and PREPA. In his current practice at Skadden, Judge Drain advises on U.S. and cross-border chapter 11 and 15 reorganizations and litigation, out-of-court restructurings, distressed M&A and investments in troubled companies, debtor-in-possession loans and exit financings, as well as potential examiner or trustee roles and mediations. He is a Fellow of the American College of Bankruptcy, a member and former ABI board member, and a former board member and officer of the National Conference of Bankruptcy Judges (NCBJ). He was chair for several years of the Bankruptcy Judges Advisory Group established by the Administrative Office of the U.S. Courts, has testified before the Senate Judiciary Committee on home mortgage loss mitigation, and currently serves on the FDIC's Systemic Resolution Advisory Committee. Judge Drain was a founding member and chair of the Judicial Insolvency Network, which developed, among other issuances, guidelines that were adopted by courts in the U.S. and abroad for cooperation and communication in concurrent transnational insolvency cases. He also has long annually presided over a mock transna-

tional bankruptcy case for the International Association of Restructuring, Insolvency & Bankruptcy Professionals' (INSOL's) training program and is a member of the International Insolvency Institute. In addition, he is a member of the Business Bankruptcy Committee of the U.S. Bankruptcy Court for the Southern District of New York. Judge Drain is an adjunct professor at Pace University School of Law and a former adjunct professor in St. John's University School of Law's LL.M. in Bankruptcy Program. He has contributed to treatises on bankruptcy law and frequently lectured on bankruptcy law in multiple programs for the Federal Judicial Center, NCBJ, ABI, AIRA, Turnaround Management Association, Practising Law Institute, American College of Bankruptcy, International Insolvency Institute, Federal Bar Council and Columbia University School of Law, and national, international and local bar associations, as well as judicial and professional interchanges with judges and practitioners in South America, Europe, China, South Korea, Singapore and India. Prior to his time on the court, Judge Drain spent nearly 20 years in private practice, including 10 years as a partner in the bankruptcy and restructuring practice of another global law firm. He also authored a novel, *The Great Work in the United States of America*. Judge Drain received his B.A. *cum laude* from Yale University and his J.D. from Columbia University School of Law, where he was a Harlan Fiske Stone Scholar for three years.

Jeffrey P. Fuller is the principal legal analyst with Bloomberg Industry Group in Arlington, Va., on its Corporate Team, where he focuses on bankruptcy and financial restructuring. He develops bankruptcy practical guidance for practitioners on the Bloomberg Law platform; publishes analysis articles for Bloomberg Law, including deep dives based on research and data-driven short takes; collaborates with team members on editing practical guidance and analysis articles, developing the vision and roadmap for its bankruptcy practice center; and he designed and moderated Bloomberg Law's 2021 commercial real estate restructuring webinar. Mr. Fuller previously worked for more than a decade of work as a chapter 11 attorney, representing debtors, secured creditors, creditors' committees, trustees, franchisees, landlords and others. He received his B.A. in English from Davidson College, his M.A. in history from the University of Mississippi and his J.D. from the University of Tennessee College of Law.

Hon. Meredith S. Grabill is a U.S. Bankruptcy Judge for the Eastern District of Louisiana in New Orleans. Prior to taking the bench in September 2019, she practiced primarily in the areas of bankruptcy, commercial, and oil and gas litigation, serving on bankruptcy teams representing publicly traded, closely held, and individual chapter 11 debtors; official unsecured creditors' committees; and corporate creditors. Outside of bankruptcy court, Judge Grabill has represented large and multinational corporations in antitrust proceedings, labor and contract disputes, and insurance and reinsurance disputes. She previously clerked for Hon. Edith Brown Clement in the U.S. Court of Appeals for the Fifth Circuit, Hon. Martin L.C. Feldman in the U.S. District Court for the Eastern District of Louisiana, and Hon. Martin Glenn in the U.S. Bankruptcy Court for the Southern District of New York. Prior to earning her law degree, Judge Grabill worked for years in the juvenile justice field in Washington State, providing direct treatment services and administering statewide programs for offenders with mental health issues, chemical dependency issues and developmental delays. She received her B.A. from The Evergreen State College in Olympia, Wash., and her J.D. from Tulane Law School, where she served as editor-in-chief of the *Tulane Law Review*.

Dan B. Prieto is a partner with Jones Day in Dallas has played a lead role in representing high-profile companies in successful chapter 11 reorganizations, including by assisting numerous companies in achieving permanent resolutions of mass asbestos tort liabilities through § 524(g) plans of reorganization. He also represents clients in out-of-court restructurings and distressed M&A transactions. Prior to returning to Jones Day in 2021, Mr. Prieto was workout counsel at a leading direct lender and credit asset manager with more than $35 billion of capital under management in Chicago, where he handled restructuring matters for the lender. He represented Bondex, Kaiser Aluminum and USG Corp. in their respective § 524(g) chapter 11 reorganizations that fully resolved their asbestos liabilities, and RadioShack in its successful chapter 11 reorganization, including in connection with a going-concern sale of a substantial portion of RadioShack's business. He also represented the owners of the Vogtle nuclear plant in connection with Westinghouse's chapter 11 case and a guarantee provided by Toshiba and Hanson Permanente Cement and Kaiser Gypsum in chapter 11 cases they filed to resolve their asbestos and environmental liabilities. Mr. Prieto's other significant engagements include representing PHI, Inc., one of the world's leading helicopter services companies, and Mayflower Communities, a nonprofit senior living retirement community, in their respective chapter 11 cases. In 2014, he was recognized by *Turnarounds & Workouts* as one of only 12 Outstanding Young Restructuring Lawyers in the United States, and he has been listed by *U.S. News* as one of "The Best Lawyers in America." Mr. Prieto received his B.S. *cum laude* in 1997 from Vanderbilt University and his J.D. *cum laude* in 2000 from Northwestern University.