

Q&A With Pachulski Stang's Laura Davis Jones

Law360, New York (May 08, 2013, 5:02 PM ET) -- Laura Davis Jones is a name partner of Pachulski Stang Ziehl & Jones LLP and managing partner of the firm's Delaware office. She represents debtors, creditors' committees, bank groups, acquirers and other constituencies in Chapter 11 cases and workout proceedings. Jones speaks at numerous bankruptcy and litigation seminars, and has authored several articles on bankruptcy and other topics. In 2002, she was named "Deal Maker of the Year" by The American Lawyer.

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

A: Debtors' counsel to Continental Airlines, et al. There were many legal issues of first impression (the case was in the early 90s) such as, to name a few, treatment of leases pursuant to Section 1110 of the Bankruptcy Code, plan releases and rejection damages. In addition, there were many moving parts, including financial and operational considerations, with a lot of jobs and money at stake. I was young and it turned out to be a tremendous learning experience.

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

A: One of the challenges in the bankruptcy area is sales in Chapter 11 if intellectual property is involved. There is case law that can make it nearly impossible to sell assets by restricting a debtor's authority to sell or transfer licenses, personal service contracts and certain other personal property. While those limitations may also exist outside of bankruptcy, one advantage of a bankruptcy filing is to override ordinary course restrictions. The existence in bankruptcy of special rules to protect certain intellectual property is almost contradictory to general bankruptcy rules that facilitate sales and generally override restrictions against alienation.

Second, Congress and the bankruptcy world need to find a way to compensate bankruptcy judges at a higher level. The judges handle complicated, often fast-moving, intense, not always pleasant matters, and they are not even paid what a first year associate at a large New York law firm is paid. We want to continue to encourage experienced, intelligent attorneys to become judges, and the economics can and have discouraged some from pursuing that career.

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

A: Section 362 of the Bankruptcy Code — the automatic stay. It sets the game rules — everyone knows or should know what they can do — and gives a bankruptcy case the opportunity to succeed. It permits all issues and litigation to be centralized, and avoids the “race to the courthouse.”

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

A: David Boies. He is brilliant, agile, unflappable and knows the record. For example, David and I tried a case together. During trial, there was a document presented by the other side that we had not seen previously and was not produced in discovery. David read the document while the other side was presenting its direct examination, and then used the document to decimate the witness on cross-examination. Who does that?

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

A: I often jumped to the answer too fast. I have learned to listen more. For example, in negotiations, I would react quickly to the other side’s position and respond to their offer, and not necessarily let them play out their hand. With some experience, I have learned to be more paced in my response, and to just listen.

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