AMERICAN BANKRUPTCY INSTITUTE

Southwest Bankruptcy Conference

CONCURRENT SESSION

When Bankruptcy Is Too Expensive

Valerie Bantner Peo
Buchalter | San Francisco

Jeremiah Foster
Resolute Commercial Services | Scottsdale, Ariz.

Hon. Mary Jo Heston
U.S. Bankruptcy Court (W.D. Wash.) | Tacoma

H. Michael Hogan III
Armanino LLP | San Francisco

Nir Maoz
KTBS Law LLP | Los Angeles

2025

When Bankruptcy is Too Expensive . . .

2025 ABI Southwest Conference, Santa Barbara, CA
August 26, 2025
PANELISTS:
Valerie Bantner Peo, Buchalter, San Francisco, CA
Jeremiah Foster, Resolute Commercial Services, Scottsdale, AZ
Hon. Mary Jo Heston, U.S. Bankruptcy Court, WDWA
H. Michael Hogan III, Armanino Advisory, San Francisco, CA
Nir Maoz, KTBS Law, Los Angeles, CA
PRODUCER:
Kyle Everett, DSI, San Francisco, CA

Presentation Goals

- To briefly present the key components of non-bankruptcy alternatives
- To discuss the pros and cons of different insolvency tools as well as some practical considerations that guide the choice of alternatives.
- To present real life examples of cases where bankruptcy and non-bankruptcy alternatives were used alone and in tandem.

OUT OF COURT WORKOUTS

- Consensual transactions between the debtor and usually less than all creditors to address financial issues of a debtor.
- Provides the debtor with more control over the restructuring process to tailor solutions to needs of the business.
- As flexible as parties involved are willing to agree to and can be used to accomplish debt for equity exchanges, liquidation of assets, refinancing of assets and liability management transactions.
- Highly confidential especially where process only involves secured creditor and debtor (i.e., forbearance agreement).
- May allow guarantors to reduce liability through cooperation in process.

OUT OF COURT WORK OUTS: Pros and Cons

PROS

- May allow the debtor to continue in business and retain relationships and credit financing arrangements with unsecured creditors.
- Allows secured creditors to get their collateral properly perfected.
- Relatively low cost even if secured creditor requires CRO be appointed.
- Preserves going concern value.

CONS

- Doesn’t address claims of creditors who are not a party to the work out agreement.
- Designed to address limited issues primarily with secured creditors.

UCC ARTICLE 9 FORECLOSURE SALES

- Permits secured creditors with UCC consensual liens in the debtor's personal property (including the equity of an operating business) to non-judicially foreclose on its collateral without a breach of the peace following the debtor's default.
- Collateral is typically sold unless the secured creditor takes possession of the collateral directly in a strict foreclosure in full or partial satisfaction of the debt with the consent of the debtor and without objection by noticed parties.
- The sale of the collateral must in all aspects be objectively "commercially reasonable" which requirement may be satisfied by approval by a judge or an assignee for the benefit of creditors. UCC § 9-610(b).
- Sale may be public or private though the secured creditor may only purchase at a private sale if the collateral is a type that is customarily sold on a recognized market or is the subject of widely distributed standard price quotations.
- Notice of the disposition or sale must be provided to the debtor, any guarantors or other secondary obligor and parties asserting a lien, claim or interest in the collateral.
- Junior liens are extinguished and rights to pursue a deficiency are limited.

UCC ARTICLE 9 FORECLOSURE SALES: Pros and Cons

PROS

- Limited notice provided to creditors.
- Only directly addresses lien claims in assets subject to the foreclosure (i.e., the foreclosing creditors' collateral).
- Can be accomplished relatively quickly (generally ten days minimum).
- Eliminates junior liens.
- Relatively low cost.
- May be combined with other procedures to accomplish goals (e.g., to acquire the business or sell free and clear of liens).
- Article 9 relatively consistent across jurisdictions though need to check applicable stat law.

CONS

- Can only be accomplished non-judicially without a breach of the peace.
- Doesn't address unsecured creditors.

Assignments for the benefit of creditors (ABCs)

- Involves a company’s voluntary assignment of its assets to an assignee usually selected by the company though it should be someone disinterested to avoid the conflicts and potential breach of the assignee’s fiduciary duties. Business stops operating and doesn’t discharge debts.
- Assignee takes title to the assets as a fiduciary for the purpose of liquidating the assets. The assets are subject to existing liens and encumbrances and some states give assignee hypothetical status as a lien creditor UCC § 9-309 as well as the ability to recover fraudulent conveyances and preferences.
- ABCs usually operate under a statutory scheme, some of which are comprehensive, others are not. Thus, venue and choice of law may be important issues.
- No or minimal court supervision exists.
- Creditors receive notice to file claims; secured creditors are paid first, then priority creditors then unsecured creditors and finally equity.
- Cannot sell free and clear of liens and sales generally requires consent of lien holders; may be combined with Article 9 sell to reduce the number of lienholders.

ABCs: Pros and Cons

PROS

- Typically, faster than bankruptcy cases.
- Cheaper than Chapter 11.
- Less public than Chapter 11.
- May allow businesses to preserve ongoing relationships due to lack of formalities.
- Speed and lack of publicity helps preserve going concern value.

CONS

- No automatic stay which may complicate the process.
- Cannot sell assets free and clear of liens and no involuntary cram down of secured debt.
- May not be ideal for complex situations.
- State specific rules may result in significant variance of outcomes.
- ABC is grounds for entry of an order for relief following an involuntary bankruptcy case for the first 120 days following the ABC which may disrupt the process.
- No discharge of debts or ability to affect rights of landlords or third parties to contracts.

General Commercial Receiverships: State Receiverships

- Proceeding under state law, rule or common law where pursuant to a state court appoints an independent third party (i.e., the receiver) to administer a borrower's/company's assets that are subject to a dispute or a claim (e.g., a lien or pending litigation where dissipation of assets exists pending outcome, regulatory action). Like assignees the receiver is bonded and provides reports of their administration.
- State statutes authorizing receiverships vary greatly with some being basic rules and others including bankruptcy like provision such as an automatic stay, financing priorities, claims procedures and the ability to reject contracts.
- Receiverships can be short term such as where receivers are appointed to protect and preserve property pending a real property foreclosure. See UCRERA. General commercial receiverships are primarily intended for liquidation though a receiver may be authorized to operate a business pending disposition of the assets.
- Receivers are also authorized to recover property using fraudulent conveyance statute, but they are less likely to pursue such actions than are bankruptcy trustees.
- The receivership order is key to providing the receiver with the authority to act to fill in gaps where the statutory scheme does not address the issue. The receiver may obtain court approval of actions to provide further protection.

State Court Receiverships: Pros and Cons

PROS

- Cheaper way to preserve property pending disposition than Chapter 11; moving party generally funds administrative costs.
- May be shorter process than Chapter 11.
- Consolidates control over a debtor and its assets.
- Access to a court to enjoin creditors and authorize receiver's actions.
- Authority to sell; sales free and clear are authorized under some receivership statutes.
- Can address cannabis cases where bankruptcy cannot.

CONS

- Generally, no ability to reorganize.
- May not be ideal for complex situations such as priority disputes.
- State specific rules result in significant variance.
- Multi-state operations may require initiation of ancillary receiverships
- Variance in state court receptiveness to appointment and sophistication with commercial issues.

Federal Receiverships

- An ancillary equitable proceeding initiated under FRCP 66 in an Article III U.S. district court by a private party with a valid claim based on borrower's/company's fraud and/or necessary to preserve assets pending enforcement claim pending outcome of litigation or by a federal regulatory agency to preserve assets following a widespread fraud or abuse of federal law.
- Must establish basis for federal subject matter jurisdiction under 28 U.S.C. § §1331 or 1332 (e.g., federal question or diversity of citizenship + $75,000 at issue as well as personal jurisdiction (i.e., minimum contacts) over the debtor.
- Receiver appointed is an officer of the court appointed to manage and administer the debtor's property and business with authority to act outside of the applicable federal district.
- Court order should be used to establish scope of receivership and initial requirements of parties and procedures as there are rarely detailed rules governing procedures.
- District court looks to prior precedent and local rules which often incorporate bankruptcy code and rules; broad based injunctions are common.
- Private sales especially of real estate may require formal appraisals and compliance with 28 U.S.C. § §2001 and 2004.

Federal Receiverships: Pros and Cons

PROS

- Article III powers of court avoid limits of jurisdiction of Article I bankruptcy court.
- Consolidates control over a debtor and its assets.
- Ability to use effective bankruptcy procedures and practices under the supervision of federal equity receiver without involvement and costs associated with creditors' committees or the UST or the interference of a DIP.
- Jurisdiction over out of district property without the need to commence ancillary actions and can address international situations.
- Parties suing receiver required to come to federal court in first instance similar to Barton Doctrine.

CONS

- Federal judges may be unfamiliar with receivership procedures though litigants can explain process.
- Federal judges are more oriented to traditional litigation rather than streamlined bankruptcy like procedures. May not be ideal for complex situations such as priority disputes.
- Sale procedures may require extra steps and costs such as appraisals.

PRACTICAL CONSIDERATIONS IN DECIDING WHICH PATH TO PURSUE

Audiences
- Client and their goals/priorities?
- Creditors necessary to effectuate client's goals? Alignment of goals of necessary parties with goals of client? Sophistication of the parties?
- Risk tolerances of the necessary parties have?

Geography
- What and where are the assets located?
- What venues are available?

Other considerations
- Resources available to address the needs of the entity in financial distress or other need of restructuring?
- Level of court involvement is desired/needed to resolve required issues?
- Means available to address creditors that don't support proposed plan?
- Risk of avoidance actions now or in the future?

Feature

By Mark A. Craige and Craig M. Regens

Receiverships vs. Ch. 11: A Modern Comparison Across Jurisdictions

Mark A. Craige
Crowe & Dunlevy
Tulsa, Okla.

Craig M. Regens
Crowe & Dunlevy
Oklahoma City

Mark Craige is a shareholder/director with Crowe & Dunlevy in Tulsa, Okla., and a past member of ABI's Board of Directors. Craig Regens is a shareholder/director in the firm's Oklahoma City office.

As financially distressed businesses and their creditors confront an increasingly complex and costly restructuring landscape, interest in nonbankruptcy alternatives has surged. Chief among these is the court-appointed receivership, a state law remedy that is gaining traction — particularly in real estate and single-asset business contexts. Although federal bankruptcy, especially chapter 11, remains the dominant framework for business reorganization, the rise in popularity of the Uniform Commercial Real Estate Receivership Act (UCRERA) has signaled a trend toward harmonization among state receivership laws.

This article explores how the UCRERA and similar statutes intersect with chapter 11 principles, and when receivership may serve as a superior tool for asset-preservation, liquidation or even informal reorganization. It provides seasoned restructuring professionals with a nuanced, cross-jurisdictional perspective on the evolving receivership regime.

The Bankruptcy Code provides a highly structured and comprehensive mechanism for debt-adjustment, estate administration and asset distribution. Chapter 11 is designed for reorganizing entities and preserving going-concern value, with the debtor typically remaining in possession. It features key tools, such as the automatic stay, debtor-in-possession (DIP) financing, plan-confirmation processes, cramdown authority and, in many circumstances, discharge.

With the advent of subchapter V, created by the Small Business Reorganization Act of 2019, smaller businesses gained access to a faster and more affordable chapter 11 pathway. Subchapter V changes the requirements for creditor approval of plans, imposes tighter deadlines and restricts administrative overhead. However, this streamlined route is now constrained by the statutory debt limit, which reverted from a pandemic-era $7.5 million to approximately $3.02 million as of June 2024.[1] As a result, many middle-market companies once eligible under the expanded threshold are now reevaluating their restructuring options.

In contrast to the federal uniformity of bankruptcy, receiverships are governed by state law and rooted in equity jurisprudence. Historically used as ancillary remedies in foreclosure or partnership disputes, modern receiverships can take on expansive roles akin to those of bankruptcy trustees. A receiver is typically appointed by the state court at the request of a secured creditor to preserve or liquidate assets. Their authority is derived solely from the appointing court and the scope articulated in the order of appointment. This jurisdictional specificity can be both a limitation and a strategic advantage, depending on the case.

The UCRERA,[2] promulgated by the Uniform Law Commission, has been adopted in more than a dozen states and offers a model statutory framework to standardize commercial real estate receiverships. The UCRERA defines the scope of a receiver's duties, sale procedures, lien priorities and creditor-notice requirements, among other procedural elements. Notably, it authorizes receivers to sell real property free and clear of existing liens with court approval,[3] closely paralleling § 363(f) sales provided for in the Bankruptcy Code.[4]

While the UCRERA is not a panacea for the lack of procedural uniformity that has long characterized state receivership law, its adoption represents a significant step toward statewide predictability and coordination across jurisdictions. Even in non-UCRERA states like Oklahoma, where receiverships are governed by a patchwork of statutes and case law,[5] courts increasingly reference UCRERA principles as persuasive guidance.

The practical effectiveness of a receivership depends on how robustly the court is willing to empower the receiver. In many jurisdictions, receivers can be granted powers to manage/operate businesses, sue or be sued, reject executory contracts,[6] incur post-appointment debt, and sell assets with or without liens — all subject to state court oversight. These capabilities mirror key powers of bankruptcy trustees or DIPs, albeit without the same statutory presumption or comprehensive guidance rooted in the Bankruptcy Code.

However, receiverships do not offer a discharge of debts or the imposition of the automatic stay.

1 "Subchapter V Eligibility Limits Revert," U.S. Department of Justice Press Release (June 2024).

2 Uniform Law Commission, "Uniform Commercial Real Estate Receivership Act," www.uniformlaws.org (last visited May 23, 2025).

3 11 U.S.C. § 363(f); *compare with* UCRERA sale procedures.

4 UCRERA § 14 (authorizing sales of receivership property free and clear of liens).

5 *See, e.g.*, 12 O.S. §§ 1551-1554.

6 *Id.* (Oklahoma receivership statutes).

Although courts may enjoin creditor actions locally, the extrajurisdictional reach of a state receivership is limited, which can complicate asset administration in multi-state cases and require filing civil actions in each state where assets are located, particularly when the assets are real property. This jurisdictional limitation might be overcome by filing the receivership case in federal court so that the receiver's authority does not stop at the state line.

While there is no automatic stay in a receivership, a receiver may obtain ancillary injunctive relief pursuant to common law authorities long recognized by courts. For example, it is well-settled law that it is appropriate for a court to grant injunctive relief to prevent interference with property held by a receiver in *custodia legis*. This concept dates back more than 150 years to English common law as discussed by the U.S. Supreme Court in *Barton v. Barbour*,[7] wherein the English common law case of *Ames v. Birkenhead Dock Trustees*[8] was quoted with approval:

> There is no question but that this court will not permit a receiver appointed by its authority, and who is therefore its officer, to be interfered with or dispossessed of the property he is directed to receive, by anyone, although the order appointing him may be perfectly erroneous; this court requires and insists that application should be made to the court, for permission to take possession of any property of which the receiver either has taken or is directed to take possession.

The appointment of a receiver constitutes an implied injunction against any interference with property in the custody of the receiver.[9] It is the court's duty to protect from interference the property in this court's possession in *custodia legis* by virtue of a duly appointed receiver.[10] Any such attempted sale without leave of the court is void.[11] One who by such a sale undertakes to interfere with the possession of the court may be punished for contempt.[12]

Based on these time-honored, longstanding legal concepts, courts have found it necessary to protect the assets they hold by means of a receiver from litigation and have issued blanket injunctions enjoining and staying all litigation against receivers. This concept was discussed in detail by the Sixth Circuit Court of Appeals in the case of *Liberte Capital Group LLC v. Capwill*:[13]

> The receivership court has a valid interest in both the value of the claims themselves and the costs of defending any suit as a drain on receivership assets. *See SEC v. Universal Fin.*, 760 F.2d 1034, 1038 (9th Cir. 1985). To this extent, the receivership court may issue a blanket injunction, staying litigation against the named receiver and the entities under his control unless leave of that court is first obtained. *See Barton v. Barbour*, 104 U.S. 126, 128, 26 L. Ed. 672 (1881) ("It is a general rule that before suit is brought against a receiver leave of the court by which he was appointed must be obtained."))[.] This power extends to the institution of any suit, and not just a proceeding for execution of a judgment against the receivership in the receivership court. *Id.* at 129, 104 U.S. 126. ("We think, therefore, that it is immaterial whether the suit is brought against [the receiver] to recover specific property or to obtain judgment for a money demand. In either case leave should first be obtained.")[.] Because the court's power of injunction in a receivership proceeding arises from its power over the assets in question, non-parties to the underlying litigation may be bound by a blanket stay, so long as the non-parties have notice of the injunction. *See Bien v. Robinson*, 208 U.S. 423, 427, 28 S. Ct. 379, 52 L. Ed. 556 (1908) (finding "frivolous" the contention that a nonparty would not be bound by the court's injunction against claims against a receivership under the court's control); *see also SEC v. Wencke*, 622 F.2d 1363, 1371 (9th Cir. 1980) (finding the district court's equitable powers over the property in receivership sufficient to justify a blanket stay against litigation without leave of the court, even against non-parties).[14]

The holding of *Liberte Capital Group LLC v. Capwill* approving blanket anti-litigation injunctions ancillary to a receivership has been cited with approval in *S.E.C. v. Byers*,[15] *Saffady v. Dunn*,[16] *Orlowski v. Bates*[17] and *S.E.C. v. McNaul*.[18] In addition, receiverships offer practical advantages that make them attractive in the right contexts. They are often faster and less expensive than chapter 11 proceedings, particularly when the parties agree on a liquidation path. There are no U.S. Trustee fees, no required disclosure statements or creditor voting, and no plan-confirmation process.

Receivership proceedings can be tailored to the needs of the case, with fewer procedural hurdles and less public scrutiny. For secured creditors, a receivership may offer quicker access to collateral and reduced litigation expense. Purchasers may still express concern about title certainty, as sales in receivership lack the federal imprimatur of an order entered pursuant to § 363, but well-crafted orders authorizing sales free and clear of liens can mitigate risk, especially when notice is broad and lienholders have an opportunity to object. The key to the sale of real property in a receivership is find-

7 104 U.S. 126, 129 (U.S. 1881).

8 20 Beav 332 (1855).

9 *See Moller v. Herring*, 255 F. 670, 670 (5th Cir. 1919); *see also Tindall v. Wescott*, 113 Ga. 1114, 39 S.E. 450 (Ga. 1901) (finding that person who has, by order of court of competent jurisdiction, been appointed receiver of designated property becomes executive officer of court that appointed him, and property received by him is in held in *custodia legis*).

10 *See Marshall v. Lockett*, 76 Ga. 289, 290 (Ga. 1886); *McKoy v. Bush*, 200 Ga. 759, 760, 38 S.E.2d 669 (Ga. 1946).

11 *Coker v. Norman*, 162 Ga. 238, 238, 133 S.E. 243, 244 (Ga. 1926).

12 *See, e.g., Wikle v. Silva*, 70 Ga. 717 (Ga. 1883); *see also Vestel v. Tasker*, 123 Ga. 213, 51 S.E. 300 (Ga. 1905); *Hall v. Stulb*, 126 Ga. 521, 522, 55 S.E. 172 (Ga. 1906); *Erikson v. Hewlett*, 212 Ga. 423, 425, 93 S.E.2d 563, 565 (Ga. 1956).

13 462 F.3d 543 (6th Cir. 2006).

14 *Id.* at 551-52.

15 609 F.3d 87, 92 (2d Cir. 2010) (anti-litigation injunction is simply one tool available to courts to help further goals of receivership).

16 No. 07-CV-12347, 2009 WL 1868032, at *4 (E.D. Mich. June 26, 2009) (district court may issue blanket injunction, staying litigation against named receiver and entities under his control unless leave of that court is first obtained).

17 2014 WL 12771523, at *4 (W.D. Tenn. July 28, 2014) (in receivership context, nonparties with actual notice of receivership proceedings are often bound by orders of receivership court, and trial courts have broad authority to control time and manner of claims against receivership estate).

18 No. 08-1159-JTM, 2009 WL 2780167, at *3 (D. Kan. Sept. 1, 2009) (nonparties are bound to injunction as long as they have notice, and any intentional interference with receivership by conduct prohibited by injunction is punishable by contempt).

continued on page 57

Receiverships vs. Ch. 11: A Modern Comparison Across Jurisdictions

from page 21

ing a title insurance agent willing to issue an unconditional title binder in advance of the sale.[19]

On the other hand, chapter 11 remains the superior framework when the goal is reorganization, when the debtor company seeks a discharge of unsecured debts, or when multiple stakeholders must be bound to a centralized plan. The automatic stay under § 362 of the Bankruptcy Code provides broad and immediate protection from creditor actions, allowing breathing room for the debtor to restructure. Access to DIP financing, assumption or rejection of burdensome leases, and cramdown of dissenting classes are tools unique to chapter 11 that are difficult, if not impossible, to replicate in receivership actions. Moreover, chapter 11 enjoys federal supremacy, enabling the court to exercise control over assets regardless of their location, which is especially critical for companies with multi-state operations or assets.

Some courts have attempted to overcome the natural limitations on state court receiverships by crafting expansive receivership orders modeled after federal equity receiverships. These may include injunctions against creditor actions, granting of quasi-statutory powers, and coordination with other courts for recognition. However, these efforts are only as effective as the jurisdiction permits, and they are vulnerable to collateral attack absent broader state legislative endorsement. The UCRERA assists by offering statutory backing for some of these powers, but its reach is necessarily limited to adopting states. The form of the order appointing a receiver is critical, and in our experience, starting with an expansive order to cover as many contingencies as possible is a very good strategy.

19 We have frequently obtained unconditional title binders prior to sale in Oklahoma-based receiverships.

In evaluating what forum is appropriate, practitioners should weigh the debtor's business model, creditor composition, asset footprint and strategic objectives. Receivership may be ideal for single-asset entities, real estate portfolios or closely held businesses whose interest owners agree on dissolution. It might also be attractive in industries where bankruptcy poses collateral licensing risks — such as cannabis or liquor — or where confidentiality and speed are paramount. In the case of a cannabis business, a receivership is likely the only option, since the bankruptcy courts have virtually never allowed such a business to utilize their system.

Conversely, chapter 11 is better suited for businesses with significant unsecured debt, the need for discharge, or long-term restructuring potential. It provides a more comprehensive and enforceable platform, albeit at greater cost.

Conclusion

As the economic environment grows more uncertain and cost pressures continue to mount, receiverships will remain a vital, if underutilized, tool in the restructuring arsenal. The increasing adoption of the UCRERA provides a welcome framework for procedural consistency and may reduce buyer hesitancy in receivership sales.

However, state law remedies cannot fully supplant the protections and powers of chapter 11. Savvy practitioners will recognize the value of both regimes and tailor their approaches to the unique needs of each client and case. As courts and legislatures continue to evolve these mechanisms, the line between receivership and bankruptcy may blur further, offering hybrid solutions that balance efficiency, fairness and legal integrity across jurisdictions. abi

Faculty

Valerie Bantner Peo is a shareholder with Buchalter, PC in San Francisco, where she represents stakeholders in all aspects of restructuring, insolvency and commercial litigation. She regularly represents financial institutions, including agribusiness lenders and alternative lenders, software licensors, commercial landlords and tenants, equipment lessors, officers and directors, companies in distress, and creditors' committees and other fiduciaries, such as assignees and receivers. Ms. Banter Peo is the administrative co-chair of Buchalter's Insolvency & Financial Law Group and a past chair of the Women@Buchalter committee. Since 2022, she has served as a Lawyer Representative to the Ninth Circuit Judicial Council for the Northern District of California, and served as co-chair of the Lawyer Representative Committee in 2023-24. Ms. Bantner Peo serves on the board of directors of the International Women's Insolvency & Restructuring Confederation (IWIRC). In 2023, she received the IWIRC Fetner Award, presented to a member whose contributions to IWIRC have helped to fuel growth and expansion of IWIRC's mission globally. Ms. Banter Peo is a past chair of the executive committee of the San Francisco Bar Association's Commercial Law and Bankruptcy section and a current board member of the Bay Area Bankruptcy Forum. She was recognized in *Northern California Super Lawyers* from 2019-2025, and in 2025, Ms. she was listed in *The Best Lawyers in America* for Bankruptcy and Creditor/Debtor Rights/Insolvency and Reorganization Law. Previously, Ms. Bantner Peo clerked for Hon. Edward D. Jellen of the U.S. Bankruptcy Court for the Northern District of California. She received her B.A. from Smith College and her J.D. *cum laude* from the University of California, Hastings College of Law. Following law school, she clerked for Hon. Edward D. Jellen (ret.) of the U.S. Bankruptcy Court for the Northern District of California.

Jeremiah Foster is president of Resolute Commercial Services in Scottsdale, Ariz., and a nationally recognized leader in restructuring. With more than $4 billion in distressed transactions and more than 100 court-appointed roles under his belt, he has guided organizations across the country through crisis and complexity. Mr. Foster's day-to-day functions include overseeing the business, leading the firm's team of industry experts, and advising creditors, equityholders and enterprises as they navigate the many phases of a turnaround, restructure or crisis-management plan. His career has included stints in technology, manufacturing, commercial real estate and commercial loan workouts. To date, Mr. Foster has been appointed as a CRO, interim CEO, trustee, receiver, special master or liquidating trustee for more than 100 ventures, and he has personally been involved in the sale of more than $600 million of going-concern and real estate transactions. Mr. Foster serves on the board of Special Olympics of Arizona and is an emeritus board member of Junior Achievement of Arizona. His previous board tenures include the Entrepreneur's Organization (EO) of Arizona, Scottsdale Public Art and the Arizona Town Hall. Mr. Foster is a member of the Urban Land Institute, Turnaround Management Association and Association for Corporate Growth. He received his B.S. in engineering from the University of Arizona.

Hon. Mary Jo Heston is a U.S. Bankruptcy Judge for the Western District of Washington in Tacoma, appointed on Jan. 31, 2017. Previously, she was a shareholder in the Seattle and Portland, Ore., offices of Lane Powell PC, where her practice involved commercial litigation and transactional matters with an emphasis on business reorganizations, international insolvency and the acquisition of troubled businesses and assets. Between 1988 and 1993, Judge Heston served as the first Region

18 U.S. Trustee, overseeing bankruptcy cases and fiduciaries in Washington, Oregon, Idaho, Alaska and Montana. She also is a former law clerk to a federal district court judge and a bankruptcy judge and a former estate administrator of the federal bankruptcy court. Judge Heston taught bankruptcy courses for more than 21 years at Seattle University School of Law and two years at the University of Washington Law School. She is a 2001 Fellow of the American College of Bankruptcy and an active participant in both professional organizations and community service organizations, and she currently serves or has served in leadership positions for the National Conference of Bankruptcy Judges, ABI, INSOL International, the Washington State Bar Association's Debtor/Creditor Section and the Turnaround Management Association. Judge Heston is a frequent international, national and regional speaker and author on topics including creditors' rights issues, commercial, consumer and cross-border insolvency issues. Her recent community service efforts have focused on military and veterans' financial and bankruptcy-related issues through her service on the *Pro Bono* Committee of ABI's Veterans and Servicemembers Affairs Task Force. Judge Heston received her undergraduate degree *cum laude* from the University of Washington in 1975 and her J.D. *cum laude* from the Seattle University School of Law in 1980.

H. Michael Hogan III is a partner with Armanino in San Francisco, where he focuses on operations, finance and corporate strategy. He currently leads the firm's full-service Corporate Finance and Restructuring Practice, where he specializes in guiding companies through complex transformations, financial turnarounds and strategic change. Throughout his career, Mr. Hogan has established a strong track record of stabilizing and revitalizing underperforming businesses. He has consistently generated stakeholder returns and successful exits by improving operational efficiency, increasing cash flow, managing expenditures and refocusing corporate strategies. Mr. Hogan has expertise in transaction advisory, divestitures, performance assessment, metric development, debt restructuring and bankruptcy/insolvency. He has led organizations through critical transitions by developing and executing actionable business plans, strategic restructurings, asset sales, cost-reduction initiatives, and performance-tracking systems. As an advisor, Mr. Hogan collaborates closely with boards, executive teams, lenders and other stakeholders to design and implement comprehensive improvement strategies. His advisory work spans workouts, operational restructuring, organizational redesign, acquisitions and divestitures. Mr. Hogan received his undergraduate degree in political science and economics from Colgate University in 1985.

Nir Maoz is a member of KTBS Law LLP in Los Angeles and represents clients in a variety of roles, both in and out of court. His practice spans key corporate restructuring areas, including asset sales, debt restructurings and other reorganizations. Mr. Maoz has experience representing purchasers of assets, secured lenders, landlords, equityholders, and other stakeholders in special and distressed situations, including § 363 sales. He also has experience in private credit restructuring, including innovative change-of-control transactions. Mr. Maoz is a member of the State Bar of California, the Financial Lawyers Conference, ABI and the Ninth Judicial Circuit Historical Society. He also is on the board of the Southern California chapter of the Turnaround Management Association. Mr. Maoz is a contributing author to the *Collier Business Practice Guide*. He is admitted to practice before state and federal courts in California, the U.S. Courts of Appeals for the Third, Seventh and Ninth Circuits, and the U.S. Supreme Court. Mr. Maoz received his undergraduate degree in political science and legal studies from the University of California, Berkeley, where he graduated Phi Beta Kappa and with high distinction, and his J.D. from UC Berkeley School of Law with a certificate in Business Law, where he was admitted to the Order of the Coif and received first place in ABI's Writing Competition.