

Judith Elkin

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I.	Profession	Accrediting Agency or Jurisdiction	Date of Admission
	Attorney	New York	2004
		Texas	1981

Education

JD *cum laude* University of Wisconsin 1981
BA *summa cum laude* Binghamton University (SUNY) 1978

II.	Professional Organizations	Date of Admission	Active/Inactive
	American Bar Association (ABA) Litigation Section Bankruptcy & Insolvency Litigation Committee Business Law Section Bankruptcy Committee International Section International Animal Law Committee Secured Transactions and Insolvency Committee	1981	Business
	American Bankruptcy Institute (ABI) Mediation Committee International Committee	1982	Active
	Turnaround Management Assn. (TMA)	2005 – 2016. 2020	
	International Women's Insolvency and Restructuring Confederation (IWIRC)	1993	Active
	International Bar Association (IBA) Insolvency Section	1995 - 2018	
	International Insolvency Institute (III)	2002	Active
	Assoc. for Corporate Growth	2012 - 2016	
	100 Women in Hedge Funds	2013 - 2016	
	New York State Bar Association Committee on Animals and the Law	2004 – 2019	
	Bar of the City of New York Animal Law Committee	2005	Active
	State Bar of Texas	1981	
	Financial Women's Association	2018-2020	

Leadership Roles

- International Insolvency Institute: Board member (2018 – present); Co-Chair, Membership Committee, (2016 – present); Co-Chair Organizing Committee – 2021 NY Conference
- American Bankruptcy Institute: Co-Chair, Mediation Committee (2020-2022), Director Programming Subcommittee (2018 – 2020).

- International Bar Association: Co-Chair, Insolvency Section (2011-2012); Vice-Chair, (2009-2010); Co-Chair of Creditors' Rights Committee (2007-2008)
- International Women's Insolvency and Restructuring Confederation (IWIRC): Chair (2010-2012), Vice-Chair (2006-2010), Secretary/Treasurer (2002-2006), Executive Committee Member, Founding Member of the organization; Member, New York Network and Founding Member, Dallas Network
- American Bar Association: Litigation Section, Co-Chair Bankruptcy and Insolvency Litigation Committee (1997-2001)
- American Bar Association: Business Law Section, Co-Chair Business Bankruptcy Committee, Legislation and Cross-Border Committee (mid 1990's)
- American Bar Association: International Section, Co-Chair Secured Transactions and Insolvency Committee (2015-2016), Vice Chair (2013-2015); member, April 2014 Spring Meeting planning committee

III. General Professional Experience

I have 40 years of experience representing debtors, creditors, creditors' committees, lenders, trustees, acquirors and other parties in interest in reorganization proceedings and out of court restructurings in the U.S. and internationally. I am also a bankruptcy litigator, with experience through trial and appeal, of major issues in restructuring cases including, fraudulent transfer and lender liability litigation. I have extensive industry experience in oil and gas, coal, healthcare, retail, telecom, manufacturing and aviation. I speak frequently on insolvency issues both in the U.S. and internationally. I have represented foreign insolvency administrators in chapter 15 cases in the U.S., and U.S. clients in international insolvency proceedings.

My approach to mediation has been honed by these experiences. Whether as a creditor or prospective debtor, navigating the complexities of insolvency can be both challenging and stressful. I provide my clients with creative advice on restructurings and insolvencies in the U.S. and around the world, and I view mediation as the most practical and efficient way to resolve disputes.

IV. General Pertinent Experience

Mediation

As Mediator (selected matters)

Lehman Brothers Holdings Inc.: selected as one of a dozen official mediators; mediation of numerous mortgage indemnification claims

Firestar Diamond, Inc.: mediation of several disputes between chapter 11/post-confirmation trust trustee and major creditor and trustee and certain potential multi-million dollar litigation targets

As Participant (selected matters)

SemGroup: Represented senior secured lender and trading counterparty in court-ordered mediation of issues relating to lien priorities between senior secured lenders and oil and gas producers.

Adelphia Communications: Represented senior secured lender and agent bank in court-ordered mediation of plan issues and in court-ordered mediation of billion dollar lender liability litigation brought by Unsecured Creditors' Committee and, post-confirmation, by the Adelphia Recovery Trust.

Southmark: Represented defendant in mediation of disgorgement and malpractice litigation brought against major accounting firm by post-confirmation trustee.

PPMC: Represented senior lender in court-ordered mediation over wireless licenses with FCC.

Tailored Brand (Men's Wearhouse): Represented Creditors' Committee in mediation of negotiated plan with the secured lenders and the debtors.

Highland Capital Management: Represented debtor in mediation of numerous multi-million claims the resolution of which were critical to plan confirmation.

V. Mediation Training

Forty-Hour Bankruptcy Mediation Training program sponsored by the American Bankruptcy Institute and St. John's University (December 8-12, 2013)

Approved for bankruptcy mediation in the U.S. Bankruptcy Courts for the Southern and Eastern Districts of New York and the District of Delaware.

VI. Pertinent Bankruptcy Training

- Representation of Unsecured Creditors' Committee in Neiman Marcus cases.
- Representation of large Midwest real estate developer in out of court restructuring of several commercial real estate properties.
- Representation of senior secured/DIP lenders in cases of Alpha Natural Resources and Sabine Oil & Gas Corporation.
- Representation of pre-petition and DIP lender and agent in Chapter 11 case of Trinity Coal.
- Representation of large debtholder in multi-billion dollar litigation brought by the post-confirmation trust of Extended Stay Hotels for avoidance of alleged fraudulent transfers to holders of \$6 billion in mezzanine debt.
- Representation of major secured lender in out of court restructuring of a multi-billion dollar time share developer. Simultaneously prepared for potential involuntary chapter 11 filing while negotiating out of court restructuring.
- Representation of international bank as a multi-million dollar senior secured lender, DIP lender and exit lender in SemGroup's U.S. and Canadian restructuring cases.
- Representation of bank as agent for the \$2.6 billion Century Credit Facility in Adelphia Communications Corp. chapter 11 case and as defendant in multi-billion lender liability litigation.
- Representation of international bank as a project lender on an electricity generation facility in Missouri, in the Calpine Corp. chapter 11 case.
- Representation of international bank as lender and co-chair of the Unsecured Creditors' Committee in Enron Corp. chapter 11 case.
- Representation of Mirant Corp., one of the world's largest generators and marketers of electricity, in its chapter 11 restructuring.
- Representation of asset acquirors in numerous bankruptcy cases involving asbestos liability issues, including in the cases of National Gypsum Company and Federal-Mogul Corporation, including litigation of successor liability issues in the Fifth Circuit and negotiation of section 524(g) protections.
- Representation of Unsecured Creditors' Committee of El Paso Electric Co.
- Negotiation of settlement in excess of \$50 million of coverage litigation on behalf of major insurance company in conjunction with reorganization of United States Brass, manufacturer of polybutylene pipe.
- Obtained dismissal of \$30 million lawsuit against major accounting firm and successfully defended judgment through denial of petition for *writ of certiorari* to U.S. Supreme Court in relation to Southmark bankruptcy cases.
- Representation of major shareholder, bondholder and potential acquiror in Delphi reorganization case.
- Representation of senior secured lender in Fedders chapter 11 case and in defense of multi-million dollar lender liability litigation.

Other Misc. Case Involvement

American Airlines
ASARCO
ATA Airlines, Inc.
Boy Scouts of America
General Growth Properties
General Motors Corp.
J Crew
MF Global
Mexicana Airlines (Chapter 15)
Patriot Coal Corp.
Ryan International
Dr. Jurgen Toft (Chapter 15)

Honors

- Recipient of the Melnik Award for Exceptional Contributions by an IWIRC Member, IWIRC April 2013
- Recognized in Best Lawyers in America - Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, 2005-2020, Litigation - Bankruptcy, 2012-2020
- Recognized as a Super Lawyer - Bankruptcy and Creditor/Debtor Rights Law (2007-2020)
- Martindale Hubbell® Law Directory with a Peer Review Rating of AV® Preeminent™

Other Legal Activities

UNCITRAL (United Nations Commission on International Trade Law): Several of the organizations to which I belong (IWIRC, IBA Insolvency Section and III) have NGO status at the United Nations and attend meetings of the Commission's working groups relating to international insolvency, arbitration and secured transactions. We comment on proposed model laws and work with the country delegates on drafting.

Civic

Board of Directors, Humane Society of Westchester: 2012 – present; Treasurer, member of Capital Campaign committee.
Patron: Wildlife Conservation Society: 2004 - present
University of Wisconsin Law School Board of Visitors (2004-2014)
Binghamton University Alumni Assn. - Member Metro New York Chapter
Board of Directors, Dallas Zoological Society: 2001-04; Treasurer 2003-04.
Tina's Wish Foundation – Women's Leadership Council 2016–18

Speeches and Articles

2020

- IWIRC Webinar (May 12, 2020) Speaker on Panel: Gratitude and Mindfulness.

2019

- ABI International Conference (November 7, 2019, New York). Developer of and speaker on panel *Scaling the Tower of Babel: Stakeholder Communication in Cross-Border Cases*.
- 19th Annual Conference of the International Insolvency Institute (Barcelona, June 16-19, 2019). Developer of program, written materials and speaker on panel *When in Rome: An Interactive*

Program on the Theory and Practice of Cross-Cultural Negotiations. Program involved cross-border workout hypothetical with “principals” and “counsel” from U.S., Asian, European and South American jurisdictions play-acting workout negotiations taking into account legal, as well as cultural issues.

2018

- ABI WEBINAR - May 15, 2018: *What Happens in Mediation, Stays in Mediation; or Does It?* Panelist on the issues of confidentiality and privilege in bankruptcy mediations and drafter of portions of PowerPoint presentation materials.

2017

- Fall Meeting of the ABA Section of International Law (Miami, FL, Oct. 24-27, 2017). Speaker on panel entitled “Make-Whole Provisions: A Rational Hedge Against Falling Rates or a Shining Example of Corporate Greed?” and author of program paper *I Meant What I Said and I Said What I Meant: The Enforceability of Make-Whole Provisions in U.S. Loan Agreements and Indentures.*

2016

- Spring Meeting of the ABA Section of International Law (New York, NY, April 12-16, 2016). Developer and moderator of panel entitled “How Many Lawyers Can Fit on the Head of a Drilling Rig and Other Questions to Ponder in Oil and Gas Industry Insolvencies?” Written paper on issues in US oil and gas cases.

- PLI 2016: Current Developments in Bankruptcy and Reorganization (New York, NY, April 25-26, 2016). Current Developments in International Insolvencies; Speaker and written article (update): *Sauce for the Goose? Dual Standard Emerging in Cross Border Insolvencies: Domicile Not Enough to Recognize Foreign Proceeding.*

2015

- *Lender Liability: Present and Future - The U.S. Perspective: An Exercise in Finger Pointing.* Paper was published in the IBA publication *Insolvency and Restructuring International* (April 2015).

- Spring Meeting of the ABA Section of International Law (Washington, D.C. April 28 – May 2, 2015). Spoke on panel titled “The Saga of Sean O’Murphy’s Grill and Its Journey Through the Insolvency Safe Harbor Provisions of High Finance, the World Bank and UNCITRAL” and prepared written materials *The Law of Unintended Consequences: Application of the Safe Harbor Provisions of the U.S. Bankruptcy Code.*

- ABI Northeast Bankruptcy Conference (Falmouth, MA, July 9 – 12, 2015). Speaker and panel moderator on panel “How Much Momentum will *Momentive* Create: Judicial Interpretation and Enforcement of Intercreditor Agreements” and co-author of written materials with Paul Ricotta of Mintz Levin.

2014

- TMA Annual Conference (Toronto, Canada, Sept. 29 – Oct. 1, 2014). Spoke on panel “My Court; No, My Court: The Fight Over Cross-Border Jurisdiction.”

- IBA Annual Meeting (Tokyo, Japan, Oct. 19-24, 2014). Panel co-chair and speaking on panel “Lender Liability: Present and Future” including written paper *Lender Liability: Present and Future - The U.S. Perspective: An Exercise in Finger Pointing.*

- ABI 26th Winter Leadership Conference (Palm Springs, CA, Dec. 4-6, 2014). Spoke on panel “*Till*: 10 Years Later” including written paper *Till: 10 Years Later – It’s All Clear Now (Sorta).*

- *Weathering the Storm: Is TMT Procurement the Death Knell for Debtor in Possession Financing in the Fifth Circuit or Just a Pebble in the Ocean?* Haynes and Boone Client Alert, republished in Law360, Sept. 15, 2014.

2013

- NY Bankruptcy Women Attorney Networking Group (New York, NY, Jan. 15, 2013). *Women and Business Development* (panel moderator).
- ABI Northeast Conference (Newport, RI, July 11-14, 2013). Spoke on panel on The Art and Science of Negotiation, including written paper *Everything Would Go More Smoothly if You'd Just Do It My Way: Preparing for and Conducting a Successful Negotiation*.
- ABA International Section Fall Meeting (London, UK, Oct. 15-18, 2013). Spoke on panel "Fall Down, Go Splash: The Aftermath of the Demise of an Off-Shore Hedge (or Other) Fund," including written paper *Pruning the Hedges: U.S. Issues Regarding the Insolvency of Offshore Hedge Funds*.
- TMA Brazil: 4th Annual Insolvency and Restructuring Conference (Sao Paulo, Oct. 29-30, 2013). Spoke on panel on Sale of Assets in Corporate Restructurings.
- *Lifting the Veil and Finding the Pot of Gold: Piercing the Corporate Veil and Substantive Consolidation in the United States*. Article republished in Texas Journal of Business Law, Vol. 45, No.3, Fall 2103.

2012

- International Insolvency Institute 12th Annual Global Insolvency Conference/IWIRC (Paris, June 20–22, 2012). Spoke on and moderated panel on *Rights, Roles and Duties of Unsecured Creditors in Global Insolvency Proceedings: A Study of Conflicting Views in Different Jurisdictions*. Developed survey for III members to collect data from varying jurisdictions, and wrote and planned program.
- Euromoney Magazine: Co-wrote article with David Jenny (Vischer AG, Switzerland) on the work of IBA Insolvency Section
- Cash Pooling and Insolvency, book published Fall 2012 by Globe Law and Business, published in association with the International Bar Association, providing detailed analysis on the provisions and issues involved in numerous jurisdictions for cash pooling among multi-national corporate groups and insolvency, including specific legal requirements from various perspectives, the liability of company directors, banking requirements, regulatory requirements and tax. Responsible for chapter on Cash Pooling in the U.S.
- Dispute Resolution International (journal published by the IBA). Article published in Vol. 6, No. 2, October 2012 entitled *Lifting the Veil and Finding the Pot of Gold: Piercing the Corporate Veil and Substantive Consolidation in the United States*.

2011

- ABI Caribbean Insolvency Conference (Grand Cayman February 3-5, 2011). Chaired and moderated panel "The View from the Bench." Panel of judges discussed current legal rulings in the Caribbean region.
- IWIRC Spring Meeting/ABI Annual Meeting (Washington, DC March 30 – April 2, 2011). Chaired program "A Conversation with Trailblazing Women in the Insolvency Field" moderated by the Hon. Marjorie Rendell, United States Court of Appeals for the Third Circuit; spoke at ABI meetings: Roundtable Discussion on Women in the Profession: *A Practical Guide to Life/Work Balance*.
- International Insolvency Institute 11th Annual Global Insolvency Conference/IWIRC (New York June 12 – 14, 2011). Spoke on panel on Coordination of Multinational Group Insolvencies
- IBA Insolvency Section: Conference on Distressed M& A in Latin America (Buenos Aires Sept. 3 – 5, 2011) Program chair and speaker on panel on *Chapter 15 and its Equivalent Statutes: Issues in and between the US and Latin America*.
- Euromoney Magazine: Co-wrote article with David Jenny (Vischer AG, Switzerland) on the work of IBA Insolvency Section.

- Ethical Dilemmas in Turnarounds and Restructuring. (materials co-written over the last year with AlixPartners and others). Program has been presented in many venues, including in house at law firms and at IWIRC Fall Program.
- Inside the Minds: Chapter 9 Bankruptcy Strategies, 2011 ed. Book published 10/11 by Aspatore/Thomson Reuters. Wrote chapter on “A “Time Out” for Municipalities: The Recent Workings of Chapter 9 of the Bankruptcy Code.”

2010

- International Insolvency Institute 10th Annual Global Insolvency Conference/IWIRC (Rome June 6 – 8, 2010). Chaired and spoke on panel on rights of creditors in insolvency proceedings in various jurisdictions.
- iGlobal Forum- 2nd Distressed Debt Investing Conference (NY June 16, 2010). Spoke on panel on Distressed Real Estate Investing.
- Inside the Minds: Buying and Selling Distressed Businesses, 2010 ed. Book published 10/10 by Aspatore/Thomson Reuters. Wrote chapter on “Recent Cases and Strategies that Impact Distressed Business Sales: Is it Worth the Headache?”

2009

- ABI Caribbean Insolvency Conference (Grand Cayman February 4-7, 2009). Spoke on a Panel on Hot Topics in Chapter 15 on the dichotomy between recent Chapter 15 cases on “establishment” vs. registration and the US corporate venue provisions of “domicile” and state of incorporation, including related written paper.
- ABA Annual Meeting (Chicago August 1, 2009) – spoke on a panel/wrote paper entitled *Duties of Officers and Directors in the Zone of Insolvency* for the ABA Section of Business Law, Business and Corporate Litigation Committee co-sponsored by the Section's Business Bankruptcy, Director & Officer Liability Committee.
- ABI 6th Annual Complex Financial Restructuring Program (Lake Tahoe September 11, 2009) – full day program involving a complex hypothetical restructuring scenario where each panelist (which includes lawyers, turnaround professionals, bankers and investment bankers) is assigned a role as a party to work through the hypothetical and reach a solution voted on by the attendees. My role was as counsel to the secured lenders.
- IBA Annual Meeting (Madrid October 4-10, 2009) – spoke on a panel on issues involved with insolvent construction industry entities, including written paper, *And the Walls Came Tumbling Down: Issues in U.S. Construction Insolvencies*.
- Financier Worldwide Magazine -- Roundtable on Bankruptcy Litigation (June 2009).

2008

- Argyle Events: Leadership in the Distressed Market (New York February 7, 2008) – spoke on panel on distressed investing issues.
- DebtWire Distressed Debt Forum 2008 (New York April 3, 2008) - spoke on panel on distressed investing issues.
- IBA Insolvency Section 14th Annual Global Insolvency & Restructuring Conference: When Cash is King (Stockholm May 18-20, 2008) – developed and moderated panel on *Perfection and Protection of Security Interests in Intellectual Property Rights in Insolvency Proceedings*.
- ABI 5th Annual Complex Financial Restructuring Program (Las Vegas September 4, 2008) – Role of the trade creditor/unsecured creditors’ committee.
- IBA Annual Conference (Buenos Aires October 12-17, 2008) - developed and moderated program on the Intersection between the Credit Markets and Insolvency.
- Latin Lawyer Magazine – Roundtable Discussion on the Intersection of the Credit Markets and Latin American Insolvency Laws. Magazine published in January 2009.

2007

- DebtWire Distressed Debt Forum 2007 (New York April 26, 2007) - spoke on panel regarding “Irrational LBO’s – Challenges within Private Equity and the Implications for the Restructuring Market.”
- IBA Insolvency Section 13th Annual Global Insolvency & Restructuring Conference: When Finance Meets Crisis (Zurich May 13-15, 2007) - Developed, wrote and moderated panel on *Changing Dynamics of Bank Groups*.
- III 7th Annual International Conference (New York June 12, 2007) - moderated panel on Sharia Finance.
- Incremental Advantage Structuring Private Equity Transactions Conference (New York June 19, 2007) - spoke on panel on Contending with Deals that Become Distressed.

2006

- III 6th Annual International Conference (New York, June 2006) – spoke on a panel on Annual Review of Major Multinational Cases.

2005

- ABA Section of International Law Spring Meeting: The Sonic Boom – How to Advise and Protect Your Clients in Bankruptcies Heard Round the World (Washington, D.C. April 13-16, 2005) – spoke on jurisdictional issues arising in international insolvency proceedings.
- ABI Annual Meeting: 9th Annual Great Debates (Washington, D.C. April 29, 2005) – wrote “A Primer on Interest Rates in Bankruptcy” and debated the position “Resolved – Market Rates of Interest are Irrelevant.”
- SIRC 11th Annual Global Insolvency & Restructuring Conference (Salzburg, May 2005) – spoke on a panel on *Analyses of Major Bankruptcy Frauds*.
- Journal of Bankruptcy Law and Practice Vol. 14, No. 4, 2005 “Cramdown Interest: Formulas for Determining Risk, Rate and Return” by Judith Elkin, Francis Smith and Jason Binford.