# When Bankruptcy Crosses Country Borders

Richard J. Mason, Mason Pollick & Schmahl
James H.M. Sprayregen, Hilco Global
Matt Warren, Paul Hastings LLP

American College of Bankruptcy
Presentation October 24, 2025

Topics covered:

I. When does a foreign debtor belong in a bankruptcy case in the U.S.?

II. What are some of the practical problems that arise when a U.S. bankruptcy estate of a foreign or domestic debtor seeks to enforce U.S. bankruptcy law against foreign parties?

III. What happens when a foreign insolvency representative comes to the U.S. seeking recognition and assistance by filing a Chapter 15?

IV. Can a foreign or U.S. company file a reorganization plan or scheme in a foreign country that allows nonconsenual third party releases and then come to the U.S. and file a Chapter 15 to enforce the third party releases?

I. When does a foreign debtor belong in a bankruptcy in the U.S.?

A. An article in Global Finance titled The World's Biggest Bankruptcies 2023 identifies twelve cases with debt exceeding $3 Billion, the following four of which involve foreign companies that filed Chapter 11 cases in the U.S.:
   1. Altera (UK oil and gas supplier)
   2. Americanas (Brazilian retailer)
   3. Endo (Irish pharmaceutical producer)
   4. Cineworld Group (UK cinema owner)

B. Why might a foreign debtor file a bankruptcy case in the U.S.?
   1. Unlike the law in many foreign countries, Chapter 11 strongly supports the concept of reorganization v. liquidation and has a proven track record of preserving business operations.
   2. Unlike many foreign countries, the U.S. has a specialized court with experience in dealing with bankruptcy and reorganization.
   3. Unlike many foreign countries, the U.S. has a large number of lawyers and other professionals with bankruptcy and reorganization experience.
   4. Major creditors, especially financial creditors, often have a presence in the U.S. that subjects them to the U.S. courts jurisdiction.
   5. In general, up until now, U.S. courts have tended to apply U.S. bankruptcy law extraterritorially to matters involving conduct outside of the United States
   6. Chapter 11, in contrast to the reorganization laws of many other countries, provides useful tools for reorganization, such as retention of management to operate the debtor as a debtor in possession, post-petition financing, sales free and clear of encumbrances, assumption and rejection of executory contracts, strong avoidance powers, ability to bind holdouts either by class votes or cram down, ability to stretch debt and convert debt to equity.

C. Who can be a debtor under U.S. bankruptcy law?
   1. Bankruptcy Code section 109 provides that "only a person that resides or has a domicile, a place of business, or property in the United States, or a municipality, may be a debtor under this title."
   2. It is worth noting that there is no "materiality" requirement in Section 109.
   3. While there have been no Court of Appeals decision on "materiality," lower courts have frequently not imposed a materiality requirement. See, for example, In re Global Ocean Carriers Ltd., 251 B.R. 31 (Bankr. D. Del. 2000) (a few thousand dollars in U.S. bank accounts and the unearned portion of U.S. counsel's retainer were sufficient; note that debtors had a U.S. affiliate created under Delaware law to raise financing): In re Axona Int'l Credit , 88 B. R. 597 (Bankr.S.D.N.Y. 1990) ($500,000 bank account was sufficient); In re Aerovias Nacionales de Columbia S.A. Avianca, 303 B. R. 1 (Bankr. S.D.N.Y. 2003) (less than 1 percent of employees in the U.S. was sufficient); and In re JPA No. 111 Co., Ltd., 2022 WL 298428 (Bankr. S.D.N.Y. Feb.1, 2022) (legal retainer held by debtor's counsel was sufficient).

D. However, even if a foreign debtor meets the requirements of Section 109, U.S. courts will sometimes dismiss or suspend cases under Sections 305 or 1112 of the Bankruptcy Code.

E. First, under Section 305 (a) (1), the Court may dismiss or suspend a proceeding because the "interest of creditors and the debtor would be better served."
   1. In In re Monitor Single Lift I, 381 B.R. 455 (Bankr. S.D.N.Y. 2008), the U.K. debtors filed Chapter 11 cases in New York. The bankruptcy judge found that the debtor had made a rational choice to elect to file in the U.S. and that the Chapter 11 was in the best interest of creditors and the debtors.
   2. Note that courts sometimes look to factors such as whether there is a competing proceeding in the foreign country and whether U.S. creditor can obtain fair treatment there. See, for example In re Compania de Alimentos Fargo, 376 B.R. 427 (Bankr. S.D.N.Y. 2007) (involving Argentina's largest commercial producer and packager of bread and bread products).

F. Second, when a foreign bankruptcy is pending, Section 305 (a) (2) permits a foreign insolvency representative to move to dismiss or suspend a U.S. bankruptcy case for the same debtor if "the purposes of chapter 15 would be best served by such dismissal or suspension. See 11 U.S.C. Section 1501 et. seq. The purposes of Chapter 15 are not spelled out.
   1. See In re Tradex Swiss AG, 348 B.R. 34 (Bankr. Mass. 2008) where the Court denied the motion of a Swiss insolvency representative to dismiss a competing bankruptcy case in the U.S. commenced by creditors.
   2. Also see RHTC Liquidating Co, 424 B.R. 714 (Bankr. W.D. Pa. 2020) where the bankruptcy judge denied the Canadian insolvency representative's motion to dismiss a competing bankruptcy case in the U.S. because the creditors had raised valid concerns about whether the Canadian court would protect their interests.

G. Third, Section 1112 of the Bankruptcy Code requires the Court to convert a case to Chapter 7 or dismiss a case, "whichever is in the best interests of creditors and the estate, for cause..." The following three cases illustrate the use of Section 1112 in the international context:
   1. In re Avianca, 303 B.R. 1 (Bankr. S.D.N.Y. 2003) involved the filing of a Chapter 11 by Colombia's national airline. Ultimately, only one creditor moved to dismiss arguing, among other things, that it was unseemly for a U.S. court to take jurisdiction over the reorganization of a business whose main activities were in Columbia. The case seemed to be moving along toward saving the business, and Columbia's reorganization law, then only a few years old, lacked the provisions needed by the debtor to restructure its airplane leases. Looking at the totality of circumstances, the court denied the creditor's motion to dismiss.
   2. In In re Yukos Oil, 321 B.R. 396 (Bankr. S.D. Tex. 2005), one of Russia's largest oil and gas companies, taken private in the 1990's and responsible for 20% of Russia's oil production, filed a Chapter 11 case in Houston after the Russia government assessed a $27.5 billion tax against it and then commenced a foreclosure proceeding. When a large creditor, Deutsche Bank, filed a motion to dismiss under 1112, the court dismissed the case based on its concern that the

company would not be able to reorganize without the unlikely cooperation from the Russian government and the "act of state" doctrine, which provides that courts will generally not interfere with official actions of a foreign government within its own territory.

3. In re Northshore Mainland Services, Inc., 537 B.R. 192 (Bankr. D. Del. 2015) , the debtor was a large Chinese-financed hotel and casino complex in the Bahamas. The debtor encountered cost overruns and was threatened with a foreclosure. When the debtor filed a Chapter 11, the bankruptcy judge found that the totality of circumstances did not justify dismissal under section 1112 (b) of the debtor's Chapter 11 case because the case was filed in an appropriate effort to reorganize rather than liquidate the debtor. However, the court dismissed the case under Section 305 because "the interests of creditors and the debtor would be better served."

II. What are some of the practical problems that arise when a U.S. bankruptcy estate seeks to enforce U.S. bankruptcy law against foreign parties?

A. Whether a debtor is based in the U.S. or a foreign country, various practical and theoretical problems arise when assets or creditors of the debtor are not in the U.S. In particular, the following sections of the Bankruptcy Code often raise questions:
   1. Are assets outside of the U.S. property of the estate?
   2. What is the territorial reach of the automatic stay?
   3. Are transfers that take place outside of the U.S. subject to avoidance under sections 547, 548, and 550?
   4. Do discharges under Chapter 7 or Chapter 11 apply outside of the U.S.?

B. In general, the Courts approach these questions by asking:
   1. Is the subject of the inquiry outside the U.S., i.e., "extraterritorial?"
   2. If it is extraterritorial, was the applicable provision of the Bankruptcy Code intended by Congress to be applied extraterritorially?
   3. Does the court have personal jurisdiction over foreign parties so it can enforce the provision?
   4. Assuming that the Court has the power to enforce the Bankruptcy Code provisions, should the court decline to exercise its jurisdiction under principles of comity, i.e., respect for foreign laws?

C. Although the Supreme Court has not ruled on the extraterritoriality of provisions of the Bankruptcy Code, a number of the Court's non-bankruptcy decisions have created a presumption against extraterritorial application of federal statutes unless the statute expresses clear Congressional intent. See, for example, EEOC v. Arabian Oil Co., 499 U.S. 244 (1991); Morrison v. National Australia Bank, 561 247 (2010); and Kiobel v. Royal Dutch Petroleum, 133 S.Ct. 1659 (2013) (terms like "any" are not enough).

D. Still, a number of Courts of Appeals have found provisions of the Bankruptcy Code to have extraterritorial reach. See for example, In re Rimstat, 98 F. 3d 956 (7 Cir. 1996)(stay); In re Simon, 153 F. 3d 991 (9 Cir. 1998) (Chapter 7 discharge); In re French, 440 F.3d 145 (4th Cir. 2006), cert. den., 549 U.S. 815 (2006) (avoidance provision); In re

Picard, 917 F. 3d 86 (2 Cir. 2019) (avoidance provision): and In re Sheehan, 48 F.4d 513 (7 Cir. 2022) (stay).

E. Scope of Property of the Estate. Lower courts have generally presumed that "property of the estate" located outside of the U.S. are property of the U.S. bankruptcy estate. Section 541 describes the estate, with certain exceptions, as "all legal or equitable interests of the debtor in property as of the commencement of the case" "wherever located and by whomever held..." 1.

1. Further, 28 U.S.C. section 1334 (e) provides that the court in which a bankruptcy case is commenced is granted exclusive jurisdiction over "all of the property, where located, of the debtor as of commencement of the case..."
2. See In Kismet Acquisition LLC v. Icenhower, 757 F.3d 1044 (9 Cir. 2024) (relying on 28 U.S. C. section 1334 (e) to uphold the avoidance of a transfer) and Nakash v. Zur, 190 B.R. 763 (Bankr.S.D.N.Y. 1996) (concluding that the broad definition of property of the estate is linked to stay).

F. Reach of the Automatic Stay. While most courts have found that the automatic stay has extraterritorial reach, there have been problems with enforcement when the court does not have a sound basis for establishing personal jurisdiction over the party subject to the stay.

1. In In re Sheehan, 48 F.4d 513 (7 Cir. 2022), the debtor, a doctor who immigrated to the U.S. from Ireland many years earlier, filed a Chapter 11. The debtor owned real estate in Ireland and shares in an Irish health care business. The real estate and shares served as collateral for a debt owed to an Irish creditor with no assets or businesses in the U.S. When the Chapter 11 debtor attempted to obtain sanctions against the Irish creditor (and its receiver) for foreclosing on his collateral in Ireland, the Court found that although the automatic stay had extraterritorial reach, the court lacked personal jurisdiction over the Irish creditor to enforce it. See also SEC v. Stanford Int'l Bank, 112 4th 284 (5 Cir. 2024) (stay in receivership could not be enforced against foreign creditor).
2. In contrast to Sheehan, the bankruptcy judge in In re Probulk, 407 B.R. 56 (Bankr. S.D.N.Y. 2009) found that it could enjoin U.K. insurers from terminating insurance policies on the U.S. bankruptcy estate's property when the insurer's action outside of the U.S. "had a substantial, direct and foreseeable impact on the administration of the estate." See also In re Gold & Honey Ltd., 410 B. R. 357 (Bankr. E.D.N.Y. 2009) (finding that an appointment of receivers in Israel violated the stay but there were good reasons to allow the Israeli receivership to proceed) and In re Gucci, 309 B.R. 679 (S.D.N.Y. 2004) (stay voided efforts in Switzerland and Italy to enforce arbitral award).

G. Avoidance powers. Where the Courts have found that a transfer has taken place in the U.S., the Courts have simply applied the Bankruptcy Code, but if the Court finds that the transfer occurred outside the U.S., there have been differing approaches.

1. In French v. Liebmann, 440 F.3d 145 (4th Cir. 2006, cert. den. 549 U.S. 815 (2006), the Court found that a transfer from the U.S. to a foreign party did not require extraterritorial application of U.S. law. In accord, Florsheim Group v. USAsia International, 336 B.R. 126 (Bankr. N.D. Ill 2005) and In re Arcapita, 575 B.R. 229 (Bankr. S.D.N.Y. 2017).

2. The following courts found that U.S. avoidance provisions should not apply extraterritorially: In re Ampal-American Israel Corp., 562 B.R. 601 (Bankr. S.D.N.Y. 2017); In re Midland Euro, 347 B.R. 708 (Bankr. C.D. Cal. 2006); and In re Zetta Jet USA, Inc. 2020 WL 7682136 (Bankr. C.D. Cal. July 29,2020).
3. The following courts found that the U.S. avoidance provisions did apply extraterritorially: In Kismet Acquistion LLC. V. Icenhower, 757 F.3d 1044 ((Cir. 2014) and In re FAH Liquidating Corp., 572 B.R. 117 ((Bankr. D.Del. 2017).
4. A decision of the Second Circuit growing out of the Madoff Ponzi Scheme extended the concept of extraterritoriality to secondary transferees. In In re Picard, 917 3 86 (2d Cir. 2019), the Court held that the U.S. estate could sue to recoverable avoidable transfers from foreign entities who had received a transfer through a feeder fund registered in the British Virgin Islands but doing business in the U.S. The Court held that the focus of fraudulent transfer law was to avoid transfers coming from the U.S. debtor and that section 550 (a) (2) allowed recovery from a foreign subsequent transferee.
5. The Bernie Madoff bankruptcy led to the Second Circuit's decision in In re Picard, 917 F. 3d 86 (2 Cir. 2019). There, the debtor had made potentially voidable transfers to "feeder funds" in the Caribbean, who, in turn, made transfers to their foreign investors. The investors claimed the monies they received could not be avoided under 11 U.S.C. section 550 because it was not intended to be applied outside of the U.S. The Court held that the focus of an action under section 548 was to recover a transfer of debtor in property originally made in the U.S. and thus it was not an improper extraterritorial exercise of bankruptcy power to recover that property from a foreign secondary transferee.

H. Discharge. The Court in In re Simon, 153 F. 3d 991 (9 Cir. 1998) found that the individual debtor's discharge applied outside of the U.S. There, the creditor challenging the scope of the discharge filed a proof of claim in the debtor's bankruptcy. Still, enforcing a discharge under Chapter 7 or a Chapter 11 plan against a party with little or no ties to the U.S. and no involvement in the U.S. bankruptcy may be problematical.

I. Comity. Comity is the "recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens." Hilton v. Guyot, 159 U.S. 113 (1895). In some instances, the Courts will refrain from exercising the bankruptcy estate's extraterritorial powers under principles of comity out of respect for contrary foreign laws, especially where there is a competing foreign proceeding. In re Maxwell Comm. Corp., 170 B.R. 800 (Bankr. S.D.N.Y. 1994); affd, 186 B.R. 807 (S.D.N.Y. 1995), aff'd, 93 F. 3d 1036 (2 Cir. 1996), the debtor filed parallel bankruptcy cases in the U.S. and the U.K. Finding that the U.K. had the greater interest in the outcome, the Court of Appeals declined to apply U.S. preference provisions to a payment made by the debtor to an English bank that had no reason to believe U.S. avoidance law would apply. Interestingly, the Court of Appeals did not rely on the presumption against extraterritoriality, as did the lower court. See also Florsheim Group v. USA Asia, 336 B.R.

126 (Bankr.N.D. Ill. 2005) (declining to apply comity to a preference paid to a foreign creditor).

III. What happens when a foreign insolvency representative comes to the U.S. seeking recognition and assistance by filing a Chapter 15?

A. The Bankruptcy Code, specifically section 1517(a), is clear in its requirements for bankruptcy court approval of a recognition petition, and requires that for recognition in the United States: (1) a foreign insolvency proceeding exists, (2) the "foreign representative" applying for recognition is a person or body and (3) the petition meets the requirements of Section 1515 of the Bankruptcy Code, which are generally certificates demonstrating the validity of the foreign proceeding and authority of the foreign representative. But does Section 109 still apply as an additional requirement that there be property in the United States?

1. In *Zawawi, Al Zawawi,* objected to a Chapter 15 filing in the United States by a foreign representative appointed in an English bankruptcy proceeding, asserted that in addition to the other Chapter 15 requirements, a threshold requirement is that the debtor must also have property in the United States. The district court found that owning property in the United States is not a prerequisite to a Chapter 15 filing. *Zawawi v. Diss (In re Zawawi)*, 2022 WL 596836 (M.D. Fla. Feb. 28, 2022). The ruling was affirmed by the 11th Circuit Court of Appeals, which held that a duly qualified representative of a foreign debtor that is properly subject to a foreign proceeding is entitled to seek and obtain chapter 15 recognition even if such foreign debtor has no property in the United States or otherwise does not qualify to be a debtor under section 109(a) of the Bankruptcy Code.
2. The 11th Circuit splits with the Second Circuit, which in *In re Barnet*, 737 F.3d 238 (2d Cir. 2013) concluded that Section 109(a) *did* apply in Chapter 15 cases. This application was recently followed in *In re B.C.I. Fins. Pty,* 2025 Bankr. LEXIS 1635 (2025). However, notably, the court also concluded that while Section 109 applied, an attorney retainer was adequate to satisfy its requirements.

IV. Can a foreign or U.S. company file a reorganization plan or scheme in a foreign country that allows nonconsenual third party releases and then come to the U.S. and file a Chapter 15 to enforce the third party releases?

A. Even if a petition meets the three requirements noted above under section 1517, a U.S. bankruptcy court may refuse to recognize a proceeding if it would be manifestly contrary to U.S. public policy

1. Courts have generally held that this "public policy exception" should be involved under only "exceptional circumstances concerning matters of fundamental importance for the United States."

2. Courts in Delaware (*In re Credito Real*) and New York (*In re Oderbrecht*) recently approved recognition/enforcement of foreign plans with non-consensual third party releases, notwithstanding Purdue. *See In re Crédito Real, S.A.B. de C.V., SOFOM, E.N.R.*, No. 25-10208 (TMH), 2025 Bankr. LEXIS 751 (Bankr. D. Del. Apr.

1, 2025); *In re Engenharia ("Odebrecht")*, No. 25-10482 (MG), 2025 Bankr. LEXIS 990 (Bankr. S.D.N.Y. Apr. 21, 2025).

3. Both courts distinguished *In re Vitro* (5th Cir. 2012), which denied recognition of a Mexican plan with third party releases in connection with a foreign plan that was crammed up on lenders using "insider voters who only existed by virtue of *Vitro* reshuffling its financial obligations [with] its subsidiaries." 701 F.3d 1031, 1067 (5th Cir. 2012).

# James H.M. Sprayregen

## Vice Chairman | Hilco Global

James H.M. "Jamie" Sprayregen serves as Vice Chairman at Hilco Global. As a key advisor and strategic growth partner to CEO and founder Jeffrey Hecktman, he shares direct oversight of the firm's rapidly expanding financial services platform with other key members of the executive leadership team.

Mr. Sprayregen is one of the most well-known and highly regarded dealmakers and thought leaders in the restructuring, corporate reorganization and M&A community. He founded Kirkland & Ellis' worldwide Restructuring Group, building it from inception in 1990 to become the premier restructuring group in the world, and the only one ranked tier 1 in every major region globally. As a partner in the Chicago and New York offices of Kirkland & Ellis, he served on the law firm's worldwide management committee from 2003-2006 and 2009-2019. He joined Goldman Sachs in 2006 and served as co-head of its Restructuring Group, advising clients in restructuring and distressed situations. He rejoined Kirkland three years later.

Chambers & Partners has praised Mr. Sprayregen for his "outstanding reputation for complex Chapter 11 cases" recently noting he is "a go-to for big issues" and a "bankruptcy guru." In the 2022 edition of Chambers USA, sources described Mr. Sprayregen as "a rock star - the Mick Jagger of the bankruptcy bar." Chambers said that clients it spoke to noted that he is "probably the best restructuring lawyer in the world" and is "a luminary in the field" of restructuring and insolvency.

Sources have also commented that he is "a premier restructuring expert" and "in a class of his own" with "unbelievable technical capabilities" and "deep experience he can draw upon." He has been praised as a "great clients' lawyer, admired for his unflustered ways" and for his ability "to take extraordinarily complex issues and make them understandable for boards and executive management teams."

Prior editions of Chambers guides have described Mr. Sprayregen as "a world-class practice leader," "one of the deans of the Bar," and "a restructuring genius and one of the best strategists in the country" noting that clients look to him as someone who is "providing leadership and strategic guidance on the big issues." Sources commended Mr. Sprayregen for his "incredible work ethic and skill" and for his ability to "bring a mastery of the law to practical application." Clients are "impressed by his boundless energy to work on issues" and note that Mr. Sprayregen is "very good in complicated and difficult situations."

In March 2010, Mr. Sprayregen was selected by The National Law Journal as one of "The Decade's Most Influential Lawyers." Mr. Sprayregen was named "Global Insolvency & Restructuring Lawyer of the Year" in 2013 by Who's Who Legal Awards, receiving more votes from clients and peers than any other individual worldwide. In October 2013, Mr. Sprayregen was inducted into the Turnaround Management Association (TMA) Turnaround, Restructuring, and Distressed Investing Industry Hall of Fame.

From 2013-2015, Mr. Sprayregen was appointed to serve a two year term as the President of INSOL International, the world's leading international insolvency association. Mr. Sprayregen is also an Adjunct Full Professor of Finance at The Wharton School of the University of Pennsylvania where he teaches a combined Wharton/Penn Law course on "Corporate Restructuring."

Mr. Sprayregen received his J.D., cum laude, from the University of Illinois College of Law and his B.A., cum laude, from the University of Michigan.

Hilco Global
Asset Smarter

PAUL
HASTINGS

# Matt Warren

Partner, Corporate Department
mattwarren@paulhastings.com

**Matthew Warren** is a partner in the Financial Restructuring group at Paul Hastings and is based in the firm's Chicago and Houston offices. He advises clients on restructuring matters with a particular emphasis on distressed debt and insolvency issues.

Matthew represents lenders and bondholders, as well as companies and asset buyers, in connection with restructuring and insolvency related matters. Specifically, he helps clients navigate:

- Distressed credit scenarios, including default planning and response strategies
- Out-of-court restructurings, including exchange offers, debt-to-equity conversions and rescue financing
- Chapter 11 proceedings, including prepackaged, prearranged, and free-fall bankruptcies
- Distressed acquisitions
- Debtor-in-possession financings
- Cross-border bankruptcies

Matthew advises lenders and bondholders in maximizing recoverable value and helps distressed companies navigate through difficult circumstances based on a sophisticated sense of market practice and extensive experience with complex and challenging scenarios.

Matthew is a member of the American Bankruptcy Institute and has taught as an adjunct professor of Bankruptcy Law at the DePaul College of Law. He regularly speaks and writes on bankruptcy topics.

## Chicago
T: 1(312) 499-6045
F: 1(312) 499-6145

## Practice Areas
Financial Restructuring

## Languages
English

## Admissions
Texas Bar
Illinois Bar

## Education
The University of Arizona - James E. Rogers College of Law, J.D. 2008
Southern Illinois University Edwardsville, B.S. 2005

## Recent Representations

- The Ad Hoc Group of Convertible Noteholders of Spirit Airlines in connection with the Chapter 11 bankruptcy cases of Spirit Airlines
- The Ad Hoc Group of Noteholders of Acorda Therapeutics in connection with the Chapter 11 bankruptcy cases of Acorda Therapeutics
- Funds managed by Highbridge Capital in connection with the conversion of loans into 100% of the equity of Gamida Cell through US Chapter 11 cases and Israeli restructuring proceedings
- Antares Capital in its capacity as first lien agent in connection with the Chapter 11 bankruptcy cases of Shoes for Crews
- Capital One in its capacity as first lien agent in connection with the Chapter 11 bankruptcy cases of Castex Energy
- Reficaria de Cartagena in connection with its claims against and challenge to the restructuring proceedings of subsidiaries of McDermott International in restructuring proceedings in the United Staes, United Kingdom and the Netherlands
- The Ad Hoc Group of Secured Term Lenders and Noteholders of Talen Energy in connection with the Chapter 11 bankruptcy cases of Talen Energy
- The **Ad Hoc Group of Noteholders of CEC Entertainment** in connection with the Chapter 11 bankruptcy of Chuck e. Cheese
- The **Ad Hoc Group of Bridge Lenders and Convertible Noteholders of Aegerion Pharmaceuticals** in connection with the Chapter 11 bankruptcy of Aegerion Pharmaceuticals
- Secured term lenders in connection with the Chapter 11 bankruptcy of Willowood USA
- The **Official Committee of Unsecured Creditors** in connection with the Chapter 11 bankruptcy of Synergy Pharmaceuticals
- **Enduro Resources** in connection with its sale of substantially all of its assets and corresponding Chapter 11 bankruptcy proceedings
- **Stone Energy** in connection with its reorganization through Chapter 11 bankruptcy proceedings
- **RKA Film Finance** in connection with the Relativity Media Chapter

11 bankruptcy proceedings
- Second lien agent in connection with the Chapter 11 bankruptcy proceedings of Quicksilver Resources
- The **Ad Group of Second Lien Lenders** in connection with the Chapter 11 bankruptcy proceeds of Transtar Holdings
- **Caesars Acquisition Corp.** in connection with the Chapter 11 proceedings of Caesars
- Senior secured lenders in connection with Chapter 11 bankruptcy proceedings of Taylor Wharton
- Senior secured lenders in connection with multi-jurisdictional out of court debt-to-equity conversion of consumer goods company
- Senior secured lenders in out-of-court restructuring of for-profit education company
- Senior secured lenders in out-of-court restructuring of a dermatology company
- Senior secured lenders in connection with out-of-court restructuring of a natural gas processing facility

*Matters may have been handled prior to joining Paul Hastings.*

## Involvement

- Fellow, American College of Bankruptcy
- American Bankruptcy Institute (ABI Central States Advisory Board Member)
- Member, Middle Market Open Board, benefiting the National Kidney Foundation of Illinois

## Accolades and Recognitions

- *American Bankruptcy Institute's* 2019 "40 Under 40" Emerging Leaders in Insolvency List
- *Turnarounds & Workouts'* 2018 Outstanding Young Restructuring Lawyer
- *Chambers Illinois*: Bankruptcy/Restructuring
- Fellow, American College of Bankruptcy

## Education

- University of Arizona, J.D. (*summa cum laude*)
- Southern Illinois University Edwardsville, B.S. (*summa cum laude*)

## News

**March 12th, 2025**

Paul Hastings Advises Bondholders in Confirmed Spirit Airlines Chapter 11 Bankruptcy Exit

**January 10th, 2025**

Paul Hastings Selected as Counsel to Official Committee of Unsecured Creditors of Akoustis Technologies, Inc.

**October 10th, 2024**

Matthew Warren Inducted as Fellow of American College of Bankruptcy

**June 3rd, 2024**

Paul Hastings Adds Premier Restructuring and Private Credit Team, Further Strengthening Market-Leading Restructuring and Finance Platforms

Mason Pollick & Schmahl LLC



Richard J. Mason
rmason@mps-law.com
312-312-5532 (office)
847-962-1381 (cell)

Richard J. Mason

Mr. Mason represents significant business interests in transactions and litigation, with a strong concentration in the areas of business insolvency and debtor-creditor relations. He has extensive experience representing a range of clients in business matters throughout the United States and overseas. He has represented clients in some of the country's largest bankruptcies in Chicago, New York, Delaware, Miami, Philadelphia, Phoenix, and Los Angeles.

Mr. Mason is an adjunct professor at Chicago-Kent College of Law, where he has taught bankruptcy law each year since 1983. He has been named to Best Lawyers in America, Illinois Superlawyers and Leading Lawyers Network and previously served as Co-chair of the Insolvency Section of the International Bar Association, Chair of the Education Committee of the American College of Bankruptcy, and Chair of the Use and Disposition of Property subcommittee of the Business Bankruptcy Committee of the American Bar Association. He also served as a delegate to the United Nations Commission on International Trade Law for both the ABA and the IBA. He has published extensively on the subject of business bankruptcy and commercial litigation. He is a frequent speaker at continuing legal education programs sponsored by organizations such as the American Bar Association, International Bar Association, American Bankruptcy Institute, Commercial Law League of America, Practicing Law Institute, National Association of Bankruptcy Trustees, and various state and local bar associations.

Mr. Mason has been admitted to and appeared in various federal courts in 20 states.

**Admissions**

Illinois

- Representation of foreign entity purchasing business from restructuring debtor.
- Representation of foreign insolvency representative in U.S. ancillary proceeding.
- Representation of a state agency sued by a bankrupt estate for breach of contract and defamation.
- Representation of the principal commodity trading partner of Chapter 11 debtor with several billion dollars in debt.
- Representation of trustee in bankruptcy in multi-billion dollar Chapter 7 case.
- Representation of a national chain of medical clinics facing regulatory matters.
- Representation of directors in disputes concerning corporate governance.
- Representation of an unsecured creditor's committee of airline reorganizing in Chapter 11.
- Representation of an unsecured creditor's committee of printing equipment producer in Chapter 11.
- Representation of a principal partner of a Midwestern real estate venture restructuring debts exceeding $3 billion.
- Representation of various banks and insurance companies with financially troubled borrowers.
- Representation of a company in a Midwestern telecommunications business suing to invalidate a $50 million leverage buy-out.
- Representation of a leveraged lessor of approximately $100 million in hotels to a national hotel chain reorganizing under Chapter 11.
- Representation of an unsecured creditors committee of Midwestern metal stamping manufacturer restructuring under Chapter 11.
- Representation of an institutional landlord of approximately 30 properties to a Southwestern retailer restructuring debt under Chapter 11.
- Representation of a trustee in bankruptcy of Midwestern publicly held limited partnerships with hotels undergoing Chapter 11 reorganization.

- Representation of a purchaser of the operations of a leather belt manufacturer reorganizing under Chapter 11.
- Representation of a defendant in asbestos-related litigation relating to a bankruptcy case.
- Representation of a foreign bank defending allegations it improperly seized and liquidated the assets of a locomotive manufacturer.

**Practices**

- Restructuring and Insolvency
- Commercial Litigation
- Business Transactions
- Cross-border Litigation

**Affiliations and Recognition**

- Fellow, American College of Bankruptcy (Class X, 2000) (Chair of Education Committee, 2015-2019)
- Fellow, International Insolvency Institute, 2015-present
- Listed in Best Lawyers in America, Illinois Superlawyers, and Leading Lawyers Network
- Fellow, American Bar Foundation
- Member, Business Bankruptcy Committee of the American Bar Association, 1984-2016 (Chair, Subcommittee on Use and Disposition of Property, 1993-1998) ( Delegate, United Nations Commission on International Trade Law, 1999-2002)
- Member, Insolvency and Restructuring Section of the International Bar Association, 1990-present (Co-Chair, of Section, 2017-2019) (Delegate, UNCITRAL, 2018-present)
- Member, American Bankruptcy Institute, 1986-present
- Member, Section Counsel, Commercial, Banking, and Bankruptcy Law, Illinois State Bar Association 1984-1987

- Will Recent UNCITRAL Projects Impact U.S. Bankruptcy Practice? *American Bankruptcy Institute Journal*, October 2019
- Author, "How Bankruptcy Courts Will Treat Cases Involving Cryptocurrency Exchanges, " *The Bankruptcy Strategist*, February 2019
- Author, "Pursuing Relief Against Foreign Adversaries," *American Bankruptcy Trustee Journal*, Fall 2018
- Co-author, "When Do the Creditor's Shoes Fit?: A Bankruptcy Estate's Power to Assert the Rights of a Hypothetical Judgment Creditor," *The American Bankruptcy Law Journal*, 2017
- Author, "Is the Bankruptcy Concept of Nationwide Service Still Completely Intact?" *American Bankruptcy Institute Journal*, October 2017
- Co-author, "Another U.S. Court Weighs In On The Debate Over The Extraterritoriality Of The Avoidance Provisions Of The U.S. Bankruptcy Code," *Insolvency and Restructuring International*, September 2017
- Author, "Debtor's Rights/Local Government," *Illinois Municipal League Review*, August 2017
- Author, "Financially Distressed Local Governments: In Illinois, Relief Options are Limited." *Illinois Bar Journal*, April 2017
- Co-author, "Repatriating Proceeds Of A U.S. Avoidance Action To A Foreign Main Proceeding: Does Chapter 15 Authorize Structured Dismissals," *Norton Journal Of Bankruptcy Law And Practice*, 2016
- Co-author, "Pursuing Avoidance Actions Under U.S. Law Against Foreign Defendants," *ABI Journal*, September 2016
- Author, Perfecting Article 9 Security Interests Under Illinois Law, *Illinois Institute of Continuing Legal Education*, 2016
- Co-author, "Strategies for Disposition of Partial LLC Interests in Bankruptcy," *The Bankruptcy Strategist* , December 2015
- Co-author, Can an Estate Effectively Liquidate a Fractional Interest in an LLC," *ABI Journal*, October 2015

- Author, "Liability to Third Parties for Lost or Damaged Property" *27 Journal of the National Association of Bankruptcy Trustees*, 2011
- Author, "Strategies for Use of the U.S. Bankruptcy Code by Foreign Insolvency Representatives," *Insolvency and Restructuring International*, November 18, 2011
- Author, Update on Partially Secured Creditors Rights in Bankruptcy to Credit Bid, *McGuireWoods Legal Insights*, March 24, 2010
- Co-author, "Priorities Among Article 9 Security Interests and Competing Rights," 2007

**Education**

The University of Chicago, MBA, 1980
University of Notre Dame Law School, JD, 1977
University of Illinois at Urbana-Champaign, BA, with High Honors, 1973

312-312-5531

77 West Wacker, Suite 4500,
Chicago, IL 60601