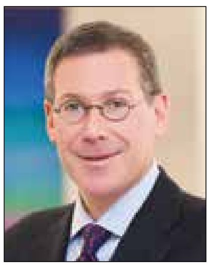
President's Column

On the Road with ABI: Four Stellar Regional Conferences, One Remarkable Community



ABI President Stephen D. Lerner
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Stephen Lerner is a partner with Squire Patton Boggs and global chair of its Restructuring & Insolvency Practice Group in Cincinnati and New York. He previously served as ABI's Vice President-International.

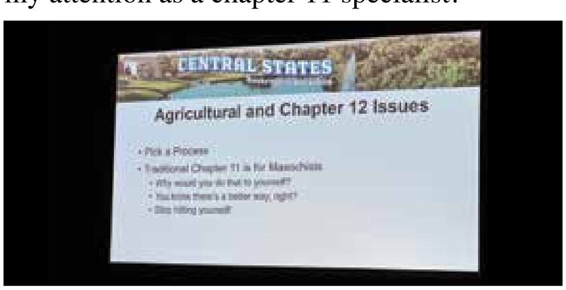
One of the great privileges of serving as President is the opportunity to experience firsthand the extraordinary breadth and depth of our organization. This summer, I had the pleasure of attending four of ABI's outstanding regional programs: the Central States Bankruptcy Workshop, Northeast Bankruptcy Conference & Consumer Forum, Southeast Bankruptcy Workshop and Mid-Atlantic Bankruptcy Workshop.

Each conference has its own character, faculty and substantive focus. Yet attending all four in a relatively short period of time reinforced something I have long believed: ABI conferences succeed because they combine three things exceptionally well — first-rate educational programming, meaningful interactions between the bench and bar, and unrivaled networking opportunities that create and strengthen professional relationships throughout the insolvency community.

Central States: A Strong Start to the Summer

My summer conference travels began at the 32nd Annual Central States Bankruptcy Workshop, held June 4-6 at the Grand Geneva Resort & Spa in beautiful Lake Geneva, Wis. Central States has long been one of ABI's strongest regional programs. Its combination of business, consumer and skills tracks enabled attendees to enjoy a program tailored to their practices, while the participation of bankruptcy judges and experienced practitioners created opportunities for genuine discussion rather than simply traditional CLE presentations.

The substantive programming reflected the issues practitioners are confronting in real time. Recent business bankruptcy decisions, evolving chapter 11 strategies and practical issues affecting both business and consumer practitioners were examined by an impressive faculty drawn from across the region. I especially enjoyed my first-ever chapter 12 panel presentation, which opened my eyes to the nitty gritty of farming restructurings. One of the slides truly captured my attention as a chapter 11 specialist!



My congratulations and thanks go to Conference Co-Chairs **Rebecca DeMarb** and **Phil Groben** and Judicial Chair **Hon. Beth E. Hanan**. Their strong leadership, along with the exceptional work of the entire advisory board and ABI staff, was evident throughout the program.

Central States also demonstrated one of the advantages of ABI's regional conferences: Their relatively small size encourages interaction. There is ample opportunity to continue a panel discussion afterward, introduce yourself to a judge or speaker, reconnect with colleagues, and meet professionals from other segments of our insolvency community whom you might not otherwise encounter. Those conversations are every bit as important to the ABI experience as what happens in the meeting rooms.

Northeast: Middle-Market Distress, Fraud and Practical Problems (and Great Seafood)

A little more than a month later, I traveled to picturesque Newport, R.I., for the Northeast Bankruptcy Conference & Consumer Forum, held July 13-15. The Northeast program had a particularly practical orientation this year. Among its themes were the latest developments in bankruptcy, advising small and middle-market companies experiencing distress, and dealing with fraud-related bankruptcy matters.

The conference opened with a lively and freewheeling discussion moderated by ABI Editor-at-Large **Bill Rochelle**, with panelists **Hon. Bruce A. Harwood (ret.)**, **Prof. Francis C. Morrissey**, **Hon. Ann M. Nevins** and **Hon. Christopher J. Panos**. The panel covered a number of interesting subjects and highlighted several recent Supreme Court cases. Another panel debated what happens when a bankruptcy professional encounters fraud and bad actors within a distressed enterprise. These situations raise difficult questions extending far beyond traditional restructuring: How does a company preserve going-concern value while investigating misconduct? What are the responsibilities of professionals who uncover questionable activity? How should a debtor respond when civil investigations potentially intersect with governmental or criminal investigations? The Consumer Forum complemented the business program with equally practical discussions of issues facing consumer practitioners, including addressing conflicts of interest, what is causing the rise in consumer filings, and planning ahead for chapter 7 and 13 filings.

One of the highlights for me was that the Northeast program focused on something else that is critically important to the future of our profession: creating opportunities for our emerging leaders and younger professionals to become part of the broader ABI community. Professional organizations thrive when newer members are not simply attendees but participants. Receptions, roundtables, meals and informal gatherings give younger professionals opportunities to meet judges and established practitioners in circumstances that simply do not exist in everyday practice. Those introductions can become mentoring relationships, referral relationships and, very often, lifelong friendships.

Kudos to Conference Co-Chairs **Kellie W. Fisher**, **Matthew R. Flynn**, **Robert E. Girvan**, **Kate E. Nicholson** and **Hon. Christopher J. Panos** for putting together an outstanding conference. I also want to thank the members of the advisory board and ABI staff who worked tirelessly to create a fantastic program.

Southeast: Looking at Where the Next Restructurings May Come From

Next came panoramic (and very hot) Amelia Island, Fla., for the 30th anniversary of ABI's Southeast Bankruptcy Workshop, held July 23-26. Thirty years is an extraordinary milestone, and the Southeast Workshop demonstrated why the conference has endured and continues to thrive. The program again offered business, consumer and skills-focused sessions featuring judges, academics and skilled practitioners, combined with the relaxed atmosphere that has become a hallmark of the conference.

Important consumer topics including automatic stay litigation and chapter 13 plan confirmation and modification were skillfully debated by experienced panelists who shared notable practice pointers. Several business topics were particularly timely. Private credit continues to play an increasingly important role in financing middle-market companies, and the conference examined signs of stress within that market and what they might mean for restructuring professionals over the next several years. Related discussions addressed pressure within subprime lending and other nontraditional credit markets. These are important subjects, because the restructuring community is inevitably affected by changes occurring well before a bankruptcy petition is filed. Changes in underwriting standards, capital structures, lender remedies and credit availability ultimately determine both which companies encounter distress and the restructuring alternatives available to them. Last, but not least, was a very spirited discussion (pun intended) titled, Unbottling the Declining Spirits Industry. The panelists certainly know their way around the industry and fine Kentucky bourbon!

My thanks and congratulations go to Workshop Co-Chairs **Rebecca Redwine Grow**, **Jeremy Lowery Retherford** and **Hon. Sage M. Sigler**. They and the advisory board deserve tremendous credit for continuing the tradition of excellence that has made Southeast an ABI institution for three decades.

Mid-Atlantic: Litigation and an Increasingly International Practice

My summer ABI conference tour concluded with the Mid-Atlantic Bankruptcy Workshop in historic and beautiful Annapolis, Md., in early August. The Mid-Atlantic program reinforced just how sophisticated modern restructuring practice has become. Among the subjects addressed were chapter 15 and developments involving center of main interests, or COMI. Cross-border recognition, international forum-selection and the relationship between U.S. bankruptcy proceedings and foreign insolvency proceedings are no longer subjects confined to a small number of multinational mega-cases. Global capital structures, international investors and multinational businesses mean that cross-border considerations increasingly find their way into the practices of restructuring professionals throughout the country.

Bankruptcy litigation was another important part of the program. Contested matters, adversary proceedings and the procedural and strategic considerations involved in litigating disputes in bankruptcy court remain central to our profession. My sincere thanks go to workshop Co-Chairs **Edward T. Gavin**, **Amanda R. Steele**, **Hon. Thomas M. Horan** and **Hon. Elizabeth L. Gunn**, as well as the advisory board and ABI staff, for another terrific program.

The Value of Being Together

After attending all four conferences, I came away thinking not only about what I had learned, but also about why gatherings like these continue to matter. We live in an era in which almost unlimited information is available electronically or virtually. We can watch CLE programs remotely, read decisions moments after they are issued, and communicate with colleagues anywhere in the world without leaving our offices. Yet none of those things can or should replace opportunities for live interaction and learning.

The restructuring profession is fundamentally a relationship business. Lawyers, judges, financial advisors, investment bankers, turnaround professionals, lenders, academics and other professionals repeatedly encounter one another across different cases, industries and jurisdictions.

Trust matters. Reputation matters. And relationships matter. ABI conferences provide a critically important environment in which those relationships can develop naturally. Two professionals from different parts of the country may discover that their practices complement one another. Someone you meet at an ABI reception today may be sitting across the table from you — or beside you — in a major restructuring five years from now. Just as importantly, ABI conferences allow us to renew existing relationships. Many of us have developed friendships through ABI that extend well beyond individual cases or professional engagements. Seeing one another at conferences year after year is part of what transforms ABI from simply a professional association into a genuine community.

Four Conferences, Common Themes

The substantive programs at Central States, Northeast, Southeast and Mid-Atlantic were different, but several common themes emerged. Private credit and other evolving sources of capital are changing the restructuring landscape. Middle-market distress remains a significant part of our profession. Bankruptcy litigation continues to grow in complexity. Fraud and corporate misconduct can dramatically complicate otherwise traditional restructurings. Lastly, cross-border issues increasingly intersect with domestic insolvency practice.

There was another common denominator as well — one that I value as much as any: the strong and enduring participation of the judiciary. ABI is blessed with the support of both state and federal judges in so many ways. Having worked in and traveled to many other countries, I know first-hand that the opportunities for restructuring professionals to have access to U.S. judges is uncommon. Judges in most other countries do not participate with members of the bar and other professionals the way U.S. bankruptcy judges in particular do. The opportunity for practitioners and judges to exchange ideas in an educational setting is one of ABI's greatest strengths. Those discussions improve our understanding of the law while also helping maintain the professionalism and collegiality that distinguish the bankruptcy community.

It is also important to note that none of ABI's conferences happens by accident. Each represents months of very hard work and dedication by conference chairs, judicial chairs, advisory boards, speakers, sponsors and ABI's extraordinarily committed staff. Having attended scores of ABI conferences over the years, and now in my role as President, I witness and appreciate deeply the results of that work personally.

Central States, Northeast, Southeast and Mid-Atlantic each have distinct traditions and personalities. Together, however, they demonstrate the geographic reach, intellectual strength and collegial spirit of the American Bankruptcy Institute. I learned a great deal this summer.

Most importantly, I had the opportunity to spend time with old friends, make new ones, meet young professionals who represent the future of our profession and ABI, and hear directly from judges and practitioners about the issues shaping our profession. That combination of **education, relationships and community** is what ABI does best. After four terrific regional conferences, I am more convinced than ever that there is simply no substitute for showing up. I hope to see you next at the ABI Southwest Conference in Las Vegas! abi

Event Roundup

Florida Provides Abundant Sunshine for July's Southeast Workshop

More than 300 practitioners from throughout the Southeast convened in Amelia Island, Fla., for ABI's Southeast Bankruptcy Workshop at The Ritz-Carlton, Amelia Island July 23-26, one of ABI's longest-running programs (30 years and counting!). Attendees were able to customize their educational experience with repeated concurrent business-, consumer- and skills-focused sessions with ample networking opportunities sprinkled in between. This year's program also featured the annual Silent Auction and a bourbon-tasting event, both of which raised money for the ABI Endowment Fund (see p. 43), and attendees and their families could enjoy a special reserved beach area complete with chairs, towels, umbrellas and some beach games.

The program kicked off with an opening reception on the first day, followed the next morning by an opening plenary session on financial fraud in bankruptcy. Sessions included Strategies for Streamlining Small Business Cases, Board Flips in Distress Situations, Private Credit: Signs of Stress Ahead, Mortgage-Servicing and Rule 3002.1: Post-*Klemkowski* Practice, Automatic Stay Litigation: Trends

K. Edward Safir (K. Edward Safir, Chapter 13 Trustee; Atlanta), Jeffrey S. Fraser (Albertelli Law; Lake Worth, Fla.), Shelley Koon Abel (U.S. Bankruptcy Administrator's Office; Charlotte, N.C.), Hon. Susan Barrett (U.S. Bankruptcy Court (S.D. Ga.); Augusta) and Travis Emil Menk (Brock & Scott, PLLC; Charlotte, N.C.) (l-r) led a session titled Pro Se *Litigants: Managing the Modern Courtroom.*

Hon. Scott M. Grossman (U.S. Bankruptcy Court (S.D. Fla.); Ft. Lauderdale) (c) led a discussion during the Judges' Roundtable.

and Strategies, Free-Fall Filings: Pre-Petition Strategy and Fallout, SBA Loans in Bankruptcy, Complex Ownership Structures and Filing Authority, Economic Update: Taxes, Tariffs, and Trends, Chapter 13 Plan Confirmation and Modification: Walking the Good Faith, Unbottling the Declining Spirits Industry, Judges' Roundtable, *Pro Se* Litigants: Managing the Modern Courtroom, and Cracks in the Market: Subprime Lending Under Pressure. Attendees could earn up to 10.8 hours of CLE/CPE credit.

Among the many networking opportunities were a special IWIRC luncheon, an Ethics & Professional Compensation Committee gathering, an Emerging Leader Southeast networking event and a speakers' reception. Optional events included a golf outing at The Golf Club of Amelia Island, a parents' night out, an ice cream social and the annual Beach Bash, a workshop favorite.

ABI is grateful to the workshop's Advisory Board for compiling this year's program, led by Co-Chairs **Rebecca Redwine Grow** of Hendren, Redwine & Malone, PLLC (Raleigh, N.C.), **Jeremy Lowery Retherford** of Balch & Bingham, LLP (Birmingham, Ala.) and Hon. **Sage M. Sigler** of the U.S. Bankruptcy Court (N.D. Ga.) (Atlanta). We also thank the following firms for their financial support: Adams & Reese; agencyIP/Sherwood Partners, Inc.;