



AMERICAN
BANKRUPTCY
INSTITUTE

2025 Midwestern
Bankruptcy Institute

Chapter 11 vs. Nonbankruptcy Alternatives

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GlassRatner Advisory & Capital Group, LLC | Lenexa, Kan.

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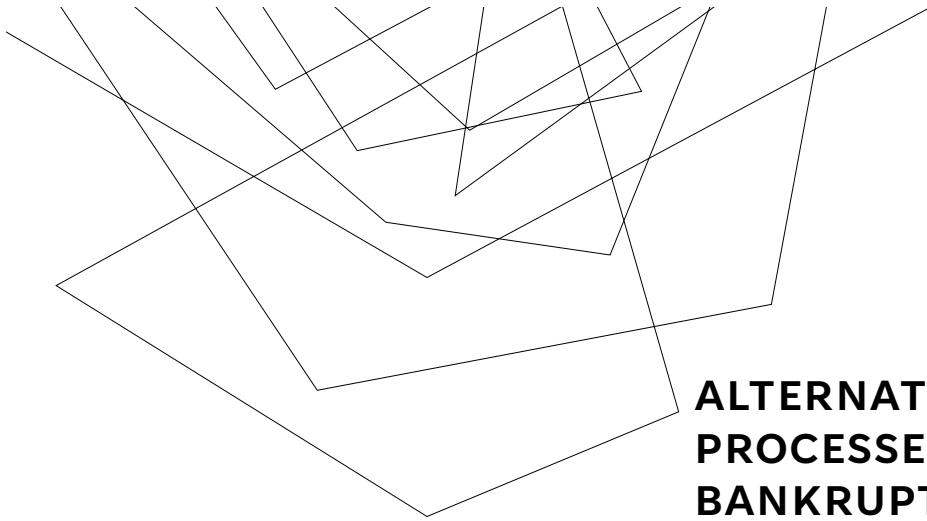
Thompson Coburn LLP | Saint Louis, Mo.

Eric Moraczewski

Commercial Receivers Association | Maryland Heights, Mo.

Eric C. Peterson

Spencer Fane LLP | Saint Louis, Mo.



**ALTERNATE
PROCESSES TO
BANKRUPTCY**

**ABI MIDWEST
CONFERENCE 2025**

AGENDA

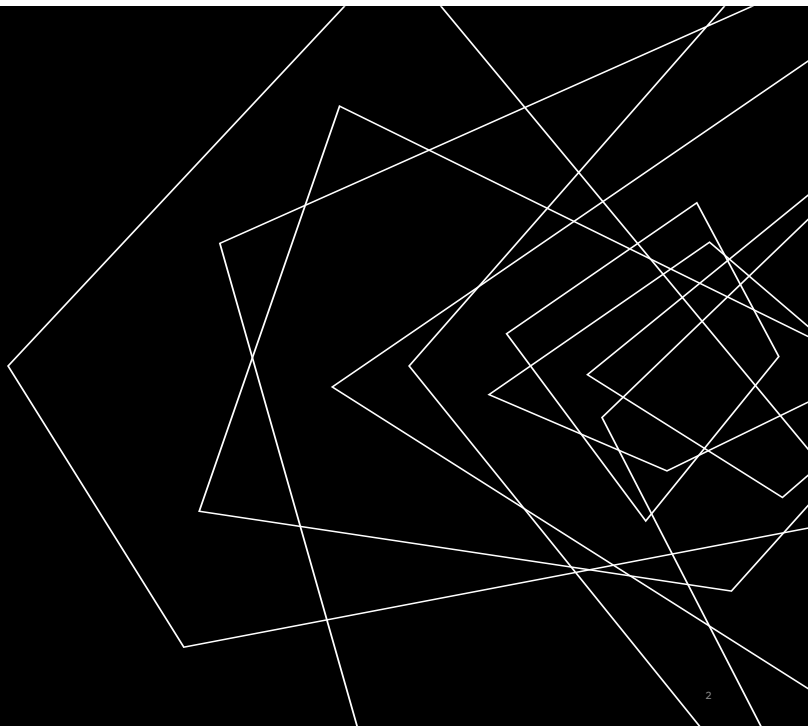
Panelists

Assignment For Benefit
of Creditors

Composition

Agreements

Receiverships



PANELISTS



Sonette Magnus
Thompson Coburn



Eric Peterson
Spencer Fane



Eric Moraczewski
NMBL Strategies



Brent King
GlassRatner

PANELIST



Sonette Magnus
Thompson Coburn

Sonette Magnus is a highly experienced litigator and business advisor counseling corporate clients across many industries, including higher education, retail, food, biotechnology, agriculture, sports and finance.

Representing clients in state and federal courts across the United States, Sonette skillfully creates and implements litigation strategies that considers all external factors influencing a trial, including geography, socio-economic realities, and jury composition.

In addition to complex disputes, Sonette's solution-oriented counsel addresses her clients' day-to-day business needs. She handles contract issues efficiently while collaborating with business units and in-house legal teams to mitigate litigation risks. Sonette began her career as a federal law clerk to the Chief Judge of the U.S. Bankruptcy Court for the Eastern District of Missouri. She draws upon that experience today when representing Chapter 7 Trustees and receiver, as well as lenders in receiverships and Chapter 11 restructurings, liquidations in DIP Financing, and Plan negotiations.



PANELIST

Eric Peterson

Spencer Fane

Eric Peterson is an attorney with Spencer Fane LLP. He is a founder and board president of the Commercial Receivers Association and served as the past chair of the Missouri Bar Bankruptcy Debtor and Creditor Rights Committee, where he also served as chair of the Subcommittee on Commercial Receivership. The subcommittee, comprised of a dozen attorneys from across Missouri, crafted the Missouri Commercial Receivership Act, which was enacted as bar-sponsored legislation in 2016.



PANELIST

Eric Moraczewski

NMBL Strategies

Eric Moraczewski, CEO of NMBL Strategies, is a strategic, decisive Court Appointed Receiver, CRO, and turnaround consultant skilled in fast-paced, intensive environments. He is a pragmatic and data driven professional with a robust background primarily focused on accounting and finance for turnarounds of small and mid-size companies across 20+ countries and four continents. As such, he can quickly assess the nuances of each engagement, take command and make judicious and expedient decisions. In addition, Moraczewski is adept at strengthening local and national relationships, including collaborative efforts with government, local community leadership and private enterprises. As such, he was responsible for co-founding the Commercial Receivership Association (CRA) in 2020 in Missouri. The CRA is focused on the education and standardization of commercial receiverships, of which Missouri is seen as a leader.



PANELIST

Brent King
GlassRatner

Brent King is an insolvency management and advisory consultant and a Managing Director at GlassRatner Advisory and Capital Group. King has thirty-eight years' experience as an executive leader, the last twenty-six of which have been dedicated to corporate insolvency.

King has served as Chapter 11 trustee; chief executive officer; chief restructuring officer; judicial receiver; chief financial officer; and advisor to corporations, large scale farms, and unsecured creditor committees. Mr. King is a Certified Turnaround Professional who practices in Kansas City.

BANKRUPTCY IS NOT ALWAYS THE RIGHT PATH

Ch11 highly efficient court system

Challenges include

Cost

Complexity

Reporting requirements

Structural complexities

Alternate processes

ASSIGNMENT FOR THE BENEFIT OF CREDITORS

A a voluntary, state-law process where a financially distressed company transfers its assets to a third-party assignee to liquidate them and distribute the proceeds to the company's creditors.

Common in several jurisdictions – CA, IL, NJ, FL
CA and IL are out of court
FL has an in-court component

Uniform Law Commission looking to approve a uniform ABC code in 2025 for state adoption

COMPOSITION AGREEMENT

A negotiated settlement wherein multiple parties agree to a resolution

Contractual negotiations among parties with dissimilar interests can be complex

Odds of success complicated as number of claimants increases

RECEIVERSHIP

Cost of receivership compared to Ch11 is significantly lower

State Court judges can be unfamiliar with receivership
Sometimes also unfamiliar with financial matters
Full criminal dockets

Several states have business courts and judges

TX, NC, SC, GA, MA, IA, TN, WY, WV, NJ, RI, MD, NH, ME
NY, IL, KY, NV, OH FL, MI, AZ, IN, PA

RECEIVERSHIP

3 states adopted new receivership statutes that
encompass business and real estate (WA, MN, and MO)

14 states/districts have enacted UCRERA/2 States
Introduced

Enacted – UT, OR, TN, NV, MI, MD, AZ, CT, WV, RI, DC

Enacted – Substantially Similar – NC, FL, AL

Introduced – IL and ND

RECEIVERSHIP

General vs Limited

Cannabis insolvency must be state court

Limits of Court authority

IRS, Federal agencies

Addressing issues in other states

RECEIVERSHIP

Order of Appointment is critical

Powers, limitations, payment terms, objection period

Define estate property

Funding process - essential to success

Avoid “look to the proceeds” for funding

Payment mechanism for Receiver

Corporate privilege must pass to Receiver

Define this in order

RECEIVERSHIP

Most cases involve seizing assets and selling property

Title insurance issues

Appeal of appointment

Keep court engaged – reports, calls, motions

Assets to abandon

RECEIVERSHIP

End any process thoughtfully

Distribute all funds

Final report to Court

Final order approving all actions
receiver and counsel

Faculty

Brent A. King, CTP is a managing director with GlassRatner LLP's Advisory & Capital Group in Lenexa, Kan., and is an insolvency management and advisory professional with nearly 40 years of experience as an executive leader, 25 of which have been dedicated to corporate insolvency leadership. He has served as chapter 11 trustee, CEO, CRO, judicial receiver, CFO and senior financial advisor to both public and private corporations, as well as unsecured creditors' committees, in wide range of businesses. Prior to joining GlassRatner in 2017, Mr. King served as the founder and principal professional of Prairie Advisors, a middle-market corporate advisory firm that placed him in multiple interim-management and advisory roles. Mr. King has served as the C-level executive or senior advisor to many public and private corporations. He has experience leading distressed business, operating complex start-ups and advising insolvent businesses, and his roles have included CRO of public and private corporations in chapter 11, advisor to corporations for strategic planning in pre-bankruptcy periods, forensic investigator of financial fraud, receiver of distressed real estate developments, executor/CEO of a distressed real estate holding venture, director of patent-infringement defense, valuation advisor to buyers and sellers of corporate assets, liquidator of insolvent manufacturing facilities, and M&A advisor to agricultural equipment and automobile dealerships. Mr. King has worked with corporations operating in a broad range of industry sectors, including bio-diesel production, ethanol production, metal manufacturing, plastic injection, molding, agricultural grain production, automobile dealerships, agriculture equipment dealerships, truck-based logistics, truck body manufacturing, livestock equipment distribution, and livestock and dairy production. He is a member of TMA and ABI. Mr. King received his B.F.A. from Western Illinois University and his M.F.A. from Northwestern University.

Sonette T. Magnus is a partner with Thompson Coburn LLP in Saint Louis, Mo., where she counsels corporate clients across many industries, including higher education, retail, food, biotechnology, agriculture, sports and finance. She represents clients in state and federal courts across the U.S., creating and implementing litigation strategies that considers all external factors influencing a trial, including geography, socio-economic realities, and jury composition. In addition to complex disputes, Ms. Magnus handles contract issues while collaborating with business units and in-house legal teams to mitigate litigation risks. She represents lenders in receiverships, as well as chapter 11 restructurings, liquidations in DIP financing and plan negotiations. Ms. Magnus's experience also includes representing agrochemical and agricultural biotechnology companies, consumer and industrial product companies, food product companies, department stores, home improvement stores, sports teams and financial institutions. In addition, she advises and serves as outside counsel to nonprofits and institutions of higher education on issues including accreditation, governance, employment matters, financial restructuring, intellectual property strategies, and the creation and enforcement of policies and procedures, including student and employee discipline. Ms. Magnus began her career as a federal law clerk to the Chief Judge of the U.S. Bankruptcy Court for the Eastern District of Missouri. She received her B.A. in 2006 in criminology and political science from the University of Toronto, St. George, her J.D. in 2009 from Emory University School of Law, and her Certificate in Intellectual Property and Technology, Order of Barristers National Honor Society, in 2009 from the Georgia Institute of Technology College of Management.

Eric Moraczewski is a co-founder of the Commercial Receivers Association in Brentwood, Mo., and serves as a CEO/CFO specializing in startups and turnarounds with for-profits, nonprofits and public/private partnerships across more than 20 countries and four continents. He began his career as a global consultant, CEO and CFO to lead NMBL Strategies, LLC after leading the Gateway Arch Park Foundation (a private foundation responsible for providing \$250 million of the \$380 million project) through the largest public/private partnership in National Park Service history. Prior to his work at the Gateway Arch, Mr. Moraczewski was the CEO of FDI Strategies, an international growth strategy consultancy focused on developing business between Colorado and China. Prior to that, he was the CFO of Gallagher & Associates, one of the largest museum design firms in the world. Both organizations worked as consultants for nonprofit and for-profit entities. Mr. Moraczewski published the book *Succeeding at Business in Southeast Asia: Common Mistakes Companies Make and How to Avoid Them*, and he was named the 2021 Distinguished Young Alumni of the Chaifetz School of Business at Saint Louis University. He received his B.S.B.A. from Saint Louis University and his Executive M.B.A. from Washington University in St. Louis.

Eric C. Peterson is Of Counsel with Spencer Fane LLP in St. Louis, Mo., where he represents companies in need of financial restructuring whether through bankruptcy, receivership or workout negotiations. He represents banks, investors, creditors and financial institutions in maximizing recoveries on unpaid debt. He is also trained as a mediator. Mr. Peterson's clients range from start-ups to Fortune 100 firms, and from community banks to large national lenders. He commonly represents creditors' committees and others in connection with large chapter 11 cases. He also acts as a court-appointed receiver for operating companies when necessary to preserve the value of ongoing operations. Mr. Peterson is a frequent speaker and writer on business restructuring, financial litigation, commercial receivership, bankruptcy and insolvency law. He authored the *Missouri Commercial Receivership Act Manual* and *Practitioner's Guidebook*, published by the Missouri Bar, and is an author of or contributor to books and articles published by the American Bar Association, ABI and others. Mr. Peterson presents several panel discussions annually, including in 2018 at the annual Missouri Judicial College. He is a founder and board president of the Commercial Receivers Association and served as the past chair of the Missouri Bar Bankruptcy Debtor and Creditor Rights Committee, where he also served as chair of the Subcommittee on Commercial Receivership. The subcommittee, comprised of a dozen attorneys from across Missouri, crafted the Missouri Commercial Receivership Act (MCRA), which was enacted as bar-sponsored legislation in 2016. The MCRA has also been used as a model by practitioners in other states seeking to refine and reform receivership statutes outside of Missouri. Mr. Peterson received his M.B.A. from Washington University in St. Louis and his J.D. from Boston University.