

BANKRUPTCY PROFESSIONAL:

SPOTLIGHT



James S. Carr

**Kelley Drye Warren LLP
Partner & Chair of the Bankruptcy
and Restructuring Practice Group**

Kelley Drye & Warren LLP's more than 165-year history is packed with domestic and global political appointments and action, Senate testimony, a long-standing relationship with Chrysler and much more: "The foundation of the Firm's first partners continues to shape Kelley Drye's commitment to excellence and its prominent role in the international legal community today."

In 1833 Kelley Drye's founding partners—Hiram Barney and William Mulligan—opened shop in New York. Among other noteworthy moments in the firm's history is Hiram Barney's designation as President Abraham Lincoln's "law agent in New York." According to Kelley Drye, Barney and his son William Allen Butler were "instrumental in Lincoln's election as U.S. President and in the selection of Lincoln's cabinet."

Also remarkable is the role of Butler, Barney and other firm partners in forming the Association of the Bar of the City of New York in 1875. Nicholas Kelley joined the firm, then known as Larkin, Rathbone & Perry, in 1921. Larkin, Rathbone & Perry coordinated a reorganization of Chrysler's predecessor Maxwell Motor Company and convinced Walter Chrysler "to abandon his hope of early retirement to revive the troubled company." Kelley negotiated a finance deal with Chase Securities for the production of a new car, which was developed by

Walter Chrysler. John Wilson Drye, Jr. joined the organization as a partner in 1930. The firm's connection with Chrysler continued, and Kelley represented Chrysler with its sale of New York's famous Chrysler Building.

Kelley Drye runs the full range of practice areas, and the firm's Bankruptcy and Restructuring Practice Group is chaired by James S. Carr—who is also a member of the Executive Committee. Among other accolades, Mr. Carr was recently selected as one of *The Best Lawyers in America* in the Bankruptcy and Creditor-Debtor Rights Law area by American Lawyer Media. James is also cited as one of the New York "Super Lawyers" and a leading bankruptcy attorney by *Chambers USA*. In addition, Mr. Carr was selected by the Minority Corporate Counsel Association as one of the top law firm minority rainmakers, featured in the publication *Diversity and the Bar* (Nov/Dec 2009). We spoke with Jim about his career, Kelley Drye's client relationships, the importance of community service and more.

BP: What led you to pursue a career in law and why did you choose Kelley Drye?

JC: I had an interest in public service and law seemed like the best career choice. I was also involved in student government in grammar school, high school and

college, and that guided me to pursue a career as a litigation attorney.

Having a desire for courtroom experience, I researched law firms in 1986 with good litigation reputations. Kelley Drye had and still has a tremendous reputation for litigation and representing clients in major lawsuits.

BP: Can you summarize your career at Kelley Drye?

When I joined Kelley Drye in 1988, after a one-year judicial clerkship, I started in the litigation department. One of my early assignments was to provide litigation assistance to a partner, who was supervising a debtor case called Chas. P. Young & Co. The debtor was rejecting a collective bargaining agreement and it was a hotly-contested litigation matter.

I didn't know anything about bankruptcy law at the time. Outside of bankruptcy court, litigations can last for numerous years. I soon learned that in bankruptcy courts, litigations generally last a period of three to six months. Bankruptcy judges do not have a lot of patience for time-consuming discovery processes, such as extended discovery disputes, voluminous document productions and numerous depositions. The fast pace of the litigation fascinated and interested me.

Thankfully, I did a good job on that project and was asked to handle more of the litigation work in the Chas. P. Young case. In 1989, Kelley Drye formed the bankruptcy department and I was asked to join the group. There were just five of us at that time.

As I started handling more bankruptcy work, I soon came to love the fast pace of bankruptcy cases, the negotiations that take place among the various parties, the need to use practical, common sense to resolve disputes and the need to understand how businesses operate and make a profit. I was thoroughly immersed and fully engaged in bankruptcy law, finding that it fit naturally with my disposition.

Especially now, in mentoring young attorneys, I look back at how people build their career paths. As a partner at Kelley Drye, I advise young people to contemplate what they want to do, where their skills lie and to establish goals. Even if you don't follow your plan exactly, it is important to have goals.

BP: What makes Kelley Drye unique?

JC: Kelley Drye has a great work environment and a tremendous amount of talented attorneys. While we understand this is a business, we never lose sight of the personal aspects of each individual. We value a good balance between an attorney's career and personal life. Moreover, Kelley Drye will always be a special place for me, considering I met my wife at the firm. She was a CPA in public accounting, who joined Kelley Drye to work in private accounting.

BP: How has the current economic situation impacted Kelley Drye?

JC: As with all major companies, the downturn has affected Kelley Drye. However, since the firm is historically litigation-based, we have stayed relatively strong in 2009. We've been able to utilize compatible legal practices to help other departments that may be slow remain busy. For example, we have 20 attorneys in the bankruptcy department, and we have been very busy serving a number of clients in numerous cases. To serve our clients, we use attorneys from the litigation, corporate, real estate and tax departments to help with the workload and to provide the full range of representation that is required in complex bankruptcy matters.

BP: Your corporate bio references your work as a mediator. How and why did you get involved in mediation and have you been successful as a mediator?

JC: I was always interested in developing business. I believed serving on the mediation panels in the Southern District of New York and in New Jersey would not only be an interesting experience but would also provide business opportunities and networking possibilities. I took the appropriate classes and was selected to be a mediator in both jurisdictions.

I've had a 100% success rate in my mediations, meaning all disputes have been resolved by the end of the mediation process. I'm prepared when both parties come to mediation, and I understand the weaknesses and strengths of each party's position. The key is to create a pragmatic solution that is acceptable to both parties. If both parties walk away unhappy, that generally means I did my job well.

BP: Do you see an increased role for mediation in the present economy and/or do you find these cases becoming tougher to mediate as liquidity tightens and tensions flare?

JC: Many courts are requiring mediation not only for litigation matters but also for any major issue in a case where parties are in disagreement. I have seen a rise in mediations over the last few years.

BP: In addition to developing business through professional activities like mediation, are there other principles you've followed that have resulted in your success as a rainmaker?

JC: I learned quickly how to make the client feel that his or her matter is my only case. All clients want the comfort that their concerns are being addressed properly and are my top priority. While clients generally respect my schedule, I am available 24/7. I've had conference calls over weekends, late at night and on vacations. Clients want responsiveness, creativity and a complete understanding of their business.

BP: On a related note, among your many recognitions over the years, *The Daily Deal* recently named you a "Top Bankruptcy Lawyer" as a result of your volume of retentions in the largest bankruptcy cases filed in 2008. How many cases did you work last year?

JC: A lot. Because we generally represent creditors, we are able to take on numerous clients in the same case unlike law firms that represent debtors, lenders or committees. I have excellent, dedicated colleagues in the bankruptcy department at Kelley Drye. We share a common goal of client service and providing quality legal services to our clients. Having such a talented group of attorneys allows me to develop additional business.

BP: Has your firm made any adjustments to its billing structure in response to the country's economic downturn?

JC: I'm proud of the fact that Kelley Drye has taken a lead role in exploring and accepting alternative fee arrangements. I've been very successful in attracting new business because I've always been flexible with billing arrangements—fixed fees, contingency fees or other arrangements. I'm competing with lawyers all over the country. We make sure we are cost-effective and deliver value to our clients. We are always open to discussing alternative fee arrangements.

BP: Since you have a national practice, how much time do you typically spend on the road?

JC: I used to travel a lot. Now that I'm running the bankruptcy department and helping to manage the firm as a member of the Executive Committee, I rely

more on the very talented lawyers in my group to travel for court appearances and for client meetings.

BP: What is your secret for balancing such a consuming career with the other aspects of your life?

JC: Having a wonderful wife, Danielle, who is the CEO of the Carr household. She handles a tremendous amount of work at home. She is amazing in her ability to multi-task and to take care of all of the activities (such as homework with our children), which are not always that enjoyable. I get to come home and handle the fun stuff. We have two very active boys—Ryan is 10 and Nicholas is 7. They are involved in everything you can imagine—chess club, football, baseball, soccer, wrestling and piano lessons. We have a lot going on at the Carr household. Danielle does a great job teaching them to be accountable and responsible and how to juggle all their activities.

BP: How do you fill your non-work hours?

JC: I try to stay active and physically fit. I also help coach Ryan's football and baseball club teams. It's amazing how competitive these games can get! I'm also involved in town and church events. But it's mostly about the family when I'm not at work.

BP: Even while enjoying your family, you're clearly committed to your work. I see that you're frequently quoted and featured in the media and recruited for speaking engagements on the full range of bankruptcy topics—including in the energy and retail industries. Do you have an industry "niche"?

JC: I first developed a national reputation for representing landlords in retail bankruptcy cases—mostly because people recognize the names of debtors; but I have a lot of experience dealing with derivative contracts in bankruptcy, and I do a lot of bankruptcy work in the energy, natural gas, chemical and oil industries. I enjoy working in various sectors.

BP: How do you think the future looks for the retail industry?

JC: This is going to be a slow holiday season. Retailers are going to suffer. There are going to be more retail bankruptcies in 2010. Discretionary income is going to continue decreasing. Moreover, retail is overdeveloped. Shopping centers are going to have a difficult time competing for new leases.

BP: Your work in bankruptcy reflects and affects many larger social issues, policy questions and

people's daily lives. Kelley Drye partner Adrian H. Joline was known for his outspoken views opposing government ownership—in his case of rail lines in the early 20th century. What's your take on government involvement in the Chrysler and GM proceedings?

JC: If you believe in capitalism and free economic systems, some companies have to fail. That's the nature of the capitalism. However, social and political issues also come into play with some of the major industries that impact vast sections of the population in our country and even globally. While the government should not get involved in business as a general rule, the government getting involved in limited exceptions when national and international issues are impacted is acceptable.

BP: We've covered a lot of ground including your professional and personal values. Kelley Drye's corporate Website references the firm's *pro bono* work and community service. Can you provide some insight into your commitment to public service and how it relates to professional success?

JC: I've continued to be very active in community service. With several of Kelley Drye's inner city scholarship and internship programs, I have the opportunity to work with minority students. I like to help them develop short and long-term goals. You can't have one without the other. I was born into a situation with a lot of social and economic disadvantages in Hell's Kitchen in New York, and I was lucky enough to escape. I see a lot of myself in the students whom I meet today.

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