Mediation in Large Chapter 11 Cases

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Special counsel Ben Feder authored the *American Bankruptcy Institute Committee Newsletter* article “Mediation in Large Chapter 11 Cases.” The article discusses the role mediation plays in large chapter 11 bankruptcies. Mediation has traditionally been viewed as a means for resolving discrete disputes between a debtor’s estate and an adversary party. However, in recent years, mediation has, in certain complex cases, evolved into a multiparty undertaking involving claimants from all levels of a debtor’s capital structure, with the ambitious goal of resolving the entire case through a consensual plan of reorganization. Its ultimate success in large and complex chapter 11 cases stems from facilitating parties’ goals rather than simply evaluating the merits of their positions. Ben uses the bankruptcy cases of ResCap, Cengage and Energy Future Holdings to demonstrate that the use of mediation in chapter 11 cases to achieve creative solutions is going to continue to grow.

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