



AMERICAN
BANKRUPTCY
INSTITUTE

2023 Annual Spring Meeting

The Many Roles of a Neutral in Bankruptcy

*Hosted by the Legislation
& Mediation Committees*

Edward L. Schnitzer, Moderator

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The Many Roles of a Neutral in Bankruptcy

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**American Bankruptcy Institute
Legislation and Mediation Committees
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April 2023**



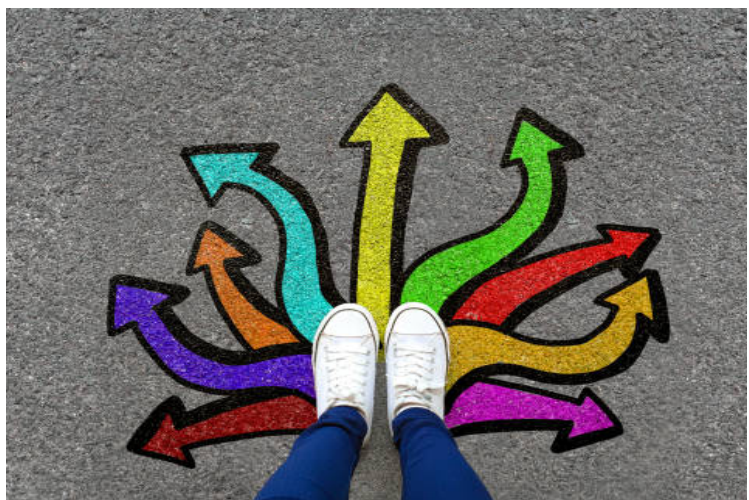
Overview

- **Different Roles of a Neutral in Bankruptcy**
 - Examiners
 - Experts
 - Mediators
- **Various Quasi-Neutral Roles in a Bankruptcy**
- **Bankruptcy Rule 9031**
- **Questions**



Different Roles of a Neutral in Bankruptcy

- **Examiner**
- **Expert**
- **Mediator**
- **Fee Examiner**
- **Subchapter V Trustee**





Examiners



Experts





Mediators



Various Quasi-Neutral Roles in Bankruptcy

- Future Claims Representative (FCR)
- Liquidating Trustee
- Plan Administrator
- Retiree Committee Representative





QUESTIONS?

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Supplemental materials for this panel are available at
<https://abi-materials.s3.amazonaws.com/2023/ASM2023/ManyRolesOfANeutralSuppMaterials.pdf>

Faculty

Kenneth R. Feinberg is a practitioner with Law Offices of Kenneth R. Feinberg, PC in Washington, D.C., and is one of the nation's leading experts in alternative dispute resolution. He is currently the court-appointed mediator in both the Imerys/Cyprus talc bankruptcy in Delaware, and the Honx asbestos bankruptcy in Texas. He also is the voluntary mediator in the Georgia Pacific/Bestwall bankruptcy in North Carolina. Mr. Feinberg was co-mediator in the successful Owens Illinois/Paddock asbestos bankruptcy proceeding in North Carolina. He recently served as the court-appointed mediator in both the successful Purdue and Mallinckrodt opioid bankruptcies in the Southern District of New York and Delaware. Mr. Feinberg previously served as Special Master of the 9/11 Victim Compensation Fund, the Department of Justice Victims of State-Sponsored Terrorism Fund, the Department of Justice Boeing 737 Max Crash Victim Beneficiaries Compensation Fund, the Department of the Treasury's TARP Executive Compensation Program and the Treasury's Private Multiemployer Pension Reform program. In 2010, he was appointed by the Obama Administration to oversee compensation of victims of the Deepwater Horizon oil rig explosion and BP oil spill in the Gulf of Mexico. He also served as administrator of the New York State Dioceses' Independent Reconciliation and Compensation Funds, the One Orlando Fund, the GM Ignition Switch Compensation Program, and One Fund Boston Compensation Program arising out of the Boston Marathon bombings. He previously served as the court-appointed Settlement Master in the Fiat/Chrysler Diesel Emissions class action settlement in San Francisco, and the GM ignition compensation claims resolution facility. Mr. Feinberg has been appointed mediator and arbitrator in thousands of complex disputes over the past 40 years. He received his B.A. cum laude in 1967 from the University of Massachusetts and his J.D. in 1970 from New York University School of Law, where he served as articles editor of its law review.

Hon. Barbara J. Houser is a retired U.S. Bankruptcy Judge for the Northern District of Texas in Dallas, now serving on recall status, and she is ABI's Immediate Past President. She previously was with Locke, Purnell, Boren, Laney & Neely in Dallas and became a shareholder there in 1985. In 1988, she joined Sheinfeld, Maley & Kay, P.C. as the shareholder-in-charge of the Dallas office and remained there until she was sworn in as a U.S. Bankruptcy Judge in 2000. While at Sheinfeld, Judge Houser led the firm's representation of clients in a variety of significant national chapter 11 cases. She lectures and publishes frequently, is a past chairman of the Dallas Bar Association's Committee on Bankruptcy and Corporate Reorganization, is a member of the Dallas, Texas and American Bar Associations, and is a Fellow of the Texas and American Bar Foundations. Judge Houser served as a contributing author to *Collier on Bankruptcy* for many years and taught creditors' rights as a visiting professor at the SMU Dedman School of Law. She was elected a Fellow of the American College of Bankruptcy in 1994, and in 1996, she was elected a conferee of the National Bankruptcy Conference. In 1998, the National Law Journal named Judge Houser as one of the 50 most influential women lawyers in America. After becoming a bankruptcy judge, she joined the National Conference of Bankruptcy Judges and served as its president from 2009-10. Judge Houser has received a variety of awards and honors since taking the bench, the Distinguished Alumni Award for Judicial Service from the SMU Dedman School of Law in February 2011, ABI's Judge William Norton Jr. Judicial Excellence Award in October 2014, and the Distinguished Service Award from the Alliance of Bankruptcy Inns of the American Inns of Court in October 2016. She also received the Distinguished Service Award from the American College of Bankruptcy in October 2021. Judge Houser has served the

judiciary in a number of capacities during her 21 years on the bench, including as a member of the Judicial Conference Committee on the Administration of the Bankruptcy System for seven years, as a member of the faculty that the Federal Judicial Center selected to teach new bankruptcy judges for many years, and as a member of the board of directors of the Federal Judicial Center, which is chaired by Chief Justice John Roberts. In June 2017, she was appointed to serve as the leader of a five-federal-judge mediation team tasked with settling all of the issues in dispute in connection with the historic insolvency filings by the Commonwealth of Puerto Rico and certain related instrumentalities under Title III of PROMESA. Judge Houser received her undergraduate degree with high distinction from the University of Nebraska and her J.D. from Southern Methodist University Law School, where she was editor of its law review.

Sylvia A. Mayer is the sole proprietor of S. Mayer Law PLLC in Houston and is an arbitrator, mediator and attorney with 30 years of legal experience in courts nationwide. As a member of the National Academy of Distinguished Neutrals and a TMCA Credentialed Advanced Mediator, she serves on several arbitration and mediation rosters for civil, commercial, consumer, employment and health care disputes. As an experienced neutral, Ms. Mayer has served as arbitrator and mediator for disputes involving a wide variety of issues spanning a breadth of industries, including avoidance actions, banking, bankruptcy, business divorces, business separations, civil litigation, collections, commercial leasing, commercial litigation, construction, consumer, contracts, corporate governance, corporations, credit, director and officer liability, distribution, employment, energy, exploration and production, fiduciary duties, finance, financial services, fraud, fraudulent transfers, health care, hospitality, insolvency, insurance, landlord-tenant, lender liability, limited liability companies, manufacturing, mechanics and vendors liens, natural gas, oil and gas, oilfield services, partnerships, pharmaceutical, personal injury, pipelines and transportation, preference actions, professional liability, real estate, retail, royalties, sales, secured transactions, securities, surety bonds, telecommunications, torts, transportation and wholesale. She is listed on the American Arbitration Association (AAA) Arbitrator and Mediator Rosters, National Academy of Distinguished Neutrals (Texas) (NADN) Arbitrator and Mediator Rosters, American Health Law Association (AHLA) Arbitrator and Mediator Rosters, International Institute for Conflict Prevention and Resolution (CPR) Panels of Distinguished Neutrals, Financial Industry Regulatory Authority (FINRA) Arbitrator Roster, New ERA ADR, Inc. Neutrals Roster, Court Call ODR Roster for Arbitrators and Mediators, Texas Department of Insurance (TDI) Balanced Billing Arbitrator and Mediator Rosters, Michigan Department of Insurance and Financial Services Balanced Billing Arbitrator Roster, Virginia Bureau of Insurance Balanced Billing Arbitrator Roster, Washington Office of the Insurance Commissioner Balanced Billing Arbitrator Roster, U.S. Bankruptcy Court, District of Delaware, Register of Mediators and Arbitrators, U.S. District Court, Southern District of Texas, Qualified Alternative Dispute Resolution Provider and Credentialed Advanced Mediator with Texas Mediator Credentialing Association (TMCA). Ms. Mayer is the founder and chair of the Houston Pro Bono Joint Initiative and sits on the State Bar of Texas ADR Council. In addition, she is a member of the ABI and the American Bar Association, ArbitralWomen, Association of Attorney Mediators, American Health Law Association, Association of Women Attorneys, Academy of Cami-Appointed Masters, Greater Houston Women's Chamber of Commerce, Houston Bar Association, National Association of Women Lawyers, State Bar of Texas, Texas Association of Mediators and the Texas Mediators Credentialing Association. Ms. Mayer received her B.A. in theater *cum laude* in 1987 from George Washington University and her J.D. *summa cum laude* from the University of Houston Law Center.

Edward L. Schnitzer is chair of Montgomery McCracken Walker & Rhoads LLP's Bankruptcy and Financial Restructuring Department in New York and serves as a member of the firm's Management Committee. He focuses his practice on bankruptcy and reorganization matters. Mr. Schnitzer has experience representing unsecured creditor committees, litigation & liquidation trustees, debtors, banks, equity committees and creditors in all aspects of bankruptcy practice, with particular focus on bankruptcy litigation, including the prosecution and defense of preferences, fraudulent transfers and other avoidance actions, claims objections, and collection and turnover actions. He is a court-approved mediator in the U.S. Bankruptcy Courts for the District of Delaware and the Southern and Eastern Districts of New York, and he has mediated disputes in the *Health Diagnostic*, *Standard Register*, *Borders* and *WP Steel* bankruptcy cases. He also is a member of the New York City Bar Association's *Pro Bono* Bankruptcy Panel, and has represented individuals in need of *pro bono* assistance in adversary proceedings. Upon graduation from law school, Mr. Schnitzer served as an Assistant District Attorney in the Bronx, where he briefed and argued appeals before the Appellate Division, New York Court of Appeals, Southern District of New York and Second Circuit, as well as tried several cases and assisted with the prosecution of a first-degree-murder trial. He then joined the Enforcement Division of the Securities & Exchange Commission, where he investigated violations of the Federal Securities Laws. Prior to joining Montgomery McCracken, Mr. Schnitzer served as chair of an international law firm's bankruptcy and financial restructuring practice group. He received his B.A. *cum laude* from the University of Pennsylvania and his J.D. from Columbia University School of Law, and he earned a Certificate of Completion for the Inaugural Bankruptcy Mediation Class from St. John's University School of Law and the Hugh L. Carey Center for Dispute Resolution.