

MVP: Davis Polk's Marshall Huebner

By Rick Archer

Law360 (September 12, 2022, 2:02 PM EDT) -- Marshall Huebner led the Davis Polk & Wardwell LLP team that guided Purdue Pharma to the confirmation of its Chapter 11 plan to settle \$40 trillion in mass tort litigation, and also represented a major LATAM Airlines shareholder in the Chilean air carrier's bankruptcy and a major creditor in car rental giant Hertz's bankruptcy, earning him a spot as one of Law360's 2022 Bankruptcy MVPs.

HIS BIGGEST ACCOMPLISHMENT IN THE PAST YEAR:

Huebner said his proudest moment and biggest accomplishment of the last year was the September 2021 approval of OxyContin maker Purdue Pharma's Chapter 11 plan after two years in bankruptcy.

The case had more than 120,000 voting creditors, including the federal government, state and local governments, and thousands of individuals, all claiming that Purdue's sale practices contributed to the U.S. opioid crisis and all "deeply and grievously invested in the case," Huebner said.

"It's pretty much universally acknowledged that Purdue is the most complex mass tort case ever to hit the bankruptcy system," he said.

Nevertheless, the final plan — which created a settlement pool to resolve more than \$40 trillion in opioid liability — won more than 95% of the creditor votes.

HIS BIGGEST CHALLENGE OF THE PAST YEAR:

He said the most difficult moment of the year came from the district court's "astonishing reversal" of the Purdue confirmation in December, on the grounds that the plan's liability releases for Purdue's former owners in the Sackler family were barred by the Bankruptcy Code.

Huebner led a mediation on behalf of the debtors that ended in a deal with the appealing state



governments. The case is currently before the Second Circuit, and Huebner said he hopes and expects the panel to reject the remaining arguments from the U.S. Trustee's Office.

"With all due respect, I think the district court is just flat wrong," he said.

WHY HE'S A BANKRUPTCY ATTORNEY:

He said that what attracts him to bankruptcy law is the "incredible diversity" of the practice.

"I will choose an incredible buffet over a sit-down dinner 100 times out of 100," Huebner said.

He said a restructuring attorney can expect to see entirely different cases with different types of companies every three to four years, as economic trends can force entire industries to seek restructuring.

"While there are of course commonalities, restructuring airlines is very different from restructuring financial service companies, which is in turn very different from assisting energy companies, steel companies or newspapers," he said.

And given a sufficient amount of time, clients can turn to you again, such as Delta Air Lines, he said. He led the team that represented Delta in its 2005 bankruptcy, and over the past year he found himself representing the company again, this time as one of the largest shareholders in bankrupt LATAM Airlines, Latin America's largest air carrier. Delta and other shareholders provided LATAM with post-petition financing, and the company emerged from bankruptcy in June.

HIS ADVICE TO JUNIOR ATTORNEYS:

Huebner advised early-career attorneys that it's impossible to reach your full potential unless you love what you do.

"It's not just the energy to do your job, it's also the ability to do your job the best way," he said.

OTHER CASES HE'S WORKED ON:

Another major win Huebner pointed to was the confirmation of Hertz Global Holdings' Chapter 11 plan in June 2021. Huebner was lead counsel for the administrative agent under Hertz's \$10.9 billion asset-backed vehicle financing structure, and his clients were facing a "heavily litigated situation" where Hertz was attempting to reject the portion of its master vehicle lease underpinning the debt.

"By the end our clients were paid off in cash, in full, with interest," he said.

He also co-led the team representing Mexican airline Grupo Aeromexico, which wrapped up its cross-border Chapter 11 case with the approval of a restructuring plan early this year.

WHAT MOTIVATES HIM:

He said his ultimate motivation comes from the thousands — and sometimes tens of thousands — of employees, pensioners, tort claimants and other individuals who depend on the continued existence of the bankrupt company or a fair resolution of the bankruptcy case.

"When you're up all night working on a deal, these are the people you're doing it for," he said.

— *As told to Rick Archer.*

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