



## **Q&A With Adams And Reese's Hank Shelton**

Law360, New York (March 27, 2013, 4:19 PM ET) -- Henry Shelton III is one of the founding partners of Adams and Reese LLP's Memphis, Tenn., office. Leading the firm's commercial restructuring and bankruptcy team, he focuses on business litigation and bankruptcy as well as workouts and reorganizations.

Shelton has successfully advised several businesses in company reorganizations with and without recourse to the courts, and has likewise represented creditors in bankruptcy and insolvency matters. He has written and taught on bankruptcy and commercial litigation matters and has assisted in the mentoring of new associates and lateral recruiting. He has been certified as a mediator by the United States District Court for the Western District of Tennessee and by the Tennessee Supreme Court and is a Life Member of the Sixth Circuit Judicial Conference.

### **Q: What is the most challenging case you have worked on and what made it challenging?**

A: Any debtor's case is challenging, because a Chapter 11 debtor by definition does not have the resources to deal with its liabilities and the debtor's attorney must invariably "make chicken salad out of chicken feathers." That said, a recent case in which we represented a very successful entrepreneur deal with both a substantial personal injury claim and the fall out of the recession, which presented a huge challenge. The debtor had a very complicated business organization composed of multiple layers of LLCs, corporations, limited partnerships and a large sole proprietorship, each with its own assets, secured creditors, unsecured creditors and tax claims, all of which required attention. In addition, his liability for the personal injury was undeniable and the damages were enormous. The case required years of contested hearings and heated negotiations among dozens of parties, as well as several adversary proceedings (that is, full blown lawsuits within the Bankruptcy Court). Ultimately, we managed to get a Chapter 11 plan confirmed by agreement and successfully concluded the case.

### **Q: What aspects of your practice area are in need of reform and why?**

A: We bankruptcy lawyers believe that our system is unique in providing a framework which encourages practical business solutions to insolvency problems, and that as specialists in this somewhat arcane area we have the tools and the ability to do that. The challenges come when a well-meaning Congress tinkers with the Bankruptcy Code in a way that works at cross purposes with the central goal of Chapter 11: to economically reorganize those businesses which can be profitable and to efficiently and inexpensively liquidate those which cannot. I believe that areas for reform include venue, as way too many large business cases are filed in Delaware and New York, which eliminates the

possibility of the small businesses who extended credit to companies they thought were in their home town from participating in a case which will impact their viability, to eliminating of the special interest exceptions to general rules written into the most recent Bankruptcy Code amendments.

**Q: What is an important issue or case relevant to your practice area and why?**

A: The most recent important bankruptcy case would be *Stern v. Marshall*, the somewhat lurid case arising out of the famous marriage of the starlet Anna Nicole Smith to a much-older billionaire. In that case the Supreme Court addressed some very serious issues of Federal, and specifically bankruptcy court, jurisdiction. Stern has to yet play out because the issues it discusses are hugely important to the bankruptcy court system and probably only to be resolved by serious political work.

**Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.**

A: Most cities are blessed with fine Chapter 11 bankruptcy lawyers and mine is no exception in Memphis. John Ryder (Harris Shelton Hanover Walsh, PLLC), Frank Childress (Baker Donelson), Michael Coury (Butler Snow) and David Blaylock (Glankler Brown) are all excellent lawyers, thoughtful practitioners, and very practical. Craig Geno (Law Offices of Craig M. Geno, LLC) in Mississippi is a fine debtor's lawyer. Outside of my firm's area I would cite Gil Backenroth (Hahn & Hessen) in New York City as an unusually sensitive, able and seasoned bankruptcy lawyer.

**Q: What is a mistake you made early in your career and what did you learn from it?**

A: I failed to understand the absolute imperative of a trial lawyer's world: always, always, read and re read the rules of the court you're in. My failure to do so as a young lawyer caused me some personal embarrassment, but also taught me that valuable lesson. I remain amazed to this day how many lawyers, especially young ones, ignore this very fundamental requirement. The rules are there to make the system work, whether the system is procedure, evidence, appeals or bankruptcy. One ignores them at one's own peril.