

Most Admired Attys: Latham's Jan Baker

By **Ben James**

Law360, New York (August 30, 2010) -- Latham & Watkins LLP's Jan Baker is adept at forging consensus in contentious restructurings, and his ability to balance zealous advocacy with professionalism has earned the respect of his peers. The pragmatic style that helps him get results for clients also lands him on Law360's list of the 10 Most Admired Bankruptcy Attorneys.

New York-based D.J. "Jan" Baker, global co-chair of Latham & Watkins' insolvency practice, has been a bankruptcy attorney for more than three decades.



Jan Baker, Esq.

Baker has represented numerous companies in restructurings both in and out of court, including American Pad and Paper Co., Spectrum Brands Inc., Winn-Dixie Stores Inc., Circle K Co., Owens Corning, RCN Corp., Sterling Chemicals Inc. and The Stroh Brewery Co.

In May 2009, Baker joined Latham & Watkins from Skadden Arps Slate Meagher & Flom LLP, where he had been since February 2000. Baker, who is originally from Houston, has also worked for Weil Gotshal & Manges LLP and began his career at Fulbright & Jaworski LLP.

Baker's path to bankruptcy law was no straight line. After graduating from Harvard, he joined a program called "Project Tanzania" and spent a year working in a refugee camp in East Africa. He spent a couple of years working as a social worker before realizing that what he really wanted to do was go to law school, Baker said.

Baker compared being a restructuring lawyer to being an emergency room doctor. When an ailing patient — or a distressed company — pulls through and prevails over their problems, that's a meaningful accomplishment, Baker said.

An attorney who helps a troubled company stay afloat and save jobs gets to see a direct and tangible correlation between his efforts and their results, he added.

"At the end of the day, we all want to feel like we've done something that's useful, that helps society. While I don't want to get carried away by the rhetoric or sentiment here, I've been lucky enough to end up in a part of the law where you really get to feel that you are making a difference," Baker said.

Baker noted that he represents EBG Holdings LLC, which sought Chapter 11 protection in New York this month. EBG Holdings subsidiary and fellow debtor Boston Generating LLC provides half the power for the Boston area, Baker said.

"What could give you a greater feeling than keeping the lights on in Boston?" Baker said.

Baker pointed to his work representing Spectrum Brands Inc. as an example of a particularly gratifying engagement.

Spectrum Brands, which makes Remington razors and Rayovac batteries, filed for bankruptcy in February 2009, listing assets of \$10 billion and liabilities of \$4.4 billion, including 2.6 billion in outstanding loans. The company exited bankruptcy in August 2009 having cut \$840 million in debt.

The Spectrum Brands case saw heated litigation involving the debtor and a group of term lenders over a \$1 billion loan. Spectrum Brands wanted to reinstate the loan, which would mean paying the loan off under its original terms and conditions as if the company hadn't gone bankrupt.

However, the loan had been put together just before the 2008 credit crunch, and thus had very attractive interest rates and covenants, Baker said, adding that the lenders wanted to reprice the loan to reflect the post-credit crunch environment, which would have made it more expensive.

Both sides squared off before the bankruptcy court. Even as the legal battle raged, the two sides kept open lines of communication, Baker noted.

On the fourth or fifth day of trial, Baker and Wachtel Lipton Rosen & Katz's Richard Mason stepped into the hallway together. They hammered out the terms of a settlement, and were able to announce to the court that day that the parties had resolved their dispute.

Spectrum did not get to reinstate the loan exactly as it was written, and the lenders did not get to do everything they wanted with respect to repricing, according to Baker.

"It wasn't so big a change that the company couldn't live with it, and it was a big enough change so that the lenders could accept it," Baker said. "Neither side got everything they wanted."

Mason recalled meeting with Baker in a hotel bar and lobby, as well as the courthouse hallway, in attempts to bring the litigation to an end.

"He's a terrific lawyer, a tough adversary and a great gentleman," Mason said of Baker. "The combination of those three makes him well-suited to bring people together to try to forge a solution, which is what he was very helpful in doing in Spectrum."

Baker also cited his work, this time on behalf of a group of lenders led by Citigroup Global Markets Inc. and Goldman Sachs Credit Partners LP, in a bitter battle over exit financing for then-bankrupt Solutia Inc., as a matter he was particularly proud of.

In that case, Baker helped hammer out a settlement pact that cleared the way for Solutia to end its sojourn through Chapter 11, enabling the company to get an exit financing package worth \$2 billion.

The lenders initially agreed to provide exit funding for Solutia but pulled back following upheaval in the credit markets, and Solutia in turn sued them for specific performance, Baker explained.

Both the Spectrum Brands and Solutia disputes were cases that saw bitter, protracted litigation but consensual resolutions widely viewed as being fair to both sides, Baker said.

Baker's fellow members of the bar touted his proficiency to facilitate agreements against the backdrop of what can be bitter and emotional restructuring efforts.

Natasha Labovitz, a restructuring partner at Kirkland & Ellis LLP, said Baker's work on the Circle K case inspired her to become a bankruptcy lawyer.

Baker is a terrific listener, she said, and not only takes time to understand a given party's position, but takes those viewpoints and conveys them to other constituents in the restructuring to facilitate a dialogue.

Restructurings can involve an abundance of blame and finger-pointing, but the best debtor lawyers, including Baker, can refocus the debate on how the parties can take the smallest losses possible, and make the various factions feel like they are working together toward a common goal, Labovitz said.

"He's the guy you really want to have involved in your case," Labovitz said of Baker.

Jay Goffman was one of Baker's fellow partners at Skadden. Goffman is currently the co-head of Skadden's global corporate restructuring group.

Baker was among the most successful and sought-after restructuring partners at Skadden, according to Goffman. While some lawyers feel that properly representing a client means yelling and pounding on the table, Baker proves that the opposite is true, Goffman added.

"More than anything else, Jan is well known for his integrity and his unique ability to create peace out of chaos," Goffman said. "There is no one in our profession who garners more respect than Jan, and he has taught many of us — by example — that it is possible to be a strong and zealous advocate and a gentleman and a person of integrity at the same time."

Baker said litigation was a very inefficient way of solving problems, though it can be unavoidable. Negotiating takes patience, and sometimes giving up and filing a suit can be the easier, and more gratifying, path, but that may not be in a client's best interest, Baker said.

"At the end of the day, most people want a solution that works. If you just try and understand what the other side needs in order to be able to go forward, and see how you can accommodate them, it's possible a lot of the time, to get to a settlement that everyone can live with," Baker said.

However, your adversaries need to know that while you're willing to settle on fair terms, you are also absolutely prepared for litigation if it becomes necessary, Baker warned. Even when settlement discussions are ongoing, it's important to have attorneys preparing for a courtroom battle.

Latham & Watkins is currently involved in a matter in which the firm has one team of lawyers working around the clock to try to reach an accord on a consensual, out-of-court restructuring, Baker said.

Simultaneously, the firm also has another team of attorneys preparing for the "worst case scenario," a Chapter 11 filing, and ensuing litigation.

Methodology: From May 25 through June 11, Law360 invited readers to nominate attorneys they admire to be profiled for the "Most Admired" series. Readers were asked: "Is there an attorney you've argued against in court who you respect — or whose briefs you fear? What about a lawyer whose views on the latest hot-button issues you eagerly seek out? Or a former classmate who is practicing the law in novel ways?" Survey participants were not permitted to nominate attorneys from their own firms and submissions from public relations and marketing professionals were not considered.

Separately, Law360 sought out nominations from practice group heads at the 100 largest law firms in the United States. In total, 1,016 nominations were received.

Nominations were reviewed by a board comprising experienced lawyers and Law360 editorial staff. Sixty-five attorneys covering seven practice areas of the law were then selected to be profiled for the "Most Admired" series.

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