

MVP: Davis Polk's Damian Schaible

By Keith Goldberg

Law360 (September 7, 2021, 3:40 PM EDT) -- Davis Polk & Wardwell LLP partner Damian Schaible's work guiding creditor groups through a fresh wave of energy company bankruptcies, including the case of natural gas giant Chesapeake Energy Corp., has earned him a spot on Law360's 2021 list of Energy MVPs.

HIS BIGGEST CHALLENGE THIS PAST YEAR:

Schaible's representation of a group of secured lenders in the bankruptcy of Chesapeake — the second-largest natural gas producer in the U.S. — was an arduous process that began with Chesapeake informing Schaible's clients in April 2020 that it intended to file for bankruptcy to avoid their liens.

That led to an intense two months of negotiations to produce a restructuring support agreement in advance of Chesapeake filing for Chapter 11 in June 2020.

"It was a very challenging period for a couple of months while we were negotiating with a proverbial gun to our heads, from the company's perspective," Schaible said.

He helped broker the deal knowing it was going to be challenged by unsecured creditors once Chesapeake filed for bankruptcy, so every possible legal pothole had to be filled. The 13-day valuation trial conducted in a Texas bankruptcy court was the longest one Schaible had ever been part of, but a judge confirmed Chesapeake's reorganization plan in January.

"We really had to be very careful that the deal that we were cutting was fair and equitable to all parties and the deal we were cutting worked under every technical aspect of the Bankruptcy Code," Schaible said. "That was a challenge I don't see in every case."

OTHER NOTABLE CASES HE'S WORKED ON:

Schaible has worked on a slew of other energy company bankruptcies over the past year, including coal giant Murray Energy Corp., oil and gas driller California Resources Corp. and oil field services company Superior Energy Services Inc.

But he said one of his most complicated recent cases was that of Gulf of Mexico driller Fieldwood Energy



LLC. A bankruptcy judge in June said he would approve the company's plan to create multiple entities, including one that would own operating drilling assets and another that would own legacy offshore drilling assets Fieldwood previously bought from Apache Corp., several of which are slated to be abandoned and will require decommissioning.

"We were building a new company," Schaible said. "But we were also dealing with complicated regulatory scheme that involved multiparty negotiations with the federal government and predecessors, and needed to come up with something that would work, but would also permit the company to survive while ensuring all the environmental liabilities would be addressed."

HIS PROUDEST ACHIEVEMENT:

Instead of pinpointing one specific case or moment, Schaible said he's most proud of being able to "survive" a year of working on multiple bankruptcies simultaneously as the energy industry was hammered by a historic oil price slump exacerbated by the COVID-19 pandemic.

"There was an unheard amount of distress across the energy space," he said.

And unlike the previous oil and gas bankruptcy wave of 2016-17, investors are shying away to from restructured companies that retain a lot of debt on their books, which means a lot of capital and equity has to be raised instead to get a reorganization to the finish line, Schaible said.

"A lot of investors that were burned once or burned twice said, 'We're not willing to play again,'" he said. "Now it's very much a coalition of the willing in these deals."

HIS ADVICE TO YOUNGER ATTORNEYS:

Schaible said the biggest lesson younger bankruptcy attorneys can learn when they start dipping their toes into energy is that it's an industry composed of different yet interrelated sectors.

"In order to represent either the creditors of the companies or the companies themselves, you need to understand the industry and understand the business," he said. "Each operates very differently, so their restructuring needs to look very differently. You can't just assume it's a one-size-fits-all world."

Schaible also said his experience working through the COVID-19 pandemic — a workload he hopes never to repeat — also produced broader advice he gives to junior attorneys: It's OK to let your personal and professional lives overlap a bit.

"Seek to work with people with you like, and work for people you like," he said. "Find ways to work your passions into what you do."

— *As told to Keith Goldberg*

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2021 MVP winners after reviewing nearly 900 submissions.