



EMORY
LAW

Emory Bankruptcy Developments Journal

Volume 37
Issue 1 *A Tribute to Jay Alix*

2020

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Recommended Citation

Steven W. Rhodes, *Presentation of Award to Jay Alix*, 37 EMORY BANKR. DEV. J. iii (2020).
Available at: <https://scholarlycommons.law.emory.edu/ebdj/vol37/iss1/2>

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PRESENTATION OF AWARD TO JAY ALIX

*Steven W. Rhodes**

The word “superhero” is overused in our culture. I know that because my young grandsons, Isaac and Adam, use it all the time and because it was probably the first multisyllabic word that they uttered. So, I won’t use it. But I will say this: Jay Alix is my hero. And Jay Alix is your hero. Here’s why:

In the late fall of 2015, I was still in the process of trying to retire after nearly 30 years on the bench. I had formally retired from the bench a year earlier, but a series of interesting short-term civic projects had stalled my plans for that carefree retired life. I was sitting in my home office one day when my cellphone rang. It was Jay. I had no idea then that what he was calling about would still be stalling my retirement plans now, four years later, or that it would perhaps even stall my retirement plans indefinitely. We had not seen each other in several years, so we spent some time catching up. And then I got this question. “Had I ever heard of the consulting firm McKinsey?”

“No,” I said, feeling embarrassed that perhaps I should have heard of it. Next thing I knew, he sent me a package of McKinsey disclosure declarations under Rule 2014 that it had submitted in several bankruptcy cases. I had agreed to look at them and to give Jay my thoughts about whether they had complied with Rule 2014. It was clear enough that he had a view on that question, but he was careful not to articulate his view. He did not want to create any risk of biasing me. He wanted an independent, unbiased view.

I had been looking at these types of disclosure declarations for years in my chapter 11 cases, so I knew what Rule 2014 required and what to expect. And McKinsey’s declarations certainly looked the part. They had all the right sections that I had been accustomed to seeing. They described how great McKinsey was, what it would do in the case, and their fees. And it proclaimed their disinterestedness.

But it did not take long to see that there was something very wrong about them. None of McKinsey’s disclosure declarations identified a single client connection. Let me repeat that. None of McKinsey’s disclosure declarations identified a single client connection.

* The Honorable Steven Rhodes is a graduate of Purdue University and University of Michigan Law School. Judge Rhodes served as a bankruptcy judge for the United States Court for the Eastern District of Michigan from 1985 to 2015 and served on the Bankruptcy Appellate Panel for the Sixth Circuit from 1997 to 2004 and again from 2008 to 2011.

Instead, McKinsey would simply identify the number of client connections that it had in each category of interested party. Ten in this category; five in that category. But no names.

I was incredulous, and frankly, alarmed. McKinsey's declarations plainly did not comply with Rule 2014. That rule required McKinsey's declarations to set forth its connections with interested parties, and McKinsey's declarations did not do that. They just did not do that. Yet they were approved for employment in every case, without objection. How had that happened?

And that's how our journey together began in trying to persuade, cajole, compel and coerce McKinsey to comply with Rule 2014. I learned that Jay's journey had actually started a year and a half earlier, in August of 2014, when he sought out and then began a series of meetings with McKinsey's managing partner, Dominic Barton.¹

And we are still on that journey here five and a half years later, because McKinsey still doesn't get it. It still does not get that the full disclosure of all connections by all professionals is crucial to what may be our bankruptcy courts' single most important responsibility—the responsibility to root out conflicts of interest and to maintain the integrity of their chapter 11 processes. Every other professional gets it. Everyone else complies the best they can. But not McKinsey.

And little did we know when we began this journey what a threat to the integrity of the bankruptcy courts in this country McKinsey had perpetrated when it intentionally concealed all of its clients in all of those cases. And what frauds on the courts! In case after case. In every case, McKinsey's conduct shocks the conscience of everyone who cares about our bankruptcy system and who understands the crucial role that it plays in this country.

It is unfathomable to me the damage McKinsey could have caused, had your honoree, Jay Alix, had not seen McKinsey's illegal conduct and had not acted with commitment to stop it. That is why Jay is a true hero. He took on McKinsey. He took on McKinsey with his conscience, with his intellect, with his treasure, with his relentlessness and, most importantly, with his deep personal commitment to the fairness and integrity of our bankruptcy process.

¹ See Michelle Celarier, *The Man Who Would Take Down McKinsey*, INSTITUTIONAL INVESTOR (Mar. 18, 2019), <https://www.institutionalinvestor.com/article/b1dldlnb6wvx7f/The-Man-Who-Would-Take-Down-McKinsey> (documenting the meetings between Mr. Jay Alix and Mr. Dominic Barton, then Managing Partner of McKinsey & Company).

Jay grew up in the bankruptcy business professionally. With unsurpassed vision and resourcefulness, Jay grew AlixPartners from his own one-man shop in 1981 to the bankruptcy and turnaround consulting powerhouse that it is today. He knows what McKinsey denies—that it is crucially important to this country to maintain a fair bankruptcy process.

Upon his retirement from AlixPartners about fifteen years ago, Jay committed himself to do good, to do one major pro bono project after another, including now his deep involvement in consulting with and supporting the Mayo Clinic.

Unfortunately, McKinsey still does not comply with Rule 2014, and with increasing arrogance. But fortunately, we have Jay. We have Jay to fight McKinsey and what it stands for, to fight ferociously for his values and for the values that our Bankruptcy Code represents.

Jay is my hero. And to the students here, whose careers in the bankruptcy practice are about to start, he is your hero too.

I am proud and honored to present the *Emory Bankruptcy Developments Journal's* 2020 Distinguished Service Award for Lifetime Achievement to our hero, Jay Alix.