

AIRA's 30th Annual Bankruptcy & Restructuring Conference

Restructuring Outlook

June 5, 2014



Table of Contents

| | | |
|------|---|----|
| I. | Summary | 3 |
| II. | Number of Large & Very Large Case Filings | 5 |
| III. | Average Case Length | 8 |
| IV. | Pre-packaged/Pre-negotiated Filings | 13 |
| V. | Miscellaneous | 16 |

I. Summary



Trends in Large & Very Large Chapter 11 Cases Summary

Restructuring Market Overview

The analysis herein compiled and compared Large (>\$100mm) and Very Large (>\$250mm) Chapter 11 case counts and characteristics from two discrete periods of U.S. cyclical expansion, 2005-2008 and 2010-2013. (2009 was omitted as an outlier year.)

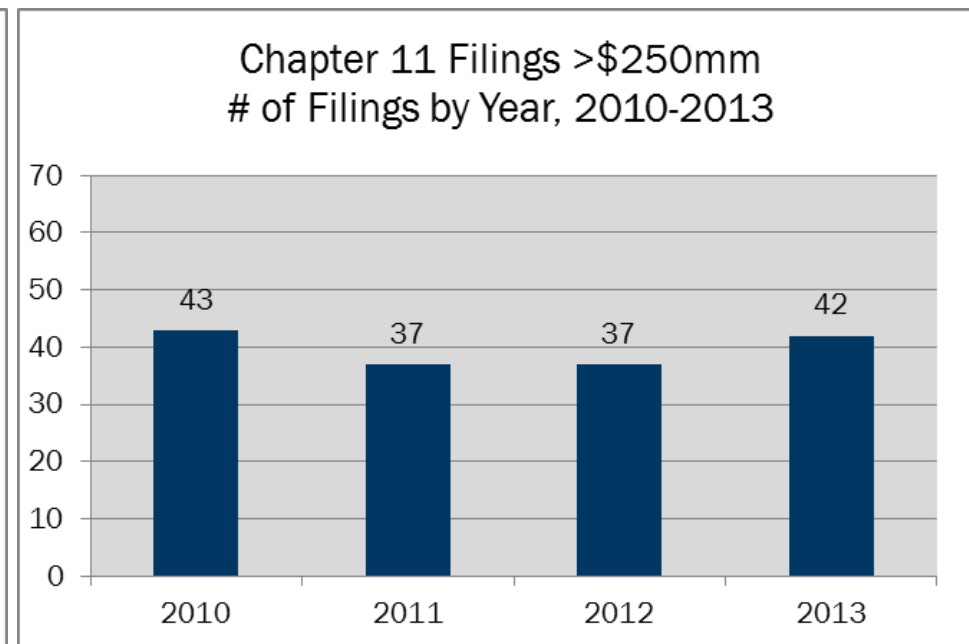
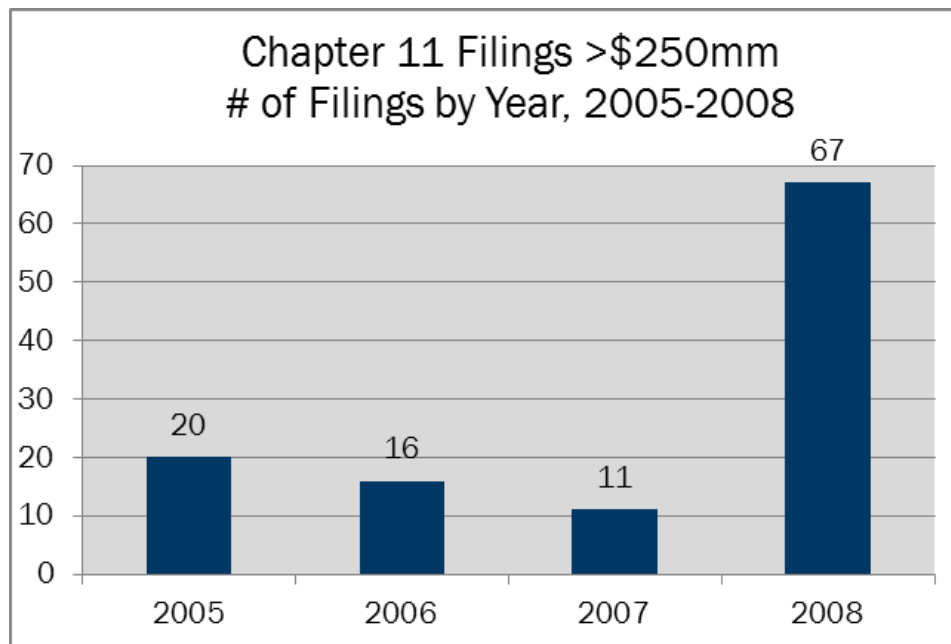
- The number of formal corporate restructurings and rated debt defaults has waned considerably since 2011 and is now at or near a cyclical low in this economic recovery phase.
- Surprisingly, there were considerably more large Chapter 11 cases filed in the most recent four-year period despite a very robust recovery for U.S. corporate earnings.
- However, Chapter 11 case durations were much shorter in the most recent four-year period—nearly 50% shorter—largely due to a greater proportion of pre-packaged/pre-arranged/pre-negotiated restructurings (“Pre-Cases”).
- Aside from Pre-Cases, Chapter 11 case durations also contracted notably for traditional reorganizations.
- No significant differences in average size of filers or distribution by industry sector between the two periods.

II. Number of Large & Very Large Case Filings

Trends in Chapter 11 Cases

Many More **Very Large** Filings Since 2010 Compared to the Pre-Recession Period

- At the peak of the recession in 2009 (not shown below) there were 123 Chapter 11 filings of Very Large Cases in which the debtor engaged a financial advisor, an unprecedented year for such filings.
- 2008 also saw a high number of Very Large Cases, many coming in the months immediately following the onset of the global financial crisis in September 2008.
- There were 159 Very Large Cases filed in 2010-2013 compared to 114 filed in 2005-2008.
- *Setting aside the recession-impacted years of 2008-2010, there were considerably more Very Large Chapter 11 filings in 2011-2013 than there were in 2005-2007, with 116 Very Large Cases filed from 2011-2013 compared to 47 from 2005-2007.*

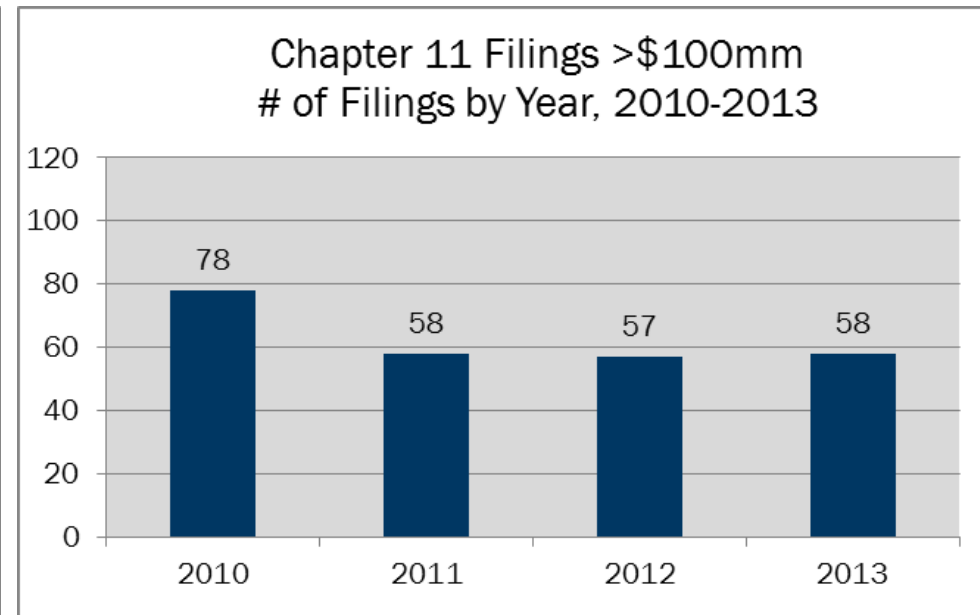
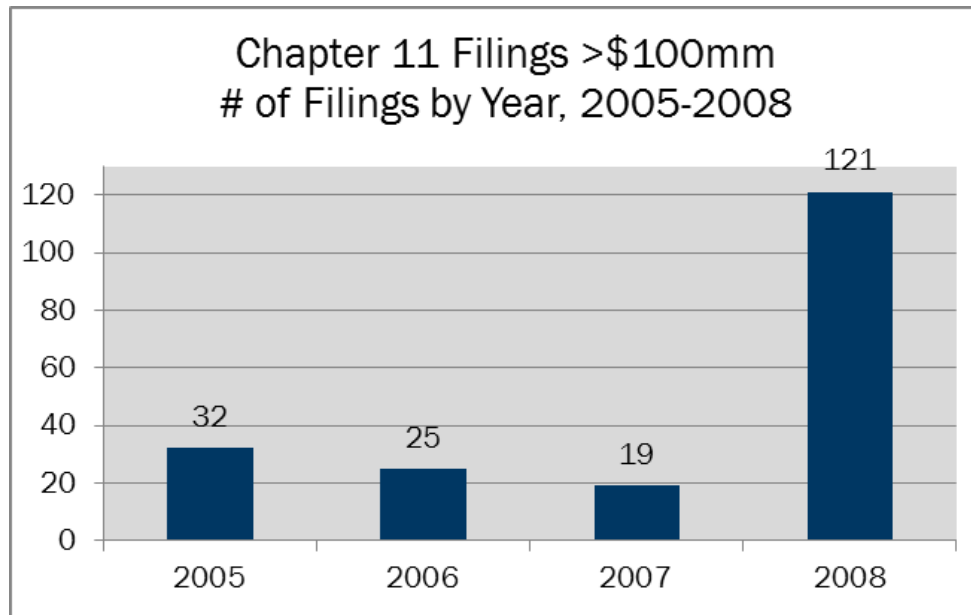


Source: S&P's Capital IQ

Trends in Chapter 11 Cases

Many More Large & Very Large Filings Since 2010 Compared to the Pre-Recession Period

- At the peak of the recession in 2009 (not shown below) there were 173 Large & Very Large Cases filed in which the debtor engaged a financial advisor, an unprecedented year for such filings.
- 2008 also saw a high number of Large & Very Large Chapter 11 filings, many coming in the months immediately following the onset of the global financial crisis in September 2008.
- There were 251 Large & Very Large Cases in 2010-2013 compared to 197 filed in 2005-2008.
- *Setting aside the recession-impacted years of 2008-2010, there were considerably more Large & Very Large Chapter 11 filings in 2011-2013 than there were in 2005-2007, with 173 Large & Very Large Cases filed in 2011-2013 compared to 76 in 2005-2007.*



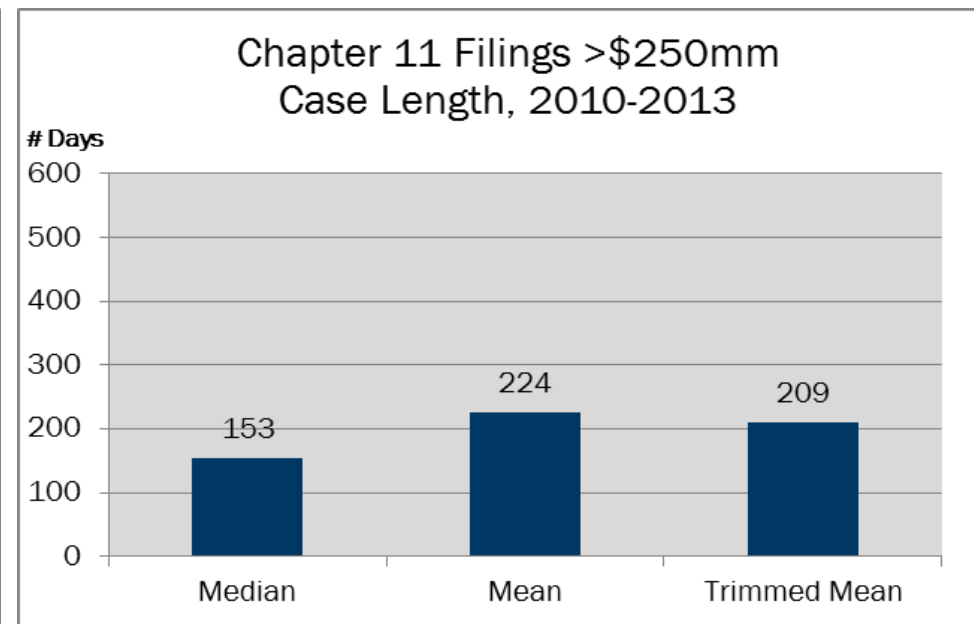
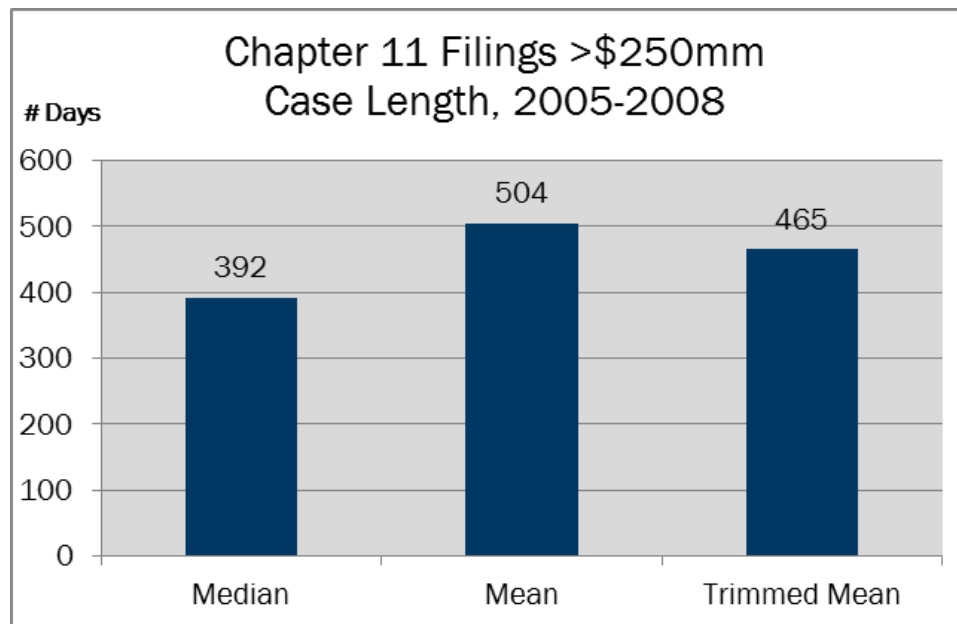
Source: S&P's Capital IQ

III. Average Case Length

Trends in Chapter 11 Cases

Average Case Length of Very Large Cases Has Shortened Considerably in Recent Years

- Typical case lengths of Very Large Chapter 11 filings over the past four years decreased by approximately 50% compared to the period 2005-2008, according to data from Capital IQ.
- The case length statistics shown below change immaterially if we omit case filings from 2008 and 2010.
- A comparable query in *The Deal* produced similar results with respect to case duration trends.

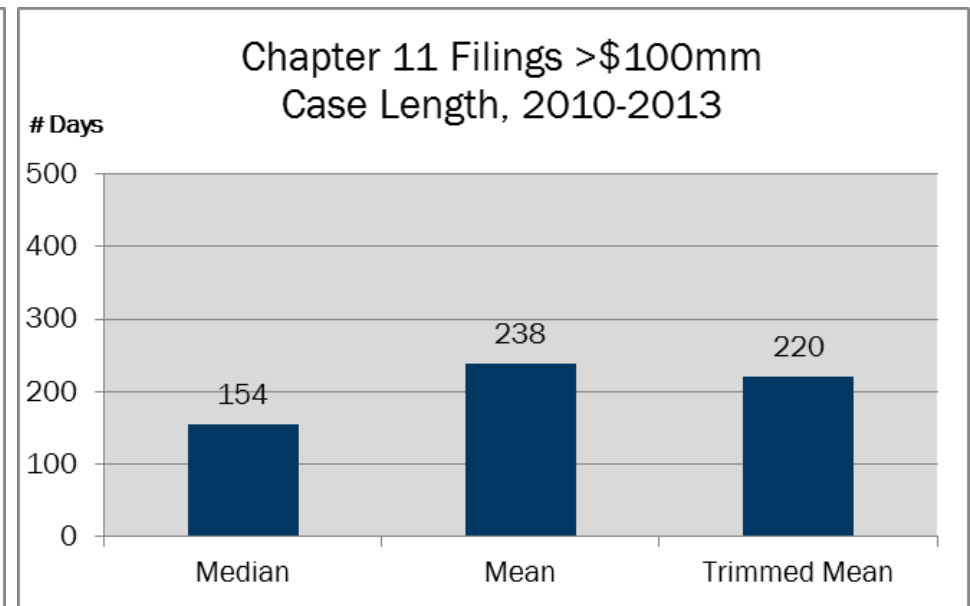
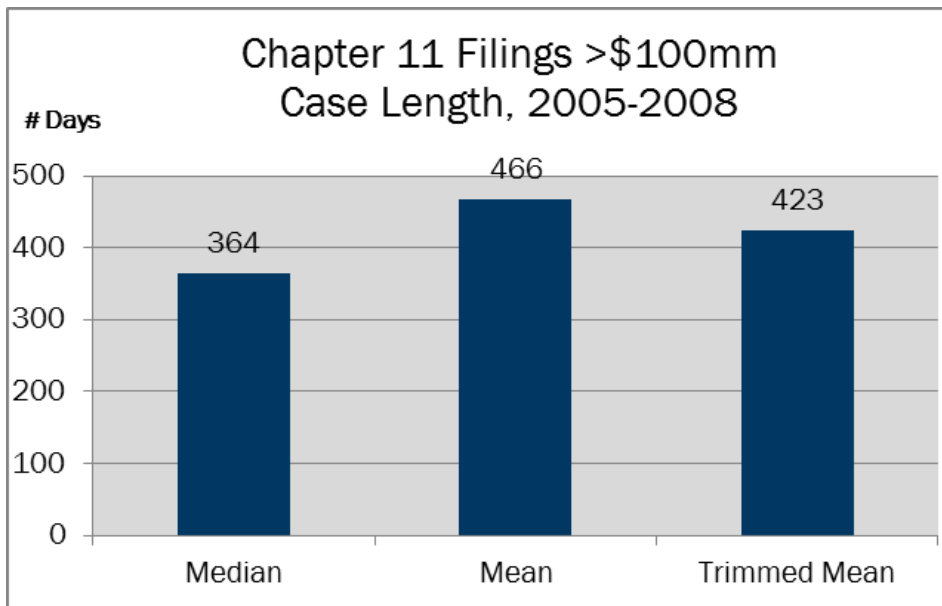


Source: S&P's Capital IQ

Trends in Chapter 11 Cases

Average Case Length of Large & Very Large Cases Has Shortened Considerably in Recent Years

- Typical case lengths of Large & Very Large Chapter 11 filings over the past four years decreased by approximately 50% compared to the period 2005-2008.
- Again, the case length statistics shown below for Large & Very Large Cases change immaterially if we omit case filings from 2008 and 2010.

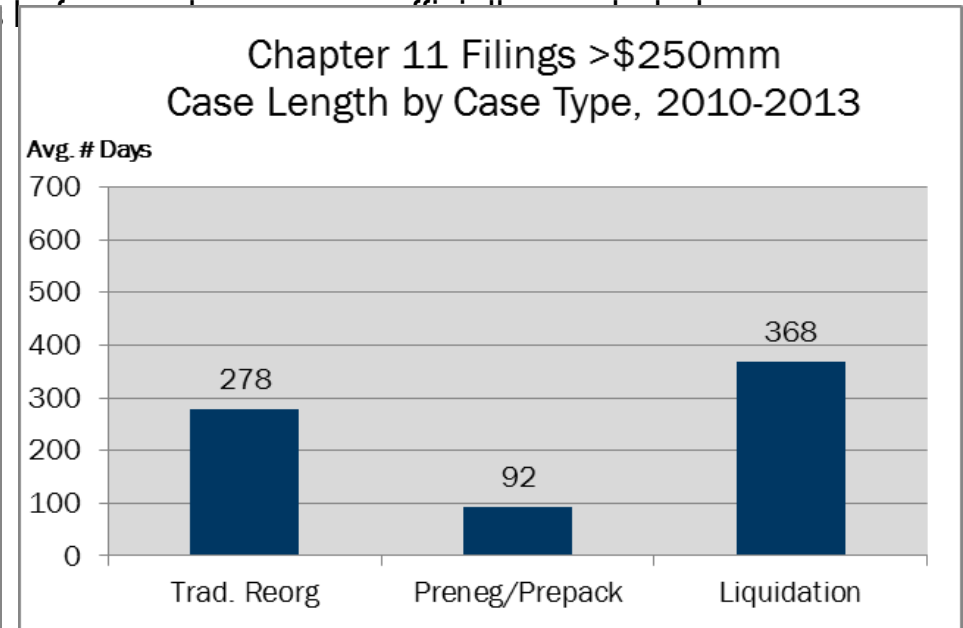
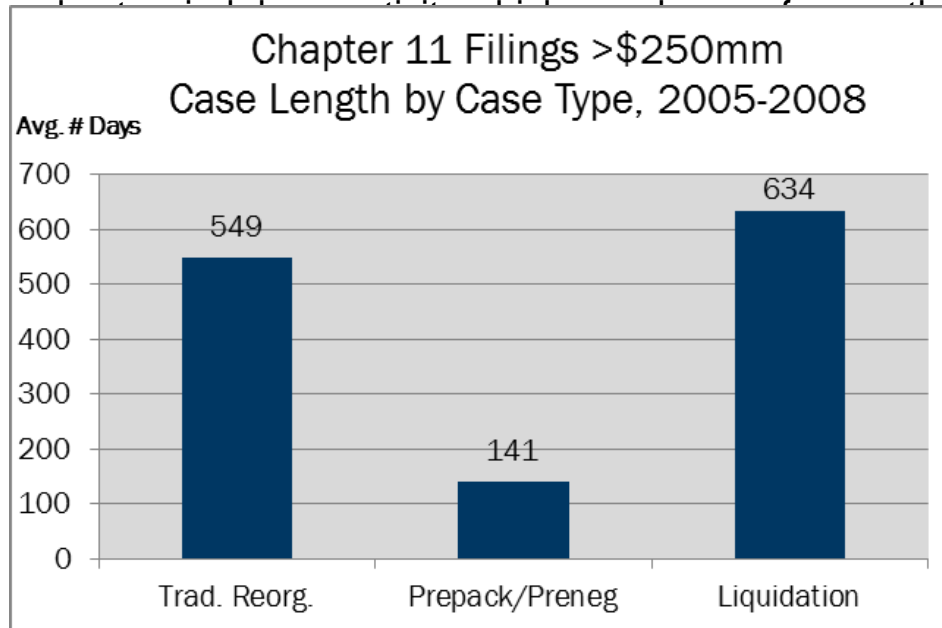


Source: S&P's Capital IQ

Trends in Chapter 11 Cases

Average Case Lengths Have Shortened for All Types of Very Large Cases

- The primary reason average case lengths have contracted is the relative composition of case types in recent years.
- Moreover, the average case length for each case type has contracted notably in 2010-2013 compared to 2005-2008.
- Case lengths for liquidation cases are somewhat misleading because these cases frequently have “long tails”

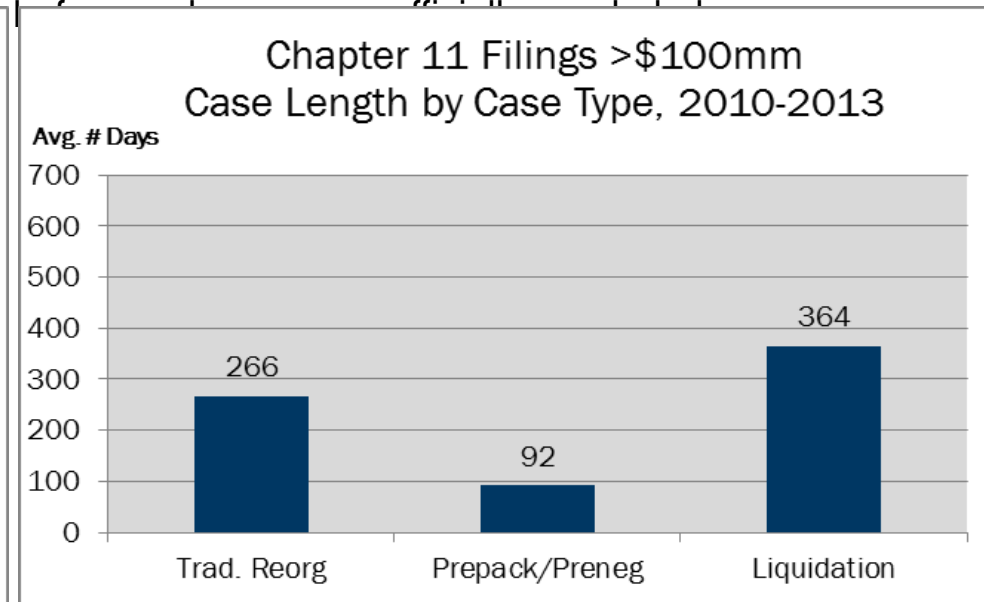
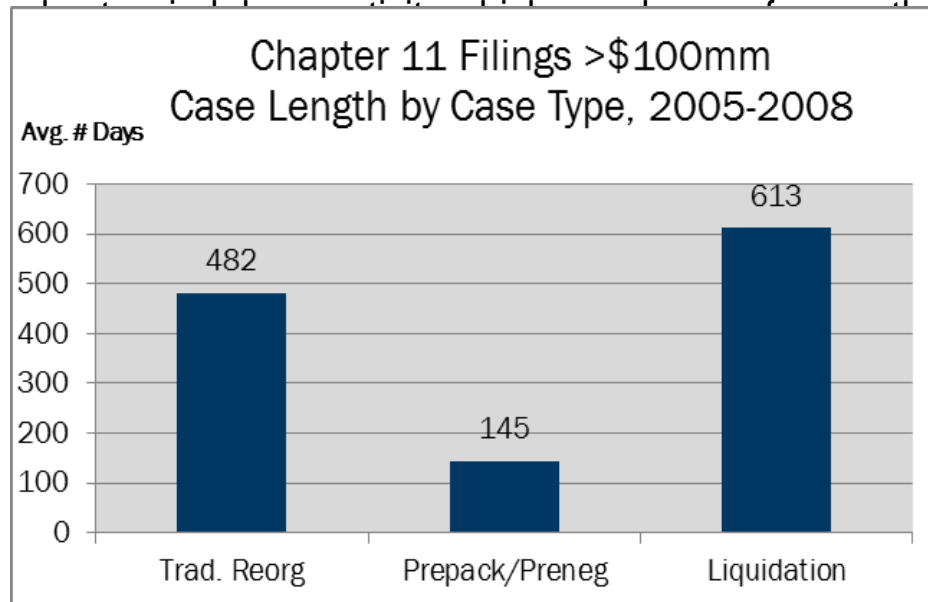


Source: S&P's Capital IQ

Trends in Chapter 11 Cases

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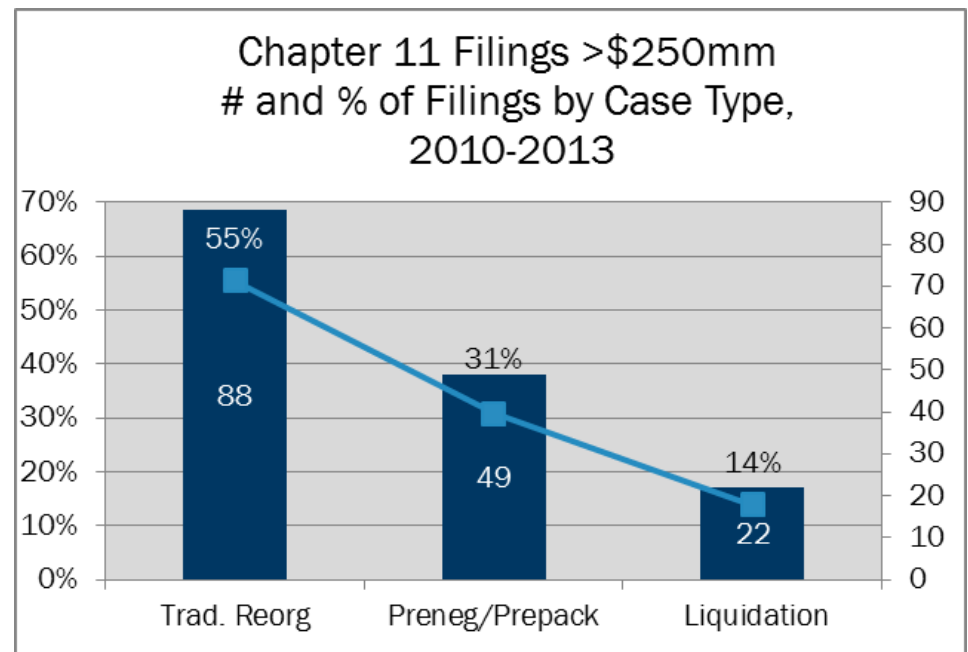
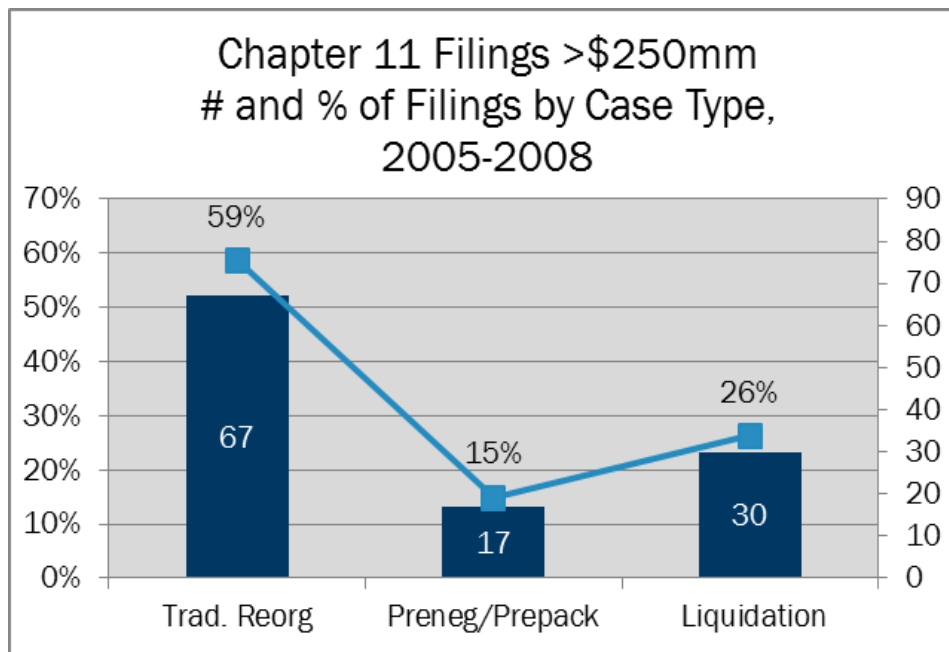
Source: S&P's Capital IQ

IV. Pre-packaged/Pre-negotiated Cases (“Pre-Cases”)

Trends in Chapter 11 Cases

Prevalence of “Pre-Cases” in Very Large Filings Has Impacted the Bankruptcy Landscape

- “Pre-Cases” (pre-packaged or pre-negotiated Chapter 11 filings) accounted for nearly one-third of Very Large Cases in 2010-2013, double its respective percentage of Very Large Cases from 2005-2008.
- The sharp increase in Pre-Cases compared to 2005-2008 was mostly attributable to the larger number of reorganized firms owned by PE sponsors that underwent fast track balance sheet fixes.
- Liquidations accounted for notably fewer Very Large Cases in the most recent four-year period than in 2005-2008. Many more firms than usual that filed for Chapter 11 in late-2008 and early-2009 were liquidated as a result of the global financial crisis and the near absence of DIP financing during this multi-month period.

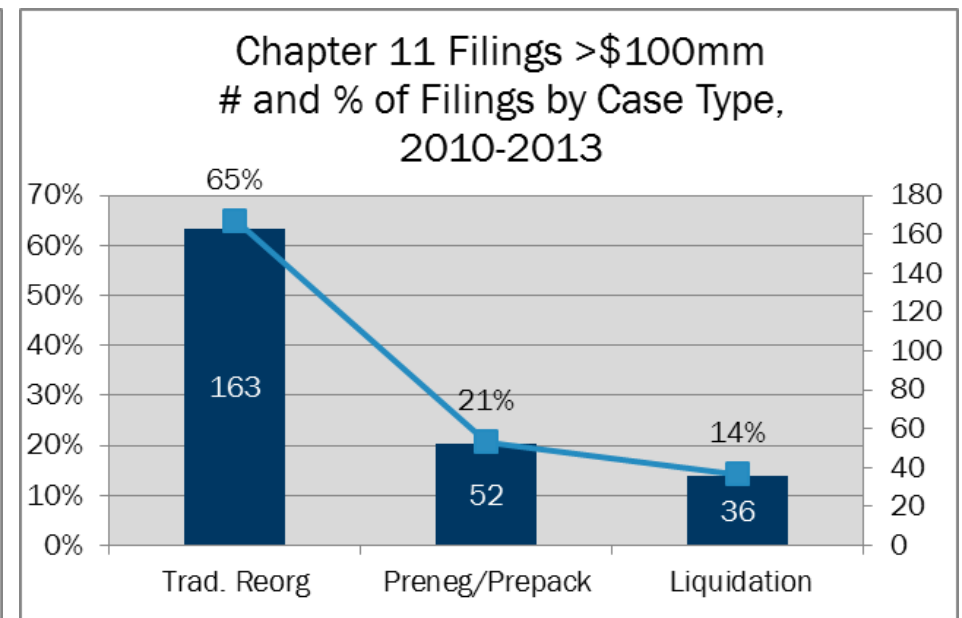
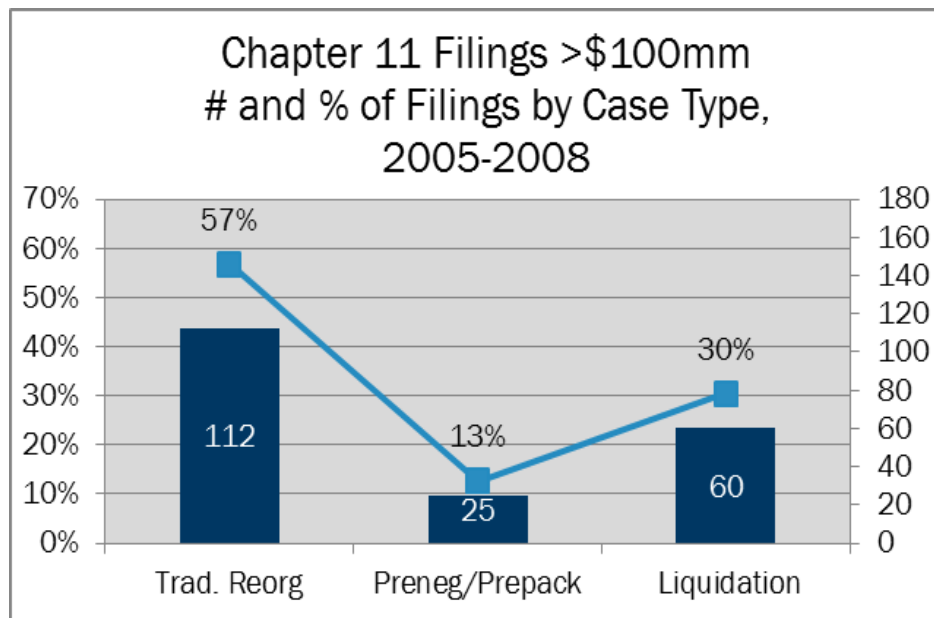


Source: S&P's Capital IQ

Trends in Chapter 11 Cases

Prevalence of “Pre-Cases” in Large & Very Large Filings Has Impacted the Bankruptcy Landscape

- Many fewer liquidation outcomes and more Pre-Cases in 2010-2013 had a major impact on Large & Very Large Cases.
- The increase in Pre-Cases compared to 2005-2008 was mostly attributable to the larger number of restructured firms owned by PE sponsors that underwent fast track balance sheet fixes.
- Liquidations accounted for many fewer Large & Very Large Cases in the most recent four-year period than in 2005-2008. Many more firms than usual that filed for Chapter 11 in late-2008 and early-2009 were liquidated as a result of the global financial crisis and the near absence of DIP financing during this multi-month period.



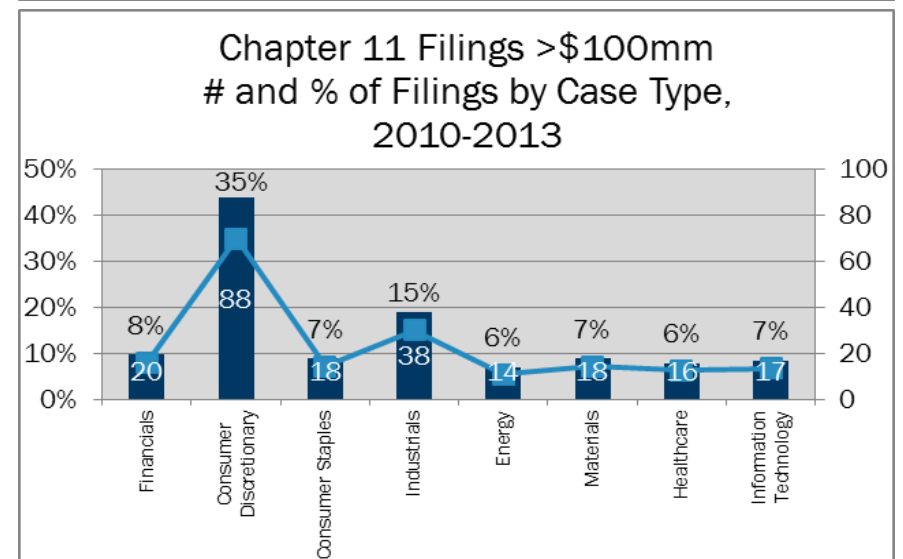
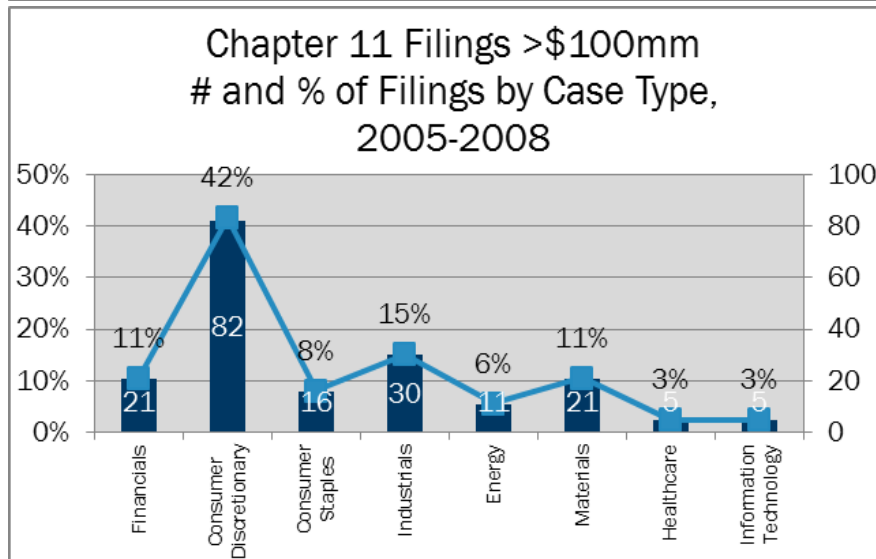
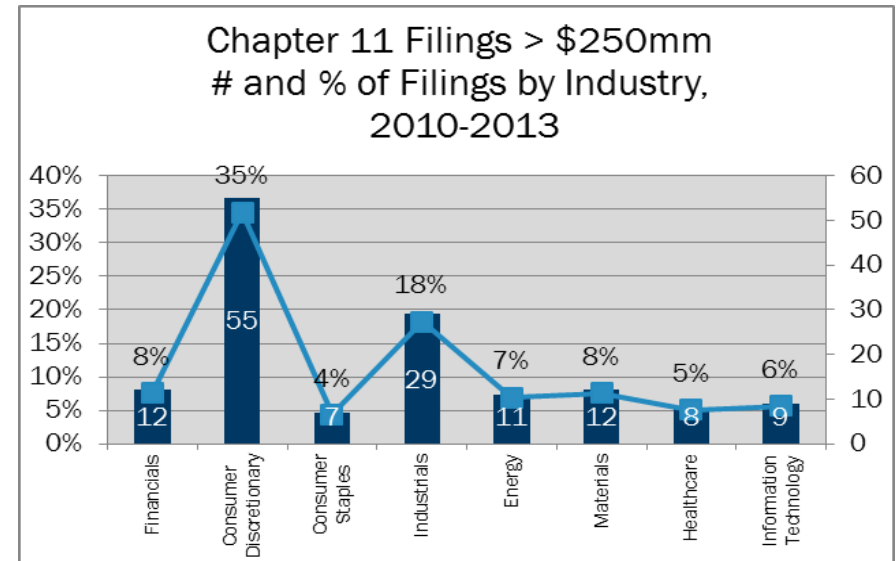
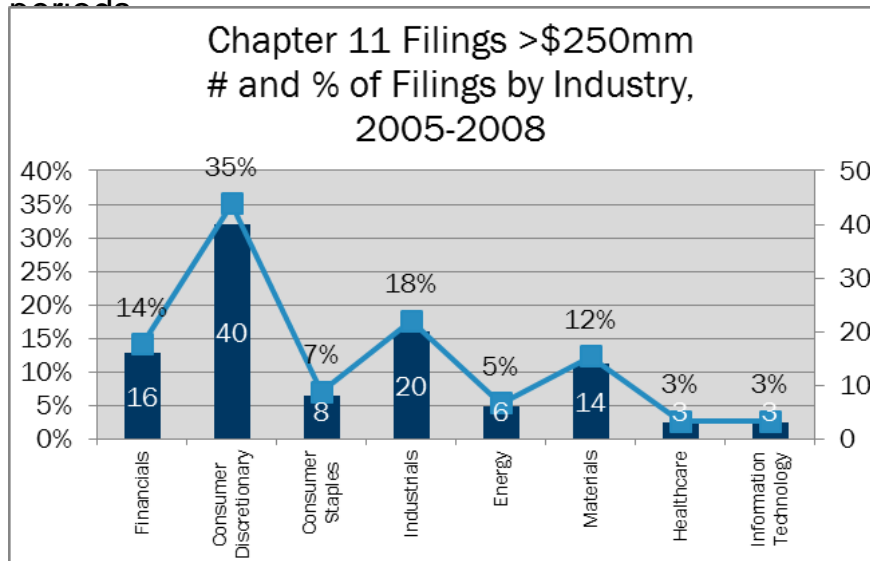
Source: S&P's Capital IQ

V. Miscellaneous

Trends in Chapter 11 Cases

Large & Very Large Case Filings by Industry Sector

- Industry sector composition of Large & Very Large Cases did not change materially between our two four-year periods

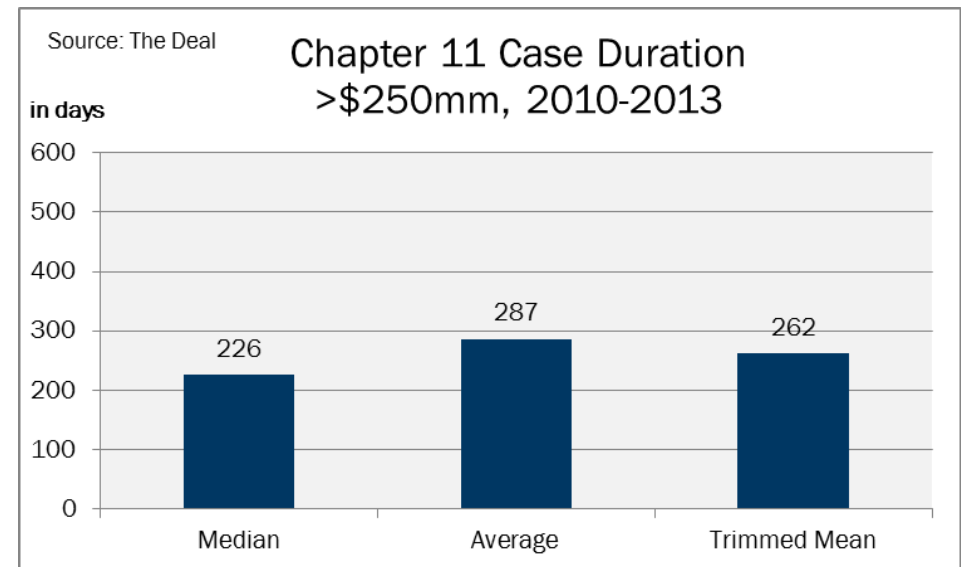
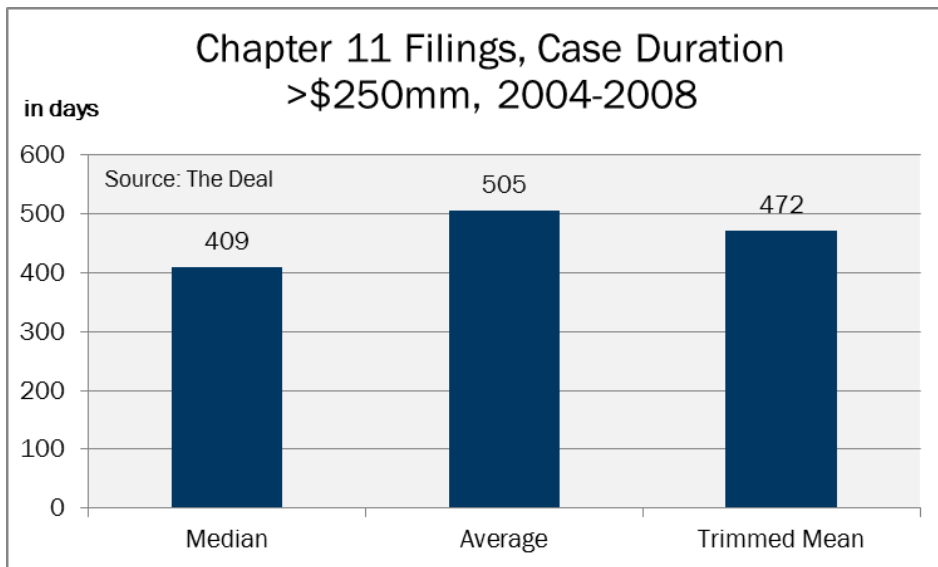
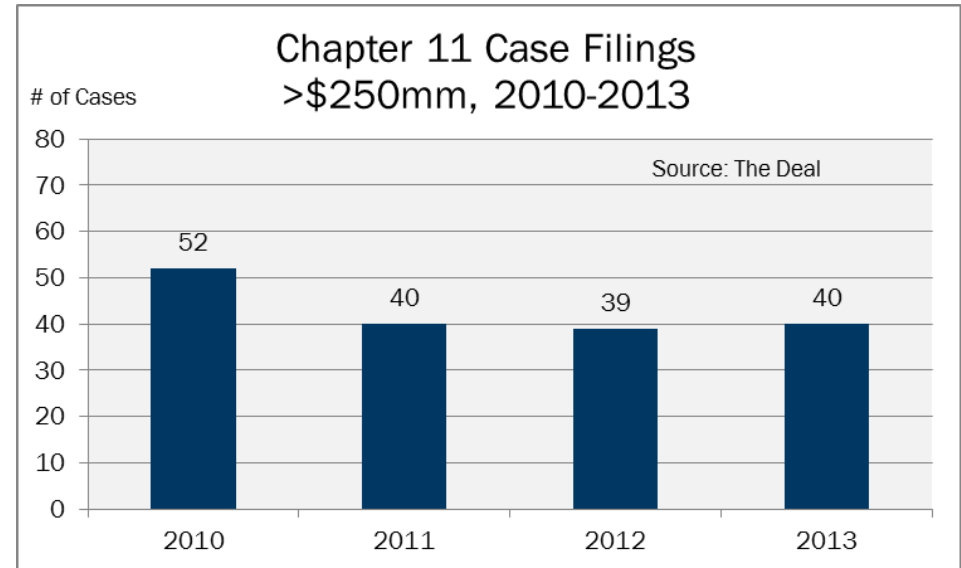
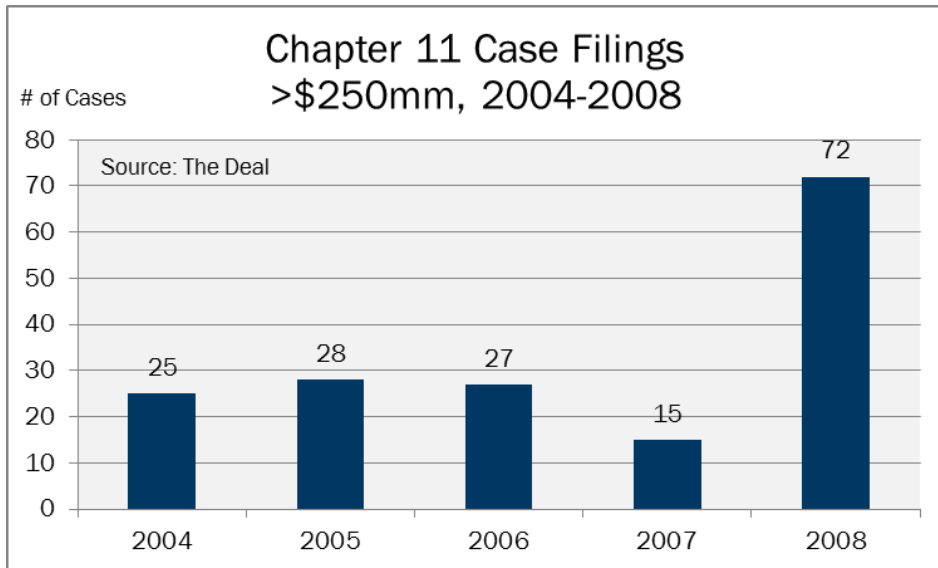


Source: S&P's Capital IQ

Trends in Chapter 11 Cases

Very Large Case Filings: *The Deal* Supports These Findings Too

■ A similar query in *The Deal Pipeline* produced consistent results for Very Large Case filings and duration.

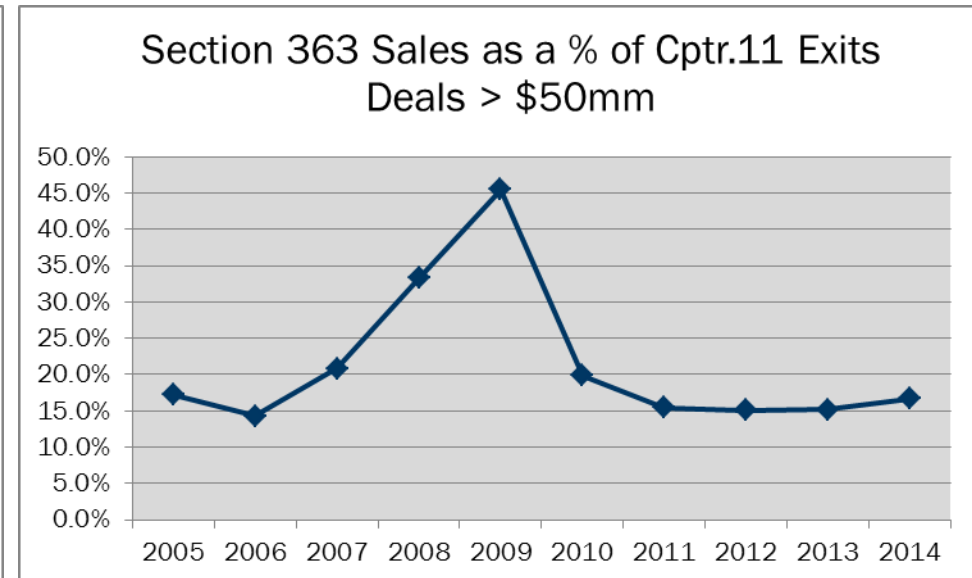
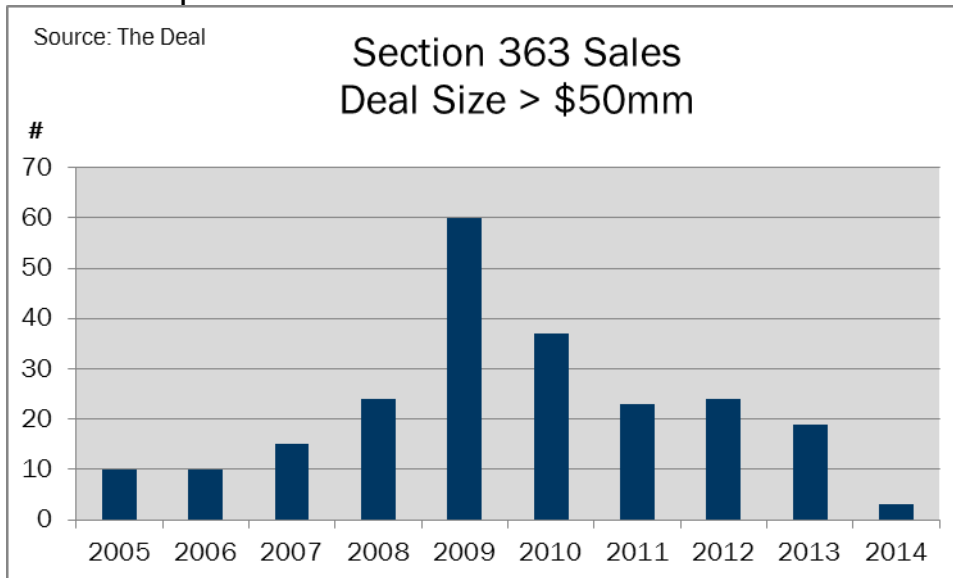


Source: The Deal Pipeline

Trends in Chapter 11 Cases

Section 363(b) Auction Sales

- Auction sales conducted under Section 363(b) of the U.S. Bankruptcy Code dominated Chapter 11 case outcomes during the Great Recession, when DIP financing was scarce, accounting for 45% of large case resolutions in 2009.
- Asset sales under Section 363(b) continue to be an attractive, expeditious way to effect a case resolution but the relative prevalence of such outcomes has reverted back to levels consistent with historical norms.



Source: The Deal Pipeline

Robert J. Duffy
Global Practice Co-Leader

Tel: +1 617 897 1500

Fax: +1 617 897 1510

Email: bob.duffy@fticonsulting.com

Bob Duffy is the global co-leader of the FTI Consulting Corporate Finance/Restructuring practice. The practice has approximately 1,000 colleagues and more than \$400 million in revenues worldwide. Mr. Duffy is a member of the firm's executive committee.

Experience

Mr. Duffy has more than 29 years of experience, including more than 25 years of experience serving as an advisor to private equity firms, corporations, lenders and boards of directors of underperforming businesses and companies in transition. He also has served as chief restructuring officer and chief operating officer for a number of his clients.

Mr. Duffy has substantial experience in a number of industries as a result of leading successful engagements involving companies with operations in both the United States and throughout the world. In these roles, he has led project teams on more than 100 engagements to help clients revitalize operations, implement operational improvements and reposition businesses for future growth. The assignments Mr. Duffy has led have included both public and private companies ranging in size from \$50 million to more than \$12 billion in annual revenue.

Some of the engagements Mr. Duffy has led over the last few years include CIT; Circuit City; Zales; Basha's Supermarkets; Ritz Camera; Vertis; Wear Me Apparel; Hampshire Fabrics; Boscov's; Fortunoff; Bob's Stores; Goody's Family Clothing and Mervyn's. In addition, he has advised on numerous private company matters involving middle market and large companies.

Most recently, Mr. Duffy has been serving as the national leader of the retail industry service for Corporate Finance/Restructuring.

Mr. Duffy joined FTI Consulting with its acquisition of PricewaterhouseCoopers' (PwC) Business Recovery Services group. During his 14 years as PwC, he held key roles in the turnaround and/or restructuring of companies in many different industries around the globe.

Accomplishments and Recognition

Mr. Duffy has given speeches and presentations at conferences, seminars and forums throughout the United States. Some of his topics include “Business Lawyering for Troubled Companies—Getting It Right When the Client’s Survival Is at Stake,” “Bankruptcy Remote Lending: Will It Survive the Wall Street Shakeout?,” “High Technology Reorganizations,” “Protecting your Company’s Life Line: Dealing with Troubled Suppliers,” “Revitalization of Troubled Companies,” “Understanding the Financing Structures Available to Restructure Your Portfolio,” “Practical Advice for Managing the Cash Burn,” and “Assessing the Fundamental Causes and the Likelihood of a Turnaround of a Company in Distress.”

In 2010, Mr. Duffy was inducted as a fellow into the American College of Bankruptcy. He has also served as an adjunct professor at F.W. Olin Graduate School of Business at Babson College.

Mr. Duffy holds an MBA in finance, management policy and marketing from the J.L. Kellogg Graduate School of Management at Northwestern University and a B.S. in finance from Babson College.



Gregg M. Galardi

Partner

Global Co-Chair, Restructuring Practice

gregg.galardi@dlapiper.com

1251 Avenue of the Americas, New York, New York, 10020-1104, United States

T: +1 212 335 4640 F: +1 212 884 8540

Gregg Galardi is the global co-chair of DLA Piper's Restructuring practice, based in New York.

Gregg has extensive US and international restructuring experience, having represented companies in a wide variety of industries in out-of-court workouts as well as pre-packaged, pre-negotiated and traditional Chapter 11 cases and cross-broader restructurings.

Gregg is a Fellow of the American College of Bankruptcy, and was an adjunct professor at Vanderbilt Law School and a frequent speaker on chapter 11.

EXPERIENCE

Some of Gregg's most recent and notable public client representations are:

- Noble Logistics, a privately held logistics company in its Chapter 11 case.
- Ahern Rentals, a family owned equipment rental company in its successful Chapter 11 reorganization in which equity retained its ownership upon emergence, which received in 2013 the Sector Deal of the Year for Professional Services by *M&A Advisor*
- Reddy Ice, Inc., a packaged ice company, in its successful Chapter 11 reorganization that received in 2012 the Restructuring Deal of the Year Award (over \$100mm) from *M&A Advisor* as well as the Restructuring Deal of the Year (middle market) at the 2013 Turnaround Atlas Awards
- Trailer Bridge, Inc., a shipping company reorganization, in its successful Chapter 11 reorganization, which received Transport & Logistics Turnaround of the Year at the 2013 Turnaround Atlas Awards
- CIT Group, Inc. in the largest pre-packaged bankruptcy and fifth largest bankruptcy case of all time, which case was honored in 2010 as Prepackaged Chapter 11 Reorganization of the Year from *Turnaround Atlas* and Restructuring Deal of the Year by *Investment Dealers' Digest* and *ILFR* and Sector Deal of the Year for Financial Services from *M&A Advisor*

CREDENTIALS

Education

University of Pennsylvania Law School
(1990) *University of Pennsylvania Law Review*, cum laude

University of Pennsylvania (1990)
Ph.D., Philosophy

University of Pennsylvania (1985) M.A.,
Economics

University of Pennsylvania (1979) B.A.,
cum laude

Admissions

New York

Delaware

District of Columbia



Gregg also has extensive experience representing financial institutions, private equity and hedge funds, international corporations, and significant creditors in contested and consensual restructuring proceedings, as well as in-court and out-of-court acquisitions of distressed assets, including:

- Fisker Automotive, in the A124 Chapter 11 Case
- Boston Finance Group, the Unsecured Creditors' Committee Chair, in the Revstone Chapter 11 Cases
- Greenlight Capital as a significant creditor in the Magna Entertainment and Innovative Communications Chapter 11 cases
- Clearlake Capital, in various in court and out of court acquisitions

CREDENTIALS

In 2013, the Global M&A Network honored Gregg as one of the Top 100: Global Restructuring and Turnaround Professionals and *Turnarounds & Workouts Special Report* named him among its Outstanding Restructuring Lawyers in both 2011 and 2009

Chambers USA: America's Leading Lawyers for Business recognizes him in the area of Bankruptcy/Restructuring. Clients, Chambers has noted, regard him as "a first-rate bankruptcy litigator: he has a wealth of knowledge, which allows him to really push the envelope and try new directions"; and Chambers named him a "star individual" in 2012. It has said he "is considered one of the foremost restructuring experts in the country," with "a very strong track record in large debtor cases." "According to sources," Chambers stated, "he is 'an exceptional attorney – aggressive but reasonable and tells it like it is.'"

Gregg is also listed in *Legal 500*, *The Best Lawyers in America*, *Euromoney* and Legal Media Group's 2009 *Expert Guide to the World's Leading Insolvency and Restructuring Lawyers*, *The International Who's Who of Insolvency & Restructuring Lawyers* and *The International Who's Who of Legal Professionals*.

COURTS AND FORUMS

- United States District Court for the Southern District of New York
- United States District Court for the Eastern District of Michigan
- United States Court of Appeals for the Third Circuit
- United States Court of Appeals for the Fourth Circuit

CLERKSHIPS

- Law Clerk to the Honorable Collins J. Seitz Sr., US Court of Appeals for the Third Circuit (1990-91)

Andrew Ragsly

Managing Editor – Debtwire North America

The team of journalists Andrew manages in New York routinely breaks news in restructuring, distressed and primary market situations. Editorial content also delves into detailed analysis of recovery scenarios, relative value and buy-side strategy.

Andrew joined Debtwire in 2007 as a reporter covering industrial sectors. He became deputy editor of Debtwire North America in 2011, and took over as managing editor in 2012.

Previous Experience

Andrew started his journalism career in 2002 at weekly newspaper The Bronx Times where he won the 2003 New York Press Association first place award for coverage of religion and an honorable mention for coverage of the arts. He went on to cover police and courthouse beats for daily newspapers in New England, and also covered civil litigation for American Lawyer Media.

Education

University of Pittsburgh, BA in journalism

BIOGRAPHICAL SKETCH OF
BARRY RUSSELL
Chief Judge Emeritus
UNITED STATES BANKRUPTCY JUDGE
CENTRAL DISTRICT OF CALIFORNIA

Judge Russell graduated from UCLA where he received his Juris Doctor Degree and a B.S. Degree in Engineering. Appointed a United States Bankruptcy Judge in 1974, served as Chief Judge from January, 2003 to December, 2006, served on Bankruptcy Appellate Panel and became the Chief Judge from September, 1999 to December 2001.

Member of the faculty of the Federal Judicial Center, Washington, D.C. from 1977 to present, lecturing to other Bankruptcy Judges throughout the United States.

Author of West's "Bankruptcy Evidence Manual" since August 1987.

Received the American Bar Association's FRANKLIN N. FLASCHNER Judicial Award as the outstanding Judge in the United States in a trial court of special jurisdiction in 1987.

Received the Los Angeles County Bar Association's Dispute Resolution Services' Emil Gumpert Judicial ADR award in December 2000,

Received the Los Angeles County Bar Association's Outstanding Jurist Award in May, 2004.

On October 14, 2008, Judge Russell was awarded the Lifetime Achievement Award by the Association of Insolvency and Restructuring Advisors (AIRA), in the Bankruptcy and Restructuring Field.

On February 19, 2009, the San Fernando Valley Bar Association awarded Judge Russell the Stanley Mosk Legacy of Justice Award.

Recipient of the 2013 Judge William L. Norton Jr., Judicial Excellence Award in Atlanta, GA at the NCBJ Conference presented by Thomson Reuter and the ABI in October, 2013.