

An incisivemedia publication

# THE AMERICAN LAWYER

americanlawyer.com

SEPTEMBER 2009



## AT THE WHEEL

With a fragile plan to save Chrysler in hand,  
Corinne Ball and a Jones Day team had six weeks  
to win bankruptcy court approval.  
It was lawyering at the speed of Daytona.







*During Chrysler's 42-day journey through  
bankruptcy court, Jones Day's Corinne Ball  
was at the wheel—with the government  
playing backseat driver.*

## DRIVE-THROUGH BANKRUPTCY

BY VIVIA CHEN

**ON MAY 1, AFTER DELIVERING THE OPENING STATEMENT** for Chrysler LLC in one of the most highly anticipated bankruptcy cases in history, Jones Day partner Corinne Ball dashed out of federal court in lower Manhattan to return to her midtown office. Instead of taking one of the black town cars waiting by the courthouse, she headed for the subway. A flock of photographers followed, snapping images of the restructuring doyenne in an orange St. John's knit suit as she charged through the City Hall station.

Ball's choice of transportation and attire was no accident. "I'm very conscious that I'm a bankruptcy lawyer," she says a few weeks later. "You didn't think I was going to fly there in my private jet, did you?" Ball asks—an allusion to the scolding that the Detroit auto executives got last year when they took corporate jets to Washington, D.C., to ask Congress for aid. As for that Fanta-hued outfit, she says, "Color is good for rescue—it's a good occasion, not a funeral."

The lead bankruptcy lawyer for Chrysler, Ball became the public face of the lawyering behind the company's whirlwind 42-day foray into bankruptcy and subsequent rebirth as a Fiat SpA ally (the Italian automaker now runs Chrysler). Ball and her team executed the case with precision and verve, triumphing in bankruptcy court—then quashing opponents in a battle that went to the U.S. Supreme Court.

Though she was the star of the Chrysler finale, Ball didn't direct the entire drama. In the weeks leading to the bankruptcy filing, the U.S. government—particularly the U.S. Department of the Treasury and the Presidential Task Force on the Auto Industry and their outside counsel, Cadwalader, Wickersham & Taft—called the key shots. Though the parties worked in sync, tensions lurked behind the scenes. From the get-go, Chrysler and Jones Day fought the government for more time and money. "We were negotiating against the task force—but they were also our best supporter," says Ball of the complicated relationship. Ultimately, all forged a formidable alliance, saving an American auto icon from perishing. But how they got there was hardly a smooth ride.

**CHRYSLER COUNSEL  
CORINNE BALL, NEXT  
TO HER JEEP: HER  
TAKE-CHARGE STYLE  
IMPRESSED HER CLIENT  
FROM DAY ONE.**

PHOTOGRAPH BY TIM KNOX



**LAST SEPTEMBER, AS CHRYSLER FACED**

**A DRYING CREDIT MARKET AND PLUNGING AUTO SALES,**

**GENERAL COUNSEL HOLLY LEESE INVITED**

Ball and Jones Day M&A partner Jere Thomson to company headquarters in Auburn Hills, Michigan. Leese needed bankruptcy help, and some of her usual outside firms, like Skadden, Arps, Slate, Meagher & Flom, were conflicted out. She picked Jones Day because the firm knows the auto world: Ball and Thomson both worked on the restructuring for auto parts maker Dana Holding Corporation, and Ball represented General Motors Corporation in acquiring Daewoo Motors in a distressed M&A deal. Leese also thought Ball came off as “strong and impressive.” That the fast-speaking Ball “was sometimes hard to follow and tends to start in the middle of a sentence,” says Leese, didn’t faze her at all.

An imposing presence—almost 6 feet in heels—Ball, 55, has a take-charge, in-your-face style and a long resume of big-time bankruptcy experience. Before joining Jones Day in 2001, she was a partner at Weil, Gotshal & Manges, where she worked closely with legends Ira Millstein and Harvey Miller. Ball led the bankruptcies of Drexel Burnham Lambert, Williams Communications Group, Olympia & York Developments Ltd., and many others.

Leese says she initially hired Ball to guide Chrysler through liquidation, which looked like the company’s only alternative. Then, Leese says, “Fiat arrived on our doorstep” last January, and Chrysler’s survival seemed more plausible. As Chrysler and Fiat hashed out a term sheet, Jones Day explored structuring the deal as a section 363 sale, an expedited asset sale in bankruptcy. (Unlike a plan of reorganization, which must be approved by a substantial number of creditors, a 363 sale needs only the approval of the bankruptcy judge.) But even as Fiat’s lawyer Scott Miller, a Sullivan & Cromwell partner, negotiated with Chrysler, he felt the power shifting to a new player: “We knew it was better to wait to talk to the Treasury because they were the financing party.”

Enter the auto task force, which President Barack Obama’s administration created in February. Led by Ron Bloom, a former United Steelworkers of America official and investment banker; Matthew Feldman, a former partner at Willkie Farr & Gallagher; and Steven Rattner, a former investment banker, the government team took charge, negotiating directly with the key parties, including Fiat, the United Auto Workers, and Chrysler’s creditors. By March, Leese says, the government was advocating a 363 sale of Chrysler’s assets to a new entity that would be managed by Fiat.

Jones Day agreed with that approach, but its client had a hard time accepting it. “Chrysler was convinced that bankruptcy was death,” Ball says, because it feared that car customers wouldn’t buy from a bankrupt company and that the supply chain would be destroyed. Then there was the emotional factor: Some longtime Chrysler employees—including Leese—saw bankruptcy as personal failure. On the day of the filing, Ball says, “Holly cried so much that I asked her, ‘Are you breathing?’ ”

For less sentimental reasons, Fiat also had a difficult time swallowing the notion that bankruptcy could be palliative. “The idea of creating a phoenix, building a future based on bankruptcy, was foreign [to Europeans],” says Ball. Fiat was so resistant to the concept, Ball says, that it didn’t bring in Sullivan & Cromwell bankruptcy partner Hydee Feldstein until two weeks before the filing, when the major pieces started to fall together.

The task force was the catalyst. On April 20 it told parties in the Chrysler bankruptcy and Fiat deal to hunker down in Washington, D.C., until April 30, the deadline when Chrysler had to form its alliance with Fiat in order to get a \$6 billion government loan. “It was a death march,” says Jones Day partner Thomson.

It was also two weeks of incredible chaos and productivity. “It was the largest group of lawyers I’ve ever seen,” says Scott Miller. Besides Jones Day, Cadwalader, and Sullivan & Cromwell, the cast included lawyers from Schulte Roth & Zabel (Chrysler’s M&A counsel), McKenna Long & Aldridge (counsel for Canada, which provided Chrysler with \$1 billion in exit financing), and Cleary Gottlieb Steen & Hamilton (the UAW’s counsel). Everyone camped out at Cadwalader’s D.C. office, where “people were fighting for office space, and food was at a premium,” says McKenna Long partner Christopher Graham.

Meanwhile, the government gave Ball her marching orders: Complete the Chrysler bankruptcy in a week. Ball flipped. “I was pretty angry,” she says. She confronted Cadwalader partner John Rapisardi. She recalls he said, “If Lehman Brothers can do it in one week, why can’t you?” Rapisardi admits: “We were very aggressive about the timing,” but says the proposal “was more like ten to 20 days.” The schedule was driven by the fact that Chrysler “was running out of cash—literally,” to the tune of \$100 million a day, says Cadwalader partner R. Ronald Hopkinson.

Ball feared that a crash timetable could tick off the bankruptcy judge and open the 363 sale to legal challenges. “I said we had to be realistic, and we need time to get through the appeal process, that the judge needs three to five days to write a decision,” she says. Eventually, Cadwalader agreed to a six-week bankruptcy time frame, setting the sale date for June 15.

With the April 30 deadline for a Chapter 11 filing looming, Chrysler and Jones Day battled the Treasury on another front: what to do with Chrysler’s first-lien bondholders, who held \$6.9 billion of the company’s debt. Some 70 percent of the debt was held by J.P. Morgan Chase & Co., Citigroup Inc., Goldman Sachs Group Inc., and Morgan Stanley; the remainder was held by 40 or so investment funds.

Ball thought the Treasury’s initial offers to the bondholders were nonstarters. Its first offer was a \$1 billion note—a proposal that was quickly rejected. On April 26 the Treasury made another proposal: a \$1.5 billion note, plus 5 percent equity in the new Chrysler—an offer that Ball calls “a joke.” She says, “I was adamant that they had to give banks more, but [the task force’s] Bloom was resisting.” She feared that both sides were playing a game of chicken, and that Chrysler would pay the price. Ball also saw another pitfall: The Treasury had cut a deal

with the UAW, which was not a secured creditor, before settling with the banks. The UAW was getting 55 percent equity in the new Chrysler in exchange for contract modifications—a much better deal than the banks had been offered.

Finally, on April 28, the Treasury upped the ante to \$2 billion cash for secured creditors. By then, a group of creditors holding \$1 billion in secured debt, who called themselves the non-TARP lenders, was complaining that the first lienholders were getting a raw deal. Chrysler chair Robert Nardelli, desperate to avoid bankruptcy, “begged Treasury to increase the offer to \$2.25 billion,” says Ball.

What followed was a round of ping-pong between the government and the non-TARP lenders that Chrysler and Jones Day could only watch. On April 29 the Treasury agreed to the \$2.25 billion, provided that 100 percent of the secured creditors signed on by 6 p.m. that day. At 5 p.m., White & Case partner Thomas Lauria, representing the non-TARP lenders, demanded an extra \$500 million for his clients in addition to their share of the \$2.25 billion. The government’s answer: No. In an e-mail that day to Chrysler’s financial adviser, Robert Manzo, the Treasury’s Feldman wrote: “It’s over. The president doesn’t negotiate second rounds. We’ve given and lent you billions of dollars so your team could manage this properly. I’ve protected your management and board and now your [sic] telling me you’re going to try to put me in a position to have to bend to a terrorist like Lauria. That’s B.S.”

White & Case tried an end run. “We spoke to Jones Day,” says White & Case partner Glenn Kurtz, “and they said they had no authority to resolve it.” As Chrysler’s advocate, Ball says, “I wanted the government to settle; I just wanted the sale to close.” But she says the government’s message was clear: No more negotiation.

With fewer than 100 percent of the bondholders agreeing to the increased offer by the deadline, the Treasury dropped its offer back to \$2 billion, which 92 percent of the secured bondholders accepted.

Despite the last-minute drama, the major pieces were in place by

## WHITE & CASE’S GLENN KURTZ

## AND THOMAS LAURIA TOOK THE FIGHT OVER CHRYSLER’S

## BANKRUPTCY TO THE SUPREME COURT.

April 30—agreements with the major secured bondholders, the UAW, and Fiat, which would provide Chrysler with management and technical know-how in exchange for 20 percent equity in the new company. At noon that day, President Obama announced on television that Chrysler and Fiat would form an alliance through the “surgical” sale of old Chrysler. “Cadwalader put a big TV in the main conference room, and everybody burst into applause during the speech,” recalls Graham. “When it was over, Cadwalader’s office turned into a ghost town.”

Ball missed the speech. She was in lower Manhattan, personally filing Chrysler’s papers in bankruptcy court.

**THE STRATEGY WAS TO TELL** a “story about the danger of time,” says Ball. Her mission was to convey to bankruptcy court judge Arthur Gonzalez that Chrysler’s only chance for survival was its alliance with Fiat, that the Fiat opportunity was time-sensitive, and that without Fiat, Chrysler had to liquidate. To support its motion for an expedited 363 sale, Jones Day put forward seven witnesses, from production managers to top executives, each testifying about Chrysler’s emergency situation.

“We front-loaded witnesses to lay out a compelling story,” says Jones Day litigation partner Thomas Cullen, Jr. “Normally, you’d just have a single affidavit rather than live witnesses.” Ball says she had to make an airtight case, because Chrysler had to pave the way for GM’s bankruptcy, which was already scheduled to follow. “Being first, we couldn’t leave anything to chance. We knew we had to build a case that could withstand scrutiny,” she says.

For a while, the case played according to script. On May 9 Chrysler even got a nice surprise: White & Case said that it was giving up the fight. “[Lauria] said, ‘Pick up your discovery; the non-TARP lenders are throwing in the towel,’” Ball recounts. (Lauria declined to comment for this story.)

But on May 19, minutes before the deadline for objecting to Chrysler’s asset sale, White & Case resurfaced with a new client: three Indiana pension funds, claiming \$42 million of first-tier loans. “We thought Tom Lauria was gone,” says Cadwalader special counsel Peter Friedman. “Then, from 11:30 at night until 2 a.m. [that night], there was a steady stream of aggressive motions and discovery requests [from White & Case].”

Lauria and Kurtz were back, waging an all-out war against the 363 sale. Their argument: Their client’s rights as first-lien lenders had been trampled, and the Treasury had no authority to use funds from the Troubled Asset Relief Program (TARP) for automakers. TARP was only for financial institutions, they said. Moreover, they called the accelerated sale schedule a sham, intended to block objectors from getting a fair hearing.

Ball was prepared for a fight, but not at the eleventh hour. “We anticipated Lauria’s opposition, but then he [had] disappeared,” she says. Exhausted, Ball’s team nonetheless churned out 300,000 pages of discovery documents. From May 24 to 26, both sides deposed 24 witnesses in five cities. Then began three grueling days of hearings, featuring 40 hours of testimony and 16 witnesses.

For Ball, who subsisted on chocolate bars (“any kind,” she says) chased by bottled water, those brutal hearings paid off: On May 29 Judge Gonzalez approved the sale from the bench, followed by a 47-page written opinion two days later. “He so got our case,” says Ball giddily. “He hit it on all cylinders—deciding on TARP, the sale motion, and permitting us to close in ten days.” To Cadwalader’s Hopkinson, Gonzalez’s detailed opinion was definitive: “When we got Gonzalez’s opinion approving the sale, we knew we would sustain an appeal.”

But the Jones Day team had no time to savor that victory. The chess game moved to a new board. On June 1 White & Case filed an appeal in federal district court. In response, Jones Day moved that the case be

heard by the U.S. Court of Appeals for the Second Circuit, skipping the district court. Rapisardi says the idea to expedite the appeal came in a eureka moment: "I said to Corinne, 'Why don't we appeal directly to the Second Circuit?' And she had been thinking the same thing."

That tactic paid off. On June 5 Jones Day's Cullen argued before the Second Circuit. Two hours later, Chief Judge Dennis Jacobs affirmed Gonzalez's opinion from the bench. The day after, White & Case filed an emergency stay motion with Justice Ruth Bader Ginsburg at the Supreme Court.

Even as this game was being played, White & Case was still trying to strike a deal. Ball says Lauria contacted her "four or five times" during this time. By then, Lauria had dropped his demand to "single-digit seven figures—low seven digits," says Ball. But the government wouldn't budge. "They said, 'We want you to stay the course,'" says Ball.

That course suddenly looked much riskier on the afternoon of June 8, when Justice Ginsburg issued a stay on the Chrysler sale without comment. "My heart skipped a beat," says Ball, "because she didn't say how long the stay would be." To add to Ball's anxiety: Fiat chair Sergio Marchionne told a Bloomberg L.P. reporter that same day that the June 15 closing deadline was not carved in stone—a direct slap at Chrysler's argument for an expedited sale. "The statement came out of the blue," Ball says, fearful that Fiat had a "Plan B" to derail the deal in order to renegotiate the terms.

The government lawyers were more sanguine. The stay just showed that "the Court felt it needed more time," Rapisardi says. Even White & Case's Kurtz didn't pin too much hope on the stay: "We thought it was encouraging, but it was not entirely clear to us that our appeal would be heard."

Within 24 hours, the Supreme Court lifted the stay. The next day, on June 10, Chrysler sold its assets to the new Chrysler Group LLC, sealing its alliance with Fiat, and the U.S. transferred \$6.6 billion to the new company.

**THE SUPREME COURT ORDER** fit neatly into the government's script. "To know that it had been received by the Supreme Court, and had its imprimatur" gives the case a "majesty," says Cadwalader's Friedman. Moreover, the Treasury's gamble not to settle with dissident bondholders paid off. The government held firm, says Jones Day's

Thomson, to be "on record that [the case] could make it all the way to the appellate court," in order to set the stage for GM's rescue. Indeed, GM's chief bankruptcy counsel, Weil's Harvey Miller, was thrilled with the Chrysler outcome, e-mailing Ball: "Thank you, you paved the way." GM bankruptcy judge Robert Gerber cited the bankruptcy court's reasoning in *Chrysler* in approving the sale of GM's assets in July.

Basking in Chrysler's afterglow, many of the participants marvel at being part of a history-making deal. "When the president of the United States says that Chrysler could be saved, we knew we had to get the deal done," says Jones Day's Thomson. Of course, the government's strong hand is what critics dislike about Chrysler's 363 bankruptcy. Treading lightly through that political minefield, Ron Bloom downplays the significance of Chrysler. "The deal was novel in terms of the

**AUTO TASK FORCE COUNSEL JOHN RAPISARDI**

**PUSHED CHRYSLER HARD. "WE WERE VERY AGGRESSIVE**

**ABOUT THE TIMING" OF THE BANKRUPTCY, HE SAYS.**

role of government, but if you took two zeros away and replaced the name of the buyer, it would be a ho-hum affair," says Bloom. "People shouldn't be writing law review articles about it; it's not the *Brown v. Board of Education* of bankruptcy. It was a brilliantly executed garden-variety case."

Back in Jones Day's New York office, Ball arches her eyebrows at the notion that Chrysler was just a mundane affair executed by speed dial. "This is the deal of my career," she says, matched only by her work in Drexel Burnham. Chrysler's rescue was born of the "extraordinary times that we are in." Working with the Treasury and the auto task force, she says, "was a collective process far more thoughtful than people realize."

That said, having the government by her side—or on her back—didn't make Ball's job any easier. "It was not a lovefest," she says. "But we shared a common ground, and that made it all feasible."

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