SUMMARY OF ORGANIZATIONAL CALL

ABI Commission to Study Chapter 11 Reform: Executory Contracts and Leases Committee

September 28, 2012

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Participants: Kevin Hunnekans

Lisa Hill Fenning

Richard Levin

Debra Williamson

Michelle Harner

I. Resources and ground rules

A. Minutes

1. Will be made publicly available

2. Should be high level, without attribution of individual viewpoints

3. Separate, detailed working notes should also be maintained

B. ABI internal data base

1. Accessible via private weblink available via Michelle

2. Can request or recommend additional articles or materials for inclusion

C. Working template

1. All reports and analyses should use template approach

2. Preliminary assessments will not be made public

3. Appropriate to identify areas that do not require changes

II. Generating review topics

A. Preliminary Discussion Draft -- Preliminary Assessment

1. Intended as high level summary

2. Can add topics

3. Prioritization is up to Committee

B. Agree that special focus on issues arising in two substantive areas, IP contracts and real estate leases, should be added as topics

1. Identify friction points arising in case law addressing these issues due to frequency of litigation

2. Separate from question of whether distinctions involving separate classifications should part of reforms (definitional boundary line issues)

III. Action plan

A. Send out poll to Committee members asking for additional topics and issues, e.g.:

1. Effect of contract subparts: arbitration, indemnity and noncompete clauses

2. Special problems: LLC operating agreements, partnership agreements

B. Schedule full Committee call for Oct. 12

1. Responses to poll by then

2. Request volunteers for the topic list, supplemented by IP and RE categories

C. Tentative plan for in-person meetings at NCBJ, WLC

D. Bi-weekly calls to track, inspire activity