Research Agenda Summary—

The database is an invaluable resource to test chapter 11 as it currently works and as it might work if amended. It is important to distinguish between chapter 11 cases in which plans are confirmed and those in which assets are sold in 363 sales. Which method is more efficient and which produces the greatest returns to the stake holders? I also think it is important to assess the impact of chapter 11 on the different categories of stakeholders. The database may permit this for secured, undersecured, and unsecured creditors and equity holders. We also need data on the impact of chapter 11 on employees, customers, and communities. I am hopeful the conference will develop ways in which this data might be generated and analyzed.

On a separate topic, I think the conference should determine the extent to which voting matters. The voting process is expensive. In how many cases is there a dissenting class? Is there another standard that could be used to produce the same protections as voting by class more efficiently?

To what extent has classification been an issue in chapter 11 cases? How common is it for plans to treat different kinds of unsecured claims in different classes and what is the relative treatment given to the different classes? Perhaps the conference can find a way to assess unfair discrimination in the economic sense even when the classes have voted to accept the plan so the issue is not presented in the legal sense.

In how many cases has plan exclusivity expired? In how many cases have there been competing plans? Is the competing plan process an efficient way to optimize value to stakeholders or does the cost of litigating competing plans dwarf the benefits?