

NCBJ Education Programs

Monday

Monday, Oct. 9 8:45 – 9 am Rivoli CBA

Opening Remarks

Monday, Oct. 9 9 – 10:15 am Rivoli CBA

The Best Show in Vegas: Broken Bench TV

Kick off your NCBJ conference with the news and analysis on bankruptcy. The "Broken Bench" broadcast features lively anchors who will get you the news that you need. The broadcast will feature on-the-scenes coverage of emerging issues and special guests. Get all the news, and humor, that bankruptcy professionals need.

Hon. Bruce A. Harwood U.S. Bankruptcy Court, District of New Hampshire, Manchester NH
Professor Katherine M. Porter University of California, Irvine School of Law, Irvine, CA
Professor John A.E. Pottow The University of Michigan Law School, Ann Arbor, MI

Monday, Oct. 9 10:45 -11:45 am Rivoli CB

Retail Bankruptcies – Is it Possible to Save Bankrupt Retailers from Liquidation?

Will brick & mortar stores eventually become relics of a bygone consumer era? Come participate in this choose-your-own adventure case study in which the audience will vote on how the retailer should handle important decisions in preparing for and navigating a chapter 11 bankruptcy. This panel will explore unique aspects of retail bankruptcies that make it difficult for retailers to avoid liquidation.

Hon. Kevin Gross U.S. Bankruptcy Court, District of Delaware, Wilmington, DE
Carol Flaton Zolfo Cooper, New York, NY
Bradford J. Sandler Pachulski Stang Ziehl Jones LLP, Wilmington, DE
Ronald M. Tucker Simon Property Group LP, Indianapolis, IN

Monday, Oct. 9 10:45 – 11:45 am Versailles 1 & 2

The Wolf (of Wall Street) at the Door: Lending to the Financial Underclass

A panel of leading experts will discuss “fringe” financial services, including payday lending, check cashing, auto-title lending, rent-to-own agreements, subprime auto lending, and contracts-for-deed. The business of making loans to the working poor is booming across the country. And the income stream from many of these lending products is now being securitized, as subprime loans are bundled together and sold to a variety of investors. Do fringe financial services make local communities more resilient, or do they merely increase personal bankruptcies? And what part is Wall Street’s perpetual demand for high investor returns playing in all this?

Hon. D. Sims Crawford U.S. Bankruptcy Court, Northern District of Alabama, Birmingham, AL
Theodore “Thad” O. Bartholow III Kellett & Bartholow PLLC, Dallas, TX
Professor Creola Johnson The Ohio State University, Moritz College of Law, Columbus, OH

Monday, Oct. 9 12 – 1 pm Versailles 1 & 2

What Is A Limited Liability Company and Why Does It Matter In Bankruptcy?

When a debtor is an LLC, or a debtor has an interest in an LLC, the interplay between state LLC law and bankruptcy law must be carefully considered. LLCs are extremely popular corporate structures, designed to limit the owners’ personal liability, and to provide greater flexibility in management as well as potential tax benefits to the owners. However, LLCs are likely to present unique issues in chapter 11 and to face additional hurdles successfully navigating a chapter 11 case.

Hon. Ashely M. Chan	U.S. Bankruptcy Court, Eastern District of Pennsylvania, Philadelphia, PA
Professor Carter G. Bishop	Suffolk University Law School, Boston, MA
Craig Goldlatt	WilmerHale, Washington DC
Paul "Chip" L. Lion, III	Morrison & Foerster LLP, Palo Alto, CA
Emily L. Pagorski	Stoll Keenon Ogden PLLC, Louisville, KY

Monday, Oct. 9 12- 1 pm Rivoli A

Creative Ways to Increase the Pot and Manage Your Odds in Bankruptcy Sales

Today, more than ever, bankruptcy practitioners and their clients can ill afford to leave value on the table. Conducting a comprehensive, creative, and an efficient process is imperative. Engendering the confidence and consensus of all constituents is also critical in obtaining the maximum value for all concerned at the lowest cost. Individuals steeped with expertise in identifying potentially unforeseen assets and their value, running efficient processes, and bringing it all effectively before the court will discuss their insights into expeditiously and creatively managing liquidation sales. The panel will also present inventive ways to utilize technology and to monetize unusual assets.

Hon. Christopher M. Alston	U.S. Bankruptcy Court, Western District of Washington, Seattle, WA
Omar J. Alaniz	Baker Botts LLP, Dallas, TX
David Peress	Hilco Steambank, Dedham, MA
Melinda Teter	Bankruptcy Management Systems, Inc., Irvine, CA

Monday, Oct 9 3:30 – 5 pm Champagne 2

NCBJ – International Insolvency Institute: Joint International Program

Cross Border Alchemy: Jurisdictional Predicates for Effective Restructurings

In recent years, corporate enterprises that possess only the most tenuous connections to the US and UK have filed for bankruptcy protection in those locations. Many professional advisors favor Chapter 11 reorganizations and UK bankruptcy schemes of arrangement as the most effective global restructuring regimes for foreign businesses that lack obvious ties either to the US or the UK. This practice, sometimes referred to as "bankruptcy tourism," raises numerous fascinating questions. Should the payment of a retainer by a foreign company to a US law firm be sufficient to create a proper toehold on US jurisdiction? Can a deliberate and purposeful shifting of the corporate "center of main interests" (COMI) or governing law before opening a proceeding establish a sufficient connection to England to satisfy the sensibilities of a High Court Judge in London? What is the role of good faith in forum selection and international jurisdiction matters? Should the courts impose restrictions upon the ability of parties to achieve worthy restructuring objectives where the jurisdictional nexus is weak or almost non-existent? What if the parties have no other viable foreign insolvency alternatives? This joint NCBJ and International Insolvency Institute panel of leading judges and practitioners from the US and the UK will discuss these cross border issues that have taken on even greater importance since Brexit. Our panelists will offer their perspectives on the utility of Chapter 11 cases and UK bankruptcy schemes for foreign businesses and consider the relative advantages and disadvantages of each system.

Moderator:

James M. Peck Morrison & Foerster, New York, NY

Foreign Judge Speakers:

Honourable Mr. Justice Richard Snowden	High Court of Justice of England and Wales Royal Courts of Justice, London, England
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Honourable Nicholas Segal	Judge of the Grand Court of the Cayman Islands George Town, Grand Cayman, Cayman Islands
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and a practitioner at
Freshfields Bruckhaus Deringer London, England

Speakers:

Debra Grassgreen
Adrian Walters

Pachulski Stang Ziehl & Jones, San Francisco, CA
Professor, Chicago-Kent College of Law, Chicago, IL

Tuesday

Tuesday, Oct. 10

8:45 – 9 am

Rivoli CBA

Inns of Court Award Presentation

NCBJ Morning Announcements

Tuesday, Oct 10

9 – 10:15 am

Rivoli CBA

**The Evolution of the Capital Stack and the Tectonic Shift in the Players at the Table
(Fundamental changes)**

Since the adoption of the current Bankruptcy Code, the restructuring industry has experienced a sea change of epic proportions brought about by creative, yet sometimes highly-complex, financing vehicles and transactions. When did the term “fulcrum security” join bankruptcy parlance? A panel of leading experts will discuss this evolution of financing and deal structures as well as the forces driving the latest thinking and trends in the capital stack and the views and factors impacting the behavior of the new players at the table as a result of these new capital providers. What do these monumental changes, and those anticipated in the future, portend for bankruptcy professionals and courts?

Hon. Christopher S. Sontchi U.S. Bankruptcy Court, District of Delaware, Wilmington, DE

William Q. Derrough Moelis & Company, New York, NY

Stephen D. Lerner Squire Patton Boggs, Cincinnati, OH

Scott D. Vogel Vogel Partners, New York, NY

Tuesday, Oct 10

10:45 – 11:45 am

Versailles 3-4

Gain the Hometown Advantage, Even When You Are an Outsider: Understand Locality Differences in Commercial and Consumer Matters

If Federal bankruptcy laws are supposed to be consistent in every state, then why are the local procedures so different? How can anyone keep up, especially with those pesky “unwritten rules?” Do you want to be better prepared to navigate the various bankruptcy courts throughout the United States? This round table discussion with judges and practitioners from around the country will provide helpful tools to the bar and the bench through real time polls and lively debate regarding the how’s and why’s of the different local procedures.

Hon. Mildred Caban U.S. Bankruptcy Court, District of Puerto Rico, Old San Juan, PR

William “Bill” H. Henrich Getzler Henrich & Associates LLC, New York, NY

Patricia Ann Redmond Stearns Weaver Miller Weissler Alhadeff & Sitterson, Philadelphia, PA

Tuesday, Oct 10

10:45 – 11:45 am

Rivoli CB

Effective Use of Non-Debtor Third Party Releases

It is increasingly common for all parties associated with a chapter 11 bankruptcy to insist on receiving broad releases, including from non-debtor third parties. But are all of these releases essential to the reorganization, or simply nice to have? And in a case where all the parties with a financial stake have approved a plan with non-debtor third party releases, what is scope of the U.S. Trustee’s role in reviewing the releases? This panel will go beyond the acknowledged split of authorities in the law to consider whether, and when, non-debtor third party releases are essential to reaching a consensual plan, and how estate professionals can negotiate release provisions to achieve consensus in often complex reorganizations.

Hon. Margaret M. Mann	U.S. Bankruptcy Court, Southern District of California, San Diego, CA	Akin Gump
Abid Qureshi	Strauss Hauer & Feld LLP, New York, NY	
Paul Rundell	Alvarez & Marsal, Healthcare Industry Group, Chicago, IL	
Clifford J. White III	Director, U.S. Trustee Program, U.S. Department of Justice, Washington DC	

Tuesday, Oct 10 12 – 1 pm Rivoli CB

“Fish Tank” Live at the Paris Hotel – Will the Player be Able to Sell Its Assets Without Successor Liability?

Will the high rollers throw in their chips to buy assets from a bankruptcy estate without the risk of successor liability in the wake of the Second Circuit’s ruling in the General Motors ignition switch matter? You will not want to miss this exciting and interactive program addressing industries and situations susceptible to these thorny issues, the effective use of the due diligence process to ensure the identification of all claims, and resultant practice pointers from the buyer’s perspective.

Hon. Jean FitzSimon	U.S. Bankruptcy Court, Eastern District of Pennsylvania, Philadelphia, PA
Kay Standridge Kress	Pepper Hamilton LLP, Southfield, MI
Michael M. Ozawa	Enterprise Management Advisors LLC, Los Angeles, CA

Tuesday, Oct. 10 12 – 1 pm Versailles 3 & 4

Getting to Yes - Negotiating More Effectively

Negotiation skills are critical to bankruptcy professionals. Master negotiator Paul Levy will provide insight and guidance to becoming a more effective negotiator with clients, opposing counsel, and judges.

Hon. Jeffery P. Hopkins	U.S. Bankruptcy Court, Southern District of Ohio, Cincinnati, OH
Paul F. Levy	LaxSebenius LLC, Concord, MA

Tuesday 3:30 – 5pm Rivoli A

3rd Annual ABLJ – ABA Symposium:

Giving Colleges a Fresh Start: Using the Bankruptcy Code to Retool Higher Education

An increasing number of institutions of higher education in the U.S. are facing short and longer term existential threats. These stressors include: escalating costs, declining or changing enrollment, regulatory scrutiny and burdens, lawsuits related to sexual harassment (among other topics), leadership challenges, combined with negative media and public perception of for-profit schools, and a student population less willing and able to over-extend themselves with debt. In this Symposium, co-sponsored by the American Bankruptcy Law Journal and the ABA Business Bankruptcy Section, a panel of experts will examine in depth some of the current challenges faced by colleges and universities and consider how existing remedies available or to be made available under the U.S. Bankruptcy Code might be deployed usefully to meeting these challenges more effectively, efficiently and fairly.

Symposium Co-Chairs:

Hon. Colleen A. Brown	U.S. Bankruptcy Court, District of Vermont, Burlington, VT
Hon. Melvin S. Hoffman	U.S. Bankruptcy Court, District of Massachusetts, Boston, MA

Moderator:

Karen Gross	Author, Educator, Senior Counsel Finn Partners, former law Professor, Washington DC
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Panelists:

Matthew Bruckner	Assistant Professor, Howard University Law School, Washington DC
Dalie Jimenez	Associate Professor and Jeremy Bentham Scholar, University of Connecticut School of Law, Hartford, CT

Robert Rasmussen

J. Thomas McCarthy Trustee Chair in Law and Political Science,
University of Southern California Gould School of Law,
Los Angeles, CA

Wednesday

Wednesday, Oct. 11 8:45 – 9 am Rivoli CB

NCBJ Closing Day Remarks

Wednesday, Oct. 11 9 – 10 AM Rivoli CB

Ethics, Decision-Making, and Social Science: What Makes Good People Do Bad Things and What Can Judges Do About It?

Why do good people do bad things? Why do smart people do stupid things? In this interactive program with judges participating at tables to facilitate discussion, the panel will explore what social science tells us about how people think and then use bankruptcy-related examples that unearth the ethical issues that lawyers and judges encounter.

Hon. LaShonda A. Hunt	U.S. Bankruptcy Court, Northern District of Illinois, Chicago, IL
Alan Kornberg	Paul Weiss Rifkind Wharton Garrison LLP, New York, NY
Jean R. Sternlight	Michael and Sonja Saltman Professor of Law, University of Nevada- Las Vegas William S. Boyd School of Law, Las Vegas, NV
Thomas W. Waldrep, Jr	Waldrep LLP, Winston-Salem, NC

Wednesday, Oct 11 10:30 – 11:30 am Rivoli CB

Keynote: A Conversation With Best-Selling Author Michael Lewis

Bestselling author Michael Lewis, whose books include *Moneyball*, *The Blind Side*, *Flash Boys*, *The Big Short*, *Liar's Poker* and *The Undoing Project* tackle unlikely blockbuster topics like economics, statistics, and decision making, is interviewed by Bankruptcy Judge Kevin Carey, who sits in the hub of the commercial insolvency world in Delaware. Prepare for a "spectacularly unusual" conversation that shines a bankruptcy light on the author's remarkable career.

Michael Lewis	Berkeley, CA
Hon. Kevin Carey	U.S. Bankruptcy Court, District of Delaware, Wilmington, DE

Wednesday, Oct 11 11:45 am – 1 pm Rivoli CB

You're Hired! Getting and Keeping Clients

This panel of general counsel from diverse industries will discuss from first-hand experience the hiring and firing of outside counsel, including insight into what GCs look for, how to get on the approved-counsel list, competing effectively in RFPs and beauty contests, GCs' pet peeves, and how to keep your client happy (and still make a profit).

Hon. James L. Garrity, Jr.	U.S. Bankruptcy Court, Southern District of New York, New York, NY
Susanne V. Clark	Senior Managing Director & General Counsel, Centerbridge Partners LP, New York, NY
Michael J. Foster	Senior Vice President & General Counsel, LSB Industries Inc., Oklahoma City, OK
Christopher D. Lagow	Senior Vice President & General Counsel, PRA Group Inc., Norfolk, VA
Joyce Payne Yette	Managing Director & General Counsel, Promontory Financial Group, an IBM Company, Washington, DC

Conclusion of the 91st Annual NCBJ Conference
Thank You For Participating
See You in San Antonio, TX • October 28 – 31, 2018
92nd Annual NCBJ Conference