

ABA Programs and Meetings

ABA EDUCATIONAL PROGRAMS & LUNCHEONS

Wednesday, October 8, 2014 through Saturday, October 11, 2014

ABA Registration and CLE Help Desk

East Tower, Grand Ballroom Foyer

Wednesday, October 8, 2014

2:00 – 4:00 – Business Bankruptcy Committee

West Tower, Crystal Ballroom A

Pro Bono Service on a Board of a Not for Profit in Crisis // Fulfilling Your Not For Profit's Mission During Financial Distress. *In memoriam of U.S. Bankruptcy Judge Nancy Dreher, District of Minnesota.*

NCBJ - ABA Joint Program

Sponsoring Subcommittees: Pro Bono Services, Abuses of Bankruptcy Process, Health & Non-Profit, Insurance, and Professional Ethics

Sponsoring Subcommittees: Pro Bono Services, Abuses of Bankruptcy Process, Health & Non-Profit, Insurance, and Professional Ethics

Moderator: Andrew Troop, Partner, Pillsbury Winthrop Shaw Pittman LLP, New York, NY

Speakers:

Deborah Gutfeld, Senior Counsel, Perkins Coie, Denver, CO

Martha E.M. Kopacz, Senior Managing Director, Phoenix Management Services, Boston, MA

Raymond T. Lyons, Counsel, Fox Rothschild LLP, Princeton, NJ

Kenneth J. Young, Member, Buerger, Moseley, & Carson, PLC, Franklin, TN

Parvathy Sree, RPLU, AIM, CIPM, First Nonprofit Group, an AmTrust Financial Company, Chicago, IL

Not-for-profit organizations, including charities, are often under enormous financial pressure and frequently face numerous challenges in order to keep their doors open. This panel will discuss corporate governance issues faced by the board members of a distressed non-profit, what happens to non-profits in bankruptcy, director and officer insurance issues from the viewpoints of a D&O insurer, and the roles and perspectives of the financial advisor and attorney trying to assist the non-profit through its crisis, a bankruptcy trustee, and the judge presiding over a non-profit's bankruptcy case.

This program is the second annual in memoriam to Judge Nancy Dreher who served as a U.S. Bankruptcy Judge in the District of Minnesota for many years and who wrote and spoke on the importance of pro bono services.

3:00 – 5:00 – Business Bankruptcy Committee

East Tower, Columbus GH

(Almost) Everything You Wanted to Know About...Executory Contracts

NCBJ - ABA Joint Program

Sponsoring Subcommittees: Membership, Executory Contracts and Claims & Priorities

Materials Coordinator: Jill C. Walters, Poyner Spruill LLP, Raleigh, NC

Moderator: Christopher Combest, Partner, Quarles & Brady LLP, Chicago, IL

Speakers:

Honorable Carol A. Doyle, Judge, United States Bankruptcy Court for the Northern District of Illinois, Chicago, IL

Lisa M. Schweitzer, Partner, Cleary Gottlieb Steen & Hamilton LLP, New York, NY

Andrea Coles-Bjerre, Associate Professor, University of Oregon School of Law, Portland, OR

Paul R. Hage, Partner, Jaffe Raitt Heuer & Weiss P.C., Southfield, MI

Ashley Champion, Judicial Law Clerk to Bankruptcy Judge Katharine M. Samson, Southern District of Mississippi

Virtually every bankruptcy requires parties to resolve competing rights and claims under "executory contracts," a term encompassing agreements as varied as supply contracts, service agreements, leases, licenses, options, and rights of first refusal. From diverse perspectives, the panel will thoroughly review the basic rules for identifying, treating, and disposing of such contracts in bankruptcy; the surprising ways in which contract rights can remain uncertain, even unenforceable, in bankruptcy, and practical strategies for protecting those rights. The panel will also probe more deeply into problems peculiarly associated with certain types of contracts, including intellectual property licenses, real estate leases, and contracts with governmental units.

Thursday, October 9, 2014

7:30-8:45 am – Joint Program - Business Bankruptcy and Consumer Bankruptcy Committees

Concurrent A Session

West Tower, Comiskey

The Uniform Voidable Transactions Act

Sponsoring Subcommittee: Avoiding Powers (Business Bankruptcy) and Consumer Bankruptcy Committee

Moderator: Bruce Borrus, Principal, Riddell Williams P.S., Seattle, WA

Speakers:

Patricia A. Redmond, Shareholder, Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., Miami, FL

Edwin E. Smith, Partner, Bingham McCutchen LLP, Boston, MA and New York, NY

This panel will discuss the proposed amendments to the Uniform Fraudulent Transfer Act.

7:30-8:45 am – Business Bankruptcy Committee

Concurrent B Session

West Tower, Gold Coast

It's Not About the Money! (or Is It?): Garnering Support for Bankruptcy Sales Without Increasing the Purchase Price

Sponsoring Subcommittees Use and Disposition of Property Subcommittee

Moderators:

Steven N. Cousins, Partner, Armstrong Teasdale LLP, St. Louis, MO

Marc J. Carmel, Of Counsel, Paul Hastings LLP, Chicago, IL

Speakers:

Honorable Timothy A. Barnes, United States Bankruptcy Court, Northern District of Illinois

Robert A. Klyman, Partner, Latham & Watkins LLP, Los Angeles, CA

David M. Schulte, Managing General Partner, Chilmark Partners, Chicago, IL

Suzanne S. Yoon, Managing Director, Transaction Development, Versa Capital Management, LLC, Philadelphia, PA

Adam C. Maerov, Partner, McMillan LLP, Calgary, Canada

This highly-entertaining and energized panel boasts experience in all aspects of bankruptcy purchases and sales—Bankruptcy Judge, Attorney, Financial Advisor, and Principal Investor. The panelists will share their real world experiences as they discuss and debate what purchasers can do to increase the likelihood of being the successful bidder for assets in bankruptcy sales and how to execute on a winning strategy, all without increasing the purchase price.

7:30-8:45 am – Business Bankruptcy Committee

Concurrent C Session

West Tower, Water Tower Room

“Engagement Agreements with Individual Chapter 11 Debtors”

Sponsoring Subcommittee: Individual Chapter 11 Debtors and Small Business

Moderator:

Harry Greenfield, Partner, Buckley King, Cleveland, OH.

Speakers:

Mariaelena Gayo-Guitian, Partner, Genovese, Joblove & Battista S.C., Miami, FL.

Leonard C. Walczyk, Member, Wasserman, Jurista & Stolz, P.C., Millburn, NJ.

The Small Business and the Individual Chapter 11 Debtor Subcommittees are co-sponsoring a program on representing individual debtors in Chapter 11 cases. This panel of attorneys with experience in representing debtors will discuss the debtor's duties as a debtor in possession and the issues this fiduciary position creates for the debtor and the debtor's counsel. The importance of engagement agreements that address these issues will be discussed, and the panel will provide drafting tips for such agreements.

1:00 – 3:15 pm – Business Bankruptcy Committee **West Tower, Regency Ballroom CD**

Business Bankruptcy Committee Heidt Award / Chapter 11 Luncheon CLE Program

What Every Distressed Investor Should Ask When Venturing Offshore. Are Chapter 11 Skill Sets and Experience Alive and Well (and Relevant) in Europe?

Sponsoring Subcommittees: Chapter 11

Speakers:

Hon. Shelley Chapman, Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, New York, NY

Jay Goffman, Partner & Practice Leader Global Restructuring, Skadden Arps. New York, NY

Simon Granger, Senior Managing Director, FTI Consulting, London, UK

Alan Carr, Partner and Founder, Drivetrain Advisors, NY

Eckart Budelmann, Partner, Bryan Cave LLP, Hamburg, Germany

U.S.-based investors are very comfortable with U.S. Bankruptcy Courts, Chapter 11 proceedings and restructuring professionals. How has this perspective impacted on the expectations and experiences of distressed investors when they venture offshore? What happens when principles fundamental to U.S. bankruptcy law, such as favoring debt over equity in insolvent situations, are not universally applied? This program will explore recent developments in offshore restructurings, including how the experience and mindset of U.S. investors and their advisors are playing a vital role in changing the face of distressed investing in Europe and elsewhere and the challenges that every U.S. investor should be aware of when investing outside of the U.S. so as not to be caught by surprise.

3:30-5:30 p.m. – Business Bankruptcy Committee

West Tower, Comiskey

FEATURED PROGRAM - Take the First Exit! – Defenses That Can Win a Case Early

Sponsoring Subcommittees: Litigation and Administration and Courts

Moderators:

Sandra A Riemer, Partner, Phillips Nizer LLP, New York, NY

John C. Weitnauer, Partner, Alston & Bird LLP, Atlanta, GA

Speakers:

Hon. Martin Glenn, Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, New York, NY

Patrick Darby, Partner, Bradley Arant Boult Cummings LLP, Birmingham, AL

Jonathan M. Landers, Member, Scarola Malone & Zubatov LLP, New York, NY

Catherine L. Steege, Partner, Jenner & Block LLP, Chicago, IL

The distinguished panel will discuss the strategic and tactical benefits that can be gained by an early focus on "procedural" and affirmative defenses that could be dispositive in an adversary proceeding, such as the "plausibility standard" enunciated in *Bell Atlantic Corp. v. Twombly*, standing, res judicata, estoppel and waiver.

Friday, October 10, 2014

7:30-8:45 am – Business Bankruptcy Committee

Concurrent A Session

East Tower, Plaza Ballroom AB

Is there Room in the Chapter 11 Ark for Trustees, Examiners, Receivers and CROs?

Sponsoring Subcommittee: Trustees and Examiners

Moderator:

Rafael X. Zahralddin-Aravena, Shareholder and Director, Elliott Greenleaf, P.C.,
Wilmington, DE

Speakers:

Judith W. Ross, Shareholder, Law Offices of Judith W. Ross, Dallas, TX

Benjamin I. Finestone, Partner, Quinn Emanuel Urquhart & Sullivan, LLP, New
York, NY

William K. Harrington, United States Trustee, Region I and II (invited), Boston, MA

Katherine R. Catanese, Senior Counsel, Foley and Lardner LLP, New York, NY

Sheila T. Smith, Americas Restructuring Services Leader, Deloitte, New York, NY

This panel will discuss the underlying common law surrounding receiverships (including federal receivers), case law and statutory authority relating to the appointment of trustees and examiners,

and the use of crisis restructuring officers in chapter 11. The panel will focus on recent trends including cases resulting from the use of foreign subsidiaries to access the U.S. market through reverse mergers, cross border fiduciary duties, fraud cases, and cases related to gross mismanagement. Special attention will be paid to the practical limitations of using receivers, CROs, trustees and examiners.

7:30-8:45 am – Business Bankruptcy Committee

East Tower, Skyway 260

Concurrent B Session

Restaurant Bankruptcies--Should I Make a Reservation Now?

Sponsoring Subcommittee: Insurance

Moderators: Ryan T. Schultz, Partner, Fox, Swibel, Levin & Carroll, LLP, Chicago, IL

Speakers:

Bobby Guy, Partner, Frost Brown, Nashville, TN

Phillip Martino, Partner, Quarles & Brady, Chicago, IL

Mario Ponce, Principal, Partners in Hospitality, Chicago, IL

Patricia Rynn, Partner, Rynn & Janowsky, Newport Beach, CA

Jennifer Scuhler, Executive Counsel Restructuring Bankruptcy, GE Capital, Chicago, IL

Industry reports project an increase in the number of restaurants filings, especially by casual dining restaurants. Restaurant bankruptcies raise a number of complex issues that are not found in the typical manufacturer case or in cases involving other service businesses. Our panelists will discuss:

1. What is cash collateral subject to the lien of the secured lender?;
2. How do you deal with the franchise agreement, which may have very high cure costs?;
3. Can the Bankruptcy Court authorize the transfer of the liquor license?;
4. Why the broccoli supplier may be one of the case's most important creditors; and
5. Why you especially don't want coffee spilled on you when you are visiting the restaurant? (hint--the claim is probably uninsured).

The panelists will speak from a variety of views, including those of the secured creditor, the debtor, the chapter 11 trustee of a restaurant franchisor and the suppliers.

7:30-8:45 am – Business Bankruptcy Committee

Concurrent C Session

West Tower, Comiskey

Discovery and Judicial/Legislative Developments in Mass Torts and Asbestos Trusts

Sponsoring Subcommittee: Rules, Legislation and Mass Tort and Environmental Claims

Moderators: Hon. Judith K. Fitzgerald (Ret.), Professor of Law, Indiana Tech Law School, Fort Wayne, Indiana; Of Counsel, Tucker Arensberg, P.C., Pittsburgh, Pennsylvania

Speakers:

Leslie A. Davis, Counsel, Crowell & Moring LLP, Washington, DC

Charles H. Mullin, PhD, Partner, Bates White LLC, Washington, DC

Trevor Swett III, Member, Caplin & Drysdale, Chartered, Washington, DC

Asbestos trusts established pursuant to confirmed plans of reorganization currently hold in excess of \$30 billion in assets. They resolve and process large numbers of asbestos personal injury tort claims. Asbestos claims filed with an asbestos trust, unlike claims filed in the tort system, are not publicly filed, and there is an issue as to whether lack of transparency in the trust system has led to abuse of the trusts and of the tort system--as recently illustrated by the Garlock bankruptcy court decision on claim estimation. In Garlock it was found that claimants gave materially different work histories to trusts from which they recovered payments, on the one hand, and to Garlock, in connection with the bankruptcy, on the other--which the court found to show a "startling" "pattern of misrepresentation." 504 B.R 71, 86 (Bankr. W.D.N.C. 2014). The panel will focus on the need for trust discovery in asbestos bankruptcies, legislative proposals as to trust transparencies, and judicial and rule responses to the issue.

1:00 – 3:00 pm – Business Bankruptcy Committee **West Tower, Regency Ballroom CD**

Secured Creditors Lunch

Herdng Clients: Working with Multiple Secured Creditors

Sponsoring Subcommittee: Secured Creditors and Trust Indentures

Moderators: Susan M. Freeman, Partner, Lewis Roca Rothgerber, LLP, Phoenix, AZ

Speakers:

Bryant D. Barber, Partner, Lewis Roca Rothgerber LLP, Phoenix, AZ

Jeanne P. Darcey, Partner, Sullivan & Worcester, Boston, MA

Jennifer C. Hagle, Partner, Sidley Austin LLP, Los Angeles, CA

William P. Smith, Partner, McDermott Will & Emery LLP, Chicago, IL

Panelists regularly representing indenture trustees, hedge funds and financial institutions will discuss issues arising in restructurings and Chapter 11 cases when secured creditor clients have constituent groups, including communications with participants and beneficiaries, driving consensus on interim and exit strategies, obtaining direction from majorities and meeting rights of minorities, funding bridge or DIP financing, decision-making on credit bidding, and plan voting logistics.

3:15 – 4:45 pm – Business Bankruptcy Committee

East Tower, Columbus GH

Current Developments

Sponsoring Subcommittee: Current Developments Task Force

Moderators: Martin J. Bienenstock, Partner, Proskauer Rose LLP, New York, NY

Speakers:

Michael R. Enright, Partner, Robinson & Cole LLP, Hartford, CT

Martin J. Bienenstock, Partner, Proskauer Rose LLP, New York, NY

Robert B. Millner, Partner, Dentons, Chicago, IL

Monique D. Hayes, Associate, Genovese Joblove & Battista, PA, Miami, FL

Jennifer R. Hoover,, Partner, Benesch, Friedlander, Coplan & Aronoff LLP, Wilmington, DE

Description: This popular panel, led by Martin Bienenstock, will discuss current developments in the areas of claims, exemptions, priorities and Chapter 11.

Saturday, October 11, 2014

Business Bankruptcy TBA

ABA COMMITTEE WORKING MEETINGS

Wednesday, October 8, 2014 through Saturday, October 11, 2014

3:30 – 5:30 pm Business Bankruptcy Committee

West Tower, Crystal Ballroom B

Chairs and Vice Chairs Meeting - Working Meeting

Chair: Kay Kress, Partner, Pepper Hamilton LLP, Detroit, MI

Thursday, October 9, 2014

7:30-8:30 am – Business Bankruptcy Committee

E-newsletter Subcommittee Working Meeting

East Tower, Plaza Ballroom AB

Co-Editors:

Brett Fallon, Partner, Morris James LLP, Wilmington, DE

Mariaelena Gayo-Guitian, Partner, Genovese, Joblove & Battista S.C., Miami, FL

7:30-8:30 am – Bankruptcy Court Structures and Insolvency Process Committee

Committee Meeting - Working Meeting

West Tower, Soldier Field

Chair: Sharon Z. Weiss, Partner, Bryan Cave LLP, Santa Monica, CA

8:30-9:30 am – Bankruptcy Court Structures and Insolvency Process Committee

West Tower, Soldier Field

White Collar Crime and Business Imitative Subcommittee Meeting - Working Meeting

Chair: Associate Professor Karen Gebbia, Golden Gate University Law School, San Francisco, CA

9:30 – 10:30 am – Bankruptcy Court Structures and Insolvency Process Committee

West Tower, Soldier Field

Electronic Stored Information / Discovery Subcommittee Meeting - Working Meeting

Chair: Richard Wasserman, Partner, Venable LLP, Baltimore, MD

10:30-12:00 pm - Business Bankruptcy Committee

East Tower, Skyway 273

Publications Subcommittee Meeting - Working Meeting

Chair: Associate Professor Karen Gebbia, Golden Gate University Law School, San Francisco, CA.

12:00 - 1 pm - Business Bankruptcy Committee

East Tower, Skyway 273

Publications Subcommittee – Reorganizing Failing Businesses Book Project - Working Meeting

Chair: Associate Professor Karen Gebbia, Golden Gate University Law School, San Francisco, CA

Friday, October 10, 2014

7:30-8:30 am – Joint Working Group Business Bankruptcy and Bankruptcy Court Structures and Insolvency Process Committees

East Tower, Skyway 272

Bankruptcy Code Revisions Subcommittee - Working Meeting

Chair: Hon. Samuel Bufford, Distinguished Scholar in Residence, Penn State Law, University Park, PA.

8:30-9:30 am – Bankruptcy Court Structures and Insolvency Process Committee
Monetization Subcommittee - Working Meeting **East Tower, Skyway 261**

Chair: James L. Patton, Jr., Partner, Young, Conway, Stargatt & Taylor, LLP, Wilmington, DE

2:00 – 3:00 pm – Business Bankruptcy Committee **West Tower, Comiskey**

Bankruptcy Committees Subcommittee - Working Meeting

Chair: Henry Kevane, Partner, Pachulski Stang Ziehl & Jones, San Francisco, CA

3:00 – 4:00 pm – Business Bankruptcy Committee **West Tower, Comiskey**

Joint Task Force on Governance Issues for Distressed Companies - Working Meeting Focusing on 50 State Questionnaire on D&O Issues

Co-Chairs of Joint Task Force:

J. William Boone, Partner, James-Bates, Brannan-Groover-LP, Atlanta, GA

Rolin Bissell, Partner, Young Conway Stargatt & Taylor, LLP, Wilmington, DE

Corporate Governance Chair: Regina Stango Kelbon, Partner, Blank Rome LLP, Wilmington, DE

5:00 – 6:30 p.m. – Business Bankruptcy Committee **East Tower, Plaza Ballroom AB**

Programs Subcommittee - Working Meeting

Chairs: Chris Alston, Partner, Foster Pepper PLLC, Seattle, WA

Andrea S. Hartley, Partner, Akerman, Miami, FL