

2014 NCBJ Education Program

Thursday, October 9

Opening Remarks

8:45am – 9:00am **East Tower, Grand Ballroom**

Hon. Eugene R Wedoff, President NCBJ

Opening General Session **“A Tale of Two Cities”**

9:00am – 10:00am **East Tower, Grand Ballroom**

Moderator: **Hon. Steven W. Rhodes**

U.S. Bankruptcy Court, Eastern District of Michigan

Panelists: **Hon. Elizabeth L. Perris**,

U.S. Bankruptcy Court, District of Oregon

Daniel Heimowitz, RBC Capital Markets

Marc A. Levinson, Orrick, Herrington & Sutcliffe, LLP

Ron Oliner, Duane Morris, LLP

Vallejo, Detroit and other city’s bankruptcies made the headlines. What were the root causes, how are many contracts renegotiated and a municipality’s finances restructured to emerge from bankruptcy? Tough problems. Passionate constituencies. Sole source of income pensions to billions in bonds and loans at stake. Hon. Steven W. Rhodes, United States Bankruptcy Court, Eastern District of Michigan; Hon. Elizabeth L. Perris, United States Bankruptcy Court, District of Oregon; Marc A. Levinson Orrick, Herrington & Sutcliffe, LLP and Ron Oliner, Duane Morris, LLP present “A Tale of Two Cities” from their perspectives from the municipal case trenches.

Speaker Huddle & Networking Break

10:00am – 10:30am **East Tower, Grand Ballroom Foyer**

Concurrent A Sessions

10:30am – 11:30am

“Consumer Potpourri: What’s Sizzling, What’s Fizzling”

East Tower, Grand Ballroom AB

Presenters:

Hon. William Houston Brown (Ret.)

Professor Katherine Porter

University of California, Irvine School of Law

Go beyond keeping up, and get ahead of the curve in this session on emerging trends in consumer bankruptcy. The duo promises straightforward and memorable summaries of the key

cases and issues, along with lively commentary and humor. The discussion will cover case law,

including the Supreme Court’s 2014 opinions and best-of-class opinions from bankruptcy judges around the country, with special attention to splits in authority and opportunities to assert nascent issues. The discussion will also fill you in on rulemaking and legislative developments that could affect your clients and your practice.

“All in the Family: Advising the Closely-Held Company”

East Tower, Grand Ballroom AB

Presenters:

Michael St. Patrick Baxter, Covington & Burling, LLP
Whitman L. Holt, Klee, Tuchin, Bogdanoff & Stern, LLP
Mindy A. Mora, Bilzin Sumberg
Douglas B. Rosner, Goulston & Storrs

A lawyer representing a closely held corporation in Chapter 11 works for the corporation, not the company's principals--everyone knows that. But how does the idea play out in practice? May a debtor's attorney advocate for reorganization plans that benefit the principals? May that lawyer take into account the principals' needs and concerns--their liabilities for trust fund taxes, or under guaranties? How does the company lawyer strike the balance between retaining the principals' cooperation and crossing the line into representation? And what happens when a lawyer crosses that line? This panel will discuss all of that and more.

Speaker Huddle & Networking Break

11:30am – 11:45am **East Tower, Grand Ballroom Foyer**

Concurrent B Sessions

11:45am – 12:45pm

“Retirement Assets in Bankruptcy: Protecting, or Tarnishing, A Debtor’s Assets in the Golden Years” **East Tower, Grand Ballroom AB**

Hon. Brian D. Lynch, U.S. Bankruptcy Court, Western District of Washington
Calvin Huang, Land of Lincoln Legal Assistance Foundation
Todd F. Maynes, Kirkland & Ellis, LLP

Retirement savings for most Americans are woefully inadequate, but does a fresh start include the ability to keep retirement savings and make retirement contributions? What are the results when bankruptcy, tax and pension law collide? Our panel will unravel the mysteries of retirement assets in bankruptcy.

“Assuring eDiscovery Does Not Become eDisaster” **East Tower, Grand Ballroom CD**

Hon. James F. Holderman, U.S. District Court, Northern District of Illinois
Jason Lichter, Pepper Hamilton, LLP

Camisha Simmons, Norton Rose Fulbright
Stephen D. Lerner, Squire Patton Boggs

Given the rapidly evolving electronic discovery landscape, and in particular a spate of recent decisions sanctioning parties for failing to adequately preserve relevant electronically stored information (ESI), e-discovery remains top-of-mind for many litigation attorneys. This subject, however, has largely been ignored by bankruptcy professionals. As made clear by emerging jurisprudence, bankruptcy professionals should be vigilant and diligent about compliance because the sanctions for non-compliance can be severe. An experienced panel will explore ESI issues that arise in large and small bankruptcy cases and discuss practical strategies for satisfying ESI preservation and discovery obligations in a reasonable and cost-efficient manner.

NCBJ – INSOL CLE Program

2:00pm – 4:00pm **Columbus GH**

NCBJ – INSOL International Program

4:00pm – 5:30pm **Columbus GH**

“Born in the USA: Grown Abroad – How Different Foreign Jurisdictions Restructure Major Corporate Groups”

Moderator: **James H. M. Sprayregen**, Kirkland & Ellis, LLP

Panelists: **Adam Harris**, Bowman Gilfillan Africa Group
Edward Middleton, KPMG China
Luiz Fernando Valente de Paiva, Pinheiro Neto Advogados Rua Hungria
Mark Robinson, PPB Advisory, Australia

Using the U.S. Chapter 11 case of Cengage Learning, Inc. as a case study, the panel will explore how the Cengage case would have played out both in and out of court had it occurred in other countries, including, Australia, Brazil, Hong Kong and South Africa. The panel will discuss: potential issues posed by sponsors who hold positions across the capital structure; preference actions; (un)encumbered assets; the mediation process and a variety of other issues. The panel discussion also will focus on the differences among varying jurisdictions both in and out of court regarding the approaches and outcomes of each of these issues.

Friday, October 10

Morning General Session

9:00am – 10:00am **East Tower, Grand Ballroom**

“Watching the Hedges Grow: Inside the Mind of Distressed Investors”

Presenters: **Hon. James M. Peck** (Ret.), Morrison Foerster

Bruce Bennett, Jones Day
William Q. Derrough, Moelis & Co.
Ken Liang, Oak Hill Advisors, LP

Love them or hate them, distressed hedge fund investors are here to stay in Chapter 11 cases, often dominating a case's dynamics and outcome. This panel will explore not only what happens in the trenches, but also behind the scenes, with panelists from two major distressed hedge funds and a uniquely experienced set of experts who have had major roles in the most significant Chapter 11 cases.

Speaker Huddle & Networking Break

10:00am – 10:20am **East Tower, Grand Ballroom Foyer**

Mid-Morning General Session

10:20am – 11:20am **East Tower, Grand Ballroom**

“All the Courtroom’s A Stage: Honing Courtroom Presentation Skills”

“Young Guns”

Shay A. Agsten, Von Briesen & Roper, S.C.

Stephen E. Hessler, Kirkland & Ellis, LLP

Ori Katz, Sheppard, Mullin, Richter & Hampton, LLP

Demetra L. Liggins, Thompson & Knight

“Expert Witness”

Timothy J. Dragelin, FTI Consulting

“Judges”

Hon. Bernice Bouie Donald, Sixth Circuit Court of Appeals

Hon. Ann C. Williams, Seventh Circuit Court of Appeals

Richard L. Wynne, Jones Day

Substance matters most in the courtroom, but style counts, too. This panel will focus on honing presentation skills for lawyers and witnesses. Four "rising star" bankruptcy litigators will examine and cross-examine an expert witness on issues involving plan confirmation, such as valuation and applicable interest rate. The examinations will take place before a judging panel, composed of experienced appellate judges, a lawyer, and a Second City performer. The judging panel will provide a critique both of the substance of the examinations and the litigators' advocacy skills, style and strategies. Come pick up tips for upping your courtroom game!

Speaker Huddle & Networking Break

11:20am – 11:45am **East Tower, Grand Ballroom Foyer**

Final Morning General Session

11:45am – 12:45pm **East Tower, Grand Ballroom**

“Whose Case Is This Anyway? Should a Chapter 11 Case Be Run Solely for the Benefit of the Secured Creditors?”

Presenters:

Hon. Barbara J. Houser

U.S. Bankruptcy Court, Northern District of Texas

Ross M. Kwasteniet, Kirkland & Ellis, LLP

Jeffrey N. Pomerantz, Pachulski Stang Ziehl & Jones

Damian S. Schaible, Davis Polk & Wardwell, LLP

Jane Lee Vris, Millstein & Co.

Balance sheets of corporate debtors are increasingly dominated by blanket liens, including second and third liens. When a Chapter 11 case commences, the amount of secured debt may exceed the value of the enterprise. DIP financings and cash collateral orders often dictate the outcome of cases, and quick sales of substantially all of the debtor's assets, benefitting only secured creditors, are increasingly common. This panel will consider the implications of cases dominated by secured creditors, including recent court decisions testing the limits of blanket liens, quick sales, and credit bidding by distressed investors.

Saturday, October 11

Morning General Session

9:00am – 10:00am **East Tower, Grand Ballroom**

“Minding Your Business: Maintaining Focus in Modern Law Practice”

Presenters:

Hon. Colleen A. Brown

U.S. Bankruptcy Court, District of Vermont

Scott L. Rogers, MS, JD

Lecturer in Law, Director, Mindfulness in Law Program

University of Miami School of Law

Paul Steven Singerman, Berger Singerman LLP

Seeking to live a calmer, more productive life? Are you convinced you have too many emails, too many meetings, too many deadlines, too many things you want to do? Wish the world would just stop so you could catch your breath? This program reviews breaking scientific developments about mindfulness; it examines mindfulness practices that can help reduce stress in your life and your work, and improve your health and concentration. From ancient teachings to modern science, with a practice session included, this is a "must see" program.

Speaker Huddle & Networking Break

10:00am – 10:20am **East Tower, Grand Ballroom Foyer**

Mid-Morning General Session

10:20am – 11:20am **East Tower, Grand Ballroom**

“Wait, Wait . . . Don’t Tell Me! An Ethics Game Show” *

“Emcee”: **Hon. James B. Haines, U.S. Bankruptcy Court, District of Maine (retired)**

“Contestants”:**Hon. A. Benjamin Goldgar**

U.S. Bankruptcy Court, Northern District of Illinois

Hon. Neil Olack

U.S. Bankruptcy Court, Southern District of Mississippi

Hon. Erithe A. Smith

U.S. Bankruptcy Court, Central District of California

Timothy F. Nixon, Godfrey & Kahn, S.C.

Prof. Nancy B. Rapoport

University of Nevada Las Vegas William S. Boyd School of Law

Loosely following the format of the popular "Wait, Wait . . . Don't Tell Me!" radio program from National Public Radio and WBEZ in Chicago, this program will feature judges, lawyers and law professors debating ethical conundrums of relevance to bankruptcy lawyers, lenders and workout professionals. Expect some high jinks and surprises as the panelists compete over such thorny issues as limited scope representation, disclosure requirements for experts and consultants, and fiduciary duties of Chapter 7 trustees. Who will win the coveted voice mail message from a bankruptcy celebrity? Come and find out!

**"Wait, Wait ... Don't Tell Me! is a federally registered trademark used with permission, courtesy National Public Radio, Inc."*

Closing General Session

11:30am – 12:30pm **East Tower, Grand Ballroom**

“May You Live in Interesting Times:

The Supreme Court’s Year in Bankruptcy”

Presenters:

Dean Erwin Chemerinsky

University of California-Irvine School of Law

G. Eric Brunstad, Jr., Dechert, LLP

In the past year, the United States Supreme Court has considered several bankruptcy cases, and both the bankruptcy community and the larger federal court community watched and waited to see how the outcomes might affect them. Few have been better situated to consider and comment on the impact of these decisions than Dean Erwin Chemerinsky and Attorney Eric Brunstad. Join us for what promises to be a lively debate between these two experts over how the Court's decisions in cases such as Law, Rameker and Arkison will impact the bankruptcy world.