Newsletter of the ABA Section of Business Law Committee on Business Bankruptcy
The World's Largest Organization of Bankruptcy Restructuring Lawyers

Business Bankruptcy Newsletter

COMING UP AT THE SPRING MEETING
APRIL 16-19, 2009 | VANCOUVER, BRITISH COLUMBIA

Programs Sponsored by the Business Bankruptcy Committee
In conjunction with the 2009 ABA Section of Business Law Spring Meeting in Vancouver, British Columbia

Joint Meeting of the Insurance Subcommittee and Mass Tort & Environmental Claims Subcommittee
April 16, 2009, 9:00 a.m. – 10:00 a.m.
Robert B. Millner and Craig Goldblatt, Chairs
Craig Litherland and Leslie A. Davis, Vice-Chairs
Theodore L. Freedman, David C. Christian, Nathan D. Finch and Charles H. Mullen, Panelists

TOPIC: Claims Estimation in Mass Tort Cases
The program will explore the purposes for which claim estimations have been undertaken in mass tort cases, particularly asbestos cases, the methodologies employed, the tactics and strategies involved, and the interests and perspectives of different constituencies. The program will include issues pertaining to estimation of future claims, and issues pertaining to insurance.

Joint Program of the Committee on Business Bankruptcy, Committee on Trust Indenture & Indenture Trustees and Trust Indentures Subcommittee
April 16, 2009, 10:30 a.m. – 12:30 p.m. CLE
Michael St. Patrick Baxter, Doneene Keemer Damon and Jim Donnell, Chairs
Patricia A. Redmond, Harold L. Kaplan and Jay A. Carfagnini, Vice-Chairs
Harold L. Kaplan, Program Chair
Mark F. Hebbeln, Daniel R. Fisher, Brendan O'Neill and Harold L. Kaplan, Panelists

PROGRAM: The Anglo-American Indenture – Comparative Cross-Border Covenant Enforcement and Bond Defaults

An international boom in bond defaults is upon us, following several years of increasingly aggressive investor-issued actions. This program will examine the comparative U.S./Canada/U.K. experience and law in actual and alleged bond defaults (often cross-border), with an emphasis on cutting edge cases such as BCE in Canada.

Institute for the Young Business Lawyer
April 16, 2009, 11:30 a.m. – 1:00 p.m. CLE
Timothy M. Lupinacci, Program Chair
Charles D. Booth and Kevyn D. Orr, Panelists

PROGRAM: Everything You've Always Wanted to Know About Cross-Border Insolvency

The program will focus on global insolvency and bankruptcy issues that have been a common part of the business lawyer's practice. The program will cover various provisions of the United States Bankruptcy Code addressing ancillary and other cross-border insolvency issues, enforceability of extra-judicial orders, the impact of asset valuations on asset sales, enforceability of security interests, China's new insolvency law, and other global issues.

http://apps.americanbar.org/buslawcommittees/CL160000pub/newsletter/200903/
insolvency issues of note.

Chapter 11 Luncheon
April 16, 2009, 12:30 p.m. – 2:30 p.m.
Susan M. Freeman and Michael H. Reed, Chairs
Chief Justice Donald I. Brenner, Robert R. Ouellette, Linc A. Rogers and Sheryl E. Seigel, Panelists

TOPIC: Cross-Border Distressed Acquisitions: Latest Trends and Developments

It is common for United States bankruptcy debtors to have assets located in Canada. Too often, asset sales are approved by American bankruptcy courts and the need for Canadian court approval to transfer the Canadian assets is an afterthought. Sales of distressed assets in Canada and sales in the U.S. under Bankruptcy Code §363 are handled quite differently. The panelists will discuss the evolution of multi-jurisdictional sales, the nuances and advantages of the Canadian system, and what can go wrong. They will explain how to handle a multi-jurisdictional sale effectively, in compliance with procedures and requirements in both countries.

Secured Creditors Luncheon
April 16, 2009, 12:30 p.m. – 2:30 p.m.
Corinne Ball and Samuel R. Maizel, Chairs
Hon. James M. Peck, Filiberto Agusti, Rosanne Thomas Matcat, Christopher R. Mirick and Larry Prentice, Panelists

TOPIC: The Credit Crisis, the "Bailout" and Other Efforts to Deal with the Crisis, and Their Impact on Secured Lenders in Canada and the United States.

The Credit Crisis is firmly entrenched as an international problem of "once in a lifetime" proportions. The United States Government has proposed an innovative rescue plan to unlock the frozen credit markets. Meanwhile, in Canada, the response has been more limited and the restructuring of Canada's frozen asset-backed commercial paper ("ABS") market is moving forward after a difficult court battle. The panel will discuss the international credit crisis with regard to Canada and the United States, the various responses between the two countries, and their impact on secured lenders.

Program of the Committee on Business Bankruptcy
April 16, 2009, 2:30 p.m. – 4:30 p.m. CLE
Michael St. Patrick Baxter, Chair
Patricia A. Redmond, Vice-Chair
Jack Wm. Butler, Program Chair


Volatile fuel prices, labor issues and depressed passenger traffic and global economic growth have led to new rounds of unsustainable economic losses in the global airline industry. This roundtable discussion will focus on the assumptions embedded in the airline industry's restructuring since September 11, 2001 and the industry's response to preserve its future.
Joint Program of the Committee on Business Bankruptcy and Committee on Middle Market and Small Business
April 17, 2009, 10:30 a.m. - 11:30 a.m.

Submit Articles for the Business Bankruptcy Newsletter

Joint Program of the Committee on Business Bankruptcy and Committee on Middle Market and Small Business
April 16, 2009, 2:30 p.m. – 4:30 p.m. CLE
David Weinstein, Program Chair
Patricia A. Redmond, George Blanco, Chris Bayley, Timothy M. Lupinacci and David Weinstein, Panelists

PROGRAM: Protecting Your Client in Turbulent Times

This program will present the strategic insights of experienced reorganization and bankruptcy professionals into common situations clients and attorneys face with increasing regularity today. Viewing the matter both from the perspective of the distressed entity and the perspective of persons doing business with a distressed entity, the panelists will discuss what it expects as financial distress arises and increases and what tools exist, inside and outside formal bankruptcy proceedings, to salvage a business and return it to profitability. Topics and circumstances will include ethical puzzles and dilemmas facing counsel called on to advise clients on both sides of the fence; assembling an insolvency team of professionals; where to look first to find the most urgent issues and factors; and how to address a client's denial of its realities.

Joint Program of the Committee on Business Bankruptcy, Committee on Corporate Counsel, Committee on Dispute Resolution and Committee on Mergers and Acquisitions
April 17, 2009, 8:00 a.m. – 10:00 a.m. CLE
B. Gail Reese, Program Chair
Peter L. Borowitz, James C. Freund and Sheryl E. Seigel, Panelists

PROGRAM: Three’s a Crowd – The Tough Task of Resolving Multi-Party Disputes

The program will address the value a well-handled mediation can bring to overcoming the difficulties presented by disputes involving multiple parties, especially those that also require working out forward-looking deals. Special emphasis will be given to crafting resolutions of issues arising in corporate acquisition and bankruptcy/workout situations.

Business Transactions Subcommittee
April 27, 2009, 8:30 a.m. – 9:30 a.m.
Margery N. Reed, Chair
Mark S. Chehi, Vice-Chair

TOPIC: Corporate Restructuring and Deleveraging Strategies in Tight Credit Markets

The program will canvas current deleveraging transaction strategies that are being utilized by companies and their stakeholders during this era of exceedingly tight credit markets, strategies that are alternatives to traditional “free-fall” Chapter 11 restructurings. Such transactions will include (i) out-of-court restructurings, (ii) prepackaged Chapter 11 strategies, and (iii) prearranged and pre-planned liquidations and foreclosures (bankruptcy and non-bankruptcy).
Partnerships and Limited Liabilities Entities in Bankruptcy Subcommittee
April 17, 2009, 9:30 a.m. – 10:30 a.m.
Sandra A. Riemer, Chair
My Chi To, Vice-Chair
Hon. Jean K. FitzSimon, Jonathan M. Landers and Perry Mandarino, Panelists

**TOPIC: Catching a Falling Knife: Restructuring Real-Estate Debt**

The panel brings its considerable knowledge (from the perspectives of the bench, the bar and crisis management) to an in-depth discussion of the many challenges and opportunities that are encountered in restructuring real estate debt in an uncertain economy. Among the issues discussed will be the development of interim and exit strategies and business plans, venue considerations, financing, sales of property, valuation, plans of reorganization (including cram down of secured creditor claims) and special considerations affecting single asset real estate cases.

Use & Disposition of Property Subcommittee
April 17, 2009, 9:30 a.m. – 10:30 a.m.
Steven N. Cousins, Chair
Marc J. Carmel, Vice-Chair
Michael Alonso, Marc Carmel and Mark Kercher, Panelists

**TOPIC: Distressed Casinos Are for Sale: What You Need to Know Before You Place Your Bet**

Despite the (prior) conventional wisdom that casino companies were recession-proof, it now appears that the house doesn't always win. This panel discussion couldn't be timelier with the entire gaming industry in distress and several companies considering filing for bankruptcy protection (or recently filing). The panelists intend to focus on the casino gaming-specific issues that may arise in the sale of casino assets.

Joint Program of the Ad Hoc Committee on Project Finance and Development, Committee on Business Bankruptcy, Committee on Commercial Finance and Committee on Uniform Commercial Code
April 17, 2009, 10:30 a.m. – 12:30 p.m. CLE
Carolyn Richter, Program Chair
Agustín Berdeja-Prieto, Alesia Ranney-Marinelli, Max Mendelsohn, and Carolyn Richter, Panelists

**PROGRAM: Hands Across the Borders – Comparative Insolvency Regimes in the United States, Canada and Mexico**

This program is a primer on the insolvency laws of these three countries, and will be useful to any bankruptcy lawyer or creditor's rights lawyer structuring transactions or enforcing liens in a border country. The panelists will present the key issues arising under these insolvency laws in a comparative manner, and will focus on giving practice tips for practitioners. The materials contain an outline, for each country, of the insolvency and lien enforcement laws for the country, and include a discussion of commercial law where relevant to the enforcement of rights and remedies.
Limitations faced when operating under the laws of the border country will be highlighted.

**Current Developments Task Force**  
April 17, 2009, 2:30 p.m. – 4:00 p.m.  
*Martin J. Bienenstock, Chair*  
*Judith Ross, Vice-Chair*  
*Martin Bienenstock, Kay S. Kress, Christopher Combest, Robert B. Millner, and Judith W. Ross, Panelists*

**TOPIC:** Current Developments in Bankruptcy  
This highly popular program features Martin Bienenstock’s and the panel members’ analyses of recent jurisprudence in the areas of chapter 11, claims and priorities and other must-know topics.

**Committee on Business Bankruptcy**  
April 17, 2009, 2:30 p.m. – 4:30 p.m. **CLE**  
*Michael S. Patrick Baxter, Chair*  
*Patricia A. Redmond, Vice-Chair*  
*Sharon Z. Weiss, Program Chair*  
*Prof. Charles D. Booth, Kevin Leung and Sharon Urquhart, Panelists*

**PROGRAM:** Understanding the Asian Client and Insolvency – A Look Back and Opportunities for the Future  
Our talented and knowledgeable speakers will discuss a variety of topics related to doing business in Asia and with Asian partners, including why Asian companies are getting involved in bankruptcy cases in Northern American and Canada, the inadequacy or adequacy of insolvency law in China and Hong Kong and the growing trends in this area, and the use of insolvency laws in Northern America and Canada with respect to Chinese clients. The panelists will also discuss their predictions for the future and where opportunity may knock.

**Joint Program of the Committee on Business Bankruptcy, Committee on Nonprofit Organizations and Committee on Pro Bono**  
April 17, 2009, 2:30 p.m. – 4:30 p.m. **CLE**  
*Shelly Crocker, Program Chair*

**PROGRAM:** Representing Nonprofit Organizations in Financial Distress

**Joint Program of the Young Lawyer Forum, Committee on Business Bankruptcy and Committee on International Business Law**  
April 18, 2009, 8:00 a.m. – 10:00 a.m. **CLE**  
*Steven Matthew Mayer, Michael St. Patrick Baxter and Richard E. Clark, Chairs*  
*Aaron D. Lovaas and Patricia A. Redmond, Vice-Chairs*  
*Sajai Singh, Program Chair*  
*Kristan Lehtinen, Stephen Wilson and Miguel A. Zaldivar, Jr., Panelists*

**PROGRAM:**  Nuts and Bolts of Conducting Cross-Border Negotiations

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Joint Meeting of the Administration, U.S. Trustee, Jurisdiction & Venue and Courts Subcommittee and Litigation Subcommittee
April 18, 2009, 8:30 a.m. – 10:00 a.m.
Sidney Levinson and Timothy M. Lupinacci, Chairs
Kyung S. Lee and Susan Power Johnston, Vice-Chairs
Hon. Elizabeth Magner, Susan Power Johnston and Kyung S. Lee, Panelists

**TOPIC:** The Outer Boundaries of Bankruptcy Court Jurisdiction: Are There Any?

This program will review the scope of bankruptcy courts jurisdiction, including the extent to which bankruptcy courts can and should retain jurisdiction post-confirmation. The panel will also discuss Travelers Indem. Co. v. Bailey, in which the Supreme Court recently granted certiorari to address whether a bankruptcy court had jurisdiction to bar claims against the liability insurers of a chapter 11 debtor that had been a manufacturer of asbestos-based products.

Joint Meeting of the Committee on Commercial Finance, Intellectual Property Committee, Business Bankruptcy Committee/General Practice Division and Small Business Subcommittee
April 18, 2009, 8:30 a.m. – 10:00 a.m.
Lynn Soukup, Patrick Whalen, Christopher Kaup, Marc Stern and E. Paul Keiffer, Chairs
Neal Kling, James Schulwolf and Mark E. Leipold, Vice-Chairs
Paul J. Battista, Teresa Davidson, Hon. Mr. Justice Stanley Kershman, Darryl R. Marsch and Patricia A. Redmond, Panelists

**TOPIC:** Floundering Franchises: How Not to Get Filleted

An esteemed panel of franchise industry and bankruptcy counsels, restrained by judicial temperament, Canadian style, discusses what you need to be aware of if you represent any of the players in the franchising world or if you suspect those players may be coming to you for advice in the near future. The panel will give a lively scenario based presentation which will cover issues regarding participants in the franchise business, in distress, from various perspectives. Please come and bring your thoughts and concerns as participation is welcomed. This multi-disciplinary panel is the product of the efforts of disparate committees and subcommittees of the Business Law Section so most points of view will be covered.

Joint Meeting of the Corporate Governance Committee, Corporate Governance Subcommittee, Professional Ethics in Bankruptcy Cases Subcommittee and Healthcare and Nonprofits in Bankruptcy Subcommittee
April 18, 2009, 8:30 a.m. – 10:30 a.m.
Carol Hansell, Regina Stango Kelbon, David Waguespack, Margaret M. Anderson, Harold L. Kaplan and Jean R. Robertson, Chairs
Claude D. Montgomery and Andrew Troop, Vice-Chairs

**TOPIC:** Caught in the Cross-Fire: Liability and Ethical Dilemmas for Directors and Advisors of Troubled Companies

Business Bankruptcy Brunch
Sponsored by the Committee on Business Bankruptcy and the Kathryn R. Heidt Memorial Award Selection Subcommittee
April 18, 2009, 10:30 a.m. – 11:00 a.m.
*Michael St. Patrick Baxter, Chair*
Patricia A. Redmond, Vice-Chair
Hon. Jean K. FitzSimon, Thomas D. Goldberg and Sandra E. Mayerson,
Subcommittee Chairs

**PROGRAM:** Presentation of the Kathryn R. Heidt Memorial Award
to Sharon Z. Weiss

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Joint Program of the Committee on Business Bankruptcy, Committee on
Intellectual Property Transactions and Committee on International Business Law
April 18, 2009, 11:00 a.m. – 12:30 p.m. **CLE**
*Michael St. Patrick Baxter, Chair*
Patricia A. Redmond, Vice-Chair
Marc Barreca, Program Chair
Warren Agin, Roger Eisenbach, Prof. Nadine Farid and William E.J. Skelly, Panelists

**PROGRAM:** Comparative Treatment of Intellectual Property in
Bankruptcy – Does Any Country Have it Right?

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**The Kathryn R. Heidt Memorial Award**

Please consider nominating a worthy candidate for this prestigious award in honor of a past Chair of the Business Bankruptcy Committee, Kate Heidt. Nominations are due **August 31, 2009.**

» [Heidt Award Nomination Form](#)

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**Submit Articles for the Business Bankruptcy Newsletter**

The Business Bankruptcy Committee invites you to submit articles for possible publication in future issues. The articles do not need to belong or in-depth, and it is a great way to get involved in the Business Bankruptcy Committee. Articles can survey the law nationally or locally, discuss particular business bankruptcy issues, or examine a specific case. If you are interested in submitting an article, please contact Newsletter Editor-in-Chief Kay Kress at KRESSK@pepperlaw.com or Editor Chris Alston at ALSTC@foster.com.