Business Bankruptcy Newsletter

COMING UP AT THE FALL MEETING | OCTOBER 12-15, 2011 | TAMPA, FLORIDA

Programs Sponsored by the Business Bankruptcy Committee
In conjunction with the 2011 National Conference of Bankruptcy Judges in Tampa, Florida

Jointly Sponsored by the Avoiding Powers Subcommittee and Claims and Membership Subcommittee
October 12, 2011, 3:00 p.m. - 5:00 p.m.
Hon. John K. Olson and Sheryl E. Seigel, Program Chairs
Professor Jessica D. Gabel and Taryn M. Darling Hill, Moderators

PROGRAM: Everything You Prefer to Avoid: What You Really Should Know About Transfers, Preferences, and Avoidance Actions

After a debtor files for bankruptcy, some of its most important rights include the ability to pursue preferential and fraudulent transfers. For creditors, the specter of an avoidance action presents more uncertainty to an already rocky financial relationship. Moreover, the prosecution or defense of preferential and fraudulent transfers can be extensive and expensive. In this program, the panelists will discuss how to prevent mistakes, preserve rights, and avoid ethical traps. From antecedent debt to new value and actual fraud to good faith, join us for this insightful and practice-point driven program.

Sponsored by the Pro Bono Services Subcommittee
October 12, 2011, 3:00 p.m. - 5:00 p.m.
Hon. Elizabeth S. Stong, Program Chair and Moderator

PROGRAM: Mediation in Bankruptcy: A Complement to the Judicial Process

With bankruptcy courts coping with increased filings and heavy caseloads, debtors and creditors alike may consider mediation as a means of expediting matters and reducing the high cost of litigation. Mediation can provide a fast and inexpensive way to resolve a disputed bankruptcy matter. Most courts have adopted some form of rule permitting mediation to resolve adversary actions. But to what extent is it being used? And can it benefit the consumer debtor as well as the business debtor?

Jointly Sponsored by the Abuses of Bankruptcy Process Subcommittee, Professional Ethics in Bankruptcy Cases Subcommittee and Trustee and Examiners Subcommittee
October 13, 2011, 7:30 a.m. - 8:45 a.m.
Aisha L. Williams, Program Chair and Moderator

PROGRAM: How To Get Sanctioned Without Really Trying - The Perils of Litigating For Estate Fiduciaries

What are the fiduciary duties of estate representatives (debtors-in-possession, trustees, creditors and equity committees, post-confirmation trustees) and their counsel when bringing lawsuits? To whom are those duties owed? What due diligence must be done by such fiduciaries, who are often strangers to the case facing tight deadlines, before filing complaints? This panel will first discuss the statutory and ethical guidelines regarding those duties, and then explore the real life quandaries which raise difficult questions about how to fulfill such duties.
Jointly Sponsored by the Claims Trading Subcommittee, Chapter 11 Subcommittee and Claims & Priorities Subcommittee  
October 13, 2011, 7:30 a.m. - 8:45 a.m.  
Paul E. Harner, Program Chair and Moderator

**PROGRAM:** The Great DISH Debate

This program will give some background on the law relating to vote designation by a Bankruptcy Court, and then in a debate format, discuss the designation of the plan votes of the claims of DISH in the DBSB case.

Chapter 11 Subcommittee Luncheon, Jointly Sponsored by the Chapter 11 Subcommittee and ABA Alternative Dispute Resolution Working Group  
October 13, 2011, 12:30 p.m. - 2:15 p.m.  
Susan M. Freeman and Michael H. Reed, Program Chairs  
Susan M. Freeman, Moderator

**PROGRAM:** So You Can't Agree on Plan Terms - Does Plan Mediation Work?

A panel experienced in plan mediations from the standpoints of mediator, judge, debtor and creditor will discuss benefits, difficulties and practical advice for mediating a plan of reorganization among parties in interest.

Task Force on Current Developments  
October 13, 2011, 2:30 p.m. - 4:00 p.m.  
Martin J. Bienenstock, Program Chair and Moderator

**PROGRAM:** Current Developments in Bankruptcy Law

The panel will discuss new case law developments in Chapter 11, along with a discussion of new case law developments in the areas of claims, exemptions and priorities.

Sponsored by the Mass Tort Subcommittee and Environmental Claims Subcommittee  
October 13, 2011, 2:30 p.m. - 3:30 p.m.  
Leslie A. Davis, Program Chair and Moderator

**PROGRAM:** The Environmental Aspects of the General Motors / Motors Liquidation Bankruptcy: Can & Should the Results be Replicated in Other Cases?

This program will discuss issues arising from, and the resolution of, General Motors’ environmental claims and liabilities in the context of one of the largest bankruptcy cases in history and whether the ultimate resolution of those issues can or should be replicated in other cases where debtor faces significant environmental issues.

Jointly Sponsored by the Litigation Subcommittee and Small Business Subcommittee  
October 14, 2011, 7:30 a.m. - 8:45 a.m.  
Timothy M. Lupinacci, Judith Greenstone Miller and Richard M. Kremen, Program Chairs  
Judith Greenstone Miller, Moderator

**PROGRAM:** Hot Issues Not Addressed by the Rules or the Code - Pitfalls and Legislative Fixes

The speakers will discuss various topics that arise in bankruptcy cases that either are not specifically addressed by the Bankruptcy Code and
the Bankruptcy Rules or otherwise present litigation traps. These topics include: gifting plans and lockups, treatment of administrative claims, with special emphasis given to Section 503(b)(9) and reclamation claims, single asset real estate issues, litigation traps associated with preservation of causes of action under a plan and litigation hold and spoliation issues.

Presentation of the Kathryn R. Heidt Memorial Award
Kathryn R. Heidt Memorial Award Selection Subcommittee
Hon. Jean K. FitzSimon, Thomas D. Goldberg and Sandra E. Mayerson, Co-Chairs
October 14, 2011, 12:30 p.m.

Secured Creditors Subcommittee Luncheon
October 14, 2011, 12:30 p.m. - 2:15 p.m.
Corinne Ball and Samuel R. Maizel, Program Chairs
Corinne Ball, Moderator

PROGRAM: Room Funding Distress Investing in EU/UK - Successes and Pitfalls

Year 2010 and the first part of 2011 have seen increased activity in efforts to fund distressed investing in the European Union generally and the United Kingdom in particular. As the global economy struggles to recover from the latest financial crisis, opportunities to invest in the EU/UK loom large in the United States. This panel will discuss recent significant cases such as Citigroup’s acquisition of EMI through a prepack, the Irish Bank auction, and the recent efforts to restructure Punch Taverns’ £3 Billion debt, against the backdrop of recent announcements from Oaktree, Pimco, Halcyon, Canyon and Centerbridge regarding dedicating funds into this sector.

Jointly Sponsored by the Business Committee Subcommittee, Partnerships and Limited Liability Entities in Bankruptcy Subcommittee
October 14, 2011, 2:30 p.m. - 4:00 p.m.
Christopher M. Alston, Sandra A. Riemer and Kaaran E. Thomas, Program Chairs
Christopher M. Alston, Moderator

PROGRAM: Shareholders Count Too: The Role of the Equity Committee in a Volatile Economy

This program will examine equity committees in Chapter 11 cases from every angle: how and when committees can be formed, their powers and duties, and the role they play in protecting shareholder interests. The panelists bring their consideration, expertise and experience to this discussion of equity committees from many perspectives, including those of debtor's counsel, committee member, committee counsel, and the Office of the U.S. Trustee.

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 be long 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 Chris Alston at alstc@foster.com or Editor Marvin Ruth at mruth@LRLaw.com.