Programs Sponsored by the Business Bankruptcy Committee in conjunction with the 2016 National Conference of Bankruptcy Judges in San Francisco

CLE Program: Almost Everything You Wanted to Know About… The Nuts and Bolts of DIP Financing

Wednesday, October 26, 2016, 3:00 PM - 4:30 PM
Yerba Buena 11-12, Lower Level B2, Marriott Marquis, San Francisco

Presented by: Business Bankruptcy Committee

Moderator: Hon. Robert Gerber (Retired), United States Bankruptcy Court for the Southern District of New York, NY

Speakers:
- Shana A. Elberg, Skadden, Arps, Slate, Meagher & Flom LLP, New York, NY
- Robert J. Feinstein, Pachulski Stang Ziehl & Jones LLP, New York, NY
- William K. Harrington, United States Trustee Regions 1 & 2, Office of the United States Trustee, Boston, MA
- Donald E. Rothman, Riemer Braunstein LLP, Boston, MA

This panel will present the nuts and bolts of DIP financing using illustrative provisions from actual DIP orders coupled with practical, background commentary. It has become prevalent in recent years for DIP financing to establish the tempo and goals of a Chapter 11 case. Many DIP loan transactions are often accompanied by the establishment of detailed targets and deadlines for the conduct of the case, the terms of a plan of reorganization and even the governance of the debtor. DIP orders, thus, often stray from the straightforward approval of credit and granting of liens. The panel will explore the usual points of contention among debtors, committees, U.S. Trustees and lenders, and discuss the "behind-the-scenes" negotiations that will culminate in consensual financing terms. The program will examine what Chapter 11 practitioners need to know about the process and procedure for approval of DIP financing, review recent developments under Section 364 of the Bankruptcy Code, and examine issues related to cross-collateralization, "roll-ups," and third-party "challenge" rights and reservations.

CLE Program: Multi-Disciplinary Pro Bono Professional Collaboration on Financially Distressed Companies In and Out of the Courtroom

Wednesday, October 26, 2016, 3:00 PM - 5:00 PM
Yerba Buena 13-14, Lower Level B2, Marriott Marquis, San Francisco

Presented by: Business Bankruptcy Committee

Moderator: Honorable Elizabeth S. Stong, U.S. Bankruptcy Court, E.D.N.Y., Brooklyn, NY

Speakers:
Patricia Redmond, Stearns Weaver et al., Miami FL
- Robert Smith, SSG Capital Advisors LLC, West Conshohocken, PA
- Susan Smith, GlassRatner, Tampa, FL
- Yvette Austin Smith, The Brattle Group, New York, NY

Explore and discuss opportunities and pro bono services for nonprofit Chapter 11's and small and middle-market Chapter 11's that may need, but can't bear the cost of, financial advisors. This panel of experienced attorneys and financial advisors will discuss:

- Need for pro bono services for entities that are not for profit and small to mid-size chapter 11 debtors
- How not for profits and small to mid-size companies find their pro bono professionals
- How professionals approach pro bono representation (with clients and their firm management)
- Advice and stories "from the trenches"

This program is 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.

CLE Program: Chapter 11 Luncheon, Heidt Award Presentation and CLE Program: The State of Play: Managing State AG Hot Button Issues in Chapter 11 Cases

This is a ticketed event
Thursday, October 27, 2016, 1:00-3:00 PM
Golden Gate B, Level B2, Marriott Marquis, San Francisco

Presented by: Business Bankruptcy Committee

Moderator: Judith W. Ross, Law Offices of Judith W. Ross, Dallas, TX

Speakers:

- Marc Carmel, Paul Hastings LLP, Chicago, IL
- Paul M. Green, Jones Day, Houston, TX
- Samuel R. Maizel, Dentons US LLP, Los Angeles, CA
- Hal F. Morris, Assistant Attorney General, Managing Attorney Bankruptcy Regulatory Section,
  Bankruptcy and Collection Division, Office of the Texas Attorney General

A panel of experts will explore how to effectively deal with current hot button issues for state Attorneys General in chapter 11 cases, including consumer protection concerns in retail cases (treatment of gift cards, sale of personally identifiable information, store closing sales, etc.) and patient protection and records issues arising in healthcare cases.

The panel will discuss:

- Consumer protection issues arising in chapter 11 cases, particularly retail cases, and strategies for resolving concerns commonly expressed by State attorneys general
- Circumstances necessitating appointment of a Consumer Privacy Ombudsman, and issues surrounding the same
- State concerns in hospital, nursing home, hospice and other healthcare cases
- Circumstances necessitating appointment of a Patient Care Ombudsman, and issues surrounding the same
- Other "hot button" chapter 11 issues for the States, from the perspective of debtor's counsel, committee counsel and Attorneys General
This memorial award honors Kate's memory. Kate was a tenured member of the faculty at the University of Pittsburgh School of Law. She was an accomplished author, scholar, teacher, lawyer, and administrator. In addition to her leadership roles at the ABA, she served in leadership capacities at the American Association of Law School's Section on Creditors' and Debtors' Rights. She was a counselor in the truest sense of the word -- a wonderful mother, a friend to many, a dedicated mentor to students and young lawyers, and a trusted voice of wisdom. This Award is designed to serve as a lasting tribute to all she was and all for which she stood and to recognize the importance of bankruptcy education and scholarship to the ABA Business Bankruptcy Committee and the bankruptcy profession.

**CLE Program:** *Bankruptcy Appeals: Does The Bench Matter?*

Thursday, October 27, 2016, 3:15 PM - 5:00 PM  
Yerba Buena 11-12, Lower Level B2, Marriott Marquis, San Francisco

**Presented by:** Business Bankruptcy Committee

**Moderator:** Hon. Bernice Donald, United States Court of Appeals for the Sixth Circuit

**Panelists:**
- Hon. Frank J. Bailey, United States Bankruptcy Judge, District of Massachusetts, Boston, MA
- Hon. Philip H. Brandt, United States Bankruptcy Judge, Eastern District of California, Sacramento, CA
- Hon. William Lafferty III, United States Bankruptcy Judge, Northern District of California, Oakland, CA
- Hon. John Mendez, United States District Judge, Sacramento, CA
- Susan M. Freeman, Lewis Roca Rothgerber, Phoenix, AZ
- Danielle Spinelli, WilmerHale, Washington, DC

Bankruptcy appeals are argued to either a district judge or, in certain circuits, to a Bankruptcy Appellate Panel. In circuits with a BAP, an appeal defaults to the BAP. The approach taken in briefing and arguing a bankruptcy matter to a district judge is likely very different than the approach taken with the BAP. The program would explore those differences. The BAP consists of three "bankruptcy experts;" the district judge is a generalist who addresses many areas of civil and criminal law. Moreover, the district judge sits as an appellate judge only rarely and serves in that capacity alone rather than in a panel. The purpose of this program will be to watch as experienced bankruptcy lawyers prepare for and argue the same legal issue to a BAP panel and to a district judge. The attendees will observe as the advocate tailors the argument to the "audience." The panelists will then comment on the approach taken by the advocates and provide their thoughts on effective appellate advocacy in different forums. The appeal will follow the legal issues from the case of Czyzeski v. Jevic Holding Corporation.

**CLE Program:** ABLJ - ABA Symposium: The NCBJ at 90: The Evolution, Role and Impact of Bankruptcy Courts from 1926 to 2016

Thursday, October 27, 2016 3:00 - 5:00 pm  
Yerba Buena 7, Lower Level B2

**Presented by:** The American Bankruptcy Law Journal and Business Bankruptcy Committee

**Moderator:** Hon. Colleen Brown (Bankr. D. Vt.) Burlington, VT

**Presentations:**
The Keepers of the Code: Evolution of the Bankruptcy Community, 1926 to 2016
Prof. Karen Gebbia, Golden Gate University School of Law, San Francisco, CA

The Rise and Fall of Bankruptcy Courts' Equitable Powers Over the Past 90 Years
Prof. John A. E. Pottow, University of Michigan Law School, Ann Arbor, MI

Municipal Bankruptcies and Bankruptcy Courts: Then and Now
Prof. Melissa Jacoby, University of North Carolina School of Law, Chapel Hill, NC

History of Valuation Techniques in the Bankruptcy Court, 1926-2016
Prof. Michael Simkovic, Seton Hall University School of Law, New York, NY

The Annual Symposium features a series of presentations by distinguished bankruptcy academics. This year's program focuses on changes in various aspects of bankruptcy practice over the 90 year history of the NCBJ.


This is a ticketed event
Friday, October 28, 2016, 1:00 PM - 3:00 PM
Yerba Buena 7, Lower Level B2, Marriott Marquis, San Francisco

Presented by: Business Bankruptcy Committee

Moderator: Warren E. Agin, Swiggart & Agin, Boston, MA

Panelists:
- Leianne S. Crittenden, Oracle Financing, Redwood Shores, CA
- Robert Eisenbach, Cooley LLP, San Francisco, CA
- John G. Loughnane, Nutter McClennen & Fish LLP, Boston, MA

Intellectual property ("IP") can act as collateral to be pledged to secure an extension of credit. For example, a company that borrows money from a bank can pledge its patents as collateral for the loan. The bank will of course want to make sure that its security interest in the IP can be enforced against the borrower if the borrower defaults on the loan. However, issues can arise regarding perfecting a security interest in different types of IP, including copyrights, trademarks, and patents. Also, lenders who seek IP licenses as collateral for their loans also must be acutely aware of the implications of a bankruptcy filing, particularly the leverage licensors may hold over a licensee's ability to transfer IP assets freely in a bankruptcy proceeding. For example, a licensee of intellectual property must meet certain criteria before assuming and/or assigning its license to a third-party user. Most importantly, the licensor - depending upon in which jurisdiction the bankruptcy is filed - may have the right to prevent either the assumption or the assignment of the license to a third-party, or both. This panel will address all these issues and more.

CLE Program: Current Developments Task Force Meeting

Friday, October 28, 2016 4:00-5:30 PM
Location: Yerba Buena 7, Lower Level B2

Presented by: Business Bankruptcy Committee

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

Speakers:
- Robert B. Millner, Dentons US LLP, Chicago, IL
- Christopher Combest, Quarles & Brady LLP, Chicago, IL
Monique D. Hayes, The Hayes Firm PLLC, Miami, FL
Michael R. Enright, Robinson & Cole LLP, Hartford, CT

Update on current developments in bankruptcy of interest to Commercial practitioners. As usual, this panel will present on the most recent developments of interest to business bankruptcy lawyers, with an emphasis on the past year. Experienced practitioners will review the latest cases and trends, and invite active dialogue from a participative audience. In addition to central bankruptcy issues, the focus will include discussion of what is new in the area of claims, exemptions and priorities, as well as insurance issues arising in the bankruptcy arena.

Submit Article 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 Editors-in-Chief Brett Fallon at bfallon@morrisjames.com or Mariaelena Gayo-Guitian at mguitian@gjb-law.com or Krista Kulp at kkulp@morrithock.com.