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Programs Sponsored and Co-Sponsored by the Business Bankruptcy Committee in conjunction with the National Conference of Bankruptcy Judges in Washington, D.C.

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Business Bankruptcy Committee Newsletter

"Business Bankruptcy Committee: The World's Largest Organization of Bankruptcy Restructuring Lawyers"

The Business Bankruptcy Committee looks forward to seeing you at the ABA Business Bankruptcy Committee/NCBJ Meeting in Washington, D.C. from October 30 through November 1, 2019.

This edition includes a breakdown of the programs and committee meetings being held at the meeting.

Note from BBC Chair Susan Freeman:

I hope that many of you will be able to join us in Washington D.C. for our Fall Committee meeting in conjunction with the National Conference of Bankruptcy Judges. We have a full schedule of interesting and informative programs, and you can register for the NCBJ too and take advantage of all of its programs and events. A number of subcommittees have planning meetings scheduled that all ABA members are welcome to attend. You’ll learn a lot that will benefit your practice, have a great opportunity to reconnect with friends from around the country, and meet and network with new friends and colleagues. Plus, Washington D.C. has great restaurants and museums and so many things to do and see during your free time. Please join us!
Wednesday, October 30, 2019: CLE PROGRAMS:

2:00 PM to 3:30 PM: (Almost) Everything You Wanted to Know About Planning and Conducting an Evidentiary Hearing in Bankruptcy Court
Location: Capitol

This Program will cover the following topics including: (i) how to conduct depositions, prepare discovery demands, and obtain documents that are properly authenticated; (ii) use of various discovery tools to narrow the issues at the hearing; (iii) planning for, and evaluating the use of, motions in limine; and (iv) covering evidentiary foundations and objections

Program Chair: Leslie Berkoff, Moritt Hock & Hamroff LLP, Garden City, NY

Program Moderator/Materials Coordinator: Tamara Van Heel, Agentis PLLC, Miami, FL

Program Speakers:
Honorable Frank Bailey, U.S. Bankruptcy Court for the District of Massachusetts, Boston, MA
Sharon Weiss, Bryan Cave Leighton Paisner LLP, Los Angeles, CA

3:45 PM to 5:15 PM: When Worlds Collide: How To Represent the Pro Bono Client when Bankruptcy Is Only Part of the Solution
Location: Capitol

This panel will discuss how a bankruptcy attorney can assist a pro bono client when bankruptcy is only part of the solution. The panel discuss tips on how to give a holistic case assessment, the intersection of bankruptcy law and other areas of law, including immigration, benefits, landlord tenant, family and others, as well as the ethics obligation to represent a client competently

Program Co-Chairs:
(Also Speaker) Honorable Elizabeth S. Stong, U.S. Bankruptcy Court, E.D.N.Y., Brooklyn, NY
(Also Moderator/Materials Coordinator) Grace E. Robson, Markowitz Ringel Trusty & Hartog, PA, Ft. Lauderdale, FL

Program Speakers:
Andrew R. Bloch, Cross, Pennamped, Woolsey, & Glazier, P.C., Carmel, IN
Sidney Cherubin, Brooklyn Bar Association Volunteer Lawyers Project, Brooklyn, NY
Claire Thomas, New York Law School, New York, NY
Thursday, October 31, 2019: CLE PROGRAMS:

11:00 AM to 12:30 PM: ABLJ Symposium: Equitable Powers of the Bankruptcy Court 40 Years After the Enactment of the Bankruptcy Code
Location: Marquis Ballroom 6-10

Are bankruptcy courts really courts of equity? To what extent can or should bankruptcy courts be permitted to exercise their equitable powers in fashioning relief in business and consumer bankruptcy cases? Co-sponsored by the American Bar Association Business Bankruptcy Committee, the American College of Bankruptcy, and the National Conference of Bankruptcy Judges, this year’s ABLJ Symposium will consist of a mock-Senate Judiciary Committee hearing, where a panel of experts will discuss and debate the equitable powers of the bankruptcy courts 40 years after the enactment of the Bankruptcy Code.

Program Speakers:
Prof. Laura Coordes, Arizona State University Sandra Day O’Connor College of Law, Phoenix, AZ
Prof. Diane Lourdes Dick, Seattle University School of Law, Seattle, WA
Prof. Melissa Jacoby, University of North Carolina School of Law, Chapel Hill, NC
Kenneth N. Klee Klee, Tuchin, Bogdanoff & Stern, LLP, Los Angeles, CA
Richard Levin, Jenner & Block, LLP, New York, NY
Prof. Bruce A. Markell, Northwestern University School of Law, Chicago, IL
Prof. Jay L. Westbrook, University of Texas at Austin School of Law, Austin, TX

1:00 PM to 3:00 PM: Kathryn R. Heidt Award Presentation & Luncheon: Chapter 11 Trustees and Chief Restructuring Officers: Can They Peacefully Coexist?
Location: Liberty Ballroom A-D [Ticketed Event—$90 or choose as included luncheon]

The program will address the differing roles of Chief Restructuring Officers and chapter 11 trustees, discuss when a trustee appointment might be appropriate notwithstanding the presence of a CRO, and update on developments in CRO retentions and the Alix protocol.

Program Co-Chairs:
Gary E. Klausner Levene, Neale, Bender, Yoo & Brill, LLP, Los Angeles, CA
(Also Moderator) Mette H. Kurth, Fox Rothschild LLP, Wilmington, DE
Clay B. Roberts, White & Case LLP, Miami, FL

Program Speakers:
Nan Roberts Eitel, U.S. Department of Justice, Washington, DC
Honorable Mary Jo Heston, United States Bankruptcy Court for Western District of WA., Tacoma, WA
Larry Perkins, Sierra Constellation, Los Angeles, CA
James H.M. Sprayregen, Kirkland & Ellis, LLP, Chicago, IL

Program Materials Coordinator: Lisa A. Tracy U.S. Department of Justice, Washington, DC
Thursday, October 31, 2019: CLE PROGRAMS:

3:30 PM to 4:30 PM: The Bankruptcy Slave Trade: A Conversation with Professor Rafael Pardo
Location: Archives

Historians have identified the domestic slave trade as a market activity that played a crucial role in the development of the national economy during the antebellum era. That sector flourished, in part, through support provided by the federal government. Noticeably absent from this historical account, however, has been a discussion of how federal bankruptcy law may have furthered the domestic slave trade. During this lively and thought-provoking interview, Professor Pardo will discuss his archival scholarship under the Bankruptcy Act of 1841 that examines two ways in which the federal government became entwined with the domestic slave trade: first, by becoming the owner and seller of slaves belonging to financially distressed slave owners who sought bankruptcy relief; and second, by enabling indebted slave traders to reconstruct their financial lives and thus return to the business. Professor Pardo’s research will resonate with some contemporary issues about eligibility for federal bankruptcy relief.

Program Chair: Henry C. Kevane, Pachulski Stang Ziehl & Jones LLP, San Francisco, CA

Program Moderator: Prof. David A. Skeel University of Pennsylvania Law School; Philadelphia, PA

Program Speakers: Prof. Rafael I. Pardo, Emory University School of Law, Atlanta, GA

Program Materials Coordinator: Michael A. Sabella, Baker & Hostetler LLP, New York, NY
Friday, November 1, 2019: CLE PROGRAMS:

1:00 PM to 3:00 PM: Secured Creditors Luncheon: Shopping for Debt: Buyer Beware of Good Deals
Location: Independence Ballroom A-D [Ticketed Event—$90 or choose as included luncheon]

The secondary market for distressed debt is vibrant and robust. This market permits traditional lenders to "exit" a distressed situation, typically to be replaced by an investor with expertise in maximizing the value of troubled companies and that is a voluntary participant in the bankruptcy process. But recent years have seen a wave of litigation arising out of transactions in distressed debt. The issues include whether the debt – in the buyer’s hands – is subject to equitable subordination or disallowance under Section 502(d) on account of the seller’s conduct, to the application of more typical principles of lender liability, the effect of a pre-petition and/or post-petition waiver and estimation of claims. This panel will address these issues and highlight recent trends and developments in this still-unsettled area of the law.

Program Co-Chairs:
(Also Moderator) Craig Goldblatt, WilmerHale, Washington, DC
Corali Lopez-Castro, Kozyak Tropin & Throckmartin LLP, Miami, FL
Sharon Weiss, Bryan Cave Leighton Paisner LLP, Los Angeles, CA

Program Speakers:
Honorable Kevin J. Carey, United States Bankruptcy Court for the District of Delaware, Wilmington, DE (Retired August 2019)
Elliot Ganz, Loan Syndications & Trading Association, New York, NY
M. Ruthie Hagan, Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, Memphis, TN
Whitman L. Holt, Klee, Tuchin, Bogdanoff & Stern LLP, Los Angeles, CA

Program Materials Coordinator: Leah Fiorenza McNeill, Bryan Cave Leighton Paisner LLP, Atlanta, GA

3:30 PM to 5:00 PM: Current Developments
Location: Archives

A group of experienced business bankruptcy lawyers from around the country will bring you up to date on developments of interest in the area. The panel encourages audience participation, and the discussion is often lively and engaging.

Program Chair/Moderator: Martin Bienenstock, Proskauer; New York, NY

Program Speakers:
Ogonna Brown, Lewis Roca Rothgerber Christie, Las Vegas, NV
(Also Materials Coordinator) Michael Enright, Robinson & Cole, Hartford, CT
Monique Hayes, Goldstein & McClintock, Miami, FL
Robert Millner, Dentons, Chicago, IL
Thursday, October 31, 2019: MEETINGS:

7:00 AM to 8:00 AM: Executory Contracts Subcommittee Meeting
Location: Treasury

7:00 AM to 8:00 AM: Model Code Project Business Bankruptcy Subcommittee Meeting Joint with MCP Consumer Bankruptcy Subcommittee
Location: Mint

7:00 AM to 8:00 AM: Trust Indentures Subcommittee Meeting
Location: Archives

8:00 AM to 9:00 AM: Avoidance Litigation Subcommittee Meeting
Location: Treasury

8:00 AM to 9:00 AM: Closely Held and Small Business Subcommittee Meeting
Location: Mint

8:00 AM to 9:00 AM: Administration & Courts Subcommittee Meeting and Bankruptcy Appeals Subcommittee Meeting — Substantive Topic: “Chapter 11 Plan Voting Issues”
Location: Capitol

Voting Problems – Chapter 11 Style. Washington DC and politics go hand in hand, and in recent years that also brings to mind voting issues. But Chapter 11 also has voting issues, particularly when dealing with Chapter 11 plans for closely held corporations. How do you deal with the one creditor class who doesn’t vote? If you have a joint plan for two related debtors, do you need an assenting class for each debtor? What about the creditor with other motives for voting – can you block the vote? What happens if you have competing plans – how do you handle the balloting and other issues? Join us as we discuss some cases highlighting these issues.

Meeting Co-Chairs:
Jeffrey P. Bast, Bast Amron LLP, Miami, FL
Honorable Janet E. Bostwick, U.S. Bankruptcy Court for the District of Massachusetts, Boston, MA

Meeting Moderator:
Ryan J. Works, McDonald Carano, Las Vegas, NV

Meeting Speakers:
Scott A. Griffin, Griffin Hamersky LLP, New York, NY
Lisa Yonka Stevens, Yumas, Vidmar, Sweeney & Mulrenin, LLC, Columbia, MD
Thursday, October 31, 2019: MEETINGS:

9:00 AM to 10:00 AM: Asset Forfeiture and Bankruptcy Subcommittee Meeting
Location: Mint

9:00 AM to 10:00 AM: Corporate Governance Subcommittee Meeting
Location: Archives

9:00 AM to 10:00 AM: International Bankruptcy Subcommittee Meeting
Location: Treasury

12:00 PM to 1:00 PM: Healthcare and Nonprofits in Bankruptcy Subcommittee Meeting and Program — Substantive Topic: “Sale of Not For Profit Healthcare Entities In Bankruptcy: When An Irresistible Force Meets An Immoveable Object”
Location: Archives

The Bankruptcy Code has specific provisions that deal with the treatment of nonprofit entities. The panel will discuss challenges in sales of nonprofit healthcare entities in a manner that complies with non-bankruptcy legal requirements, an issue which has been hotly litigated.

Meeting Chair:
Samuel Maizel, Dentons US LLP, Los Angeles, CA

Meeting Moderator:
Tania Moyron, Dentons US LLP, Los Angeles, CA

Meeting Speakers:
Karen Cordry, National Association of Attorneys General, Washington, DC
Honorable Nancy Hersey Lord, US Bankruptcy Court, E.D.N.Y., Brooklyn, NY
Andrew Sherman, Sills Cummis & Gross PC, New York, NY

12:00 PM to 1:00 PM: Partnerships & LLCs in Bankruptcy Subcommittee Meeting
Location: Treasury
Presented by: Business Bankruptcy Committee

12:00 PM to 1:00 PM: Legislation Subcommittee Meeting
Location: Mint
Friday, November 1, 2019: MEETINGS:

7:00 AM to 8:00 AM: Bankruptcy Committees Subcommittee Meeting
Location: Archives

7:00 AM to 8:00 AM: Claims & Priorities Subcommittee Meeting
Location: Mint

8:00 AM to 9:00 AM: Alternative Dispute Resolution Subcommittee Meeting
Location: Mint

8:00 AM to 9:00 AM: Administration & Courts Subcommittee Meeting and Bankruptcy Appeals Subcommittee Meeting — Substantive Topic: “Does Gender Matter in Bankruptcy Judging?”
Location: Capital

A variety of studies have shown that the judge’s gender may influence the outcome in cases. It has also been shown that the methodology used by female judges may differ from their male counterparts, even in “economic activity cases.” This study looked at 837 student loan discharge cases and compared the outcome of those cases based on the gender of the judge and the gender of the debtor. The study group is continuing its research with a survey of bankruptcy judges. This panel will discuss the results of the study and other issues of the influence of gender in judging.

Meeting Co-Chairs:
(Also Moderator) Honorable Frank J. Bailey; U.S. Bankruptcy Court, D Mass; Boston, MA
(Also Speaker) Honorable Laurel Isicoff; U.S. Bankruptcy Court, S.D. Fla.; Miami, FL

Meeting Speakers:
Honorable Bernice B. Donald, U.S. Court of Appeals for the Sixth Circuit, Memphis, TN
Deborah Goldfarb, Florida International University, Miami, FL
Friday, November 1, 2019: MEETINGS:

8:00 AM to 9:00 AM: Professional Ethics Subcommittee Meeting and Program — **Substantive Topic: "Ethics Wars": Blood-letting, conflicts, vendettas & personal attacks, and other skirmishes taking place on today's competitive business bankruptcy battlefield**
Location: Treasury

There are increasing indications that disputes about alleged conflicts, nondisclosure, failure to supplement disclosures, appearances of impropriety and disputes over fee applications are becoming more frequent, more personal, and more difficult for the courts to resolve. The program will use both recent high-profile disputes as well as developments in small and medium sized cases to identify trends and potential causes.

**Meeting Co-Chairs:**
(Also Moderator) Robert Charles, Jr., Lewis Roca Rothgerber Christie LLP, Tucson, AZ
Richard Meth, Roseland, NJ

**Meeting Speakers:**
Christopher Andrew Jarvinen, Berger Singerman, Miami, FL
Honorable Christopher M. Klein, U.S. Bankruptcy Court, Sacramento, CA
Melissa Anne Peña, Norris McLaughlin P.A., Bridgewater, NJ

8:00 AM to 9:00 AM: Podcasts Subcommittee Meeting joint with Webinars Subcommittee
Location: Archives

9:00 AM to 10:00 AM: Bankruptcy Taxes Subcommittee Meeting
Location: Mint

9:00 AM to 10:00 AM: Electronic Discovery (ESI) in Bankruptcy Cases Subcommittee Meeting
Location: Treasury

11:00 AM to 12:00 PM: Bankruptcy Court Structure and Insolvency Process Committee Meeting
Location: Treasury

12:00 PM to 1:00 PM: Programs Subcommittee Meeting
Location: Mint