

2004 Bankruptcy Conference
November 18-19, 2004 • Four Seasons Hotel • Austin, TX

Thursday Morning, Nov. 18, 2004

Presiding Officer:

Robert Conway McGuire, Dallas, TX

9:00 am 0.00 hr 0.50 hr ethics	Recent Developments A survey of case law development from around the nation, delivered by two of the country's leading academic authorities on bankruptcy. Elizabeth A. Warren, Harvard Law School - Cambridge, MA Jay Lawrence Westbrook, University of Texas School of Law - Campus Mail D1800
10:30 am 0.75 hr	Concurrent Jurisdiction in State and Federal Courts "Which way do we go?" Rooker-Feldman and the perils of concurrent jurisdiction. Hon. Brenda Taylor Rhoades, US Bankruptcy Court, Eastern District of - Plano, TX Deborah D. Williamson, Cox Smith Matthews Incorporated - San Antonio, TX
11:15 am 0.75 hr	363 Sales vs. Liquidating Plans Chapter 11 vs. Chapter 3: the pros and cons of sales under §363 vs. through Chapter 11 plan. Why should the judge care? Clifton R. Jessup Jr., Greenberg Traurig LLP - Dallas, TX D. M. Lynn, US Bankruptcy - Fort Worth, TX

Thursday Afternoon, Nov. 18, 2004

Presiding Officer:

Robert Conway McGuire, Dallas, TX

1:15 pm 0.75 hr	What Has Gone Wrong and Right with Large Chapter 11 Cases? Does current Chapter 11 practice meet the drafters' goal of balancing power between the major groups? How the 78 Code solved some problems, only to create others, as seen through the lenses of cash collateral usage, Section 363 sales, and case management. William R. Greendyke, Fulbright & Jaworski L.L.P. - Houston, TX Michael R. Rochelle, Rochelle, Hutcheson & McCullough LLP - Dallas, TX David B. Young, McGinnis Lochridge & Kilgore - Austin, TX
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2:00 pm 0.32 hr	<p>Estate vs. Estate: What Happens When One Bankruptcy Estate Has Claims against Another?</p> <p>This presentation reviews the lack of rules and the resultant custom and practice of courts with Bankruptcy estates making claims against each other and the impact on the use of cash collateral, claims determinations and confirmation issues.</p> <p>Michelle A. Mendez, Jenkins & Gilchrist - Dallas, TX</p>
2:20 pm 0.75 hr	<p>Cramdown in Chapters 11 and 13 after Till</p> <p>Risk, Rate, Return, Reality and Reasoning as applied to Big Fish and Little Fish that swim in entirely different bodies of water.</p> <p>Deborah Backus Langehennig, Chapter 13 Trustee - Austin, TX Robin Eric Phelan, Haynes And Boone, LLP - Dallas, TX</p>
3:05 pm 0.42 hr	<p>My Code or Yours? When Federal Statutes Collide</p> <p>Bankruptcy issues for federally regulated industries including electric utilities and telecommunications companies.</p> <p>Patricia Baron Tomasco, Brown & McCarroll LLP - Austin, TX</p>
3:45 pm 0.50 hr	<p>Consumer Class Actions Involving Fair Debt Collection Claims</p> <p>Recognizing and capitalizing on profitable alternatives to Chapter 7 and Chapter 13: consumer class actions.</p> <p>Manuel H. Newburger, Barron & Newburger PC - Austin, TX</p>
3:45 pm 1.00 hr	<p>Deepening Insolvency</p> <p>This session will discuss the increasingly common theory behind claims against officers, directors, accountants, investment bankers, and lenders for tortiously deepening the insolvency of a company.</p> <p>Kyung S. Lee, Diamond McCarthy Taylor Finley & Lee, - Houston, TX Valinda Barrett Wolfert, Vinson & Elkins LLP - Dallas, TX</p>
4:15 pm 0.50 hr	<p>Lying in Wait: The IRS after Discharge</p> <p>This presentation addresses some questions to ask a prospective client who wants to discharge tax debts in bankruptcy. A model qualified answer, and a disclaimer.</p> <p>E.P. Bud Kirk, Attorney at Law - El Paso, TX</p>
4:45 pm 0.75 hr	<p>Pick Your Poison - Divorce, Death or Goin' Broke</p> <p>The panel will consider the often strange interaction between the Bankruptcy Code, the Texas Probate Code and the Texas Family Code (and related rules and statutes). Topics discussed will include claims procedure in probate administration, as well as the competing rights of creditors, the potential impact on exemption claims, and the jurisdictional interplay between the courts.</p> <p>John Crawford Akard, Lubbock, TX Thomas S. Henderson, Thomas S. Henderson, Attorney At Law - Houston, TX Patrick J. Neligan Jr., Neligan Foley LLP - Dallas, TX</p>

4:45 pm
0.75 hr

Avoiding Chapter 22: A Post-Confirmation Look Back at Feasibility

Many times courts and parties are under great pressure to confirm plans with dubious, at best, chances of ultimate economic success. This session offers a discussion of how to anticipate such problems and strategies for dealing with them.

Loretta Cross, Grant Thornton LLP - Houston, TX
Stephen W. Lemmon, Brown & McCarroll - Austin, TX

Friday Morning, Nov. 19, 2004

Presiding Officer:

Thomas S. Henderson, Thomas S. Henderson, Attorney At Law - Houston, TX

8:30 am
0.50 hr

Creative Objections to Discharge and Dischargeability

A survey of the latest trends in discharge and dischargeability litigation.

Roger Stephen Cox, Sanders Baker - Amarillo, TX

9:00 am
1.00 hr

Executory Contract Issues

Recurring and unresolved issues relating to executory contracts and unexpired leases.

Henry Flores, Haynes & Boone LLP - Houston, TX
Paul E. Heath, Vinson & Elkins - Dallas, TX
Sabrina L. Streusand, Hughes & Luce - Austin, TX

10:15 am
0.00 hr
0.75 hr ethics

Privileged Characters

Trustees, Examiners, Committees, Debtors In Possession, and their respective professionals all enjoy limited immunity for actions taken within the scope of their fiduciary duties. Cross the line and bad things can happen. Plan to avoid problems and discuss penalties for "illegal border crossings."

John P. Melko, Gardere Wynne Sewell LLP - Houston, TX

11:00 am
0.75 hr

D&O Liability Insurance Coverage Issues

Bankruptcy estates and litigation trusts often sue the former officers and directors of entities that have filed for bankruptcy. This session will address insurance coverage for these claims and exceptions to coverage.

Barry C. Barnett, Susman Godfrey LLP - Dallas, TX
Karl Glenn Dial, Fulbright & Jaworski - Dallas, TX

11:45 am
0.50 hr

Deciding Whether to File: Alternatives to Bankruptcy

An empirical examination of how failed high-tech businesses decide whether to use bankruptcy versus other liquidation methods.

Ronald J. Mann, Austin, TX

Friday Afternoon, Nov. 19, 2004

Presiding Officer:

Hon. Leif M. Clark, US Bankruptcy Court, Western District of - San Antonio, TX

1:45 pm 1.00 hr	<p>Corralling Fees</p> <p>The Good, the Bad and the Ugly—what Fee Auditors, U.S. Trustees and Judges consider important, amusing or outrageous in fee applications.</p> <p>Marvin Isgur, US Bankruptcy Court - Houston, TX Nancy Ratchford, San Antonio, TX Warren H. Smith, Warren H Smith & Associates PC - Dallas, TX</p>
2:45 pm 0.00 hr 0.25 hr ethics	<p>Judges' Panel: The Judge as Trail Boss</p> <p>What role should the judge play in managing cases? Should the judge be a whip-cracking hands-on trail boss? Or should the judge just wait at the end of the trail to see if the lawyers can deliver the case to market? A wide ranging discussion of the good, the bad and the ugly in judicial case management styles.</p> <p>Moderator: Hon. Leif M. Clark, US Bankruptcy Court, Western District of - San Antonio, TX Hon. H. DeWayne Cooter Hale, US Bankruptcy Court, Northern District o - Dallas, TX Marvin Isgur, US Bankruptcy Court - Houston, TX Hon. Brenda Taylor Rhoades, US Bankruptcy Court, Eastern District of - Plano, TX</p>