

2006 Bankruptcy Conference

November 15-17, 2006 • Four Seasons Hotel • Austin, TX

Wednesday Evening, Nov. 15, 2006

6:00 pm
1.00 hr

Akard Lecture: Bankruptcy in the United States and the United Kingdom—Contrast and Convergence

Harry Rajak, Sussex Law School, University of Sussex - Brighton, United Kingdom

Thursday Morning, Nov. 16, 2006

Presiding Officer:

Evelyn H. Biery, Fulbright & Jaworski - Houston, TX

9:00 am
1.25 hrs

Recent Developments

A survey of case law developments formed around the nation, delivered by some of the country's leading authorities on bankruptcy, with commentary by Professor Jay L. Westbrook.

Evelyn H. Biery, Fulbright & Jaworski - Houston, TX
Deborah Backus Langehennig, Chapter 13 Trustee - Austin, TX
Jay L. Westbrook, University of Texas School of Law - Austin, TX
Deborah D. Williamson, Cox Smith Matthews Incorporated - San Antonio, TX

10:30 am
0.50 hr

Absolute Priority, Valuation Uncertainty, and the Reorganization Bargain

In large Chapter 11 reorganizations, parties bargain in the shadow of a plan confirmation process in which a class of dissenting creditors can demand that the judge value the assets of the business. Uncertainty accompanies any valuation procedure, and this uncertainty is particularly important in bankruptcy, especially where the business cannot be readily sold as a going concern. This panel will explore the problem of valuation uncertainty and the way it affects the dynamics of modern reorganization practice.

Douglas G. Baird, University of Chicago Law School - Chicago, IL
Donald S. Bernstein, Davis Polk & Wardwell - New York, NY

11:00 am
0.00 hr
0.75 hr ethics

Conflicts Writ Large: Intercreditor Issues and Issues with Fees and Overbilling

A discussion and analysis of two key ethical issues facing the bankruptcy bar: intercreditor issues and fee requests.

Martin J. Bienenstock, Weil, Gotshal & Manges, L.L.P. - New York, NY
Nancy Barbara Rapoport, University Of Houston Law Ctr - Houston, TX

11:45 am
0.50 hr

Practical Issue—Sales of Assets

This session will discuss the privacy and practical concerns of asset sales under §363.

George H. Tarpley, Cox Smith Matthews Incorporated - Dallas, TX

Thursday Afternoon, Nov. 16, 2006

Presiding Officer:

Clifton R. Jessup Jr., Greenberg Traurig LLP - Dallas, TX

1:30 pm 0.50 hr	<p>E-discovery on the Cheap</p> <p>While few of us will be involved in cases such as [insert plaintiff's name here] v. Microsoft, e-discovery is finding its way into everyday litigation, including into bankruptcy disputes. The speakers will consider the impact of the imminent e-discovery rules amendments and provide insight as to what the lawyer can (ethically) do on his or her own and when it is time to call in the experts.</p> <p>Thomas S. Henderson, Attorney At Law - Houston, TX W. Marc Schwartz, Hill Schwartz Spilker Keller LLC - Houston, TX</p>
2:00 pm 0.75 hr	<p>Parallel Universes: Alternative Insolvency Regimes</p> <p>The Bankruptcy Code is not the only framework for dealing with financial distress. Especially after the 2005 legislation, parties have been resorting more frequently to out-of-court workouts and equity receiverships. Some entities, notably insurance companies, have always stood outside the bankruptcy system. The panel explores workouts, equity receiverships, and insurance receiverships and their interplay with the bankruptcy regime.</p> <p>Christopher Dona Johnson, Diamond McCarthy, LLP - Houston, TX Michael P. Marcin, Cantilo & Bennett, L.L.P. - Austin, TX Rebecca A. Roof, AlixPartners LLC - New York David B. Young, McGinnis Lochridge & Kilgore - Austin, TX</p>
2:45 pm 0.75 hr	<p>Rules, Forms and You: The Pending Consumer Issues</p> <p>A discussion of rules and forms now in the comment period with consumer issues, including reaffirmations, means testing, debtor's education and discharge.</p> <p>Hon. Eugene R. Wedoff, U.S. Bankruptcy Court, Northern District - Chicago, IL</p>
3:45 pm 0.50 hr	<p>Intercreditor Agreements and Related Issues in Second Lien Financings: What the Lenders Have Been Doing That Bankruptcy Lawyers Should Know</p> <p>Discussion of intercreditor agreements terms in second lien financings that will impact bankruptcy proceedings, highlighting those terms that are often highly negotiated, current trends and negotiating dynamics.</p> <p>Theresa A. Einhorn, Haynes & Boone LLP - Houston, TX Jonathan Katz, JPMorgan Special Situations Investing - New York, NY</p>
3:45 pm 0.25 hr	<p>Means Testing</p> <p>Means testing under 707(b)(2)(A)(ii)(I) and projected disposable income under 1325(b)(3). Analysis, interpretation, insight, informed opinion, and more than a few wild guesses.</p> <p>Michael Victor Baumer, Law Office Of Michael Baumer - Austin, TX</p>

4:00 pm 0.25 hr	<p>Automatic Stay</p> <p>New subsections 362(c)(3) and 362(c)(4) of the Bankruptcy Code dealing with retention of, or imposition of, the automatic stay in cases where the debtor has had one or more prior bankruptcy cases dismissed within the last one year.</p> <p>Callan Mitchell Billingsley, Law Office Of Callan M. Billingsley - San Antonio, TX</p>
4:15 pm 0.75 hr	<p>The Law and Economics of Swaps and Derivatives in Bankruptcy</p> <p>Swaps and derivatives are increasingly used to transfer credit risk. This session explores the use of these financial instruments and the legal issues that arise in bankruptcy.</p> <p>Rhett G. Campbell, Thompson & Knight LLP - Houston, TX John E. West, Vinson & Elkins LLP - Houston, TX</p>
4:15 pm 0.25 hr	<p>Exemptions</p> <p>This program will cover basic Texas homestead law, with some discussions on the impact of the new legislation. In addition, the materials include personal property exemptions.</p> <p>Hon. H. DeWayne Cooter Hale, US Bankruptcy Court, Northern District o - Dallas, TX</p>
4:30 pm 0.25 hr	<p>Confirmation Issues</p> <p>How the courts are handling Chapter 13 confirmation issues under BAPCPA.</p> <p>Deborah Backus Langehennig, Chapter 13 Trustee - Austin, TX</p>
4:45 pm 0.25 hr	<p>Let Them Eat Steel</p> <p>Enforcement of the “hanging” paragraph regarding valuation of new vehicles.</p> <p>Heidi McLeod, San Antonio, TX</p>
5:00 pm 0.25 hr	<p>Converting a Chapter 13 to Chapter 7</p> <p>BAPCPA’s effect on valuation and pre-bankruptcy defaults.</p> <p>Ruben Ernesto Vasquez, Johnson & Vasquez, P.C. - El Paso, TX</p>
5:00 pm 0.50 hr ethics	<p>Committee Solicitation and Representation Under BAPCPA</p> <p>Competition to represent Committees continues to increase, and provisions under BAPCPA impose new requirements on Committee counsel. Learn what is appropriate in approaching prospective committee members, and practical experience and approaches under the amendments governing changes in committee membership, and how to preserve client privilege and other confidential information in required communications to non-committee member creditors.</p> <p>Luc A. Despins, Milbank, Tweed, Hadley & McCloy LLP - New York, NY John P. Melko, Gardere Wynne Sewell LLP - Houston, TX</p>
5:15 pm 0.25 hr	<p>Discharge Issues</p> <p>Tips to help you make sure your clients receive the discharge they are seeking in a bankruptcy.</p> <p>Jeanne Marie Morales, Jeanne Morales, Attorney - Midland, TX</p>

Friday Morning, Nov. 17, 2006

Presiding Officer:

J. Michael Sutherland, Carrington, Coleman, Sloman & Blumenthal - Dallas, TX

8:30 am 0.75 hr	<p>Commercial Arbitration: Is Arbitration too ... Arbitrary?</p> <p>Arbitration, many are now discovering, is not a panacea. Instead, it has become costly, time-consuming, and frustratingly arbitrary. More and more people now want to know if they can avoid going to arbitration. While the options are limited, our panelists will explore ways to limit or avoid arbitration, both in and out of bankruptcy.</p> <p>Hon. Leif M. Clark, US Bankruptcy Court, Western District TX - San Antonio, TX Zack A. Clement, Fulbright & Jaworski - Houston, TX Gregory M. Gordon, Jones Day - Dallas, TX</p>
9:15 am 0.50 hr	<p>Consumer Arbitration</p> <p>The pros, cons, and frustrations of arbitration, including options to limit or avoid arbitration, both in and out of bankruptcy.</p> <p>Richard M. Alderman, University Of Houston - Houston, TX Hon. Leif M. Clark, US Bankruptcy Court, Western District TX - San Antonio, TX</p>
9:45 am 0.50 hr	<p>Article 9</p> <p>A review and analysis of key provisions of Article 9 of the UCC for bankruptcy practitioners.</p> <p>Edward J. Janger, Brooklyn Law School - Brooklyn, NY</p>
11:00 am 0.75 hr	<p>Where Is the Economy Headed?</p> <p>A look at the direction of the economy in the next twelve months: consumer sentiment, rising debt and leverage, hedge funds, private equity, the dollar, real estate—when will Chapter 11 filings rise again?</p> <p>Anthony Chan, JPMorgan Asset Management - Columbus, OH</p>
11:45 am 0.75 hr	<p>Construction Law Issues in the Bankruptcy Area: Competing Claims, Liens and Interests</p> <p>The clash that can be experienced when construction cases meet bankruptcy.</p> <p>Susan J. Brandt, Nathan Sommers Jacobs - Houston, TX Kevin D. McCullough, Rochelle Hutcheson & McCullough - Dallas, TX Joseph J. Wielebinski Jr., Munsch Hardt Kopf & Harr, P.C. - Dallas, TX Fred Wilshusen, Thomas Feldman & Wilshusen - Dallas, TX</p>

Friday Afternoon, Nov. 17, 2006

Presiding Officer:

Charles A. Beckham Jr., Haynes and Boon, LLP - Houston, TX

1:30 pm 0.75 hr	<p>Growth of Federal Bankruptcy Jurisdiction</p> <p>Discussion of the scope and limits of federal bankruptcy jurisdiction, including the Supreme Court’s decision in the Anna Nicole Smith case and recent decisions on supplemental jurisdiction.</p> <p>G. Eric Brunstad Jr., Bingham McCutchen LLP - Hartford, CT</p>
2:15 pm 0.50 hr	<p>Substantive Consolidation Under the Microscope</p> <p>What is substantive consolidation? What standards govern its use? How is it different from state law based alter-ego and single business enterprise theories? Has it been adopted by the Fifth Circuit? Is it a valid example of federal common law? Was it authorized by the U.S. Supreme Court in 1940? Has it been fatally wounded by later Supreme Court holdings? And what if anything should be done with special purpose entities designed to combat substantive consolidation?</p> <p>Max Tucker, Winstead Sechrest & Minick PC - Dallas, TX</p>
3:00 pm 0.50 hr	<p>The New Chapter 15—International Issues</p> <p>A review and analysis of emerging cases and future prospects.</p> <p>Jay L. Westbrook, University of Texas School of Law - Austin, TX</p>
3:30 pm 0.00 hr 0.25 hr ethics	<p>Judges Panel</p> <p>Join a group of Texas Bankruptcy Judges for a discussion of current topics, including BAPCPA.</p> <p>Hon. Paul W. Bonapfel, U.S. Bankruptcy Court - Atlanta, GA Hon. H. DeWayne Cooter Hale, US Bankruptcy Court, Northern District o - Dallas, TX Marvin Isgur, US Bankruptcy Court - Houston, TX Moderator: Stacey Cowand Jernigan, Haynes Boone - Dallas, TX Hon. Brenda T. Rhoades, US Bankruptcy Court - Plano, TX Hon. Richard Schmidt, United States Bankruptcy Court - Corpus Christi, TX</p>