

26TH ANNUAL**JAY L. WESTBROOK****BANKRUPTCY CONFERENCE**

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Specialization Expected For Bankruptcy Law

**November 15-16, 2007****Four Seasons Hotel****Austin, Texas****SPONSOR LISTING—BACK COVER**

26TH ANNUAL

JAY L. WESTBROOK BANKRUPTCY CONFERENCE

November 15-16, 2007 • Four Seasons Hotel • Austin, Texas

Earn up to 13.25 Hours of Credit Including 2.50 Hours of Ethics Credit

THURSDAY MORNING – NOV. 15, 2007

Presiding Officer:

Deborah B. Langehennig, Austin, TX

8:00 a.m. Registration Opens

Includes continental breakfast.

8:50 a.m. Welcoming Remarks

9:00 a.m. 1.25 hr

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 Jay L. Westbrook.

Moderator: Jay L. Westbrook, Austin, TX
Evelyn H. Biery, Houston, TX
Deborah B. Langehennig, Austin, TX
Deborah D. Williamson, San Antonio, TX

10:15 a.m. Break

10:30 a.m. .50 hr

A Primer on Risk Management Tools and Techniques: Forwards, Futures, Options, Swaps, and CLOs

This session provides a brief overview of risk management tools and techniques used by non-financial and financial firms. The goal is to familiarize attorneys with the characteristics of these instruments and how they are used. The role and magnitude of such instruments in financial transactions will be further discussed in the panel that follows.

Robert Parrino, Austin, TX

11:00 a.m. 1.00 hr

The Changing Landscape of Debt Deals

A multi-perspective look at the ever changing players, structure, terms, and primary and secondary markets involved in debt financings.

Moderator: Kenneth A. Rogers, Dallas, TX
Joseph Naccarato, New York, NY
Thomas W. Okel, Charlotte, NC
Robert Parrino, Austin, TX

12:00 p.m. .58 hr

Repurchase Agreements and Other Issues in Subprime Lender Cases

Recognizing the recent explosion of subprime mortgage lending company bankruptcies, this panel will explore the protections provided by the Bankruptcy Code to repurchase loan agreements, the traditional financing vehicle used in the subprime mortgage industry. Tracing the history of the repurchase loan agreement, including the additional protections that were provided to such agreements by the most recent amendments to the Bankruptcy Code, the panel will explain why subprime lending company bankruptcies are somewhat unique and examine whether the issues that arise in these cases are likely to be seen in the future, both in and out of the subprime arena.

Mark D. Collins, Wilmington, DE
Douglas E. Deutsch, New York, NY

12:35 p.m. Lunch on Your Own

THURSDAY AFTERNOON

Presiding Officer:

Russell L. Munsch, Dallas, TX

1:45 p.m. .50 hr including .25 hr ethics

Owning Up: Mortgage Claims in Bankruptcy

The bankruptcy system has few systematic safeguards to ensure that creditors satisfy their duty to be accurate and complete in their representations to bankruptcy courts, trustees, and debtors. New data from the National Mortgage Study reveal widespread problems with the reliability of mortgagees' proofs of claims.

Katherine Porter, Iowa City, IA

2:15 p.m. .50 hr

LLCs and Partnerships in Bankruptcy

Nontraditional entities like limited liability companies present unique challenges when they turn up in bankruptcy cases—both as debtors themselves, and as assets held by a debtor/manager. Come hear how some of these challenges have been addressed, and how some of them haven't.

Michael P. Cooley, Dallas, TX

2:45 p.m. .50 hr ethics

Malpractice Issues in Bankruptcy Cases; Bankruptcy Issues in Malpractice Cases

The intersection of Legal Malpractice Law and Bankruptcy Law requires shipping outside the ordinary lanes of legal traffic.

Moderator: J. Michael Sutherland, Dallas, TX
Charles W. Herring Jr., Austin, TX
Luke Madole, Dallas, TX

3:15 p.m. Break

CONCURRENT BREAK-OUT SESSIONS CONSUMER TRACK

Presiding Officer:

Hon. John C. Akard, Lubbock, TX

3:30 p.m. .50 hr

Representing Creditors Post BAPCPA—Tricks, Treats and Traps

With all that "reform" who needs lawyers? An update highlighting cost-effective creditor representation two years after BAPCPA.

Roger S. Cox, Amarillo, TX

4:00 p.m. .50 hr ethics

The Well-Prepared Debtor

A discussion of recent cases involving sanctions, and certain provisions of BAPCPA that have affected responsibilities and compensation of attorneys in consumer cases.

William E. Heitkamp, Houston, TX

4:30 p.m. .67 hr

In Praise of Insiders: The Fortunes of the Debtor's Family Members and Close Friends in Bankruptcy Cases

Insiders are demonized in the Bankruptcy Code and case law, when they have participated in pre-bankruptcy transfers, which have diminished the estate. Often, however, the debtor's family members, close friends, and business associates have been his biggest financial backers, and they stand to be the creditors who will be the worst affected by a bankruptcy. There are some ways in which the impact of the bankruptcy can be lessened for those insiders.

E. P. Bud Kirk, El Paso, TX

5:10 p.m. .33 hr

Section 522(o): What the Debtor Did 10 Years Ago Matters (They Just Thought They Got Away with It)

The old homestead may not be worth what she used to be. If the debtor intends to defraud, he better wash his hands.

R. Byrn "Byrnie" Bass Jr., Lubbock, TX

CONCURRENT BREAK-OUT SESSIONS BUSINESS TRACK

Presiding Officer:

Russell L. Munsch, Dallas, TX

3:30 p.m. .50 hr

Inter-Class Give-Ups, Settlements, and Absolute Priority

This session will examine the phenomenon of inter-class give-ups, known as "gifting" in the context of non-plan settlements.

Christopher W. Frost, Lexington, KY

4:00 p.m. .50 hr

DIP Lenders' Terms and Intercreditor Agreements

An overview of recent developments and insights into the ongoing tensions among and between debtors, their lenders, and other creditors.

Randy Durant, Dallas, TX
Toby L. Gerber, Dallas, TX
Louis R. Strubeck Jr., Dallas, TX

4:30 p.m. .50 hr ethics

Shifting Sands: Ethical Issues for Bankruptcy Professionals in the Days of Claims Trading and Freewheeling Lateral Movement of Lawyers

This session addresses the attorney movement and claims trading, how it can impact estate professionals if a client acquires a claim in the case, and the continuing obligation to disclose. This session also covers structures developed to insulate, how they are developed and what they look like.

John E. Mitchell, Dallas, TX
Eric B. Terry, San Antonio, TX

5:00 p.m. .50 hr

The Search for Deep Pockets, Expanding the Pie, and (In)equitable Defenses

The perennial efforts to expand the pool of assets available to creditors and to shift the claims made against that pool provide fertile ground for new theories and the novel use of old ones. This session deals with some of the current trends in this area, including the uncertain fate of deepening insolvency as a distinct cause of action, the growing use of derivative or secondary tort theories to cast a wider net for parties who

may be liable, the viability of the in pari delicto defense, and the increasing employment of re-characterization as an alternative to equitable subordination as a tool for eliminating claims against the estate.

Phil C. Appenzeller Jr., Dallas, TX
David B. Young, Austin, TX

5:30 p.m. Adjourn to Sponsored Reception

See Sponsor Listing on Back Page

FRIDAY MORNING – NOV. 16, 2007

Presiding Officer:

Deborah D. Williamson, San Antonio, TX

8:00 a.m. Conference Room Opens

Includes continental breakfast.

8:40 a.m. .50 hr

Top 10 Things That Have NOT Happened After BAPCPA

What do "Y2K," Bird Flu, Chicken Little, and BAPCPA have in common? Exploring some of the most frequently made predictions regarding BAPCPA's negative impact on future bankruptcy cases that have NOT come to pass—and WHY?

Hon. Stacey G. C. Jernigan, Dallas, TX

9:10 a.m. 1.00 hr

Bankruptcy, M&A and Corporate Governance: The Interplay of State and Federal Civil and Criminal Law

Moderator: Harry A. Perrin, Houston, TX
Martin J. Bienenstock, New York, NY
Bruce W. Collins, Dallas, TX

10:10 a.m. Break

10:25 a.m. .75 hr including .50 hr ethics

Emerging Duties to Disclose: Ad Hoc Committees and Rule 2019

Panel discussion on recent case law under Bankruptcy Rule 2019 and what it means for bondholders, groups of creditors and lawyers that represent more than one creditor in a case.

Moderator: Henry J. Kaim, Houston, TX
Evan D. Flaschen, Hartford, CT
Jeffrey Sabin, New York, NY
George H. Tarpley, Dallas, TX

11:10 a.m. .75 hr

Is Competition for Big Cases Corrupting the Bankruptcy Courts? An Update

Based on current data and the latest studies, the author of *Courting Failure* presents a statistical view of forum shopping, court competition, and their effects on the bankruptcy system. Shopping patterns to and from Texas will be featured.

Lynn M. LoPucki, Los Angeles, CA

11:55 a.m. .33 hr

The Last Bankrupt Hanged: The Dangers of Bankruptcy in 18th Century England

In 1761, John Perrott was hanged for the crime of fraudulent bankruptcy. His bankruptcy was infamous, with huge sums unaccounted for, and whiffs of illicit sex. The extensive accounts of the case enable us to investigate the inner workings of an 18th-century bankruptcy and to uncover the ambivalences inherent in the system.

Dr. Emily Kadens, Austin, TX

LUNCHEON PRESENTATION

12:15 p.m. Pick up Box Lunch

Included in conference registration fee.

12:30 p.m. .50 hr

Legislative Update

What's new on bankruptcy and credit policy inside the beltway.

Samuel J. Gerdano, Alexandria, VA

FRIDAY AFTERNOON

Presiding Officer:

Evelyn H. Biery, Houston, TX

1:15 p.m. .50 hr

Current Issues in Oil and Gas Related Bankruptcy Cases

Strategies for debtors, creditors, and interest owners.

Michael A. McConnell, Fort Worth, TX

1:45 p.m. .75 hr

Environmental Claims in Bankruptcy: Reconciling the Conflict

Discussion of environmental claims in bankruptcy from the perspective of experienced debtor counsel and the National Environmental Bankruptcy Coordinator for the Department of Justice, highlighting the conflicts between environmental laws and bankruptcy laws, the types and priorities of environmental claims that arise in bankruptcy cases, and the treatment and dischargeability of environmental claims in bankruptcy, including the police/regulatory exception to the automatic stay and use of custodial environmental trusts.

Moderator: H. Christopher Mott, El Paso, TX
Tony M. Davis, Houston, TX
Alan S. Tenenbaum, Washington, DC

2:30 p.m.

.50 hr

Chapter 11 For Individuals: Bankruptcies for the Rich and Famous?

This session will cover both common and atypical issues faced by creditors, debtors, and their lawyers in individual Chapter 11 cases. Emphasis will be on plan confirmation hurdles, such as the absolute priority rule, tax issues, and the odd assortment of issues that arise in this sometimes glamorous and sometimes dangerous area.

Gray B. Jolink, Austin, TX
Kell C. Mercer, Austin, TX

3:00 p.m.

1.00 hr including .25 hr ethics

Judges Panel

Moderator: Hon. Leif M. Clark, San Antonio, TX
Hon. Craig A. Gargotta, San Antonio, TX
Hon. Robert L. Jones, Lubbock, TX
Hon. Frank R. Monroe, Austin, TX
Hon. Brenda T. Rhoades, Plano, TX
Hon. Wesley W. Steen, Houston, TX

4:00 p.m.

Adjourn

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Includes Course Binder, Reception and Friday Box Lunch Presentation

☐ Early Registration Fee due by Wednesday, Nov. 7, 2007 \$495.00

☐ Registration Fee after Wednesday, Nov. 7, 2007 \$545.00

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Allow 2-4 weeks from the conference date for delivery.

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AUSTIN

November 15-16, 2007

CONFERENCE LOCATION



Four Seasons Hotel

98 San Jacinto

Austin, TX 78701

512-685-8100

SPECIAL ROOM RATE \$205

(subject to availability)

good through October 18, 2007

\$12 valet; \$7 self-parking at
Convention Center parking facility
(subject to change)

KEY DATES

Registration & Cancellation

November 7, 2007—5 p.m.

last day for early registration

add \$50 for registrations
received after this time

November 9, 2007—5 p.m.

last day for full refund

November 12, 2007—5 p.m.

last day for partial refunds

\$50 processing fee applied

November 15, 2007—9 a.m.

conference begins

**M
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E**

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 13.25 hours, of which 2.50 credit hour will apply to legal ethics/professional responsibility credit.

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