

30TH ANNUAL JAY L. WESTBROOK
BANKRUPTCY CONFERENCE



November 17–18, 2011
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THURSDAY MORNING, NOV. 17, 2011

Presiding Officer:

Michael R. "Buzz" Rochelle, Rochelle McCullough, LLP, Dallas, TX

8:00 a.m. Registration Opens

Includes continental breakfast.

8:50 a.m. Welcoming Remarks

9:00 a.m. 1.25 hrs including .50 hr ethics

Recent Developments

To begin this conference with anything other than recent developments would be unconstitutional. These presenters have done this before and usually have seemed to know what they were talking about. Professor Westbrook always does. Come try 'em again.

Moderator:

Jay L. Westbrook, The University of Texas School of Law, Austin, TX

Panelists:

R. Byrn "Byrnie" Bass Jr., Attorney at Law, Lubbock, TX
Deborah B. Langehennig, Chapter 13 Trustee, Austin, TX
William J. Rochelle, Bloomberg LP, New York, NY
Deborah D. Williamson, Cox Smith Matthews Incorporated, San Antonio, TX

10:15 a.m. Break

10:30 a.m. .75 hr

Empty Creditors, Empty Voters and Hidden Interests: An Overview of "Decoupling"

Henry T. Hu, The University of Texas School of Law, Austin, TX

11:15 a.m. .50 hr ethics

Mortgages: New Rules, Continued Problems—Where Are We Now?

An update on the mortgage morass, including new rules and recent cases regarding proofs of claim, automatic stay, standing, mortgage and note transfer, MERS and securitization.

Hilary B. Bonial, Brice, Vander Linden & Wernick, P.C., Dallas, TX
Dean G. Pawlowic, Texas Tech University School of Law, Lubbock, TX

11:45 a.m. .75 hr including .25 hr ethics

Emerging Issues in Bankruptcy Litigation: Fraudulent Transfers and Preferences

Parties, forensics, pleadings, proof, remedies, final orders, coverage and deep pockets.

Moderator:

J. Michael Sutherland, Carrington Coleman Sloman Blumenthal, L.L.P., Dallas, TX

Panelists:

John D. Baumgartner, Grant Thornton, Houston, TX
Vickie L. Driver, Coffin & Driver, PLLC, Dallas, TX

12:30 p.m. Lunch on Your Own

THURSDAY AFTERNOON

1:45 p.m. .75 hr including .25 hr ethics

Mass Preference Actions: Pros, Cons and Strategies

A discussion of the practice and procedures, including far-reaching procedures orders and court-ordered mediation governing mass preference actions brought by Chapter 11 debtors or liquidating trusts, and how defendants can increase settlement leverage through fee shifting, dispositive motions and counterclaims.

Moderator:

Henry J. Kaim, King & Spalding LLP, Houston, TX

Panelists:

Francis L. Carter, Katz Barron Squitiero Faust, Miami, FL
Patricia Baron Tomasco, Jackson Walker L.L.P., Austin, TX

2:30 p.m. .75 hr ethics

Privilege Issues and Bankruptcy Litigation

Privileges in bankruptcy with a focus on the extent to which assertions of privilege or work product in bankruptcy proceedings may be treated differently than in regular litigation.

Scarlett E. Collings, Weil, Gotshal & Manges LLP, Houston, TX

George A. Quesada Jr., Sommerman & Quesada LLP, Dallas, TX

3:15 p.m. Break

CONCURRENT SESSIONS

CONSUMER TRACK

Presiding Officer:

Hon. John C. Akard, U.S. Bankruptcy Judge, Retired, Lubbock, TX

3:30 p.m. .50 hr

Schwabbing Exemptions: The Other Supreme Court Opinion

Hon. Robert L. Jones, U.S. Bankruptcy Court, Northern District of Texas, Lubbock, TX

4:00 p.m. .75 hr including .25 hr ethics

Exceptions to 727s and 523s

Discharge and dischargeability—a look at strategies for trying an adversary.

Michael V. Baumer, Attorney at Law, Austin, TX
Daniel J. "Corky" Sherman, Sherman & Yaquinto, Dallas, TX

4:45 p.m. .50 hr including .25 hr ethics

Chapter 7 Dismissals for Totality of Circumstances Abuse

High income Chapter 7 debtors that pass the Means Test are still at risk of dismissal under Section 707(b)(3) based on the "totality of circumstances" standard. This presentation focuses on how courts have applied this standard and surveys recent court decisions in this area.

Hon. H. Christopher Mott, U.S. Bankruptcy Court, Western District of Texas, Austin, TX

5:15 p.m. .50 hr

Disaster Preparedness: Business Continuity for Law Offices

"My office is on fire!" Disaster planning for the solo and small-firm practitioner.

Zollie C. Steakley, Attorney at Law, Sweetwater, TX

5:45 p.m. Adjourn to Reception

Overall excellent—great topics and great speakers.

First-rate materials.

The topics were very timely.

Fantastic program which serves practitioners well beyond Texas.

Great speakers. Loved the division of Consumer Track and Business Track.

High level of subject matter.

Presiding Officer

William A. "Trey" Wood III, Bracewell & Giuliani LLP, Houston, TX

3:30 p.m. .50 hr

**Intercreditor Agreements:
The Basics and Beyond**

Disputes regarding the enforceability of intercreditor agreements among first- and second-lien lenders have become more commonplace in complex Chapter 11 cases. This session addresses the negotiation of key bankruptcy-related provisions in intercreditor agreements, from multiple perspectives, and current case law regarding the enforceability of such provisions.

James R. Prince, Baker Botts L.L.P., Dallas, TX

4:00 p.m. .75 hr including .25 hr ethics

**The Impact of *United Operating*:
Preserving Causes of Action in the Fifth
Circuit and Other Circuits**

A discussion of how much detail needs to be disclosed in a plan's "reservation and enforcement" provision to preserve a cause of action post-confirmation against claims of lack of standing and res judicata following the Fifth Circuit's decision in *United Operating* and the growth of the "specific and unequivocal" requirement relative to the tests in other Circuits.

Darren B. Watts, Swanson, Martin & Bell, LLP,
Chicago, IL
Mark W. Wege, King & Spalding LLP, Houston, TX

4:45 p.m. .50 hr including .25 hr ethics

**Issues and Challenges in Real Estate
Cramdown Confirmation Cases**

This presentation addresses some of the unique issues and challenges faced in real estate Chapter 11 cases involving a cramdown of the secured creditor under a plan of reorganization, including a survey of recent Texas case law.

Davor Rukavina, Munsch Hardt Kopf & Harr, P.C.,
Dallas, TX
Joseph J. Wielebinski Jr., Munsch Hardt Kopf &
Harr, P.C., Dallas, TX

5:15 p.m. .50 hr

**Buyer's Remorse: Successor Liability after
the Sale**

Speakers review the current status of successor liability for acquisitions consummated either inside or outside bankruptcy.

Stephen M. Pezanosky, Haynes and Boone, LLP,
Fort Worth, TX
Bruce H. White, Greenberg Traurig LLP, Dallas, TX

5:45 p.m. Adjourn to Reception

Presiding Officer:

Berry D. Spears, Fulbright & Jaworski L.L.P., Houston, TX

8:00 a.m. Conference Room Opens

Includes continental breakfast.

8:45 a.m. .92 hr

**Bankruptcy Jurisdiction after
*Stern v. Marshall***

Stern v. Marshall: What does it say, what does it mean, and where do we go from here? Commentary and a picture of the road ahead in bankruptcy jurisdiction from the Masters.

Moderator:

Jay L. Westbrook, The University of Texas
School of Law, Austin, TX

Panelists:

Ralph Brubaker, University of Illinois College of Law,
Champaign, IL
Kenneth N. Klee, UCLA School of Law,
Los Angeles, CA
Gerald K. Smith, Lewis and Roca LLP, Phoenix, AZ

9:40 a.m. .83 hr

**Alphabet Soup of Receivership and Similar
Proceedings**

FDIA, OLA, RCP, RSP, SDR, SIPA.... Learn what these acronyms mean and how they work in the context of rehabilitation, liquidation and receivership of insurance companies, insured banks, broker-dealers, systemically important financial institutions and other organizations.

James J. Lee, Vinson & Elkins LLP, Dallas, TX
Sylvia A. Mayer, Weil, Gotshal & Manges LLP,
Houston, TX
Joseph T. Verdesca Jr., Weil, Gotshal & Manges LLP,
New York, NY

10:30 a.m. Break

10:45 a.m. 1.00 hr

Municipalities in Distress

The noted economist Nouriel Roubini and the well-known market analyst Meredith Whitney are both on record as predicting an all-but-complete meltdown in the municipal bond and finance markets in the coming year or two. Is this really going to happen, and what does it mean for bankruptcy practitioners in terms of dealing with the fallout from such troubles? This panel discusses Chapter 9 and municipal and governmental unit restructuring, as well as what's likely to be the situation in this market in the future and what comparability exists between the practice methods employed in Chapter 11 and those used in Chapter 9.

Bill Brandt, CEO, Development Specialists, Inc.,
and Chair, Illinois Finance Authority Chicago, IL
Patrick Darby, Bradley Arant Boult Cummings LLP,
Birmingham, AL

11:45 a.m. .50 hr

**Does the Stay Protect Foreign Assets of a
U.S. Debtor?**

There is a strong perception—and U.S. authority—that a stay designed to protect a debtor's estate extends to assets in that estate that are situated beyond the borders of the U.S. This presentation explores the extent to which this perception is shared by other jurisdictions, principally that of the UK.

Harry Rajak, University of Sussex School of Law,
Politics and Sociology, Brighton, United Kingdom

12:15 p.m. Break to Pick Up Lunch

Included in conference registration fee.

FRIDAY AFTERNOON
Presiding Officer:

Patricia Baron Tomasco, Jackson
Walker L.L.P., Austin, TX

LUNCHEON PRESENTATION

12:30 p.m. .75 hr

How to Try a Case before a Judge

Hon. W. Royal Furgeson Jr., U.S. District Court,
Northern District of Texas, Dallas, TX

1:15 p.m. Break

1:30 p.m. .50 hr ethics

Mediation: When Does It Work?

An in-depth discussion of the use of mediation procedures in today's bankruptcy cases.

Michael A. McConnell, Kelly Hart & Hallman, LLP,
Fort Worth, TX
Thomas A. Collins, Attorney at Law, Austin, TX

2:00 p.m. 1.00 hr

Judges Panel
Moderator:

Hon. Brenda T. Rhoades, U.S. Bankruptcy Court,
Eastern District of Texas, Plano, TX

Panelists:

Hon. Marvin Isgur, U.S. Bankruptcy Court, Southern
District of Texas, Houston, TX
Hon. D. Michael Lynn, U.S. Bankruptcy Court,
Northern District of Texas, Fort Worth, TX
Hon. H. Christopher Mott, U.S. Bankruptcy Court,
Western District of Texas, Austin, TX

3:00 p.m. Adjourn

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Early Registration Fee due by Wednesday, November 9, 2011\$545

Registration Fee after Wednesday, November 9, 2011\$595

GREEN REGISTRATION—Includes Electronic Materials on USB Key (only), Thursday Evening Reception and Friday Luncheon Presentation

Early Registration Fee due by Wednesday, November 9, 2011\$540

Registration Fee after Wednesday, November 9, 2011\$590

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AUSTIN

November 17–18, 2011

CONFERENCE LOCATION



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 Austin, TX 78701
 512-685-8100

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 good through October 24, 2011
 (subject to availability)

Parking:
 Valet \$12 per day, \$30.30 overnight;
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KEY DATES

November 9, 2011, 5 p.m.
last day for early registration
 add \$50 for registrations
 received after this time

November 11, 2011, 5 p.m.
last day for full refund

November 14, 2011, 5 p.m.
last day for partial refund
 \$50 processing fee applied

November 17, 2011, 9 a.m.
Conference begins



This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 12.50 hours, of which 3.25 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

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