

32ND ANNUAL JAY L. WESTBROOK

BANKRUPTCY CONFERENCE



November 20*, 21–22, 2013
Four Seasons Hotel ▪ Austin, Texas

*Wednesday Evening John C. Akard Lecture

Earn up to 12.50 Hours of Credit Including 2.00 Hours of Ethics Credit; and 15.00 Hours of CPE Credit

Texas Legal Specialization Credit Approved for Bankruptcy Law

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***WEDNESDAY EVENING, NOV. 20, 2013**

JOHN C. AKARD LECTURE

6:00 p.m. – 9:00 p.m.

**Lessons from Lehman:
Persistent Problems in Secured Lending**

Sarah Worthington, Downing Professor of the Laws of England; Director of the LL.M. Course, University of Cambridge, Cambridge, UK

Professor Sarah Worthington QC (Hon) FBA is the Downing Professor of the Laws of England, University of Cambridge, and Co-Director of the Cambridge Private Law Centre. Her main research interests are in commercial equity and corporate law, especially secured financing and governance issues. She is a Bencher of Middle Temple, barrister of South Square, Gray's Inn, Member of Council of the British Academy and a Panel Member of PRIME Finance. She has held visiting appointments in Africa, Australia, Europe and Hong Kong, and has worked with law reform bodies in the UK, Europe and Australia, including serving as a member of the Advisory Council for the Study Group for a European Civil Code, consultant to the UK Law Commission, and member of working groups of the Bank of England Financial Markets Law Committee and the UK Company Law Review.

**THE JOHN C. AKARD
DISTINGUISHED LECTURESHIP**

The John C. Akard Distinguished Lectureship Program was endowed by the generous gifts of many members of the Texas bankruptcy bar in honor of Judge John C. Akard (retired), a 1957 UT Law graduate who served with great distinction for 14 years as the U.S. Bankruptcy Judge in the Northern District of Texas, sitting in Lubbock and throughout much of West Texas. The first Akard Lecture was delivered in 2001 by Professor Elizabeth Warren of Harvard Law School, and formerly of The University of Texas School of Law.

ABOUT THE COVER

Terminus Mare, 60" x 40", acrylic, is by Terry Klumpp. For more information, visit www.klumppcreative.com

THURSDAY MORNING, NOV. 21, 2013

Presiding Officer:

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

8:00 a.m. Registration Opens

Includes continental breakfast.

8:50 a.m.

Welcoming Remarks

Hon. Leif M. Clark, Mediator/Abitrator/Consultant,
San Antonio, TX

9:00 a.m. 1.00 hr

Recent Case Law Update

If you're sittin' around "waitin'" for the dust to settle" on these cases, you'll be disappointed. There's a full-blown West Texas dust storm blowin' out yonder. But the presenters have brought some brooms!

Moderator:

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

Panelists:

R. Byrn "Byrnie" Bass Jr., Attorney at Law, Lubbock, TX
Angela Littwin, The University of Texas School of Law, Austin, TX
William J. Rochelle, Bloomberg LP, New York, NY
Deborah D. Williamson, Cox Smith Matthews Incorporated, San Antonio, TX

Materials By:

Deborah B. Langehennig, Chapter 13 Trustee, Austin, TX
Brian T. Cumings, Graves Dougherty Hearon & Moody, Austin, TX
Aaron M. Kaufman, Cox Smith Matthews Incorporated, Dallas, TX
Priya Kiran, Office of the Chapter 13 Trustee, Austin, TX

10:00 a.m. .75 hr

Oil and Gas Leases:

**They're Not Just in Texas Anymore—
They're Fracking Everywhere!**

In an oil and gas bankruptcy, what you think you know about the rights of interest owners, remedies, lien rights and termination rights may be changing in Texas, up north and out in the Gulf.

Charles A. Beckham Jr., Haynes and Boone, LLP, Houston, TX
Eli O. Columbus, Winstead PC, Dallas, TX

10:45 a.m. Break

11:00 a.m. .75 hr | .50 hr ethics

Appendix B: The U.S. Trustee Program Fee Guidelines. Now What?

They are here so what's next? As firms begin to grapple with the question of how to comply with the USTP Fee Guidelines, questions emerge: What does the U.S. Trustee Program (USTP) hope to accomplish? What does the USTP expect? How can I avoid objections? Why should I? This interactive discussion attempts to dispel some myths and shed some light on how to put the new Appendix B Fee Guidelines into practice.

Michael P. Cooley, Akin Gump Strauss Hauer & Feld LLP, Dallas, TX
Nan Roberts Eitel, U.S. Department of Justice, Executive Office for Trustees, Washington, DC

11:45 a.m. Pick Up Lunch

Included in registration.

THURSDAY AFTERNOON

Presiding Officer:

**Demetra L. Liggins, Thompson &
Knight LLP, Houston, TX**

LUNCHEON PRESENTATION

12:00 p.m. .75 hr

What Neuroscience Tells Us About Debtors

How does the brain light up when we incur debt? What is the neuroscience behind insolvency? This talk offers a survey of ethical considerations involved with a brain in debt. Consider the implications on your own ethical conduct in light of the demand characteristics and biased instincts of the debtor's brain.

Kevin L. Leahy, The University of Texas School of Law, Austin, TX

12:45 p.m. Break

1:00 p.m. .75 hr ethics

Interactive Ethics

Real world ethical issues involving real players—you!

Lawrence J. Fox, Drinker Biddle & Reath LLP, Philadelphia, PA
Sabrina L. Streusand, Streusand, Landon & Ozburn, LLP, Austin, TX

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

Expert Testimony and Evidence in Bankruptcy

Use of experts and evidence in bankruptcy—strategies for cases with restricted funds, *Daubert*, Rule 26 issues and discovery of expert reports.

Patrick Kelley, Ireland, Carroll & Kelley, P.C., Tyler, TX
Hon. Richard Schmidt, U.S. Bankruptcy Court,
Southern District of Texas, Corpus Christi, TX

2:15 p.m. .50 hr

Recent Developments in Consumer Bankruptcy Scholarship and Data

Angela Littwin, The University of Texas School of Law,
Austin, TX

2:45 p.m. Break

3:00 p.m. .50 hr

Insurance Law for Dummies

In many cases, the principal asset recovery will be insurance—the estate’s, a director’s, a tortfeasor’s. Insurance companies are not always eager to pay, however. An important primer on insurance law.

Craig J. Litherland, Gilbert LLP, Washington, DC

3:30 p.m. .50 hr

The Plan After the Plan: 30 Tips in 30 Minutes for Life After Reorg

Confirmation of the plan is only half the battle. The real test comes when the plan documents face trial by fire post-confirmation. Learn how you—and the confirmed plan—can remain unscathed post-confirmation. Documentation, litigation, reporting requirements, jurisdiction concerns, and more. See what’s coming before it arrives!

Sylvia A. Mayer, Weil, Gotshal & Manges LLP,
Houston, TX
William A. “Trey” Wood III, Bracewell & Giuliani, LLP,
Houston, TX

4:00 p.m. .50 hr

Buyers’ Guide to Section 363 Sales

A look at Section 363 sales from the buyer’s point of view, including sales to the entity financing the proceeding, the efficacy of successor liability provisions, and strategies for negotiating effective APAs.

C. Luckey McDowell, Baker Botts, Dallas, TX
Tonya Moffat Ramsey, Vinson & Elkins LLP, Dallas, TX

4:30 p.m. .50 hr

The Results: The Process and Observation From a Survey of Practitioners

Observations from a survey of Texas bankruptcy practitioners regarding the future of Chapter 11.

Michelle A. Mendez, Conley, Rosenberg &
Brenneise, LLP, Addison, TX

5:00 p.m. Adjourn to Reception

JAY L. WESTBROOK BANKRUPTCY RECEPTION

THANK YOU TO OUR SPONSORS

FRIDAY MORNING, NOV. 22, 2013

8:00 a.m. Conference Room Opens

Includes continental breakfast.

Concurrent Sessions

BUSINESS TRACK

Presiding Officer:

Samuel J. Gerdano, American Bankruptcy Institute, Alexandria, VA

9:00 a.m. 2.75 hrs

ABI Commission to Study the Reform of Chapter 11, Field Hearing

The American Bankruptcy Institute’s Commission to Study the Reform of Chapter 11 was established in 2012 to comprehensively investigate the need for modernization in the U.S. law of corporate reorganization. The 20 members of the Commission have held more than a dozen field hearings around the country, hearing from experts in law, finance, the judiciary and academia. The records from these proceedings are found at www.commission.abi.org. More than 130 other top professionals are serving on advisory committees, studying topical areas and reporting back recommendations for reform. The Commission’s final report will be transmitted to Congress in December 2014. At this hearing during the Westbrook Bankruptcy conference, panels of experts address policy issues important to Texas practitioners, including fundamental bankruptcy jurisdiction and venue. Includes one 15-minute break.

WITNESS LIST

Panel 1: Remarks From a Cross-Section of the Texas Bar Regarding the Future Direction of Chapter 11

William R. Greendyke, Norton Rose Fulbright,
Houston, TX
Michael R. “Buzz” Rochelle, Rochelle McCullough,
LLP, Dallas, TX

Bankruptcy Court Jurisdictional Issues: Article III, Stern

G. Eric Brunstad Jr., Dechert LLP, Hartford, CT

Panel 2: Bankruptcy Court Venue

Hon. Steven W. Rhodes, U.S. Bankruptcy Court,
Eastern District of Michigan, Detroit, MI
Douglas B. Rosner, Goulston & Storrs, Boston, MA
Jay L. Westbrook, The University of Texas School of
Law, Austin, TX
Michael Luskin, Luskin, Stern & Eisler LLP,
New York, NY
James L. Patton, Young Conaway Stargatt &
Taylor, LLP, Wilmington, DE

12:00 p.m. Lunch On Your Own

CONSUMER TRACK

Presiding Officer:

Robert B. Wilson, Chapter 13 Trustee, Lubbock, TX

9:00 a.m. .75 hr

The New Chapter 13 Plan

An opportunity to get your specific questions answered on where we are now on the proposed National Model Chapter 13 Plan. Please submit your questions in advance to service@utcle.org or on site at the conference registration desk.

Jon M. Waage, Standing Chapter 13 Trustee,
Bradenton, FL

9:45 a.m. .50 hr | .25 hr ethics

Pitfalls in Pre-Bankruptcy Planning

Discussion concerning planning for and anticipating potential issues in consumer cases, with do’s and don’ts as well as traps for the occasional consumer attorney to avoid.

Joshua P. Searcy, Searcy & Searcy, P.C., Longview, TX

10:15 a.m. .50 hr

How to Simplify the Use of the iPad in Court and in Your Bankruptcy Law Practice

Peter Johnson, Attorney at Law, Houston, TX

10:45 a.m. Break

11:00 a.m. .50 hr

Homestead Issues

A discussion of recent cases affecting the homestead exemption.

Hon. Tony M. Davis, U.S. Bankruptcy Court, Western
District of Texas, Austin, TX

11:30 a.m. .50 hr | .25 hr ethics

Disposable Income Issues in Consumer Cases

When the liquidation test says your client needs to pay a specific amount, yet their disposable income won’t cover it, what do you do? Does income from exempt property count? How long does your client have to pay in an individual Chapter 11? These and other brain teasers to help you work through disposable income challenges.

Michael V. Baumer, Attorney at Law, Austin, TX

12:00 p.m. Lunch On Your Own

FRIDAY AFTERNOON**Presiding Officer:**

Jay H. Ong, Munsch Hardt Kopf & Harr, P.C., Austin, TX

1:15 p.m. .75 hr

Section 1129 is "Not Dead Yet" in the Fifth Circuit

Texas Grand Prairie Hotel; Lively; Village at Camp Bowie! The Fifth Circuit is speaking about 1129 issues once again. Panel members discuss the latest from the Fifth Circuit as well as some lower court decisions struggling with how to apply adequate protection payments at confirmation.

Moderator:

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

Panelists:

Keith M. Aurzada, Bryan Cave LLP, Dallas, TX
Davor Rukavina, Munsch Hardt Kopf & Harr, P.C., Dallas, TX

2:00 p.m. .50 hr

Serving Up Chapter 9 Lone Star Style... With a Dash of Detroit

In Texas? Yes, even in Texas!

Josiah M. Daniel III, Vinson & Elkins LLP, Dallas, TX
Heather M. Forrest, Jackson Walker L.L.P., Dallas, TX

2:30 p.m. Break

2:40 p.m. .50 hr

Chapter 15 and the Vitro Decision: Is the Applicability of the Public Policy Exception Any More Certain?

It's time for this esoteric chapter to go mainstream. In the past few years, there has been a significant increase in Chapter 15 filings and the reasons for its use. Although the Fifth Circuit has weighed in with an important decision that grapples with third party releases under a Mexican reorganization plan, it did not necessarily clear up the uncertainty about how Chapter 15's "public policy exception" will be applied in the future.

Berry D. Spears, Norton Rose Fulbright, Austin, TX
Joseph J. Wielebinski Jr., Munsch Hardt Kopf & Harr, P.C., Dallas, TX

3:10 p.m. 1.00 hr

Judicial Panel

Please submit your questions in advance to service@utcle.org or on site at the conference registration desk.

Moderator:

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

Panelists:

Hon. Tony M. Davis, U.S. Bankruptcy Court, Western District of Texas, Austin, TX
Hon. Russell F. Nelms, U.S. Bankruptcy Court, Northern District of Texas, Fort Worth, TX
Hon. Richard Schmidt, U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi, TX

4:10 p.m. Adjourn

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DEBORAH D. WILLIAMSON*
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San Antonio, TX

ROBERT B. WILSON*
Chapter 13 Trustee
Lubbock, TX

WILLIAM A. "TREY" WOOD III
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Houston, TX

SARAH WORTHINGTON
University of Cambridge
Cambridge, UK

*Planning Committee Member

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Call 512.475.6700 or email service@utcle.org

CLE AND CPE CREDIT

CLE CREDIT

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 2.00 credit hours will apply to legal ethics/professional responsibility credit.

Texas Legal Specialization Credit Approved for Bankruptcy Law

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Program Level: Overview
Advance Preparation: None

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REGISTRATION—Includes Course Materials, Wednesday Evening Akard Lecture, Thursday Luncheon Presentation and Thursday Evening Reception

For Group registration, call 512.475.6700.

1. Select Registration Type

- Registration by Wednesday, November 13 \$550
 Registration after Wednesday, November 13..... \$600

2. Select Course Materials Format

- Electronic Course Binder on USB Key ONLY
 Printed Course Binder ONLY

3. Select Friday Morning Concurrent Sessions

- A: Business Track
 B: Consumer Track

4. RSVP: Wednesday Evening John C. Akard Lecture Delivered by Sarah Worthington

- I will attend the Akard Lecture FREE

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AUSTIN

November 20*, 21–22, 2013

CONFERENCE LOCATION



Four Seasons Hotel
98 San Jacinto
Austin, Texas
512.685.8100

Special Room Rate: \$245
good through October 21, 2013
(subject to availability)

Parking:
Self-parking \$12 day of event
Valet parking \$16 daily and \$32.50 overnight
(subject to change)

KEY DATES

November 13, 2013

last day for early registration
add \$50 for registrations
received after this time

November 15, 2013

last day for full refund

November 18, 2013

last day for partial refund
\$50 processing fee applied

***November 20, 2013, 6:00 p.m.**
Wednesday Evening Akard Lecture begins

November 21, 2013, 8:50 a.m.
Conference begins

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REASONS TO ATTEND

THE JAY L. WESTBROOK BANKRUPTCY CONFERENCE

- **Professor Jay L. Westbrook leads a panel** of distinguished practitioners in the perennial favorite, *Recent Case Law Update*
- **Review the latest developments** from the Fifth Circuit on Section 1129, Chapter 15 and *Vitro*
- **Learn how to** put the new USTP Fee Guidelines into practice
- **Hear experts address policy issues** important to Texas practitioners, including fundamental bankruptcy jurisdiction and venue at the *ABI Commission to Study the Reform of Chapter 11, Field Hearing*
- **Get your specific questions answered** on the proposed National Model Chapter 13 Plan
- **Interact and network with judges, trustees and practitioners**