

36TH ANNUAL JAY L. WESTBROOK
BANKRUPTCY CONFERENCE



November 16–17, 2017
Four Seasons Hotel ■ Austin, Texas

Earn up to 13.50 Hours of CLE Credit, Including 3.25 Hours of Ethics Credit

TX Legal Specialization Credit Approved for Bankruptcy Law

16.00 Hours of CPE Credit Available (TX Accounting CPE & NASBA)

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TX Legal Specialization Credit Approved for Bankruptcy Law
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THURSDAY MORNING, NOV. 16, 2017

**Presiding Officer: Jay H. Ong, Munsch
Hardt Kopf & Harr, P.C., Austin, TX**

7:30 a.m. Registration Opens
Includes continental breakfast.

8:35 a.m. Welcoming Remarks

8:50 a.m. 1.25 hrs | .50 hr ethics

Recent Developments

A tradition like none other! Explore the year's most important consumer and business cases.

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
Bill Rochelle, American Bankruptcy Institute, New York, NY
Deborah D. Williamson, Dykema Cox Smith, San Antonio, TX

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Law Clerk
U.S. Bankruptcy Court,
Northern District of Texas
Forth Worth, TX

SUGI HADIWIJAYA
CR3 Partners
Dallas, TX

SALLY MCDONALD HENRY
Texas Tech School of Law
Lubbock, TX

DAN JANSEN
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Palo Alto, CA

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Northern District of Texas
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Southern District of Texas
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Chapter 13 Trustee
Austin, TX

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of Law
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Portland, ME

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New Orleans, LA

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Chapter 13 Trustee
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Eastern District of Texas
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Dallas, TX

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American Bankruptcy Institute
New York, NY

HON. EDUARDO V. RODRIGUEZ
U.S. Bankruptcy Court, Southern
District of Texas
McAllen, TX

GREGORY S. SCHWEGMANN
Reid Collins & Tsai LLP
Austin, TX

10:05 a.m. .50 hr

Jevic Follow Up—Structured Dismissals and Gifting Cases

In *Jevic*, the Supreme Court held that a settlement incorporated in a structured dismissal of a Chapter 11 case could not violate the priority rules of the bankruptcy code. Most structured dismissals that violate the bankruptcy code's priority rules, however, are approved on the theory that the priority-skipping payments are gifts. Explore whether practitioners are trying to avoid the code's priorities using gifting theories, notwithstanding *Jevic*, and are they having success?

Sally McDonald Henry, Texas Tech School of Law,
Lubbock, TX

10:35 a.m. Break

**M
C
L
E**

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on CLE in the amount of 13.50 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 (#179).

10:50 a.m. .75 hr

SCOTUS Judicial Decision Making in Bankruptcy Cases

Since the adoption of the Bankruptcy Code 40 years ago, the Supreme Court's decisions interpreting the Code systematically have narrowed the Code's application, hampering the development of the comprehensive bankruptcy system Congress envisioned in its decade-long project to fashion the Code.

Ronald J. Mann, Columbia Law School, New York, NY

11:35 a.m. .50 hr

Bankruptcy's Role in Alleviating Student Debt Burdens

Discuss bankruptcy's potential role in alleviating student debt burdens by exploring existing case law and practice experience surrounding the "undue hardship" determination.

Chrystin Ondersma, Rutgers Law, Newark, NJ
Charlie Shelton, Office of the Texas Attorney
General, Austin, TX

12:05 p.m. Lunch on Your Own

BUSINESS TRACK

Presiding Officer: Robin Russell, Andrews Kurth, Houston, TX

1:35 p.m. .75 hr

Wanting a Seat at the Table: The Rise of Equity Committees

Existing equity holders of Chapter 11 debtors are increasingly requesting appointment of official committees of equity holders pursuant to section 1102 of the Bankruptcy Code. Examine the standard for appointment and role of equity committees, recent cases in which courts have granted and denied requests for appointment of an equity committee, and whether equity committees enhance shareholder recoveries in Chapter 11 cases.

Christopher Manuel Lopez, Weil, Gotshal & Manges LLP, Houston, TX
Kelli Norfleet, Haynes and Boone, LLP, Houston, TX

2:20 p.m. .50 hr

Planning on Staying?

Post-confirmation subject matter jurisdiction may well depend on how you draft your plan. Hear practice tips on how to avoid pitfalls.

Hon. Leif M. Clark (retired), Leif M. Clark Consulting, PLLC, San Antonio, TX

2:50 p.m. .50 hr

Chapter Five versus the Securities Markets—the Scope of Section 546(e)

Join counsel for the Respondent and the Petitioner respectively, as they discuss the briefing, arguments, and implications of the U.S. Supreme Court's consideration (and perhaps decision) of the scope of the Section 546(e) safe harbor in *Merit Management Group v. FTI Consulting*.

Jason J. DeJonker, Bryan Cave LLP, Chicago, IL
Gregory S. Schwegmann, Reid Collins & Tsai LLP, Austin, TX

3:20 p.m. Break

3:35 p.m. .75 hr | .50 hr ethics

Business Bankruptcy / Pre-Planning Pitfalls

What steps should a company take or not take prior to a bankruptcy filing? Discuss several topics around this question, including ethical considerations that often come into play.

Vickie L. Driver, Husch Blackwell LLP, Dallas, TX
Sugi Hadiwijaya, CR3 Partners, Dallas, TX
Richard Robbins, AlixPartners LLP, Dallas, TX

4:20 p.m. .50 hr

The Implications of *Jevic* on Business Bankruptcy Cases

More on *Jevic* and structured dismissals. Why? Because when the Supreme Court speaks once, we need to listen twice.

Louis M. Phillips, Kelly Hart & Hallman LLP, Baton Rouge, LA

4:50 p.m. Adjourn to Reception

CONSUMER TRACK

Presiding Officer: Hon. John C. Akard, U.S. Bankruptcy Judge, Retired, Houston, TX

1:35 p.m. .75 hr

Community Property, Divorce and Bankruptcy—What Could Possibly go Wrong?

An irreconcilable approach to Texas Homestead Proceeds.

Hon. Eduardo V. Rodriguez, U.S. Bankruptcy Court, Southern District of Texas, McAllen, TX
Leigh Ann Tognetti, Marcos D. Oliva, PC, Brownsville, TX

2:20 p.m. 1.00 hr | .50 hr ethics

How To Make the Trustee Happy and Keep Your Client Out of Trouble

Gain insight on preparing the debtor(s) for the bankruptcy filing, forms and testimony at the 341 meeting and how to make the filing less stressful for you, your client(s) and the trustee.

Michael V. Baumer, Law Office of Michael Baumer, Austin, TX
Allison D. Byman, Hughes Watters Askanase, LLP, Houston, TX
Randy W. Williams, Thompson & Knight LLP, Houston, TX

3:20 p.m. Break

3:35 p.m. .75 hr

Espinosa Update and Other Post-Confirmation Chapter 13 Matters

Hear a review and discussion of post-*Espinosa* decisions. Also, since many unique issues often arise in Chapter 13 cases after confirmation of the Debtors' Chapter 13 Plan, participate in a discussion of various post-confirmation issues including: plan modification issues; post-confirmation duties and tasks of Debtors' and their attorneys; and post-confirmation requirements of lenders.

Hon. Mark X. Mullin, U.S. Bankruptcy Court, Northern District of Texas, Fort Worth, TX
David G. Peake, Chapter 13 Trustee, Houston, TX

4:20 p.m. .50 hr

Tax Treatment

Hear an overview of the dischargeability of taxes in Chapter 7 and 13 cases.

John Akard Jr., Coplen & Banks, P.C., Houston, TX

4:50 p.m. Adjourn to Reception

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NETWORKING RECEPTION

Join program faculty and attendees for drinks and hors d'oeuvres.

Presiding Officer:

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

7:30 a.m. Conference Room Opens

Includes continental breakfast.

8:15 a.m. .50 hr

Distressed Real Estate Update: Signs of the Next Bubble?

Explore the current state of the real estate industry and the developing legal issues in real estate workouts and bankruptcy.

J. Frasher Murphy, Haynes and Boone, LLP, Dallas, TX
Ian Ratner, GlassRatner Advisory & Capital Group LLC, Atlanta, GA

8:45 a.m. .75 hr

The Paradigm Shift in Retail, 2017

Explore why the retail industry is experiencing what most would consider a "bloodbath" right now, and the available strategies that are, or can be, pursued in this environment.

Hon. Stacey G. C. Jernigan, U.S. Bankruptcy Court, Northern District of Texas, Dallas, TX
Perry M. Mandarino, B. Riley Financial, New York, NY

9:30 a.m. .75 hr

To Profit or Not-To-Profit, That Is The Question

Join distinguished practitioners—a retired bankruptcy judge, a financial advisor and an assistant State attorney general—for an advanced discussion on the interplay between nonprofit organizational issues, and healthcare bankruptcy restructuring.

Hon. Melanie L. Cyganowski (retired), Otterbourg P.C., New York, NY
Hal F. Morris, Office of the Attorney General, Austin, TX
Louis E. Robichaux IV, Ankura Consulting Group, LLC, Dallas, TX

10:15 a.m. Break

10:30 a.m. .50 hr | .25 hr ethics

Artificial Intelligence and its Effect on the Legal Industry

AI is getting a lot of attention, creating fears and in many cases unrealistic expectations. Explore the reality of AI, how it practically can impact legal work flows, and how it can be a positive force that enables lawyers to do their jobs faster, cheaper and better for their clients.

Dan Jansen, Nextlaw Labs, Palo Alto, CA

11:00 a.m. .50 hr | .25 hr ethics

Getting the Ball to the Goal

Explore the fundamentals of trial advocacy.

Hon. David R. Jones, U.S. Bankruptcy Court, Southern District of Texas, Houston, TX

11:30 a.m. .50 hr

It's About Time: Value as a Temporal Construct

When collateral and enterprise value change over the life of a case, what are the statutes, rules and tools to maximize your client's position?

Patricia Baron Tomasco, Jackson Walker LLP, Austin, TX

12:00 p.m. Pick Up Lunch

Included in registration.

FRIDAY AFTERNOON

Presiding Officer: Drew McManigle, SierraConstellation Partners, LLC, Houston, TX

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LUNCHEON PRESENTATION

12:20 p.m. 1.00 hr ethics

Professional Responsibility Rules and (Other) Barriers to Access to Civil Justice

The demand for affordable access to civil legal services is on the rise at the same time we face significant threats to sustainable public funding for legal services. This leaves many disadvantaged and financially challenged people who face civil legal issues to navigate the legal system without professional legal assistance. The good news is that we have begun to see the development of alternative legal services delivery models and the emergence of innovative solutions designed to address the access to justice crisis. Such innovative approaches are starting to lead to greater efficiencies in legal services delivery and improved self-help and assisted-self-help tools. This Ethics Presentation will discuss the ways in which the Rules of Professional Conduct both support and impede our efforts to address the removal of barriers to access to civil justice.

Lois R. Lupica, Maine Law Foundation Professor of Law, University of Maine School of Law, Portland, ME

1:20 p.m. Break

1:35 p.m. .75 hr | .25 hr ethics

Beyond ASARCO: Fee Shifting and Recovery in Bankruptcy Litigation

Fees are recoverable for more than just representing debtors and committees. Explore the circumstances and mechanics under which fees may be pursued and recovered in discovery and bankruptcy-related litigation.

Michael P. Cooley, Bryan Cave LLP, Dallas, TX
Sean B. Davis, Winstead PC, Houston, TX

2:20 p.m. .75 hr | .25 hr ethics

Formulating, Confirming and Implementing Complex Plans: Lessons From Life Partners

Using their experience in the *Life Partners* mega case, the panelists will discuss a variety of issues including competing plans, disclosure and solicitation problems as well as post confirmation transition and operational challenges.

David M. Bennett, Thompson & Knight LLP, Dallas, TX

Michael D. Napoli, Dykema Cox Smith, Dallas, TX
Joseph J. Wielebinski Jr., Munsch Hardt Kopf & Harr, P.C., Dallas, TX

3:05 p.m. .50 hr

Lessons Learned During and After My Storm

Discuss challenges and solutions experienced by the Eastern District of Louisiana in the wake of Hurricane Katrina. Explore how legal practices were restored, returning the courthouse to a functioning facility, and how the public and clients recovered. Learn what worked and more importantly, what did not to stabilize the areas hardest hit and rebuild.

Hon. Elizabeth W. Magner, U.S. Bankruptcy Court, Eastern District of Louisiana, New Orleans, LA

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JAY L. WESTBROOK
The University of Texas School of Law
Austin, TX

DEBORAH D. WILLIAMSON
Dykema Cox Smith
San Antonio, TX

3:35 p.m. 1.00 hr | .25 hr ethics

A Peek Under the Robes: Judicial Panel

Witness a unique showdown between Bankruptcy Judges and their trusty Law Clerks, offering a glimpse into Chambers and how decisions are really made.

Moderator:

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

Panelists:

Hon. Tony M. Davis, U.S. Bankruptcy Court, Western District of Texas, Austin, TX
Hon. Mark X. Mullin, U.S. Bankruptcy Court, Northern District of Texas, Fort Worth, TX
Hon. Brenda T. Rhoades, U.S. Bankruptcy Court, Eastern District of Texas, Plano, TX
Scott Everett, Law Clerk, U.S. Bankruptcy Court, Northern District of Texas, Fort Worth, TX
Leslie R. Masterson, Law Clerk, U.S. Bankruptcy Court, Eastern District of Texas, Plano, TX
Sarah Darnell Wood, Law Clerk, U.S. Bankruptcy Court, Western District of Texas, Austin, TX

4:35 p.m. Adjourn

HOW TO REGISTER

Online:

www.utcle.org/conferences/BK17

Mail:

The University of Texas
School of Law
Attn. CLE
PO Box 7759
Austin, TX 78713-7759

Fax:

512.475.6876

Questions? 512.475.6700

*Dietary requirements or Accessibility needs?
Call 512.475.6700 or email service@utcle.org*

REGISTRATION BENEFITS

Before the Conference: Access course materials—downloadable PDFs of papers and slides—and speaker and attendee roster in "Your Briefcase" 48 hours before the conference.

After the Conference: Unlimited access to final, complete course materials—downloadable PDFs of papers and slides—in "Your Briefcase."

eConference: Complimentary 180-day access to the eConference—with papers, slides, and audio—for CLE credit (TX and CA) you may have missed at the live conference. Available in "Your Briefcase" 6–8 weeks after the conference.

TX MCLE Credit Reporting: UT Law CLE can report credit on your behalf directly to the State Bar of Texas. Track your Texas MCLE credit claimed and reported through UT Law CLE in "Your Account."

Your Account: Activate "Your Account" online at www.utcle.org. Your UT Law CLE Account is created for you as a first-time conference registrant (mail and fax registrations) with the email address you provide.

ECONFERENCE AND COMPLETE CONFERENCE MATERIALS

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Complete eConference package includes all conference materials for download from "Your Briefcase" at www.utcle.org.

Complete Conference Materials

Comprehensive Binder and Audio products from the live conference—for research and self-study. Available for download and shipping.

REGISTRATION FORM

PLEASE PRINT CLEARLY

BK17

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Invoices, confirmations, and receipts are emailed to these addresses.

REGISTRATION—Includes electronic course materials, Thursday Evening Reception and Friday Luncheon Presentation

Special group registration rates available. Call 512.475.6700.

Select Registration Type

- Individual registration by November 8, 2017 \$595
 Individual registration after November 8, 2017 \$645

Printed course binder available for an additional fee through November 8, 2017

Conference registration includes Electronic Course Binder Download (PDF) in "Your Briefcase" at www.utcle.org.

- Printed Course Binder \$37.89
Price includes 8.25% Sales Tax
 Printed Course Binder for tax exempt registrants \$35
(e.g., government employees and nonprofits)

Thursday Afternoon Concurrent Sessions—Select One

- Business Track
 Consumer Track

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Call 512.475.6700 to register additional participants.

COMPLETE CONFERENCE MATERIALS[†]—For Research and Self-Study

Comprehensive Binder and Audio products from the live conference. Available for delivery 4–6 weeks after conference date. Shipping included.

- eBinder Download (PDF) \$225
 Printed Binder \$275
 Audio Download (MP3) \$175

[†]Texas customers—add 8.25% sales tax or include an Exemption Certificate \$ _____
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- Check (make check payable to The University of Texas at Austin)
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RELATED EVENT

Young Lawyers Committee Annual Evening Reception

Thursday November 16 at 8:00pm

Micheladas Cafe y Cantina, 333 E 2nd St., Austin, TX 78701

Join colleagues for drinks, hors d'oeuvres, and live music sponsored by Greenberg Traurig, LLP and Mackinac Partners.

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AUSTIN

November 16–17, 2017

CONFERENCE LOCATION



Four Seasons Hotel
 98 San Jacinto Boulevard
 Austin, TX
 512.685.8100

Accommodations:

\$270 room rate good through October 16, 2017
 (subject to availability).

Parking:

Daily Self-Parking: \$12
 Overnight Self-Parking or Valet: \$32.50
 Valet Parking: \$16
 (subject to change)

KEY DATES

November 8, 2017

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

November 10, 2017

last day for cancellation (full refund)

November 13, 2017

last day for cancellation (partial refund)
 \$50 processing fee applied

November 16, 2017, 8:35 a.m.

Conference begins

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REASONS TO ATTEND

UT Law's **36th Annual Jay L. Westbrook Bankruptcy Conference** is one of the premier bankruptcy programs in the nation. The conference attracts a stellar national faculty of prominent judges, academics, and practitioners and provides an in-depth focus on current issues and topics in business and consumer bankruptcy.

Program highlights:

- Listen as **Professor Jay L. Westbrook** leads a panel of distinguished practitioners to discuss this year's cases in the perennial favorite, *Recent Developments*
- *A Peek Under the Robes: Judicial Panel*, moderated by **Judge H. Christopher Mott** offers a unique showdown between Bankruptcy Judges and their trusty Law Clerks
- Hear the latest on bankruptcies in the real estate, healthcare, and retail industries
- Select from Thursday afternoon concurrent tracks:
 - **Business Track** includes discussions on the rise of equity committees; the briefing, arguments, and implications of the U.S. Supreme Court's consideration (and perhaps decision) of the scope of the Section 546(e) safe harbor in *Merit Management Group v. FTI Consulting*; what steps a company should and should not take prior to a bankruptcy filing; implications of *Jevic* on business bankruptcy cases; and practice tips to avoid pitfalls in post-confirmation subject matter jurisdiction
 - **Consumer Track** includes discussions on dischargeability of taxes in Chapter 7 and 13 cases; *Community Property, Divorce and Bankruptcy—What Could Possibly go Wrong; How to Make the Trustee Happy and Keep Your Client out of Trouble; Espinosa Update* and Other Post-Confirmation Chapter 13 Matters
- Gain insight on *Jevic*; student loans; SCOTUS judicial decision making; formulating, confirming and implementing complex plans; trail advocacy for bankruptcy practitioners; and much more