

# 35th Annual Jay L. Westbrook Bankruptcy Conference

## Where Have All of the Equities Gone?

The Honorable Jeff Bohm, U.S. Bankruptcy Court, Southern District of Texas  
The Honorable Tony M. Davis, U.S. Bankruptcy Court, Western District of Texas  
Patricia B. Tomasco and Jennifer F. Wertz, Jackson Walker LLP  
Robert Shannon, Law Clerk to The Honorable Tony M. Davis  
Jeffrey Kane, Judicial Intern to the Honorable Jeff Bohm

November 18, 2016

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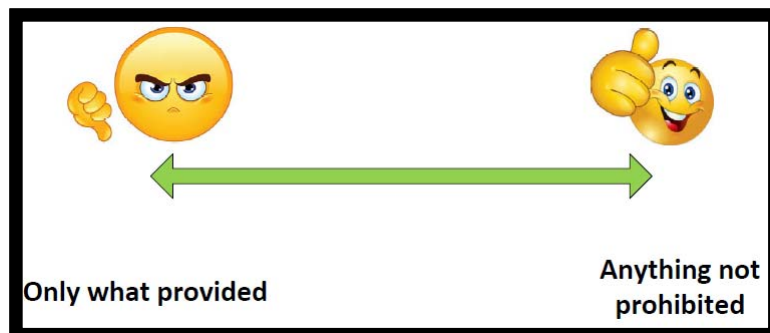


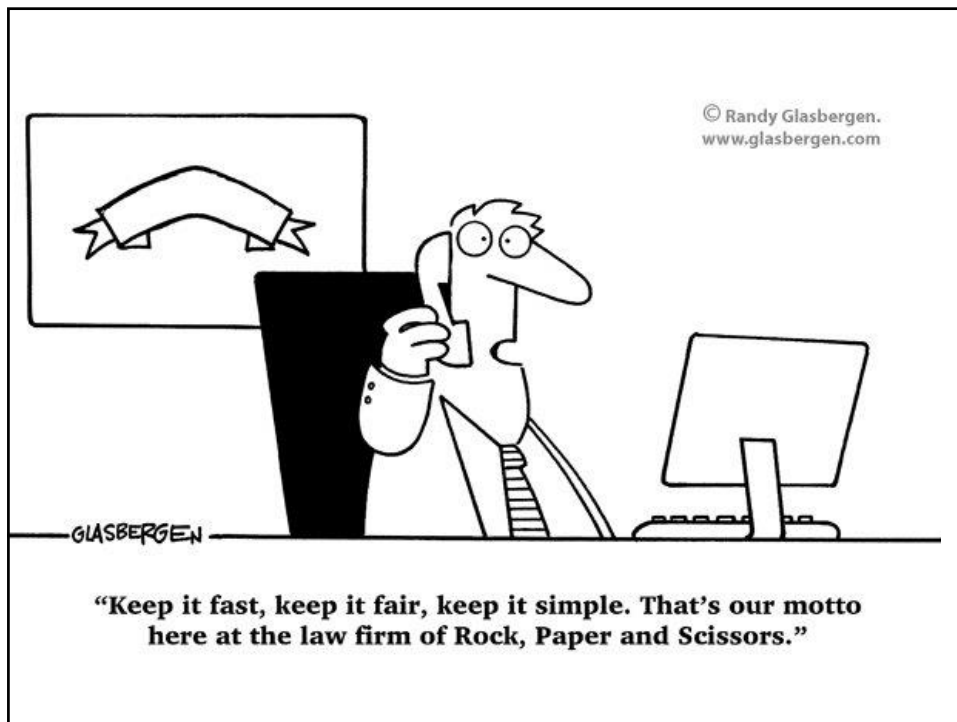
***“Yes, this is an emergency—  
I’m being held at PowerPoint.”***

## Section 105(a)

- ▶ The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provision of this title.
- ▶ No provision of this title providing for raising of an issue by a party in interest shall be construed to preclude the court from, *sua sponte*, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

Only the thing provided vs.  
anything not prohibited?





### U.S. v. Sutton, 786 F.2d 1305 (5<sup>th</sup> Cir.1986)

- ▶ “While the bankruptcy courts have fashioned relief under Section 105(a) in a variety of situations, the powers granted by that statute may be exercised only in a manner consistent with the provisions of the Bankruptcy Code. That statute does not authorize the bankruptcy court to create substantive rights that are otherwise unavailable under applicable law, or constitute a roving commission to do equity.”

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35<sup>th</sup> Annual Jay L. Westbrook Bankruptcy Conference session  
"Where Have all the Equities Gone?"