

35th Annual Jay L. Westbrook Bankruptcy Conference
November 16*, 17-18, 2016 • Four Seasons Hotel • Austin, TX

Wednesday Evening, Nov. 16, 2016

6:00 pm

John C. Akard Lecture Delivered by Dr. Janis Sarra

Dr. Janis Sarra is Presidential Distinguished Professor, University of British Columbia and Professor of Law, Peter Allard School of Law. Dr. Sarra is a globally recognized expert in insolvency and bankruptcy law, corporate finance, corporate governance, and securities law. Dr. Sarra was previously Director of the Peter Wall Institute for Advanced Studies, served as Associate Dean of the UBC Faculty of Law, and was founding Director of the National Centre for Business Law. She has been cited with approval in more than 70 superior and appellate court insolvency judgments, including by the Supreme Court of Canada; and has published numerous books and articles on bankruptcy law. Her roles include: Expert Advisor to the UNCITRAL Working Group on Corporate Groups and Cross-Border Insolvency Law, member of the Canadian delegation UNCITRAL Working Group V, INSOL Global Scholar, and Expert Witness to the Canadian Senate Committee on Banking, Trade and Commerce.

Dr. Sarra's Akard Lecture is entitled *The Horatio Alger Narrative and the Bankruptcy of Entrepreneurs*. The "Horatio Alger story" is well-known: "hard work, honesty and determination, and one will succeed in business." Entrepreneurship has underpinned most economic advances in the past century; entrepreneurs bring new business propositions to the market and deliver a range of products and services to local economies. The businesses they create are key engines of growth and provide the majority of private sector jobs. Yet, arguably, when businesses that entrepreneurs create start to fail financially, be they small or medium enterprises, the bankruptcy system is not particularly responsive. How do we extricate honest but unfortunate entrepreneurs from the ruins of a failed business, liberate them from obligations that can no longer reasonably be met, and allow them to return to economic productivity, while meeting the realistic expectations of creditors and ensuring the integrity of the bankruptcy system? Dr. Sarra will discuss challenges facing entrepreneurs under US and international bankruptcy law, offering some proposals for change.

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.

Dr. Janis Sarra, University of British Columbia, Peter Allard School of Law - Vancouver, BC

Thursday Morning, Nov. 17, 2016

Presiding Officer:

Vickie L. Driver, Lewis Brisbois Bisgaard & Smith, LLP - Dallas, TX

7:30 am

Registration Opens

Includes continental breakfast.

8:30 am

Welcoming Remarks

Duberstein and Elliott Cup Championship Teams

Professor Jay L. Westbrook introduces the Duberstein and Elliott Cup Championship Teams.

Duberstein National Championship Team:

Southern Methodist University Dedman School of Law
Team:

Mrs. Angela Oliver
Mrs. Allison Stewart
Ms. Luciana Milano

Coaches:

Mr. Omar Alaniz
Ms. Elizabeth Boydston
Mr. Tim Springer

Duberstein National 3rd Place Team:

University of Texas School of Law
Team:

Mr. Daniel Hatoum
Mrs. Hannah Roblyer

Coaches:

Mrs. Debbie Langehennig
Mr. Jay Ong
Mr. Brian Cumings
Mr. David Shank

Duberstein Best Oral Advocate:

Mrs. Hannah Roblyer, UT

Duberstein Outstanding Advocates

Mr. Barret Armbruster, SMU
Mr. Daniel Hatoum, UT
Mrs. Angela Oliver, SMU

Elliott Cup Regional/Fifth Circuit First Place Team:

University of Texas School of Law
Team:

Mr. Daniel Hatoum
Mrs. Hannah Roblyer

Elliott Cup Regional/Fifth Circuit Second Place Team:

Southern Methodist University Dedman School of Law
Team:

Ms. Audrey Leeder
Ms. Meredith Borschow
Mr. Barret Armbruster

Elliott Cup Regional/Fifth Circuit Best Oral Advocate

Mr. Barret Armbruster, SMU

Elliott Cup Regional/Fifth Circuit Outstanding Advocates

Mrs. Hannah Roblyer, UT
Mr. Daniel Hatoum, UT
Ms. Audrey Leeder, SMU

8:50 am 1.25 hrs 0.50 hr ethics	<p>Recent Developments</p> <p>A tradition like none other! Explore the year's most important consumer and business cases.</p> <p>Moderator: Jay L. Westbrook, The University of Texas School of Law - Austin, TX</p> <p>Panelists: R. Byrn "Byrnie" Bass Jr., Attorney at Law - Lubbock, TX Aaron Michael Kaufman, Dykema Cox Smith - Dallas, TX Deborah B. Langehennig, Chapter 13 Trustee - Austin, TX Bill Rochelle, American Bankruptcy Institute - New York, NY</p>
10:05 am 0.50 hr	<p>Bar's Reaction to BAPCPA</p> <p>Learn how the consumer bankruptcy bar adapted to BAPCPA and the challenges that remain a decade later.</p> <p>Angela Littwin, The University of Texas School of Law - Austin, TX</p>
10:35 am	<p>Break</p>
10:50 am 0.50 hr ethics	<p>Rule 9019 Compromises: The Heart of the Bankruptcy Practice</p> <p>It is often said that compromise is the heart of bankruptcy practice. Review the principles and procedures for approval of settlements in bankruptcy, including the strategic and ethical considerations that must inform both the negotiation and the presentation of the deal.</p> <p>Brian T. Cumings, Graves, Dougherty, Hearon & Moody - Austin, TX Josiah M. Daniel III, Vinson & Elkins LLP - Dallas, TX</p>
11:20 am 0.75 hr	<p>Cramdown or in Hipster-speak "Cram"</p> <p>"Cram" is a Plan weapon of choice and necessity for many debtors. Investigate secured creditor cram, with an emphasis on cram interest rates in the current environment, lien retention terms, indubitable equivalent issues, and secured class voting.</p> <p>Hon. H. Christopher Mott, U.S. Bankruptcy Court, Western District of Texas - Austin, TX William L. Wallander, Vinson & Elkins LLP - Dallas, TX Bettina M. Whyte, Bettina Whyte Consultants, LLC - Jackson, WY</p>
12:05 pm	<p>Lunch on Your Own</p>

Thursday Afternoon, Nov. 17, 2016

Business Track

Presiding Officer:

Rebecca A. Roof, AlixPartners LLP - Houston, TX

1:35 pm 0.75 hr	<p>The <i>Sabine</i> Bankruptcy Decision: Do Midstream Gathering and Processing Agreements Run With the Land in Texas (and elsewhere)?</p> <p>The <i>Sabine</i> bankruptcy decision allowed the Bankruptcy Trustee to avoid a gas gathering and processing agreement that the parties expressly agreed was a covenant running with the land. The case has influenced other bankruptcies. Was <i>Sabine</i> correctly decided, what are the immediate consequences of the decision, and what are its long-term consequences?</p> <p>Owen L. Anderson, Professor and Distinguished Oil and Gas Scholar and Kuntz Chair Emeritus & Cross Research Professor Emeritus The University of Oklahoma College of Law, The University of Texas School of Law - Austin, TX Hon. David R. Jones, U.S. Bankruptcy Court, Southern District of Texas - Houston, TX</p>
2:20 pm 0.50 hr 0.25 hr ethics	<p>A Second Look at a Fifth Circuit Take on Third Party Releases</p> <p>Take another look at the “impossibility” of third party releases in the Fifth Circuit.</p> <p>Michael P. Cooley, Bryan Cave LLP - Dallas, TX Christopher Manuel Lopez, Weil, Gotshal & Manges LLP - Houston, TX</p>
2:50 pm 0.50 hr 0.25 hr ethics	<p>Bankruptcy Remoteness</p> <p>Analyze whether or not debtors may abrogate their fiduciary duty to seek bankruptcy relief either through contract or granting a "golden share." If so, does it violate public policy by restraining the right to file bankruptcy?</p> <p>Hon. Craig A. Gargotta, U.S. Bankruptcy Court, Western District of Texas - San Antonio, TX Ashley L. Gargour, Andrews Kurth - Houston, TX</p>
3:20 pm	Break
3:35 pm 0.75 hr	<p>Restructuring Public Finances—Chapter 9 and Alternatives</p> <p>Zack A. Clement, Houston, TX</p>
4:20 pm 0.50 hr	<p>Drilling Deeper into the Significance of Louisiana Oil Well Liens in Energy-Related Bankruptcies</p> <p>Review the process for protecting the rights afforded to parties under the Louisiana Oil Well Lien Act, La. R.S. 9:4861, et seq., prior to and during the pendency of an energy-related bankruptcy. Discuss the scope of the statutory lien, the relevant perfection procedures, and the interplay in bankruptcy of statutory liens and liens granted pursuant to mortgages and security agreements.</p> <p>Hon. Marvin Isgur, U.S. Bankruptcy Court, Southern District of Texas - Houston, TX Benjamin W. Kadden, Lugenbuhl Wheaton Peck Rankin & Hubbard - New Orleans, LA</p>
4:50 pm	Adjourn
	<p>Jay L. Westbrook Bankruptcy Conference Reception</p> <p>Join program faculty and attendees for drinks and hors d'oeuvres.</p> <p>Thank You to Our Reception Sponsor AlixPartners LLP</p>

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

1:35 pm 0.75 hr	<i>Frost and Its Progeny: The Proceeds Saga Continues</i> Review important tips and information on how to make sure to keep those important exemptions in place. Michael V. Baumer, Law Office of Michael Baumer - Austin, TX Hon. Eduardo V. Rodriguez, U.S. Bankruptcy Court, Southern District of Texas - McAllen, TX
2:20 pm 0.50 hr ethics	Ethical Issues for Debtor's Counsel How can you avoid ethical “bankruptcy?” Hear a lively discussion on how to avoid becoming part of the grievance system, including when closing down a practice and representing joint debtors during a post-petition divorce. Mark B. French, Law Office of Mark B. French - Bedford, TX Thomas H. Watkins, Husch Blackwell LLP - Austin, TX
2:50 pm 0.50 hr	The Student Loan Crisis and Bankruptcy Relief for Student Loan Debtors Under the Bankruptcy Code's "Undue Hardship" Standard: Are the Courts Ruling More Compassionately Toward Distressed College Loan Debtors? More than 40 million Americans have outstanding college loans, totaling \$1.3 trillion. Millions of people are struggling to repay these student loans, and more than 7 million borrowers are in default. Until recently, student loan debtors found it very difficult to discharge their college loan debt in bankruptcy. Learn how, several recent court decisions may be an indication that bankruptcy courts are ruling more sympathetically toward distressed student loan debtors. W. Richard Fossey, University of Louisiana at Lafayette - Baton Rouge, LA
3:20 pm	Break
3:35 pm 0.75 hr	Chapter 13 Pitfalls and Traps—Things to Watch Out For There are traps for the unwary. Discuss protecting the discharge, what to do with mortgage lenders that will not foreclose on surrendered property, disclosure and judicial estoppel, the 6-month homestead rule, and more. Pamela A. Bassel, Standing Chapter 13 Trustee - North Richland Hills, TX Ravi Patrick Ratnala, The Ratnala Law Firm, PLLC - Houston, TX
4:20 pm 0.50 hr	The Early Innings: Vesting and Surrendering Real Property Hear updates on the score of cases considering whether debtors may vest title to real property in a secured lender or other third party. Also, discuss the meaning of “surrender” and the “dirt-for-debt” option in chapter 13. Tara Twomey, National Consumer Bankruptcy Rights Center - CA Hon. Eugene R. Wedoff, U.S. Bankruptcy Court, Northern District of Illinois - Chicago, IL
4:50 pm	Adjourn

Jay L. Westbrook Bankruptcy Conference Reception

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

Thank You to Our Reception Sponsor
AlixPartners LLP

Friday Morning, Nov. 18, 2016**Presiding Officer:**

Robin Russell, Andrews Kurth - Houston, TX

7:50 am

Conference Room Opens

Includes continental breakfast.

Oil and Gas

8:30 am
0.50 hr

Wildcatter 101—Oil and Gas Basics for Bankruptcy Professionals

Listen to an introduction to and overview of key concepts, issues, and topics that arise in insolvency proceedings involving companies in the oil and gas industry. This presentation “drills down” on the issues that insolvency professionals should be aware of when exploring for work in the oil patch.

Eli O. Columbus, Haynes and Boone, LLP - Dallas, TX

9:00 am
0.75 hr

Oil and Gas Restructuring 101

J.P. Hanson, Houlihan Lokey - New York, NY and Houston TX
Shad E. Sumrow, Thompson & Knight LLP - Dallas, TX

9:45 am
0.50 hr

Oil and Gas Environmental Concerns and Issues

Hear an overview of the treatment of environmental obligations in recent oil and gas bankruptcy cases, including the treatment of obligations such as plugging and abandonment and decommissioning costs and other regulatory compliance obligations. This presentation addresses the recent cases testing the limits of abandonment of assets, rejection of contracts, federal and state law compliance, bonding obligations for the oil and gas debtor, and how joint interest owners and predecessors-in-interest may be left holding the bag.

Paul J. Goodwine, Looper Goodwine P.C. - New Orleans, LA
Mark W. Wege, Dentons US LLP - Houston, TX

10:15 am
0.75 hr

Six Numbers to Remember—7, 11, 18, 22, 29, and 363: Oil and Gas Bankruptcy Exit Strategies and Realities

Charles A. Beckham Jr., Haynes and Boone, LLP - Houston, TX
Todd Perry, FTI Consulting - Dallas, TX
Hon. Tony M. Davis, U.S. Bankruptcy Court, Western District of Texas - Austin, TX

11:00 am

Break

11:15 am 0.75 hr 0.25 hr ethics	<p>Fraudulent Transfer Update: Important Developments on Many Fronts</p> <p>Review the recent issues bankruptcy counsel may encounter in prosecuting or defending fraudulent transfer disputes. Analyze the interplay between section 546(e) and fraudulent transfer actions brought under state law. Make note of the common issues in cross border litigation, including serving foreign parties and enforcing bankruptcy court judgments in jurisdictions outside the United States and its territories.</p> <p>M. Jermaine Watson, M.J. Watson & Associates, P.C. - Dallas, TX Joseph J. Wielebinski Jr., Munsch Hardt Kopf & Harr, P.C. - Dallas, TX</p>
12:00 pm 0.50 hr	<p>Class Warfare—Class Litigation Proceedings and Structures in Bankruptcy</p> <p>Two distinct worlds of coordinated claims resolution proceedings collide through this discussion of the use, treatment and relevance of class litigation structures and proceedings in and to Chapter 11 bankruptcy cases, and the issues that can arise under this dynamic.</p> <p>Katharine Clark, Thompson & Knight LLP - Dallas, TX Jay H. Ong, Munsch Hardt Kopf & Harr, P.C. - Austin, TX</p>
12:30 pm	<p>Pick Up Lunch</p> <p>Included in registration</p>

Friday Afternoon, Nov. 18, 2016

Presiding Officer:

Aaron Michael Kaufman, Dykema Cox Smith - Dallas, TX

Luncheon Presentation

	<p>Thank You to Our Luncheon Sponsor</p> <p>SierraConstellation Partners, LLC</p>
12:50 pm 0.75 hr	<p>Trustee Duties and Liability</p> <p>Being a trustee is a scary business, especially in Texas!</p> <p>Hon. Keith Lundin, U.S. Bankruptcy Judge, Retired - Nashville, TN</p>
1:35 pm	<p>Break</p>
1:50 pm 0.50 hr 0.25 hr ethics	<p>Considerations When Choosing and Determining Venue</p> <p>Address criteria for selecting an appropriate venue for a bankruptcy filing. Discuss the ethical, economic, and equitable factors that courts and parties must consider when determining venue in general, and particularly in situations involving simultaneous filings in different venues by domestic and affiliated debtors.</p> <p>Sean B. Davis, Winstead PC - Houston, TX John P. Melko, Gardere Wynne Sewell, LLP - Houston, TX</p>

2:20 pm 0.75 hr	<p>Where Have all the Equities Gone?</p> <p>Section 105: hackneyed or under-used? Explore the re-characterization and subordination of equity jurisprudence and its limits.</p> <p>Hon. Jeff Bohm, U.S. Bankruptcy Court, Southern District of Texas - Houston, TX Hon. Tony M. Davis, U.S. Bankruptcy Court, Western District of Texas - Austin, TX Patricia Baron Tomasco, Jackson Walker LLP - Austin, TX</p>
3:05 pm 0.50 hr	<p>Constraints and Opportunities Offered by the Involvement of Hedge Funds and Private Equity</p> <p>Hedge funds and banks operate by different rules, respond to different incentives, and recoil from different threats. Hear the panelists discuss their differing financial underpinnings and goals, the forces that can destabilize them, and their treatment by the Bankruptcy Court.</p> <p>Moderator: Michael R. "Buzz" Rochelle, Rochelle McCullough, L.L.P. - Dallas, TX Panelists: Stephen T. Crosson, Capright - Dallas, TX Dr. Gerald Olson, GN Olson & Company, LLC - Dallas, TX</p>
3:35 pm 0.75 hr 0.25 hr ethics	<p>Pre-Bankruptcy Planning: Pigs, Hogs and Great Ideas That Weren't</p> <p>My Grandmother's rule—"Say it out loud first and if you want to slap yourself, it ain't a great idea"—as lawyers we should know when to slap ourselves. Discuss the strange tales and law applicable to the prickly field of pre-bankruptcy planning, including a lawyer's duties and how to keep your head.</p> <p>Louis M. Phillips, Kelly Hart & Hallman LLP - Baton Rouge, LA</p>
4:20 pm	<p>Adjourn</p>