

College Columns

Editor's Report

By Philip J. Hendel, Editor



▲ Philip J. Hendel

Bankruptcy lawyers need a better image. If the public were polled today on their perception of lawyers, it would come as no surprise that we remain subject to substantial disrespect. Bankruptcy lawyers and others who regularly toil in the insolvency arena seem to be a particular target. Many in the public domain look down on bankruptcy as a socially and morally unacceptable way to discharge debt incurred from those who, in good faith, supplied goods and services on credit. Bankruptcy practitioners are closely associated with the recent efforts of mega corporations to shed their pension and other employee obligations. Those who help corporate debtors obtain absolution from the payment of such debts are seen by some as "aiders and abettors." The explosion of legal advertising, characterized conservatively as distasteful in some cases, has further tarnished our public image. A memorable California television ad opens with a scuba diver emerging from the ocean proclaiming, "If you are underwater, I can help you." Give us a break! When such unseemly advertising occurs, it may be somewhat understandable why bankruptcy lawyers are often perceived as unsavory or in an unfavorable light.

Although changing the public's per-

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President's Report

By David T. Sykes



▲ David T. Sykes

We are about to initiate our seventeenth class of Fellows. If precedent is any guide, new Fellows will all express interest in becoming active in College activities. The College has several areas where participation is welcomed and necessary.

Of considerable importance is the College's Pro Bono Committee, chaired by George Cauthen. In conjunction with the American College of Bankruptcy Foundation, the Pro Bono Committee is dedicated to seeking out worthy bankruptcy pro bono legal services programs, evaluating their needs, and, if appropriate, making contributions to assist in their educational and other activities. The Pro Bono Committee and the Foundation also support the National Bankruptcy Archives, located at the University of Pennsylvania Law School. One of the highlights of the upcoming annual meeting is the presentation on Friday afternoon, March 17, 2006, at the Mayflower Hotel, by The Honorable Mary Davies Scott, of portions of the Archives. This promises to be an interesting and enlightening program which we hope you all can attend.

Next, and of equal importance, is the Educational Programs Committee, chaired by Sally Neely. This committee has, in recent years, initiated and developed the Distinguished Law Student Program, through which law students who have excelled in bankruptcy-related studies are identified and selected to attend the College's Annual Meeting.

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Chair's Report

By Evelyn H. Biery



▲ Evelyn H. Biery

Discissorem esse Xeographium perperam putavi.

As I did for the next previous issue of the *College Columns*, I submit for your consideration a modern phrase in Latin form. It is a statement that would never be made by any Fellow of the College. The Fellows are too honest and too diligent to need to give such an excuse. The translation will appear later in this message.

The Fellows of the American College of Bankruptcy demonstrate the highest standards of professionalism and service to the administration of justice in insolvency law. Now over six hundred strong, the College was formed in 1989 and has, through the work of its Board of Regents, gathered together hundreds of Fellows who personally and professionally exhibit the highest ethical standards. The contributions of our group to the enhancement of bankruptcy and insolvency scholarship, continuing education and improvement of the bankruptcy and insolvency processes are quite remarkable. It is a pleasure and an honor to lead this group.

During the meetings of the National Conference of Bankruptcy Judges in late 2005, several of our Fellows made presentations to the attendees at the NCBJ, as well as at our College All Fellows Luncheon conducted prior to the NCBJ meetings. In March, at the Annual Meeting of the College, we will once again benefit from the scholarship and incisive legal analysis of College

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Pro Bono Committee Report

By George B. Cauthen



▲ George B. Cauthen

The American College of Bankruptcy is an honorary professional and educational association of bankruptcy and insolvency professionals. This membership includes bankruptcy lawyers, turnaround specialists, bankruptcy judges, United States Trustees, investment bankers, accountants, law school professors and others involved in the bankruptcy and insolvency community. One of the standing committees of the American College of Bankruptcy is the Pro Bono Committee. The primary purpose of the College's Pro Bono Committee is to review and award grants to non-profit organizations involved in some aspect of legal services, pro bono, or education. The primary purpose of these grants is to encourage the delivery of bankruptcy legal services to indigents via legal services or pro bono efforts.

The American College of Bankruptcy has a non-profit entity, the American College of Bankruptcy Foundation. The Foundation also provides funds to the Pro Bono Committee and together, the College and the Foundation have provided over \$160,000.00 in grants over the last five years.

The projects funded by the Pro Bono Committee are varied. Non-profit organizations from over 25 states have received grants that have funded projects such as the Chicago Bar Association's Bankruptcy Committee Pro Bono Help Desk, providing legal assistance to bankruptcy attorneys who have agreed to handle bankruptcy cases pro bono, or "Putting Something Back" in Miami, Florida, a program that puts on frequent seminars to train pro bono volunteers and, at the same time, provide them with continuing legal edu-

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Report on Educational Programs

By Michael L. Temin



▲ Michael L. Temin

In San Antonio, Steven Ancel of Sommer Barnard Attorneys; Martin Bienenstock of Weil Gotshal & Manges; Zack Clement of Fulbright & Jaworski; and Richard Peters of Sidley Austin Brown & Wood, gave us their observations as to how the 2005 amendments to the Bankruptcy Code would affect Chapter 11 advice and practice.

At our March annual meeting, D. J. Baker of Skadden Arps Slate Meagher & Flom; William S. Katchen of Duane Morris; Shelley D. Rucker of Miller & Martin; and Richard S. Toder of Morgan, Lewis & Bockius; will discuss the intersection of mass torts, class actions and reorganization of non-asbestos debtors. Can Chapter 11 be used to resolve mass tort non-asbestos claims against manufacturers, distributors, suppliers, insurers and non-debtor co-defendants?

Michael Cook of Schulte Roth & Zabel; Mark Ellenberg of Cadwalader, Wickersham & Taft; and Richard Wasserman of Venable will discuss "Safe Harbors" Under the Bankruptcy Code - How Safe Are They? The Bankruptcy Code contains several "safe harbor" provisions, which, if they apply, provide complete defenses to certain avoidance actions. The panel will discuss the "safe harbor" provisions, including §§ 546(e) and 546(g) of the Code, the scope of these provisions and several recent cases of note.

Our final presentation will be by a litigator, Dennis Suplee of Schnader Harrison Segal & Lewis, who will discuss taking and defending depositions - how litigators approach it. Bankruptcy lawyers who litigate take depositions. We may be able to learn how to do it better from a litigator's experiences. ☰

Board of Regents Report

By Paul M. Singer



▲ Paul M. Singer

The Board of Regents met on November 2, 2005, from 9:00 a.m. to 7:00 p.m., with a brief break to attend the College Luncheon. During the meeting the Regents reviewed the nominations for election to the College and selected 22 people for admission: 3 Judges, 3 International Fellows, 13 Lawyers, 2 Financial Professionals, and a Chapter 13 Trustee.

Report from First Circuit



▲ Rick Mikels

The First Circuit held its Sixth Annual Dinner Reception and Wine Tasting Event on Saturday, January 28th, at the Westin Copley Place in Boston, Massachusetts. At the dinner we welcomed Joseph Collins of Hendel & Collins as our new First Circuit Fellow. Our special honoree this year was Phil Hendel. Phil was a catalyst for all of the programs and events in the First Circuit. Phil initiated the annual dinner, reception and wine tasting events and was the moving force behind the First Circuit's annual bankruptcy symposiums, which have been sponsored by the College and Boston College Law School. We, again, thank Sally Neely and the Education Committee of the American College of Bankruptcy for the generous grant which made the symposium possible. We have planned another program this year, to be held again at Boston College on April 7, 2006. The program will be a discussion of developments and trends in bankruptcy practice over the past several decades. I am

Assuming all candidates accept admission, the College will have 653 Fellows: 416 Lawyers; 33 Financial Professionals; 30 Academics; 87 Judges; 39 International Fellows; 9 Other Governmental Fellows; 35 Emeritus Fellows; and 4 Honorary Fellows.

In early spring of 2006, we will be circulating a letter describing the process for submitting names of prospective fellows to your Circuit Admissions Council. Please consider all qualified applicants as we want to keep the College a vital and effective organization. ☰

sure all would agree that understanding where we have been, and how we got to where we are, is essential to providing the highest level of representation to our clients today. We are excited to report the participants will include Myron Sheinfeld, Kenneth Klee, William Brandt and Michael Temin. The program will be moderated by the Honorable William Hillman. ☰

Report from Ninth Circuit

The annual dinner of Ninth Circuit Fellows was held at the UCLA Faculty Club on Thursday, February 9th. Arrangements were made by Jeff Davidson and George Webster of Stutman, Treister. The annual dinners are largely an excuse for the Fellows to get together, but we do honor our new inductees, and this year we discussed recent ramifications of the 2005 amendments. ☰



Report from Fifth Circuit



▲ R. Patrick Vance

Hurricane Katrina's devastating blow to New Orleans and the Mississippi Gulf Coast on August 29 had a significant impact on many of the Fifth Circuit's Fellows that will never make an Anderson Cooper broadcast. That a natural disaster of "biblical" proportions had the unforeseen consequence of bringing closer together the Fifth Circuit's Fellows on several important initiatives is an indication of the strong bonds that have already been formed by our shared experiences in the College.

Bob Byrd who lives in Ocean Springs and works in Biloxi, Mississippi had a double whammy. The thirty-foot storm surge on the Mississippi Gulf Coast swamped both his office and house under eight feet of water. He was not able to return to his office for several weeks for lack of potable water and electricity. He and his wife lived with kind neighbors until he grew tired of waiting for FEMA and bought his own trailer. Living large, he hopes by mid-April to repair his home if he can secure enough material and contractors.

Every Fellow from the New Orleans area was forced to evacuate the City for two months with differing degrees of burdens and obstacles. Everyone has a story. Not only did we have to find housing in markets swollen by thousands of flood refugees, but those Fellows with school age children had to deal with admissions officers in institutions bursting at the seams.

Lisa Futrell had eight feet of water in her uptown home. She is living in a cramped apartment patiently waiting on a resolution with her insurers and searching for contractors to repair her home. Rudy Cerone had twenty feet of water in his summer home on the

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Chair's Report


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Fellows as they discuss mass torts and safe harbors. A non-Fellow, Dennis Suplee, will demonstrate to us the approach of non-bankruptcy litigators to taking and defending depositions. Michael Temin, our current Scholar-in-Residence, has put together an outstanding program.

At the 2006 Annual Meeting we will also honor the members of the Seventeenth Class as they are inducted at the National Building Museum, a new venue where we plan to hold our Induction Ceremonies while the Supreme Court Building is being remodeled. As you can tell from the brochure for the event, our new locale will be as grand as the Great Hall of the Supreme Court.

Another new change in format is a reception for the Distinguished Law Students. Although at this reception attendance will be limited to the Board of Directors, the Board of Regents and the law students' Mentors, we hope and trust that the Fellows will take a few minutes to chat with the Distinguished Law Students during the Annual Meeting.

Dave Sykes and I have forwarded to all College Fellows a list of the Committees that welcome volunteers. Most, if not all, of those committees will hold meetings during the two days of the Annual Meeting, and we encourage everyone to join and be active in the Committees. Here is the translation: I mistook the shredder for a Xerox machine. The best way to gain a leadership position in the College is to serve on a committee, chair the committee and then be elected to the Board of Directors of the College.

The current leadership of the College is dedicated to rewarding and advancing the active members of the College, and we encourage all Fellows to contact any of us if you would like to become more active in the activities of the College. 


News From the Eighth Circuit



▲ Hon. Nancy Dreher

In celebration of the Cold Minnesota Winter Season, Circuit Regent Judge Nancy Dreher and College Fellow Faye Knowles held a social get-together for Eighth Circuit Fellows the weekend of February 4, 2006. Being hearty Minnesotans, they understand that when it gets dark and cold and it seems like Winter will never end it is time to have a party. Eighth Circuit Fellows and their guests were invited to a wine and cheese party on the evening of February 4, which was held at Judge Dreher's home. A wine merchant was present throughout to provide guidance and instruction on pairing selected new wines and cheeses. Fellows got together on Friday, February 3, for dinner also. With an eye toward teaching their close geographic neighbors just how wonderful a Minnesota Winter Weekend can be, the planners invited all College Fellows from the Sixth, Seventh and Tenth Circuits to attend any or all of these events. Out of town guests were warned to get ready to deal with snow, ice and temperatures of 10 below and to Bring Warm Clothes. College Fellows and spouses came from several cities in the three Circuits to join the Minneapolis crowd. We were pleased to have Evelyn Biery also attend.

On a more serious note, in the past the College has provided, and continues to provide, grants to the Minnesota State Bar Association Bankruptcy Section to help with start-up funding for a Minnesota Bankruptcy Pro Bono website at www.practicelaw.org/bankruptcy/home. The website is designed to provide attorneys doing pro-bono in bankruptcy with immediate, up-to-date, and free access to information especially relevant to pro bono representation in bankruptcy courts.

Minnesotans have found that a surprisingly large amount of the pro-bono representation is done by small firms or solo practitioners who can ill afford to pay filing fees or other costs associated with such representation and have little time to do in-depth research. The site contains forms, local rules, analysis of local and Eighth Circuit cases, educational materials on pertinent topics, and links to other sites. The site is maintained by an attorney hired on a part time basis and also utilizes a volunteer law student to work on content. Since its inception the site has been used regularly. More recently, College grant money has been used to expand that website Circuit-wide. The Eighth Circuit Pro Bono website is tentatively scheduled to become available March 1, 2006. A test version of the website is currently available at www.practicelaw.org/BPB/index.php. The test version at this point contains information for each Bankruptcy District in the Eighth Circuit, including links to the Bankruptcy Court website, BAPCPA materials, summaries of 8th Circuit and BAP student loan decisions, and links to other bankruptcy law resources. The site will be improved with information especially relevant to each of the Districts in the Circuit and several of the Eighth Circuit Fellows have volunteered to assist in providing content especially pertinent to their local practice. If successful, this will likely be the first Circuit-wide site of its type in the country. 



**Save the Date
Annual Meeting**

March 17-18, 2006

**Class Seventeen Induction
National Building Museum
Washington, D.C.**

Report from the National Bankruptcy Archives

By Hon. Mary Davies Scott



▲ Hon. Mary Davies Scott

The National Bankruptcy Archives is now five years old. It has definitely passed into a new phase; no longer getting under way, it is well along. This year concluded the initial five year funding pledge made by LexisNexis. They have agreed to pledge another five year funding commitment of \$25,000 per year in memory of Professor Lawrence P. King. In addition, the Board of Directors of the American College of Bankruptcy made the same five year commitment of \$25,000 per year and the American College Foundation did likewise in an amount of \$5,000. These funding commitments make it

possible for the Biddle Law Library at the University of Pennsylvania School of Law, where the archives are located, to attract and keep a very highly qualified archivist on staff.

Biddle Law Library Director, Paul George, wrote that the collection is clearly on the way to becoming a valuable and accessible resource. 49 cartons of materials have been received this year. Materials have arrived from the American Bankruptcy Law Journal, the College and its Foundation, the National Conference of Bankruptcy Judges and numerous individuals, including Judge Joseph Cosetti, the estate of Judge Ralph Kelly, Professor Kenneth Klee, the estate of Judge Robert Morton, and Judge John Pearson.

The History/Archives Committee of the National Conference of Bankruptcy Judges spent a busy year

taking extensive oral histories of its past presidents. Those oral histories as well as materials are expected to arrive at the archives in early 2006.

This year both the National Bankruptcy Conference and the National Conference of Bankruptcy Judges undertook the project of compiling their own meeting minutes. The Archivist supplied both organizations with the meeting minutes. A researcher sought a memorandum from Professor Kenneth Klee's papers concerning conversations on H.R. 6, from May 13, 1977. That memo was supplied within the hour. A researcher also sought and received an electronic image of a page from a 1970 National Conference of Referees in Bankruptcy Journal. The Archivist scanned the page into a JPEG document and e-mailed it to the researcher. This year the NBA had its first visiting researcher looking through papers donated by Professor Klee as well as those of Murry Drabkin. The researcher was working on a Masters Thesis in U.S. History. The Archivist sent finding aids in advance to make the visit more productive and made photocopies for the researcher to take home. Judge Ralph Zulman of the South African Supreme Court (fellow of the International Bankruptcy Institute, chaired South Africa's bankruptcy law revision committee) came to the United States in June to speak at the International Insolvency Institute. He came to the Biddle Law Library on June 9, 2005, especially to visit the National Bankruptcy Archives.

It has been a busy and productive year for the NBA. Funding, going forward for the next five years, is assured. The collection has grown significantly during the initial years, and promises to grow even more as the archives gains reputation and stature. The funding commitments from the College as well as its Foundation make this possible. ☰

President's Report

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This year, students from law schools in the Fifth, Sixth, Seventh, Eighth and Tenth Circuits will attend the events in March. The Committee also worked with Fellows from the First Circuit, who developed a day-long symposium on the future of chapter 11 which was presented at Boston College Law School in April 2005, and the Committee arranged for partial funding of the Program by the College. Other activities in the educational area were conducted by the Committee in the past year.

Another important initiative, the Best Practices Committee, chaired by David Heiman, working through several sub-committees, has developed and is developing papers in several areas of bankruptcy practice which will be of interest to the bankruptcy community, including the recently completed best practices paper on consumer debtor representation issues. Other areas of study include a review of how courts in various circuits have treated certain critical legal and practical issues, and

bankruptcy tax practices.

The Communications Committee, a key part of the College, is in great need of volunteers, in at least two areas. First, Phil Hendel, the Editor of College Columns, is always looking for articles of interest about the College Fellows and their activities, or about an issue or legal development which would be of interest to the Fellows. Second, we need Fellows who are talented and interested in web site development to help our Executive Director, Suzanne Bingham, in that area. We have an excellent web site, and it is in the process of being re-formatted. But any Fellow with the skill and interest in this area would be of great help to the College if he or she would pitch in, especially at this time.

Become involved. Make suggestions to Committee chairs and other College leaders for areas in which the College can be effective in improving the administration of justice in the bankruptcy area. Help the College continue its strong presence in the bankruptcy field. ☰

Report from Fifth Circuit

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Mississippi Gulf Coast. Every one of us has a family member, partner or a close friend who lost their home in the flood. Those who were "wet" are faced with unfamiliar decisions of whether to repair, rebuild or move, and all have become expert at interpreting flood insurance policies. At least they did not live in the now infamous 9th Ward, which will struggle to survive the rebuilding of the City.

Those New Orleans Fellows who fortunately avoided flood damage (the flood waters stopped 200 yards from Villa Vance), suffered wind damage to a degree not experienced in our lifetimes. Roofs and trees were casualties. Not surprisingly, all New Orleans Fellows are painfully familiar with the in's and out's of homeowner insurance policies.

New Orleans Fellows relocated their staff and business operations primarily to Baton Rouge under stressful conditions. As the past managing partner of the firm, yours truly was heavily involved in relocating 150 attorneys and supporting staff to its other offices. Doug Draper, Billy Patrick and Jan Hayden, partners and Fellows all, did the same from scratch on a smaller scale for their firm.

Exactly one week after New Orleans had been evacuated, Baton Rouge Fellows Bill Steffes and David Rubin came up with the idea that the bankruptcy bar should bring the plight of the Katrina victims to the attention of Congress before the October 17 effective date

of BAPCPA. Along with yours truly and Doug Draper, we reached out to the Fellows (and other bankruptcy practitioners) in Louisiana, Texas and Mississippi to brainstorm the most effective way to alert Congress that the fallout from the storm would be long-term and widespread on the gulf coast victims.

David Rubin rounded up the support of the Baton Rouge Bankruptcy Law Section, of which he is chair, the Louisiana State Bar Association and its bankruptcy section. Yours truly formed the Coalition of New Orleans Bankruptcy Lawyers in Exile (CNOBLE) made up of all the New Orleans Fellows and other prominent practitioners.

The Mississippi Bankruptcy Conference likewise spoke up on the issues. All of the Mississippi Fellows either currently serve or have served on its board - Judge David Houston, Ken Lefeldt, Bob Byrd and incoming Fellow Craig Geno.

Bill Steffes, with the able assistance of many others, wrote a letter to the Louisiana delegation urging a suspension of the effective date of BAPCPA on Katrina victims or a delay in the effective date of the statute. The D.C. office of Jones

Pro Bono Report

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cation credit. In Minnesota, the bankruptcy section of the Minnesota Bar Association has established a website to assist their pro bono volunteers, particularly in the area of dischargeability actions.

If you know of non-profit organizations interested in a grant from the American College of Bankruptcy and the American College of Bankruptcy Foundation, visit the website www.amercol.org and click on the section entitled, "Pro Bono Grants," which contains a history of prior grants and applications forms and instructions on how to apply.

Grants are considered throughout the year and application procedures are simple. ☰

Walker assisted our ad hoc group in direct communications at the highest levels with the Louisiana delegation. Mississippi and Texas Fellows sprang to the ready, using the Louisiana letter as a template for letters and communications to their respective delegations.

Of particular concern to the Texas Fellows - since so many Louisiana residents had fled to Houston and parts beyond - was how to represent those Louisiana residents who wanted to file a bankruptcy petition before the October 17 drop-dead date. Most of us left in a hurry with just a few pairs of extra socks. If you were prescient enough to leave with your financial records, you probably did not need to seek the counsel of a bankruptcy lawyer. Additionally, the federal courts in New Orleans had relocated to Baton Rouge and there was some down time in restoring the ability of the clerk's office to receive filings.

Texas Fellows Evelyn Biery, Henry Kaim, Bob Albergotti, Deborah Williamson, Charlie Beckham and Byrnie Bass, through the auspices of the State Bar of Texas Bankruptcy Law Section, set up a pro bono assistance program for displaced Louisiana debtors. Additionally, Texas Fellows were involved in organizing a seminar on bankruptcy consumer law issues for both Texas and displaced Louisiana lawyers. Yours truly contributed a paper on Louisiana exemptions but was unable to participate in Houston because of Hurricane Rita. That's another story for another day.

Suffice it to say, the annual Fellows dinner in New Orleans' French Quarter may not take place this year. The City is hurting and has a long way to go before its former glory is restored. Even so, the bonds among the Circuit's Fellows are stronger as a result of the adversity and adventures. All of us in the Circuit appreciate more than ever what it means to miss New Orleans. ☰



Editor's Report

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ception of bankruptcy lawyers and the bankruptcy process is a seemingly difficult public relations task, we owe it to ourselves to try. We should dedicate ourselves to the effort.

One obstacle to improving the public image of lawyers and the bankruptcy system is the inability of state boards that oversee lawyer misconduct to deal quickly with offenders. In many cases, the investigatory process is unnecessarily prolonged in the name of due process. Constitutional safeguards for the accused are important. But state boards should promptly suspend lawyers for inappropriate behavior and let the public know of action taken to correct abuses. Perhaps the College could offer its experience to state disciplinary boards to give them a better understanding of the bankruptcy process. For example, we have the ability to define, at least abstractly, what lawyer conduct constitutes a clear conflict of interest. We can, for example, promulgate guidelines for punishing lawyers whose statements to the court are intentionally inaccurate.

To improve our image with the public and the media long-term, we should:

- 1) Propose a courtroom code which discourages rudeness, outbursts and lack of respect for the Court.
- 2) Draft a protocol which will lead to the reporting of repeat offensive conduct to state disciplinary boards.
- 3) Encourage bankruptcy courts to fine lawyers who a) file frivolous pleadings; b) fail to appear for regularly scheduled hearings; c) make ex parte communications with the court, and/or who unjustifiably delay the judicial process by being substantially unprepared.
- 4) Set standards for those who advertise using misleading pronouncements to the public.
- 5) Prescribe punishment for lawyers

who encourage clients to understate asset values in their bankruptcy schedules and statement of affairs.

- 6) Encourage appropriate rule-making bodies to allow bankruptcy judges to limit or suspend appearances before them of lawyers who are unprepared or who engage in serious misconduct.
- 7) Work in concert with other bankruptcy organizations to establish a public relations arm to publicize regionally and nationally valuable contributions the bankruptcy bar makes to enhance the bankruptcy system.

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, (BAPCPA) has established new and significant restrictions on the activities of bankruptcy attorneys. Many of us are now "debt relief agencies." BAPCPA requires "debt relief agencies" who render bankruptcy assistance to disclose clearly and conspicuously in all advertising that their services contemplate bankruptcy.

Congress did not mindlessly or inadvertently legislate this label on us. We had substantial time to vigorously protest and to lobby against

this unseemly requirement. Unfortunately, many of those we elected to Congress have the same perception of the bankruptcy bar as our neighbors and friends do. We must take the time to find a way to publicize the selfless efforts of so many in our profession who assist the less fortunate, preserve jobs, and promote changes in the free enterprise system that work effectively. There is no time to waste. ☪

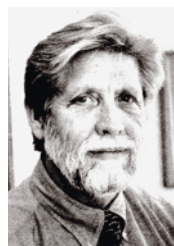
Mark The Date

College to Hold Meetings at NCBJ Meeting in San Francisco in November

The College anticipates holding several meetings at the National Conference of Bankruptcy Judges annual meeting being held in San Francisco, which is now scheduled for November 1st through the 4th. Please mark your calendars for this important event.

You can anticipate receiving further information on our luncheon and other programs as soon as they are finalized.

Fellow Joel Ohlgren Leads New Credit-Abuse Education Program In California



▲ Joel Ohlgren

To earn a driver's license, teenagers must pass a series of tests to show they know what they are doing on the road. Receiving a diploma and being accepted to a good college means four years of school. But what does it take for an 18-year-old to receive a credit card?

"Nothing more than signing on the dotted line," says Sheppard, Mullin, Richter & Hampton bankruptcy partner and College Fellow, Joel Ohlgren, who hopes that will change with the creation of a

Credit Abuse Education Program

Ohlgren hopes the program will become part of the required economics curriculum for Santa Barbara High School students. There are plans to introduce the program to school administrators across the state.

With the backing of the Bankruptcy Judges of the Central District of California, including Judge Robin Riblet in Santa Barbara, Ohlgren and Karen Grant scripted the program in a way that appeals to young consumers.

Together, they created quizzes, charts and visual aids that would

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Announcements

Cozen O'Connor Fellow Neal D. Colton to Serve as Visiting Professor of Law for Temple University Law School Tokyo Campus



▲ Neal D. Colton

It was announced on December 9, 2005, that Neal Colton, will serve as a visiting professor of law for Temple University James E. Beasley School of Law's 2006 spring semester study abroad program at its Tokyo, Japan campus. Colton will teach two accelerated eight-week courses: Corporate Reorganization in U.S. Bankruptcy and International Commercial Arbitration. He currently serves as an adjunct professor of law at the Philadelphia campus, where he has

taught a course on Chapter 11 reorganizations since 1989. Colton is the first U.S.-based attorney in full-time private practice selected for this distinction. ☰

Congratulations to Marc Levinson

Marc A. Levinson, partner in the Sacramento, California office of Orrick, Herrington & Sutcliffe, LLP has been selected to become a member of the National Bankruptcy Conference. Levinson is the Ninth Circuit Regent of the College and past President of the California Bankruptcy Forum.

Marc recently told Bankruptcy Court Decisions, "In light of the recent comprehensive amendments to the Bankruptcy Code, working toward improvements will be particularly daunting. I look forward to the challenge." ☰

Joel Ohlgren

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clearly show their audience the perils of credit card debt, and then put their work to the test by presenting to several high school classes last month.

The pair began the presentation by taking a credit card solicitation people typically receive in the mail, enlarging it and going through it line-by-line.

Ohlgren noted that "People are seduced into thinking that if they have a credit card, they can have what they want when they want it. But if these kids don't think about

how they're going to pay back the money, they're in big trouble."

He is now creating lesson plans for teachers, complete with a PowerPoint presentation, and has plans to produce a DVD featuring actors from Santa Barbara.

The PowerPoint materials, along with a script for teachers, were recently demonstrated to a committee of the Bankruptcy Judges of the Central District of California.

Talks with the College and the Legal Aid Foundation of Los Angeles to expand the program out of Santa Barbara and into other cities throughout the country are currently underway.

Joel says he and Karen will seek to distribute the materials, act as advisors and perhaps do demonstrations of teaching the materials, as well as use lawyers to contact their area schools and recommend that the material be taught. ☰



In Memoriam

Leon S. Forman Leaves Legacy for All of Us

A brilliant and creative mind was lost upon the passing of Leon Forman of Blank Rome on January 23rd in Philadelphia. Leon was a superlative lawyer, noted scholar and humanitarian. His law school successes and the teaching skills honed at the University of Pennsylvania Law School as a Gowen Fellow inspired him to later teach at both Penn and Temple Law Schools and to devote his energies and skills to educating members of the legal profession.



Two greats: Prof. Larry King and Leon Forman. Leon Forman receives the College Distinguished Service Award from Prof. King (1998).

Leon authored numerous books and articles on bankruptcy and served as a contributing author to Collier on Bankruptcy. As a member of the National Bankruptcy Conference, he played a vital role in elevating bankruptcy law and process to an important place in the business and financial communities of the country.

Leon served as the first Chair of the Eastern District of Pennsylvania Bankruptcy Conference and as the first Scholar-in-Residence of the College.

Leon was the recipient of many awards and honors, including the Distinguished Service Award from the College and the Award of Excellence presented to him recently by the National Conference of Bankruptcy Judges for his many contributions to the education of the legal profession.

Ray Shapiro eulogized Leon at a funeral attended by hundreds of

friends and colleagues in Philadelphia on January 26th. In a final tribute, Ray noted that Leon was the ultimate gentleman and gentle person. "Leon inspired us to achieve excellence, to reach for lofty goals, to be good citizens and to be decent human beings. I am personally grateful that I was able to share life's journey with Leon. He was a great mentor, friend and confidant, and I was blessed to be associated with him for over 45 years."

Ray Shapiro encouraged the Fellows of the College to contribute to a fund established by the Foundation to honor Leon, which will be earmarked for the University of Pennsylvania Archives Project, which Leon nurtured throughout his life.

An Irreplaceable Loss: Chief Judge Conrad B. Duberstein, Chief Judge of the Bankruptcy Court for the Eastern District of New York, passed away on November 18th after a long battle with cancer. His 90th birthday was marked by the dedication and naming of the General Post Office Building in Brooklyn, New York as the Judge Conrad B. Duberstein Courtrooms and Chambers by all of the Judges sitting in the U.S. Bankruptcy Court for the Eastern District of New York.

Appointed to the bench in 1981, Judge Duberstein served as Chief Judge since 1984, presided over 20,000 cases and authored more than 170 published opinions. After voluntarily retiring from the bench in December of 1995 he agreed to be recalled into service to help with the Court's substantial caseload. He was recalled from his retirement every year since. Judge Duberstein was respected both on and off the bench as a frequent writer and speaker on bankruptcy topics. A Saint John's University alumnus and former member of the American Bankruptcy Institute Board of Directors, Judge

Duberstein provided the inspiration and guidance for the Saint John's Moot Court competition, which was established over 14 years ago.

In honor of his academic and professional achievements, Saint John's University Law School awarded him the Medal of Honor, the highest honor given to any alumnus, as well as an honorary Doctor of Laws. He was a member of the fourth class of Fellows of the American College of Bankruptcy.

Untimely Passing of Charles P. Normandin

Charles P. Normandin of Boston died on December 21, 2005. A longtime partner at Ropes & Gray, Charlie, as most friends and colleagues affectionately referred to him, was one of the most revered lawyers in the entire country.

Several Fellows of the College spoke eloquently and lovingly of Charlie's attributes and contributions to the legal profession and the community. Guy Moss from Bingham McCutchen eloquently put Charlie's life into perspective. "There are, in all endeavors, certain people who are universally recognized as the "deans" of their profession, individuals so esteemed, so readily admired, so knowledgeable, so effective, so courteous and so embracing, that not only are they professionally at the pinnacle, but also the opportunity to work either with or against them, or to listen to an educational presentation by them, is for their colleagues a much anticipated treat. Charlie was such a person. He will clearly be missed."

Charlie was honored by the members of the First Circuit, and others, at a memorial function held on January 6, 2006, in Boston. Rick Mikels, of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, opined correctly that "with the passing of Charlie the bankruptcy bar cannot help but to be significantly diminished. Charlie used his overwhelming knowledge of the law as an effective advocacy tool.

He knew every case and every legal theory. He knew it, not just because he would research for a particular matter, but rather because he made a point of knowing everything he might need to know, in case a matter arose where the information could be useful."

Bankruptcy Judge Joan Feeney called Charlie "one of the greatest bankruptcy lawyers of our generation."

Judge Feeney went on to say that "Charlie was an extraordinary lawyer and advocate, superb conciliator, champion of the bankruptcy system, and volunteer to disadvantaged individuals in need of legal services. He set the highest standards of competence, professionalism, and integrity, and was a role model for all of us."

"His creative solutions to complex problems were always in the best interest of all parties. The force of his reasoning made the job of being a bankruptcy judge all the more enjoyable; indeed there was not very much for the bankruptcy judge to do when Charlie appeared in a case other than to approve the settlement he structured.

Ellen Carpenter, past President of the Boston Bar Association, noted that "Charlie spoke frequently on continuing legal education panels, using his dry wit and easy, soft-spoken style to teach those in the audience as well as his fellow panelists, including the judges. He devoted many, many hours to training all of us in the law."

Ellen continued by saying that "In 1999, the Bankruptcy Section (of the Boston Bar Association) presented Charlie with its prestigious Lifetime Achievement Award at the annual Bench Meets Bar Conference. He really did not want to accept the award, but agreed to do so for the good of the BBA."

All of us will miss Charlie's service, humility an curiosity, all of which we learned from him; most of all, we will miss his kindness. ☞

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