



Induction Ceremony Keynote Address by Dennis W. Archer

American College of Bankruptcy, March 27, 2009

By: Grant T. Stein



▲ Class 20 Inductees



▲ David Heiman and Dennis Archer

"May the power to heal be with you."

These were the closing words from Dennis W. Archer in his address to the newest class of the American College of Bankruptcy. They reflected a perspective developed from a very broad base of experience. Prior to attending law school, Mr. Archer taught learning disabled students. He is a former President of the American Bar Association, and was the first African American to hold that position. Mr. Archer served as the Mayor of Detroit from 1994 to 2001, and prior to that he served as a Justice on the Supreme Court of the State of Michigan from 1986 to 1990. He currently is the Chairman of Dickinson Wright PLLC in Detroit.

Pro Bono Update-Your College and Foundation Funds at Work

2008 13 Grants Totaling \$75,000 were issued

2009 (as of 4/30/09) 11 Grants Totaling \$76,314 were issued

Mr. Archer began his address by noting that so much of what we do as restructuring professionals has become part of the lexicon of the nation. *Bailouts, bridge loans, sub-prime loans,* and similar terms, are

part of today's discussion of the economy. Mr. Archer said that those of us in the bankruptcy area, and in particular judges, are going to have thrust upon us a new responsibility due to our expertise.

Mr. Archer noted that throughout our history, lawyers from Thomas Jefferson, who drafted the Declaration of Independence, to John Adams, who established the principles of states rights in the Constitution, to Abraham Lincoln, another lawyer who abolished slavery, have made major contributions to society. Similarly, in this time of economic distress, Mr. Archer focused on lawyers, as agents of change, having the power to heal. He said that in many respects lawyers are healers no less than physicians and the clergy.

Mr. Archer explained that we represent the oppressed, and uphold the rule of law. Lawyers have the power to heal the wounds of injustice and ensure they don't happen again. Lawyers often help in crisis and when people are in their most vulnerable state. We provide counsel and advice, and serve problem solvers and peace makers. We defend the defenseless from those who would exploit them.

Mr. Archer continued by stating that it is a calling to public service to be a lawyer. He uses that in a religious sense because, to him, lawyers are ministers of justice.

Mr. Archer reminded the audience that Mahatma Gandhi was a lawyer who told us that lawyers are supposed to unite parties. He explained that lawyer Franklin Delano

Roosevelt healed the nation by bringing faith and hope back when we needed it most. He made tough choices politically but healed the country as a result including getting Wall Street back on track.

He cited Supreme Court Justice Thurgood Marshall as a healer of pain. As a lawyer, Thurgood Marshall attacked laws, policies and procedures that were unfair and wrong, and usually won. *Brown v. Board Of Education* is said by some to be the most important decision of its century. As a Supreme Court Justice, Thurgood Marshall opened doors and set an example.

While many would denigrate what we do, we do much good. Mr. Archer noted that lawyers often serve on boards of

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▲ Professor Alan Resnick presenting the 2009 Distinguished Service Award to Ralph Mabey



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Chair's Report

By David G. Heiman



▲ David G. Heiman

You may be on the right track, but if you just sit there, you will get run over."

—Will Rogers

Is bankruptcy broken? Based on the spate of unconstrained editorial opinion that we see in the media with increasing frequency, one would think so. But let's not try to debate the question in this brief space. It is undeniable that there is much about the current state of affairs that can and should be addressed, but is this a proper role for the College?

The easy answer is "yes." The more difficult question is how? The College is not a political organization, it does not lobby, and its 750-plus members are not likely to be unanimous on very many issues. But we are in a position to generate the highest level of scholarly and experiential analysis on important issues, which, in turn, can be used to provoke change where change is needed. Indeed, this type of endeavor—the enhancement of the quality and scope of the bankruptcy practice—is at the core of our mission.

We have seen a recent example of this practice in action. Our fine best practices study on executive compensation under Section 503(c)(3), spearheaded by Jan Baker, was submitted to the House Judiciary Committee prior to testimony on the subject given last year by Rich Levin (under the auspices of the National Bankruptcy Conference). This approach was not political, it was simply an attempt to add important learning to the political process.

With this in mind, we have decided to form a Bankruptcy Policy Committee whose responsibility it will be to identify and analyze relevant issues and coordinate with other organizations, as appropriate. The effort will require the participation of a number of our members. Inasmuch as we are just beginning the organizational stage, please e-mail me at dgheiman@jonesday.com, or Shari Bedker, executive director, sbedker@amercol.org, if you are interested in participating.

On another front, it is now time to nominate new Fellows. We understand that the nominating process takes a bit of leg work on your part; yet, there is nothing more

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President's Remarks

By Paul M. Singer



▲ Paul M. Singer

As I have noted in the past, the Leadership of the College is keenly aware of the lack of participatory opportunities as a consequence of our not having subject matter focus groups as do other insolvency organizations. The closest we come to such focus groups is our Best Practices Committee, which will now be under the direction of Jeff Morris, who succeeds Douglas Baird. Douglas is our new Scholar-in-Residence. Jeff has advised me that he is interested in finding a few good men and women with an interest in the subject to insure the Best Practices Committee will operate at the high level that it achieved under Douglas.

As a consequence of not having focus groups, we continue to look for other avenues to use the talents of our Fellows to carry out the College's mission. One of the new opportunities, as noted in David's column, is our new Committee on Bankruptcy Policy. And, as you probably know, over the last year or so we have reformed most of our committees to have a representative from each Circuit. Indeed, some Committees, such as the Pro Bono Committee, actually have more than just a representative from each Circuit. Other Committees also are looking to expand. For instance, Diane Sigmund, the Chair of the Bankruptcy Archives Committee, has indicated a desire to increase the size of that Committee. This is a great Committee if you have an interest in our commercial history. Just being exposed to the oral and written history of our predecessors, now lodged in the Archives at Penn Law School, is quite rewarding. In fact, we will be using some of the Archive materials at this fall's luncheon in Las Vegas.

The leadership of the College also is aware that many of you have expressed an interest in serving on a Committee only to have your overture fall on deaf ears. For that we apologize. Going forward, we have asked Shari to keep a list of people who have indicated a willingness to serve. So, in addition to contacting a Committee Chair to express your interest, you may drop a note to Shari to request to be put on our list, expressing, of course, your preference for a Committee on which you

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Editor's Perspective

By Grant T. Stein



▲ Grant T. Stein

This column is directly informed by the article I just wrote on the Keynote Address from Dennis Archer at the 2009 Induction Ceremony. Mr. Archer is an extraordinary person with a deep background of experience informing his judgment and views. He focused on each of us, as bankruptcy lawyers and insolvency professionals, in an uplifting way describing how we provide an invaluable service through our work that transcends the legal issues and business issues presented on any given matter. His ideals are very much at the forefront of what we are supposed to do as members of the College.


How do our aspirations as members of the College and Mr. Archer's views reflect in what we do? College members are literally involved in every significant bankruptcy case that is ongoing at this time, and thus are at the core of the process of economic restructuring and revival that is in the public realm at this point. What does that say about the College? What does it say about the role of insolvency professionals as *healers*? Isn't that the very nature of what we do in restructuring

President's Remarks

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wish to serve. We will endeavor to place people on the Committees in which they have an interest.

Further, as part of our goal of avoiding the dropped ball, we are planning on instituting a Committee reporting system where the Chair will be requested to make regular written reports of Committee activities. Through this process, which has been informal until now, we hope to monitor more closely the operations of our Committees and to make personnel adjustments where we believe improvement in Committee functioning can be made.

Finally, and most importantly, if you think of an activity that the College can undertake consistent with its mission and wish to help develop the program, let David, Shari or me know. David Epstein's advanced law school course on International Insolvency started with such an idea. We welcome more great ideas. 

cases, both consumer and commercial? Isn't our job to find solutions to problems, either consensually, or through persuasion in a system where there is a decision maker who can guide, and decide within the broad parameters that the law allows when needed?


We are given important opportunities as insolvency professionals to make our economic and legal systems work. Some think of a Section 363 sale as a failed bankruptcy and not a true reorganization. Others, with less cynicism, may view it as being a chance to preserve going concern values, salvage a business, and keep it alive and thereby provide many (though not all) of the employees a vehicle to gainfully contribute to their communities. When you negotiate a workout, settle a case, or try a case, you are providing the hands on touch and professional approach that does, in fact, work to heal the injured.

David Heiman brought a different perspective to us by asking Dennis W. Archer to speak at the Induction Ceremony. Mr. Archer's words, as those of others who have addressed us at that special time, leave an imprint and create a perspective that adds to how we view ourselves and carry out our roles as insolvency professionals. 

Chair's Report

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important you can do for the College. Under the leadership of Bill Cohen and the regents, we will be admitting a new class this fall, but we cannot be assured of maintaining the highest standards without your help.

Have a great summer! 



Pro Bono Committee Helps Out

By Michael L. Cook

Pro Bono Committee Chair



▲ Michael L. Cook

The College's 24-member Pro Bono Committee has garnered a record of accomplishment over the past year. It not only approved funding of worthwhile College and the Foundation projects, but it also promoted and encouraged new pro bono projects in at least five locations throughout the country.

Grant Criteria

Facilitating the delivery of effective volunteer bankruptcy legal services to indigent debtors is an essential goal of the College's pro bono effort. The College and the Foundation support existing and newly formed bankruptcy consumer debtor programs or projects that counsel or deliver bankruptcy-related legal services to this consumer group. The committee favors grants to organizations with educational programs for indigent consumer debtors and volunteer attorneys who provide pro bono indigent consumer legal advice. Grant applicants must show that their services are free and generally available to indigent consumer debtors.

Grants to Existing Projects

The Committee approved 13 grant requests in 2008, disbursing all the funds allocated by the College and the Foundation for that year. Since the beginning of 2009, the committee has already received 13 requests totaling \$118,214. Of the 2009 requests, 11 have been approved, one has been rejected, and one request is still under consideration.

Summarized below are projects representative of those already approved by the committee this year:

The AIDS Resource Center of Wisconsin established a pro bono Legal Services Program to meet the needs of a growing population of indigent HIV-positive individuals who are encountering ongoing legal problems. In the past three years, the Legal Services Program has experienced a 95 percent increase in bankruptcy engagements. With help from the College and the Foundation, the center was able to purchase two new computers and a printer for legal

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Circuit Reports

Fifth and Eleventh Circuits

By Zack A. Clement



The Old Fifth Circuit Reunites

Fellows of the Fifth and Eleventh Circuits had a great week-end in New Orleans, on February 6 and 7, 2009 billed as a *Reunion of the Old Fifth Circuit*.

Close to fifty fellows attended, many with spouses, for Friday and Saturday night dinner at Antoine's and August, and at a lively and informative educational program on Saturday morning. The Keynote Speaker was Judge Gerald Bard Tjoflat, a former Judge of the Old Fifth Circuit and current Judge and former Chief Judge of the Eleventh Circuit. Judge Tjoflat told compelling and entertaining stories about the Old Fifth Circuit as it went through the civil rights era of the 1960s, and eventually grew so large that Congress granted its wish to be divided creating the Eleventh Circuit.

The educational panels provided in depth discussions of current case law development, including two important current topics: (1) fiduciary duties as a company moves into insolvency and bankruptcy and (2) efficient handling of cases for companies reorganizing around just the capital they came into the bankruptcy case with (no DIP loan or exit financing being available).

Organizers and speaking panelists included: Charlie Beckham, Evelyn Biery, Sarah Borders, Richard Carmody, Zack Clement, Roberta Colton, The Honorable Mary Grace Diehl, The Honorable Douglas Dodd, Lisa Futrell, David Jones, Henry Kaim, David Rubin, Grant Stein, and Pat Vance.

Eleventh Circuit

In addition to the New Orleans meeting, the Eleventh Circuit met at the office of Alston & Bird LLP during the March 2009 Meeting in Washington, D.C. As is their custom, their new fellows were introduced and an educational program was presented by Rob Soriano and Neil Gordon.

The Eleventh Circuit has continued its practice of having lunch and breakfast meetings in each of its three states to consider nominees for new fellows. These

Report from the Ninth Circuit

By Howard J. Weg, Ninth Circuit Regent
(Activities Since October 2008)



▲ Howard J. Weg

During November and December 2008, the Ninth Circuit Council solicited nominations for the 2009 Ninth Circuit Distinguished Bankruptcy Law Student from over 30 law schools in the Ninth Circuit. Each member of the Council was assigned to contact the bankruptcy law professors and deans at specific schools and to assist the school representatives with completing the nomination forms. Eight nomination forms were received and reviewed by the Council. The candidates were all highly qualified and exceptional, which made the selection process challenging. Ultimately, Brent Meyer from McGeorge School of Law in Sacramento was selected as the 2009 Ninth Circuit Distinguished Law Student and was invited to attend, at the expense of the College, the annual induction ceremonies and events in Washington, D.C. during March 26 to 29, 2009. During the induction activities, Brent had an opportunity to meet with and talk to leading bankruptcy lawyers from around the country. He is now studying for the California bar exam and expects to be practicing bankruptcy law in the near future.

On January 29, 2009, over 40 Fellows from the Ninth Circuit gathered at the Waterbar in San Francisco for drinks and

a wonderful dinner arranged by Michael Ahrens and his team at Sheppard, Mullin, Richter & Hamilton LLP in San Francisco. The food was great, the weather and views of the San Francisco Bay and Oakland Bay Bridge were spectacular, and the presentation about the economy by Tom Lumsden of FTI Consulting in San Francisco was insightful and interesting. Fellow Bankruptcy Judges Dennis Montali, ND California, Randall Newsome, ND California and Michael McManus, ED California, joined with the other Fellows from all around the Ninth Circuit in enjoying the company and showing, once again, the importance of the College to our practice.

On March 27, 2009, thanks to Victor Vilaplana, bankruptcy partner in the San Diego office of Foley & Lardner LLP, Foley's Washington, D.C. office hosted over 30 Fellows from the Ninth Circuit for their annual luncheon. Each of the members of the 20th Class to be inducted at the Supreme Court later that day, Daniel Bussel (LA), Craig Hansen (Phoenix), Gary Klausner (LA), Hon. Geraldine Mund (C.D. Cal.) and James Wagner (Honolulu), introduced themselves and gave a brief presentation. Sally Neely discussed the activities of the College's Education Committee that she chairs, Kaaran Thomas discussed the activities of the Distinguished Law Student Committee that she chairs, Joel Ohlgren talked about the activities of the College's Foundation that he chairs, and Marc Levinson and Richard Levin extended greetings from the College's Board of Directors. It was a great opportunity to discuss events of interest and compare notes about trends and developments in our practices throughout the country. ☰



▲ Old Fifth Circuit Educational Session

meetings have proven to be a good way to get together periodically and to discuss the business of the College. The meetings

were organized this year by John Kozyak, Paul Singerman, Richard Carmody, and Grant Stein. ☰

Survey of 2008 Fellows Report

By Richard S. Toder, Chair, Strategic Planning Committee



▲ Richard S. Toder

As you will recall, in November 2008, the Strategic Planning Committee sent a questionnaire to all Fellows concerning the College's mission and organization. Of the 712 Fellows, more than 200 responded, for a 28 percent return, a remarkably high percentage and evidence of the interest in and importance of the College to the Fellows.

The following are highlights of the survey results:

- While the College is primarily viewed as an honorary organization, it also serves important educational and net-

working functions.

- In making referrals, membership in the College is a significant factor in the selection process.
- There is no consensus among the Fellows as to what can or should be done to improve the College's reputation.
- While many feel that the selection process works quite well and should be left alone, a significant number of others criticized the application process, emphasized the need for greater confidentiality, and noted the undue power of the regents.
- The size of the College (712 Fellows and 52 emeritus members) is viewed by most as being about the right size.
- While approximately two-thirds of the Fellows responded that they understood the College's mission and organization, less than 50 percent felt that they understood the Foundation's mission or organization, or had a good understanding of its finances.
- There was fairly widespread dissatisfac-

tion with the committee system with the most prevalent complaint being that it remains extremely difficult to become a committee member.

- More than 80 percent of responders decried the notion that the College should exist solely as an honorary organization; however, at the same time, about the same percentage did not want to see the College requiring pro bono community outreach requirements of its Fellows.
- More than 86 percent of the Fellows stated that the College met their expectations in its in-house educational programs.
- Almost 90 percent of responders wanted the annual meeting to remain in Washington, D.C. A large percentage also wanted the induction ceremony to continue to be held at the Supreme Court on the Friday evening before the Saturday morning educational program.
- More than 60 percent preferred a keynote speaker to a CLE program at the fall luncheon meeting of the College.
- More regional and local meetings were requested by almost 90 percent of those responding to the survey.

In conclusion, I would quote from my favorite response to the general comments section at the end of the survey: "I consider being a Fellow one of the greatest honors of my career."

And justly so. 🏛️

Induction Ceremony

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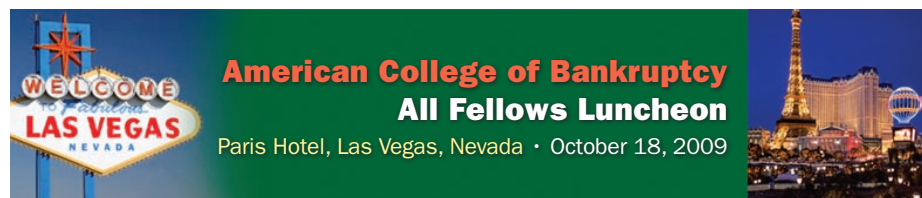


▲ Board of Directors at Induction Ceremony

charitable and religious organizations to help, to advise, and to set examples.

A sobering reminder was presented by his noting his time in Cambodia. He reminded us that Pol Pot killed every lawyer and judge in the society, and missed only 6. If you wore glasses you were presumed to be educated and were executed. He noted that the Japanese and Canadian bars support the 400 lawyers now in Cambodia.

Mr. Archer concluded by reminding us that lawyers will help us turn the country around. He reminded us again of the role we play as healers. 🏛️



American College of Bankruptcy Schedule of Events for 2009 Fall Conference
Register online at www.amercolbankruptcy.org today!

Saturday, October 17

- 2:00-4:30 p.m. Foundation Board Meeting *Champagne 1*
- 7:00 p.m. Reception
- 7:30 p.m. Leadership Dinner for Officers, Board, Committee Chairs and Foundation Board Members (*Mon Ami Gabi Restaurant at the Paris Hotel, in the Café Les Halle Private Dining Room*)

Sunday, October 18

- 8:00 a.m.-12:00 p.m. Board Meeting (bkfst from 8-8:30, meeting at 8:30) *Champagne 1*
- 9:00 a.m.-12:00 p.m.; 2:15-4:15 p.m. Board of Regents Meeting, *Versailles 1*
- 12:00 p.m.-2:00 p.m. All Fellows Lunch *Champagne 4*
- 12:45-1:00 p.m. Memorial Committee Presentation for Prof. Frank Kennedy
- 1:00-2:00 p.m. Ron Bloom, Keynote Speaker (NOTE: NCBJ opening reception 5:30-7:30 p.m.)

Monday, October 19 (register through NCBJ)

- 12:45-2:30 p.m. NCBJ/ACB Luncheon, featuring Keynote Speaker Thomas R. Keene of Bloomberg News. He is an editor-at-large for Bloomberg News. He provides economic and investment perspective to Bloomberg's various news divisions and writes the chart of the day article, available only on the BLOOMBERG PROFESSIONAL service and featured on Bloomberg Television. *Concorde A & B*.

Massachusetts High School Students Learn about Credit with ACB Foundation Help

By Janet E. Bostwick



▲ Janet E. Bostwick

In March, more than 175 high school students packed the courtroom of the Honorable Joan N. Feeney in Boston to participate in the final segment of the M. Ellen Carpenter Financial Literacy Program. As the students watched, "Sally Spender" testified at her mock Section 341 meeting, answering her Chapter 7 trustee's questions about the significant credit card debt she amassed, despite having few assets.

While Sally may not have understood credit card problems, the students demonstrated that they did, having covered the issues during earlier classroom segments. After the hearing, the students quickly answered questions and pointed out Sally's mistakes—only paying the minimum, using her card for cash advances, not planning a budget, and using one card to pay another.

Later in the program, Judge Feeney conducted a mock hearing on relief from stay to repossess a Chapter 13 debtor's automobile. Despite the debtor's plea that she needed her car to go to work, the judge found that the debtor was not making her payments, there was no adequate protection, and the car must be turned over to the lender. After the hearing, the students again eagerly pointed out the debtor's mistakes when she bought her car—making only a small down payment, buying an expensive model instead of a cheaper one, and buying a new car instead of used car.

The M. Ellen Carpenter Financial Literacy Program is a joint project of the Bankruptcy Court for the District of Massachusetts and the Boston Bar Association

(BBA). The American College of Bankruptcy Foundation provided significant funding for the program, which was named after former College Fellow M. Ellen Carpenter, who passed away in December 2006.

In the program, volunteer lawyers, professionals, and bankruptcy judges teach high school students about credit and the consequences of its misuse. The program involves four classroom modules on personal finance, budgeting, credit cards, and buying a car. The final session, described above, is the field trip to the bankruptcy court.

The field trip is the crown jewel of the program, bringing home the reality of credit problems. The field trip enables students not only to learn about credit, but also about the courts and lawyers. The courtroom setting provides a powerful backdrop for the students, many of whom have never been in court. In some sessions, at the conclusion, the judge invites the students to come inside the bar. While students may have been reluctant to ask questions, they eagerly line up to sit behind the judge's bench, in the witness box, or in the jury box.

Now in its fifth year, the program has grown in no small measure because of the Foundation's financial support. In 2008, the National Association of Bar Executives, an American Bar Association affiliate, honored the BBA with an award for its role in the program's success. This year, more than 350 students participated in the program in classrooms across Massachusetts, including inner-city as well as suburban schools. In addition to the field trip described above, additional courtroom segments were held in each of the Boston, Worcester, and Springfield Bankruptcy Courts.

Given the economic times, the program's message is particularly needed, and the students respond eagerly, as reflected in their thank-you letters:

"I learned that just filing for bankruptcy is not that easy. Always pay credit card debts, and not at

the minimum. Do not use one credit card to pay for another."

"It was interesting to learn about the cars. Now when I grow up, I'm going to buy a cheap car because just like the lawyer said, we are only going from point A to point B."

"I will maintain a budget and make sure I put a little away each month for a rainy day."

"The only bankruptcy that I knew before was the one from Monopoly. I really enjoyed the examples of what would happen in a real-life situation."

"I've never been into a court room and hope I don't end up in your court room for bankruptcy. Now when I go to college next year, I will actually be thinking [about] becoming a lawyer."

The program looks forward to continuing its expansion as it helps educate the next generation of consumers in Massachusetts and appreciates the support of the Foundation in making this possible. ☰



▲ Mock Trial in Judge Joan Feeney's Court presented by Janet Bostwick.



SAVE THE DATE!

Class 21 Induction Ceremony and Events, March 12-13, 2010

The Induction Ceremony will once again be held at the U.S. Supreme Court on Friday, March 12, 2010. Hotel reservations can be made at the Mayflower Hotel, 202-347-3000 for the reduced rate of \$249 single/double, ask for the "American College of Bankruptcy" rate.

International Committee Report

by E. Bruce Leonard

International College/III New York Meeting and Dinner: Century Association – June 17, 2009



▲ E. Bruce Leonard

The College was very pleased to present its Third International Insolvency Meeting and Dinner jointly with the International Insolvency Institute on Wednesday, June 17, 2009 in New York. Courtesy of New York Fellow and III Member Bob Rosenberg, the Dinner took place at New York's Century Association (7 W 43rd St.).

The Dinner was held on the evening prior to the International Insolvency Institute's Ninth Annual International Insolvency Conference at Columbia University and drew leading practitioners, academics and Judges from over 25 countries around the world. Special guests at the Dinner included leading insolvency Judges from Brazil, Canada, France and Russia together with Dr. Shinjiro Takagi, the former head of Japan's Industrial Revitalization Commission, an agency established with a multibillion dollar budget to restructure entire segments of Japan's industrial economy, and many other insolvency luminaries.

The Dinner was an excellent opportunity to get acquainted with some of the most prominent members of the international

insolvency community in a very informal and convivial setting in elegant surroundings. The Dinner was restricted to Fellows of the College and Members of the III and their spouses and guests. We were pleased with a fine turnout of Fellows of the College for the event and a wonderful evening at the Century Association.

College/III International Insolvency Publication:

The College is pleased to report the publication of a major new work on international insolvency by Professor Bob Wessels, Hon. Bruce A. Markell and Professor Jason Kilborn. The book, entitled *International Cooperation in Bankruptcy and Insolvency Matters*, is the result of a multiyear project between the College and the International Insolvency Institute and has been published by Oxford University Press.

The book is the finest current treatment of the development and functioning of structures for international cooperation in cross-border insolvencies and reorganizations. It is succinct, easy to follow and highly authoritative. The College has negotiated a discount of 20% from the publishers for Fellows of the College and ordering information for the book is available on the College website. We know that all Fellows of the College will find the book useful, interesting and valuable for cases and issues that have international dimensions. 🏛️

Judicial Outreach Committee Meeting

by Hon. Mary Grace Diehl



▲ Hon. Mary Grace Diehl

Nineteen judicial fellows attended the Class 20 Induction Ceremony and Events in Washington, D.C. Attendance of such a large number was made possible by stipends provided by the College to defray the expenses of travel to the meeting. Judge Barbara Houser, as chair of the Judicial Outreach Committee, convened a meeting of the judges in attendance to discuss the role of judicial fellows in the College and projects and initiatives in which judges could play a significant role. This is in keeping with the mission of the Committee to encourage participation of judges.

The judges at the meeting acknowledged the importance of the pro bono projects undertaken and underwritten by the College and the ACB Foundation, including the Reaffirmation Project and Bankruptcy Clinics. Suggestions were also made to explore the use of student practice rules in those states which have them to provide courtroom opportunities for law students. Supervision of the students could be provided by law professors or college fellows. Judicial fellows could assist in scheduling matters to facilitate participation of the students and their mentors.

The issue of training young attorneys to effectively represent consumer bankruptcy clients and the related area of encouraging diversity in the bankruptcy bar were

areas of interest to the judges and will be areas for further discussion. The judges also expressed their gratitude to the College for its financial support and agreed to consider appropriate means for the equitable allocation of stipends in the future so as to maximize participation.

Judicial fellows are encouraged to submit comments and suggestions to Judge Houser. 🏛️

The American College of Bankruptcy is pleased to have provided support for the following invaluable reference and scholarly publications.

2008 Circuit Review and Best Practices Reports

by ACB Best Practices Committee, Douglas Baird, Chair

Bankruptcy and the Supreme Court

by Professor Kenneth Klee

International Cooperation in Bankruptcy and Insolvency Matters

by Professor Bob Wessels, Hon. Bruce A. Markell and Professor Jason J. Kilborn



▲ Prof. Kenneth N. Klee at the March 2009 Education Session.

You may order any of these Publications from the homepage of the College Website at www.amercolbankruptcy.org.

National Bankruptcy Archives 2009 Annual Report

by C. Jordan Steele, Archivist



▲ C. Jordan Steele

(Ed. note, The 2009 Bankruptcy Archives Annual Report prepared by Archivist Jordan Steele follows. The Archives, located at the University of Pennsylvania Law School in Philadelphia, has been financially supported since its inception by the American College of Bankruptcy, its Foundation, and Lexis-Nexis. The Forman Digitization Program discussed in the Report was jointly funded by the American College of Bankruptcy Foundation and the law firm of Blank Rome. You can access the Archives, including the oral histories, directly from the College website homepage at www.amercolbankruptcy.org).

The 2009 fiscal year has been a busy one for the National Bankruptcy Archives as we continue to add to our collections and improve service to the legal research community.

The Archives undertook a number of major initiatives to promote and provide access to its rich collections. With the financial support of the National Conference of Bankruptcy Judges, we produced a video that provided information about the history of the archives and highlighted many of its signature collections. The video was created in digital format so that we could make it available online via our website and on-demand to anyone who requests a DVD copy.

Last fiscal year, we were grateful to receive funding to develop a digitization program. Digitization projects are important ways of promoting and providing access to archival materials that are sometimes obscured in their print format. This year, we completed our first project as part of the Leon S. Forman Bankruptcy Digitization Project: a digitized collection of oral histories. These long-form interviews help tell the history of bankruptcy from the perspective of judges, practitioners, lawmakers, and scholars who helped shape its development. We are proud to make this important piece of bankruptcy history available online to our community of researchers.

Inspired by our completion of this pilot digitization project, the National Bankruptcy Archives also hosted a reception at

Launch of the Leon S. Forman Bankruptcy Archives Digitization Program

By Diane Weiss Sigmund, Chair of the Archives Committee



▲ Diane Weiss Sigmund

On March 4, 2009, a public launch of the Leon S. Forman Bankruptcy Archives Digitization Program was held at the University of Pennsylvania Law School. The program was funded in Forman's memory by the American College of Bankruptcy Foundation and Blank Rome LLC in recognition of Forman's leadership in creating the National Bankruptcy Archives and keen interest in bankruptcy history.

The digitization of archival material has been a major focus of the archives for the past year. Its goal—to allow scholars access to these materials without the attendant time and expense of a trip to Philadelphia—has begun to be realized. In early February, the first digitized collection, Judge Randy Newsome's oral histories, was made available to the public through links accessible from the archives web site. You can listen to Newsome interview Forman, Vern Countryman, Connie Duberstein, and other bankruptcy giants no longer with us at www.law.upenn.edu/bll/archives/bankruptcy/

digicoll/oralhistories.html or directly from the College homepage at www.amercolbankruptcy.org by clicking on the Archives Link in the lower left hand section.

At the March cocktail reception hosted by Blank Rome, College leadership and Third Circuit Fellows were introduced to the digitized materials by archivist Jordan Steele of the Biddle Law Library, who also supplied an exhibit of archival material for the technologically challenged. Speakers included Penn Law School Dean Michael Fitts who was introduced by Prof. Charles Mooney, Third Circuit Fellow and professor of law; Raymond Shapiro on behalf of Blank Rome; Hon. Mary Davies Scott, former College Archives chair; Joel Piassick, former College Foundation chair; and Harvey I. Forman, Esq. on behalf of the Forman family. We were pleased that David Heiman, Chair; Paul Singer, President; Bill Cohen, Regents Chair, also were present. Another welcome guest was Dennis Schneider, who represented Lexis-Nexis. Lexis-Nexis provides annual archives funding of \$25,000 to supplement the College and Foundation annual support of \$25,000 and \$5,000, respectively. 🏛️



▲ Joel Piassick, Ray Shapiro and Prof. Walter Taggart looking at the archival materials exhibit.

Penn Law School. The event was attended by members of the bankruptcy community and Penn Law School, including Dean Michael A. Fitts. The reception provided an opportunity to provide an overview of the National Bankruptcy Archives and to demonstrate our recently completed digitization project.

As we embark on an effort to push our

collections into the digital realm, the Archives continues to improve its print collections by acquiring the papers of individuals and organizations that have made a significant impact on the history of bankruptcy law. The Archives negotiated the transfer of approximately 20 linear feet of the papers of Henry

J. Sommer, widely regarded as a leader in the consumer bankruptcy field. We also were able to enhance our current holdings related to Kenneth N. Klee when Professor Klee sent us his research files for a current book he wrote about the history of bankruptcy cases argued before the Supreme Court. In an ongoing endeavor to improve

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National Bankruptcy Archives 2009 Annual Report

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our holdings of pre-1950 bankruptcy materials, the Archives recently received the papers of Francis R. Kirkham, who in the 1930s drafted a report, at the request of the Chief Justice for whom he was clerking at the time, recommending changes to bankruptcy law in the wake of the Great Depression. Finally, the American College of Bankruptcy and the National Conference of Bankruptcy Judges continue to transfer their records as part of our standing agreement with those organizations.

I also met the Archives' mission of outreach and promotion in other ways, including conducting an interview about the Archives with the LexisNexis Bankruptcy Law Center, publishing an article in the American Historical Society Newsletter, and writing blog posts to keep the public up to date on developments in the Archives.

Scholars and practitioners continued to perform substantive research in the past year. Our most significant ongoing project is assisting Professor David Skeel in his research writing a modern history of the National Conference of Bankruptcy Judges. Professor Skeel has also lent his advice and assistance in identifying collections of interest for acquisition. Other areas of research interest included the proceedings of the National Bankruptcy Conference, the American Bankruptcy Institute Journal, the history of United States Trustees, and the papers of Lawrence P. King.

As the National Bankruptcy Archives grows and evolves, it remains committed to its mission of documenting the activities of people and organizations that have helped shape the history of bankruptcy law in the United States. 

Pro Bono Committee

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interns, bankruptcy guidebooks, consumer brochures, and continuing legal education for staff attorneys.

Put Something Back (PSB) (Miami, Florida) received a grant to fund a much-needed educational program for recruiting and training volunteer lawyers to assist indigent debtors in chapter 7 and chapter 13 pro bono cases. Current economic conditions have caused PSB to be flooded with hundreds of additional bankruptcy-related cases. PSB's bankruptcy seminars have been a very

successful and effective means of recruiting pro bono volunteers.

The Legal Aid Society (New York City) received a grant for its Predatory Lending Project (PLP), a vital component of Legal Aid's civil practice, which was established to help low-income New Yorkers obtain and maintain the basic necessities of life, housing, health care, food, and subsistence income. PLP has been increasingly called on to rescue low-income and elderly clients. The grant from the College and the Foundation will enable PLP to continue its representation of indigent consumer debtors with respect to unlawful debt practices, affirmative litigation under the Fair Debt Collection Practices Act, and bankruptcy-related services. PLP has also prepared material for volunteers, explaining how to vacate consumer debt judgments, defend collection cases, and comply with applicable bankruptcy procedures.

Widener University School of Law Financial Advocacy Program for Seniors (Wilmington, Delaware) will be launched this summer to benefit low-income seniors, meeting a critical need. Student fellows, funded by a stipend from the College and Foundation, will apprise elderly individuals of their rights regarding debt collection and acquaint them with basic financial concepts in workshops and individual counseling sessions. In particular, the project will assist indigent seniors who are threatened with aggressive debt collection by informing them of their rights under applicable state and federal statutes; help them develop strategies for dealing with debt collectors who harass them; and, when necessary, make appropriate legal referrals to volunteer lawyers. In addition, Widener law students will be introduced to consumer bankruptcy law and have an opportunity to work with clinical faculty on current bankruptcy cases referred to them by the community. At the conclusion of summer workshops, the fellows will continue working for credit under the supervision of the law school's consumer bankruptcy clinic on a volunteer basis.

The Tides Center (San Francisco) received approval of a request to help fund its Zachery Dorsett Project, which is intended to ameliorate some of the most predictable pernicious effects of the 2005 amendments to the Bankruptcy Code. The project will provide consumer debtors with the benefit of a free, well-designed, and efficient means of meet-


ing the credit counseling requirements of the 2005 amendments; identify and support competent consumer bankruptcy practitioners; and fund a web-based credit counseling service that meets the requirements of the 2005 amendments. In addition, each indigent consumer debtor will have access to certain preapproved consumer bankruptcy counsel, who may seek assistance for such expenses as filing fees to enable the debtor to seek bankruptcy relief.

The Consumer Advocacy Legal Aid Clinic (Southwest Detroit, Michigan) pilot project will establish a legal aid clinic for indigent Latino consumer debtors, many of whom are not fluent in English. The clinic's goal is to help those who can avoid bankruptcy by providing a resource of available options, including legal representation in negotiating with creditors. Among other things, the project will hold a series of clinics to explain legal rights and creditor relationships, bankruptcy law, loan defaults, the effects of a money judgment, and how to confront litigation and notices of default. Staffed by volunteer bankruptcy lawyers from private firms, the program will create an infrastructure for a clinic to attract permanent funding. Clinics and other training sessions will be held at the offices of Latino Family Services Inc., a well-established nonprofit organization based in Southwest Detroit.

Forming New Projects

The committee has actively encouraged the establishment of pro bono consumer debtor projects in Wilmington, Delaware, and St. Louis, Missouri. Bankruptcy judges and College Fellows in each location have been working with local practitioners to set up and house projects similar to those described above. College Fellows in Cedar Rapids, Iowa, supported by a grant from the College and the Foundation, also established an emergency pro bono project for flood victims filing bankruptcy petitions. In addition, the committee is working in Miami, Florida, to replicate a debtor reaffirmation project similar to a successful project in Atlanta, Georgia, previously funded by the College and the Foundation.

Committee Membership

The College increased the size of the committee from 11 to 24 members from across the country. Members include one bankruptcy judge, the nation's leading consumer bankruptcy lawyers and scholars, and other fellows with a strong history of effective pro bono bankruptcy work. 

Distinguished Student Update

By Kaaran Thomas, Chair of the Distinguished Student Committee

Our 2009 (seventh) class of Distinguished Students is about to enter the real world. We now have 35 student alumni of our program. This section provides a way to keep up on their whereabouts and let Fellows know how they can support our program.

Greetings from Distinguished Student Alumni

Our students let us know how they are doing from time to time. **Cynthia Wooden** (Eighth Circuit Distinguished Student for 2004) is the in-house counsel for Home Instead Senior Care in Omaha, Nebraska. She worked at Blackwell Sanders LLP (now Husch Blackwell Sanders) for three years with College Fellow Joyce Dixon in the corporate department. She specialized in banking law, finance, and general corporate work. She left Blackwell Sanders to work for a small boutique firm, Mick & Associates, but after a year returned to her current position at Husch Blackwell Sanders, which involves franchise, trademark, and copyright issues. She is also heading up a strategic initiative to develop a company-wide document management and retention program.

Erica Rae Cline (formerly Erica Cline-Blackledge, Third Circuit Distinguished Student for 2005) is a fourth-year associate in the litigation practice group of Morgan Lewis & Bockius in Philadelphia. Her practice focuses on cases involving bankruptcy, complex commercial, and mass tort litigation. She received the First Judicial District Pro Bono Awards for 2006, 2007, and 2008, and received the Pennsylvania Bar Association Pro Bono Award in 2008.

Nick Swartzendruber (Tenth Circuit Distinguished Student for 2004) joined the natural resources law firm of Poulson, Odell & Peterson LLC, in Denver, Colorado, at the beginning of 2007. The firm is a full-service oil and gas firm, representing clients in title examination, litigation, regulatory, and transactional matters. Swartzendruber finds that his fundamental knowledge of bankruptcy principles helps his practice since bankruptcy issues and creditors' remedies are often major considerations for the oil and gas industry, with its boom-and-bust cycles and high-stakes investments.

Two of our 2009 nominees, **Brent Meyer** (Ninth Circuit) and **Juraj Alexander** (Second Circuit), are looking for employment.



▲ 2009 Distinguished Students: Juraj Alexander, Sabrina Gardner, Noelle Whitmire, Kaaran Thomas (Chair), Brent Meyer, Kelly Bozanic, Nathaniel Hull

Alexander is looking for an internship in New York and may have to return to Europe if he is unsuccessful. I have Meyer's resumé if anyone would like to see it.

Nominate Your Distinguished Summer Clerks

We are now recruiting for our 2010 class of students from law schools in the Fifth, Sixth, Seventh, Eighth, and Tenth Circuits. If you have especially talented students from a law school in one of these circuits clerking for you or your firm and expressing an interest in bankruptcy, please contact me at kthomas@mcdonaldcarano.com for a nomination form and requirements. Your part of the nomination process is minimal. Give the nomination form to the students, telling them about the program and the prizes. If they are interested, they must obtain the necessary academic records and recommendations from their bankruptcy professor and/or the dean. They then must submit an essay describing how they came to be

interested in bankruptcy and discussing why they are interested in pursuing bankruptcy law and receiving the Distinguished Student Prize for their circuit. They can send the completed form to me or have their professor or dean forward the form to the committee member for their circuit.

You can, but are not required to, follow up by contacting the student's law school dean or bankruptcy professor to ensure that the nomination receives

the proper academic attention. Alternatively, you can forward the student's contact information to the Distinguished Student Committee member for the circuit where the student attends school, and they can follow up. The committee members for the eligible circuits this year are Fifth Circuit, Berry D. Spears Esq.; Sixth Circuit, Reginald W. Jackson Esq.; Seventh Circuit, Catherine Steege Esq.; Eighth Circuit, Charles T. Coleman Esq.; and Tenth Circuit, David Leta Esq., Snell & Wilmer LLP.

Help Us Find

We are looking for the following alumni. If you have information on their whereabouts, please send it to kthomas@mcdonaldcarano.com.

Class of 2003, Laura McGeoch (Temple)

Class of 2005, Nicole Brandi (Emory University) Eleventh Circuit

Class of 2005, Jane Volkman, (University of Illinois) Seventh Circuit

Thanks for your help! 🙏

2009 Foundation Donations

As of May 28, 2009, 65 Fellows have donated a total of \$15,475 to the Foundation. Please note, we have added an online donation form to the homepage of the website, www.amercol.bankruptcy.org, if you would like to make a donation at any time during the year.

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