



COLLEGE COLUMNS

A MAGAZINE FOR AMERICAN COLLEGE OF BANKRUPTCY FELLOWS | MAY 2025

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From the Chair Piñatas!

*Charles A. Beckham, Jr.,
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Greetings! I'm still glowing from the terrific Annual Meeting and Induction Ceremony we held in Washington, DC in March. It was a true pleasure to be with you as we inducted thirty-nine (39) new Fellows into the College. A few weeks after the Annual Meeting and Induction Ceremony, I was fortunate to attend the Emory Bankruptcy

Development Journal's Annual Banquet in Atlanta. Deborah Williamson, our Fifth Circuit Regent, CC Schnapp, our Executive Director, and numerous of our 11th Circuit Fellows attended the Banquet as well. The EBDJ honored Professor Jay Westbrook of the University of Texas with its 2025 Distinguished Service Award for Lifetime Achievement.

Jay, the Godfather of cross-border bankruptcy and insolvency and a College Fellow, received the College's

Distinguished Service Award in 2016. Jay is clearly the Global Bankruptcy GOAT. Following his introduction, Jay gave a great speech in which he praised Chapter 11 as America's greatest export because it has become the model for business restructuring laws around the globe.

During Jay's speech and in light of our global trade wars, I started thinking about international trade. While I have ya, I would like to tell you a story about my first experience in international trade.

I grew up along the Texas/Mexico Border. When I was 4 years old, my Dad was stationed at Webb Air Force Base in Laredo,

Texas. Like most 4-year-olds in Texas, my birthday party included a Piñata. It was June 2, 1958, and the most popular cartoon character in the world was Mickey Mouse. I remember the great excitement of swinging the baseball bat at the dangling Mickey Mouse while blindfolded. Although I was not successful in busting through the colored ribbons that covered the paper mâché Mickey Mouse, my best friend Joey Gallo swung mightily and released hundreds of pieces of candy onto the ground below. All the kids at my birthday party swooped down like buzzards upon the candy and grabbed their share. Having the Piñata at my party was swell.

Twelve years later, my Dad had moved us to Fort Bliss in El Paso, Texas -- still living on the Border. Sixteen-year-olds in Texas usually don't have Piñatas at their birthday party but, on the day you turn sixteen in Texas, you go to the Texas Department of Public Safety and get your driver's license. I passed the test in flying colors in my Mom's 1964 green Ford station wagon. The following Saturday, my best friend and next-door neighbor Donald Woods and I did something special. We started our first business, importing Piñatas from Juarez, Mexico. The international bridge was only ten minutes from our house.

I remembered how much kids loved Piñatas, and I thought we could help spread the joy and make a little money if we imported Piñatas. We borrowed Pop's 1954 Dodge Pickup and drove across the border to a Piñata factory. Pop was Donald's grandfather, and we promised him we would never take his truck to Mexico. We could stack and stuff about 100 Piñatas in the bed of Pop's pickup and bring them back to El Paso. It looked



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2025 College Induction Ceremony and Annual Meeting

New Fellows, Inspiring Students, and Focused and Provocative Educational Programs

*Patricia Redmond, Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
President, American College of Bankruptcy*



Last year as I ended my term as Chair of the Board of Regents, and began to serve as President, I summarized my regrets over leaving what I termed “the best job at the College” and yet

looked forward to the challenges of my new role. The past year has gone by quickly but not without the College having grown stronger and more energized. The College was back in Washington, D.C. again, and attendance by Fellows exceeded last year with 318 fellows attending. The College welcomed 39 new fellows (36 from Class XXXVI and three from previous classes), 11 distinguished law students, and three distinguished business students to share in all of the events and programs of the Annual Meeting.

Last year the buzz at the meeting was the reality of Shari Bedker’s retirement, and we celebrate this year our first Annual Meeting with our new and dynamic executive director, CC Schnapp. Although we will always miss Shari, as she is part of the heart and soul of the College. CC and Jenny made sure that each program and event ran smoothly and was perfectly executed.

The committees of the College held their meetings and showcased their efforts through programs and networking events. A great example is the International Committee, which sponsored an additional program this Spring in an effort to outreach to more international fellows. On Thursday afternoon, the International Committee sponsored a lecture and debate lead by Professor Bruce Markell dealing with “The Essential Role of Equity in the Administration of US Reorganizations”. Professor Markell provoked a robust discussion and lively audience participation. As a result of the increased program, there were 12 international fellows attending.

Following that was the President’s reception where we welcomed the international fellows and all of the distinguished students who were called upon to tell the group something about themselves. The attendees began their experience with the College and weekend activities.

The Induction Weekend

Our new fellows arrived on Thursday, having already been educated with respect to the College, its governance, its mission, and its core functions because of the excellent Freshman Fellows’ Committee chaired by Judge Lisa Beckerman. Many thanks to Judge Beckerman for her continuing efforts



to seamlessly integrate the new fellows into the College and to provide mentors and mentorship to all new fellows. The new fellows received another opportunity to get to know each other Saturday morning at the orientation breakfast where each new fellow shared something special and interesting about herself with the group.

College Governance

Early Friday morning, the Board of Directors met, led by Chair Charlie Beckham. The Board is the governing body of the College and is comprised of directors from the circuits and the committee chairpersons. [This link](#) contains the current list of the Officers, Board of Directors and Committee Chair persons.

Charlie reported on the results and decisions of the Nominating Committee and welcomed directors and committee chairs attending their first meeting. Charlie also thanked the directors and chairpersons whose terms were ending at the end of the Annual Meeting. Charlie, with Texas pride, reminded the board that the Annual Meeting in 2026 will be held in San Antonio. CC has masterfully finalized all arrangements. Charlie promises a huge Texas welcome to the College and its fellows.

The Committee Chairs provided written or oral reports with respect to their activities in the past six months. Dan Cohn and I were named as co-chairs of the new Membership Committee. The Committee has been charged with evaluating the appropriate size of the College to maintain excellence and to study and make recommendations on the allocation of fellows between circuits and the selection process for electing new fellows. The Committee held its organizational meeting in D.C. on Saturday and will continue its work and provide its recommendations and conclusions by the Annual Meeting in 2026.

Thought Provoking Educational Programs

Rich Levin, our Scholar in Residence, once again selected a dynamic education program on substantive law and current policy issues, which masterfully addressed challenges the Fellows are facing in the different aspects of their professional and personal lives.

The First program on Friday afternoon was entitled, "Wither Chapter 11? The Political Economy of the Second Trump Administration and its Impact on Bankruptcies." The panel was moderated by Don Bernstein, our new Scholar in Residence, and provided an excellent framework for analyzing what is to come.

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From the Foundation

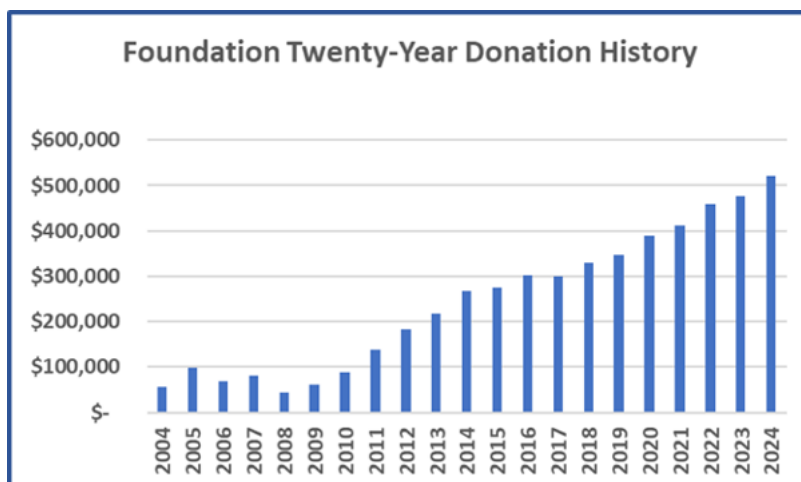
Jan Hayden

Chair, American College of Bankruptcy Foundation



The Foundation began 2025 celebrating an extraordinarily successful fundraising year for 2024. We started the 2024 campaign in earnest at the All-Fellows luncheon in Seattle in September, raffling a ticket to ride in the IRIS parade during Mardi Gras which culminated in an animated auction for another spot. As a result of those efforts, we raised \$6,900, and Trish Redmond and Lynn Tavenner joined several other Fellows in New Orleans for a fun-filled ride in the Iris parade in March of this year...See above for proof!

But we were just getting started! The Foundation received a total of \$514,928 in donations from our Fellows, bringing our 2024 fundraising total to a record \$521,828. That was a 9% increase from our 2023 fundraising total of \$476,654, and a 14% increase from \$459,178.15 in 2022. We far exceeded our announced (and ambitious) goal of \$485,000 and even our internal "home run" goal of \$500,000. The chart below outlines the twenty-year history of your foundation donations:



Of course, sometimes we get so excited by our results, I wonder if we lose track of why we do this. Our efforts are a huge part of the College's dedication to its mission. The American College of Bankruptcy is an honorary public service association of insolvency professionals dedicated to the enhancement of professionalism, scholarship, and service in bankruptcy and insolvency law and practice. A little over 20 years ago, the Foundation was formed as an effort to help the College and our individual fellows fulfill that mission. As the chart above shows, we have increased our support by more than 5-fold since the inception of the Foundation. Through your generosity and the hard work of many, we have worked to fulfill the mission of the Foundation which is focused on the sponsorship and encouragement of legal research, publications and forums in our area; establishment of scholarships and grant awards; providing for the collection and maintenance of data and documents for scholarly research; fostering the institution and maintenance of legal aid services for the indigent; and promoting diversity, equity and inclusion within the organization and across the insolvency profession.

Norm Pernick's article will tell you about the \$600,000 plus the Grants Committee gave out this year, so I will not steal his thunder! But I do want to share the news that thanks to your generosity we were able to budget an additional \$50,000 dollars for the Grants Committee to distribute in 2025. Your donations are reaching across the country to support not only some of the best pro bono work but also offering opportunities to young people in our industry that they would not have but for your help. That is not all you have done as you have grown the Foundation through

the years. Peruse our website. You will find a wealth of information regarding not only our grants, but our efforts to provide educational material to consumers faced with insolvency and credit issues at [Resources for Consumers | American College of Bankruptcy Foundation](#). The site provides educational resources to help students from elementary to college understand finances for navigating a complex world. Your donations and good work year in and year out make a huge difference and each of you should be proud. The Foundation year after year expands its impact and we could not do it without your support. Thank you!

Speaking of "thank yous", we all owe a big thank you to the fund-raising teams for each circuit listed below for their help:

1st Circuit Director: Chris Candon
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1st Circuit Regent: Doug Gooding
1st Circuit Volunteer: Dale, Chad
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6th Circuit Director: Hon. John Hoffman
6th Circuit Director: Scott Wolfson
6th Circuit Regent: Rozanne Giunta
7th Circuit Director: Caroline Reckler
7th Circuit Director: Felicia Gerber Perlman
8th Circuit Volunteer: Monica Clark
8th Circuit Volunteer: James Bartholomew

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From the Grants and Pro Bono Committee

*Norman L. Pernick, Cole Schotz, P.C.
Chair, Grants and Pro Bono Committee*



I am very proud and excited to acknowledge the tremendous work of the approximately 50 members of the Grants and Pro Bono Committee over the past year. Support for access to justice

is an important part of the mission of the Foundation and the College, and the Committee executes that mission. On behalf of the Committee and our grantees, I thank the College, the Foundation, the DEI Committee, and the Fellows, whose support and generosity made a record amount of grants possible in 2024. You have made the College and the Foundation the largest private funder of pro bono programs in the country, and you have enabled us to provide a lifeline of assistance to the most vulnerable and diverse populations our grantees serve.

Pro Bono Grants

In 2024 the College and Foundation awarded a record \$599,050 (an increase of \$59,853 over 2023) to 49 organizations, funding programs in 18 states plus the District of Columbia. Our grantees come from across the country, in cities large and small, as well as in rural areas. We fund programs designed to maximize the reach of our grantees by increasing volunteers and expanding and leveraging resources. Applications include requests to fund (1) pro bono clinics and volunteer attorney trainings to recruit additional volunteers or

expand the reach of volunteer attorneys, (2) self-help desks and pro se clinics to assist those individuals who must navigate the legal process on their own, (3) development of training or informational videos to reach pro bono attorneys or potential clients, (4) software and hardware upgrades to enable remote connections to clients, and (5) community education and outreach to provide individuals with needed information on debt and bankruptcy relief.

The following are four examples of programs funded with the 2024 grants:

- *Conejo Free Clinic (Thousand Oaks, California).* The Conejo Free Clinic Legal Clinic serves approximately 700 low-income people annually with free assistance in almost every area of the law, with bankruptcy law the highest unmet legal need in our Southern California region. The program provides bankruptcy advice and counsel, information, guidance, emotional support, what to expect in the difficult process if pursued, and how and if to pursue it. The CFC's skilled, compassionate bankruptcy attorney volunteers donate their professional legal expertise and personal time to make their free services possible. They are supported by the Clinic's financial donors who care equally about equitable access to legal care. Our program is endorsed by the Ventura County Bar Association.

- *Dade Legal Aid Put Something Back (Miami, Florida).* ACB Grant funding has allowed PSB to assist the growing client community in need of a fresh start offered by bankruptcy assistance. As a result of this grant this project has achieved success in

providing outreach to over a dozen diverse underserved communities, from Hialeah to Homestead, promoting its services to vulnerable, low-income individuals and families, and assisting over 250 clients who are elderly, veterans, disabled, terminally ill, aging out of foster care with no safety net in place, and victims of domestic violence and disaster. Through the use of virtual helplines, new materials, and technological upgrades, we made accessing vital information readily available to those in need, in English, Spanish and Creole. We targeted remote areas with expanded social media and podcasts and the use of cutting-edge technology to connect, coordinate, recruit and educate more people about the available services.

- *Financial Protection Law Center (Wilmington, North Carolina).* ACBF's 2024 grant supported the organization's expanded provision of pro bono legal and administrative services. From January through December 2024, our successfully concluded cases included 19 homes saved from foreclosure, with a cumulative fair market value of \$3,336,227.50. At the beginning of our report period (January 1, 2024), we had 72 open case files, which included 40 open inquiries and 32 ongoing extended service cases, including 11 active, filed Chapter 13 bankruptcy cases for which we provide ongoing representation and support. During the grant period, we opened 94 new cases, and we closed 118 cases, including 98 brief services or advice cases and 38 extended services cases. As of the end of the report period on December 31, 2024, we had 48 open cases including 30 open inquiries and 18 extended service cases of which 8 are ongoing Chapter 13 bankruptcy cases that we continue to service.

- *Veterans Legal Services (Boston, Massachusetts).* The first component of the program was to create and present materials for front-line veterans' case workers and care providers at VLS's legal clinic sites to help them support veterans in managing and prioritizing debts. On January 24, 2024, VLS presented in person to the staff at New England Center and Home for Veterans, one of VLS's community partner sites located in Boston. VLS created and gave attendees a quick reference guide for future use. Participants gave feedback through a survey which will inform future presentations on financial topics. Then, on March 13, 2024, VLS conducted the same presentation over Zoom, marketing the webinar to all VLS's community partner sites. Survey results from the January 2024 workshop on managing and prioritizing debt indicated that all participants found the information helpful. One hundred percent of survey participants responded "very likely" when asked "How likely are you to apply something you learned in this workshop?". When asked "What did you like about the workshop?" one respondent reported, "Ranking the priority of debt payments was a huge help; veterans come to us with a number of financial issues and being able to determine what we address first is a massive help to focusing our efforts." Other responses were similarly positive about the specific material presented and the knowledge of the presenters, as well as the likelihood of the participants using this knowledge to impact the lives of their clients.

I would like to continue the tradition of sharing with you a few stories from the grantees describing the powerful impact of our grants:

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Welcome Class 36 – “You Did A Thing”!!

*Jennifer Hagle, Sidley Austin LLP
Chair, Board of Regents*



It is no small feat to gain admission to the American College of Bankruptcy. Our College Fellows represent “the best of the best” in the restructuring community, having demonstrated the

highest standard of professionalism, character, integrity and leadership among bankruptcy specialists. The Portrait Gallery in Washington, D.C. always provides a beautiful backdrop to welcome our new inductees and this year was no exception. Colleagues, friends and family gathered in our nation’s capital in record numbers to celebrate one of the strongest and most diverse classes to date.

Speaking of diversity, let’s take a quick look at the Class 36 statistics –

- 38% female & 62% male;
- 16% age 44 and under; 43% age 45-54;
- 11% academic; 3% consumer; 8% financial; 3% government; 11% judicial; 62% attorney;
- 21 states represented; and
- International representation – Australia, Hong Kong and Switzerland.

Class 36 represents a truly impressive array of worldwide talent ranging across all practice areas, ages and locations!

But what now? How do we sustain the energy, enthusiasm and momentum generated during the induction weekend? The answer is by getting involved with all

that the College has to offer in a manner that fits your interest and passion. And to share the obvious, this message is intended for all Fellows, not just our newly minted class. I promise you, it will be one of the most professionally and personally rewarding things you have done. Here are just a few ideas –

Education - One of the College’s core strengths is to identify educational programs for sponsorship and develop programs designed to advance its educational purpose. A great way to build on this strength is to continue to attract the best and brightest students out of law school and recruit them into the bankruptcy practice – and then continue to support their careers by expanding their knowledge base and creating networking opportunities through interesting and engaging educational programming. Be sure to check out this year’s class of Distinguished Law Students – involvement with the Distinguished Law Students Committee is a great way to assist in identifying and cultivating the up-and-coming restructuring talent – which is key to building the pipeline of future Fellows.

Public Service/Pro Bono Work - Nowhere is the College’s mission better reflected than with respect to its expansive pro bono efforts. The Pro Bono Committee works tirelessly to identify clinical and other community programs devoted to providing debt counseling and other legal services to low-income individuals and families. Through the award of significant grants, the College makes its mark every day in addressing the needs of underserved



communities requiring assistance and advocacy related to financial distress.

Mentoring – It is undeniable that the world is more complicated, fast-paced and stressful than ever. Competing demands on our professional time have multiplied with firms and clients expecting 24/7 availability, immediate feedback, increasing chargeable hours and relentless client/practice development demands. Now more than ever, we need each other as a source of support, whether it's a referral, talking through a complex legal issue or merely to vent. The College has made significant strides in the past several years to encourage mentoring of each other and the next generation, whether through serving on Committees or participating in the Freshman Fellows Program, intended to ensure that Fellows feel integrated into the College from the get-go.

And so, keeping the mission and core values of the College in mind, the process has already begun to curate the next class of phenomenal Fellows. ***Note that the nomination deadline is once again early this year – June 20, 2025. Also note that we have moved the nomination package to an online form – which may be accessed [here](#).*** Moving to an electronic format will significantly

streamline the nomination process and enhance the efficiency of the administrative resources necessary to process the nominations (and frankly, it is long overdue). Specific instructions may be found on the form itself and also on a solicitation email I sent out to all Fellows in early April. Any questions on the new format may be addressed to me, your respective Regent or the College's administrative staff.

Please think about who the next exceptional and qualified bankruptcy professional is that you know who will meaningfully contribute to the College's mission. Professionals of the highest level of character, integrity, professional expertise and leadership with a commitment to fostering the College's goals of diversity and inclusion. Professionals who are looking to actively contribute to the goals and values that historically have made the College the great institution that it is today and will continue to make the College relevant and important in the future. And also consider the future pipeline – who are the "up and comers" that you know that might not be ready for College admission yet but are on deck to populate the next generation of restructuring superstars? The work starts now and we need each and every Fellow's involvement!

I want to thank the Board of Regents and administrative support staff for their tireless efforts over the past year to advance the College's goal of only admitting the "best of the best". And as I told our new Class 36 Fellows at the Induction Ceremony – you didn't just do a thing – you did a really big thing!!! You should be very proud of yourselves – I know we are! **I**

The Hard Work Continues

Hon. Joan N. Feeney (Ret.)

Paul E. Harner

Co-Chairs, Standing Committee on Diversity, Equity, and Inclusion



The Standing Committee on Diversity, Equity, and Inclusion (the “DEI Committee”) remains hard at work to advance the College’s mission of instilling mindfulness of all aspects of diversity, equity and inclusion by actively promoting those values through the resources and endeavors of the College and its Foundation. In this issue of College Columns, we highlight

various important actions recommended by the DEI Committee and implemented by our Board of Directors at its meeting on March 21, 2025.

All Fellows Demographics Survey. Over the course of several months in late 2023 and early 2024, the College Policy Subcommittee of the DEI Committee formulated a survey of all Fellows to gather demographic data, accomplished on a voluntary, anonymous “self-identification” basis that the College did not previously maintain. The Chair and President of the College transmitted the survey to all Fellows in March 2024 with a response deadline of approximately 30 days. The survey generated a 50 percent return rate, which we were advised by

outside experts was sufficient to evaluate the responses on a statistically significant basis.

Based on its subsequent compilation, review and analysis of Fellows’ responses, the Subcommittee and, in turn, the full DEI Committee recommended the following:

- The College should maintain demographic statistics on its Fellowship in accordance with the categories of information set forth in the 2024 Self-Identification Survey;
 - The College should send a similar Self-Identification Survey to each incoming class of new Fellows within 60 days of admission to the College;
 - In order to capture subsequent changes in the demographics of the College, to maintain the accuracy and integrity of underlying data, and to obtain responses from Fellows who may not have previously responded, the College should readminister the Self-Identification Survey every five years;
 - The College should conduct periodic focus group workshops with Fellows from underrepresented constituencies to ascertain their experience as Fellows and to monitor compliance with inclusion initiatives; and
 - The DEI Committee Chair and Co-Chair should report available demographical data on an annual basis to College leadership prior to the commencement of the March induction weekend meeting.
- At its meeting on March 21, 2025, the Board adopted each of these recommendations, as

well as the full report of the College Policy Subcommittee.

Report and Recommendations Regarding the Nomination and Election of Judicial Fellows. At the Board's direction, the DEI Committee and College Policy Subcommittee undertook a comprehensive study of the nomination processes of the Judicial Nominating Committee ("JNC"). The purpose of the study was to ensure that the nomination process is consistent with the College's objective of including qualified, diverse candidates.

The resulting report's conclusions and recommendations were:

- The JNC has been functioning effectively and in accordance with the College's DEI mission and policies;
- The College should collect demographic data on the diversity of Judicial Fellows by utilizing a voluntary self-identification survey;
- The bylaws should be amended to reduce the five-year requirement of judicial service to three years to broaden the pool of younger jurists eligible for election to the College;
- The bylaws should be amended to clarify that the JNC receives, reviews and acts on judicial nominations, but does not itself initiate or generate nominations. As written at the time of the DEI Committee's study, the bylaws appeared to mandate that the JNC initiate nominations (although, historically, that had not been its practice);
- The College should provide education and training to all Fellows regarding the judicial nominations process; and
- The JNC should actively encourage the nomination of qualified diverse judicial candidates.

The Board likewise adopted each of these recommendations at its most recent meeting in March.

DREAMS Programming. As described in detail in prior issues of College Columns, building off the momentum of the Discovering Restructuring Expertise and Mentorship Symposium (DREAMS) program that began in November 2023, the College, in collaboration with the ABI, presented its second annual full-day DREAMS program at Howard University School of Law ("Howard Law"). The event was spearheaded and organized yet again by DEI External Subcommittee member Paula Beran, together with Lynn Tavener and Howard Law Professor Matthew Bruckner. Held on November 6, 2024, Howard DREAMS was again a resounding success. The program's presenters informed students from at least five different law schools about the rewards of careers in the insolvency field. They also provided scholarly analysis on cutting-edge and provocative bankruptcy issues, as well as a platform for frank discussion on ways our profession can better focus on mentorship and sponsorship. For many students, this event provided the first glimpse of the bankruptcy/insolvency profession.

On February 3, 2025, the DEI Committee hosted a more abbreviated DREAMS program (which the DEI Committee has internally called a "DayDREAMS" event) at the University of Illinois Law School in Urbana-Champaign. This event was organized by External Subcommittee members Judge Deborah Thorne and Judge Kathy Surratt-States and likewise was a tremendous success.

As a natural outgrowth of these enormously well-received programs, the DEI Committee

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Doing the Splits

Reasonably Equivalent Value to Whom?

Annette W. Jarvis, Greenberg Traurig, LLP
Secretary, American College of Bankruptcy



In determining whether a party gives “reasonably equivalent value” under Section 548 of the Bankruptcy Code or state fraudulent transfer statutes, how does a court determine the value given? Is it an objective standard measured by the market value or is it a subjective standard measured by the value realized by the debtor? This question is complicated by what may be differing answers under federal and state law.

This story starts in the 1980s in Utah in *In re Universal Clearing House Co.*, 60 B.R. 985 (D. Utah 1986). A trustee was appointed in this Chapter 11 case, which was quickly identified as a Ponzi scheme. The company’s stated business purpose was “to solicit funds from private investors, called ‘undertakers,’ and to use the invested funds to assume the debts and pay the creditors of various client companies.” *Id.* at 989. Investors were told that accounts would be bought at a discount before they were due and then paid in full by the debtor when due, with the difference funding a return to investors. In fact, no accounts were purchased and existing investors were paid “interest” from funds solicited from new investors — a classic Ponzi scheme. *Id.* The trustee brought fraudulent transfer actions against the sales agents who had solicited the

investors to recover their commissions. The bankruptcy court determined, as a matter of law, that the commissions paid to the sales agents could not constitute reasonably equivalent value for the services provided by these sales agents because these payments “were without legally cognizable value,” given that these services provided no value to the fraudulent enterprise but merely “deepened the debtor’s insolvency and furthered a fraudulent scheme.” *Id.* at 998. On appeal, the District Court compared caselaw under the Bankruptcy Act with the revised definition of “value” under the Bankruptcy Code, noting that the definition of “value” included “satisfaction ... of ... [an] antecedent debt of the debtor” *Id.* The District Court determined that, because the debtor had contracted with the sales agents for the sale of the “undertaker” contracts and those sales agents had, in fact, sold those contracts, the sales agents “performed services thereby giving consideration to the debtors under the terms of entire contracts.” *Id.* at 999. The District Court concluded that “a determination of whether value was given under section 548 should focus on the value of the goods and services provided rather than on the impact that the goods and services had on the bankruptcy enterprise.” *Id.* at 1000. Thus, the District Court remanded the case for a determination of the amount of value given in exchange for the transfers.

The Fifth Circuit then weighed in on the issue in *In re Fairchild Aircraft Corp.*, 6 F.3d

1119 (5th Cir. 1993). In a Chapter 11 case, a fiscal agent was appointed to pursue avoidance actions on behalf of creditors. In a case where payments were made for fuel to try to keep a failing commuter airline affiliate afloat, the fiscal agent argued that the only value that can be considered in analyzing “reasonably equivalent value” is “property actually received.” The Fifth Circuit rejected what it called this “narrow approach” and found that “the benefits flowing to [the debtor] from keeping [the airline affiliate] in operation is likewise value for purposes of Section 548.” *Id.* at 1127. Consequently, the Court found that any fuel payments made while the affiliate airline was still in operation constituted reasonably equivalent value.

The Eleventh Circuit addressed this issue in yet another Ponzi scheme in the case *In re Fin. Fed. Title & Tr., Inc.*, 309 F.3d 1325 (11th Cir. 2002). This involved over \$1 million paid in commissions for services of an individual in soliciting investors over an 18-month period. Following the reasoning of *Universal Clearing House* and rejecting the caselaw relied on by the Bankruptcy and District Courts to the contrary, the Eleventh Circuit reversed the lower courts and adopted the objective standard. *Id.* at 1331-32. The Court remanded the case for a determination of the value of the services provided. *Id.* at 1333.

The Fifth Circuit then took the issue up again in *Warfield v. Byron*, 436 F.3d 551 (5th Cir. 2006), and reaffirmed its subjective view of “reasonably equivalent value.” This case involved a Ponzi scheme that was subject to a SEC receivership, not a bankruptcy, where the receiver sued two investors who received far more from the scheme than they invested under the Uniform Fraudulent Transfer Act. Addressing the question of reasonably equivalent value, the Court said:

“The primary consideration in analyzing the exchange of value for any transfer is the degree to which the transferor’s net worth is preserved.” *Id.* at 560. Consequently, while the transferee had provided broker services for the company, the Court noted that “[i]t takes cheek to contend that in exchange for the payments he received, the [] Ponzi scheme benefitted from his efforts to extend the fraud by securing new investments.” *Id.*

Then, in a twist, in *Janvey v. Golf Channel, Inc.*, 834 F.3d 570 (5th Cir. 2016), the Fifth Circuit addressed this question not under Section 548 of the Bankruptcy Code, but under the Texas Uniform Fraudulent Transfer Act (TUFTA) in a receivership commenced against a Ponzi scheme enterprise by the SEC. In this case, the recipient was an advertising company who was paid nearly \$6 million for advertising services which furthered the company’s fraudulent scheme. *Id.* at 571. Since the issue of how to determine value arose under state law, the Court certified the question to the Texas Supreme Court. Rejecting the argument that the transfer must confer value on the debtor, the Texas Supreme Court set the following test for determining value:

TUFTA’s “reasonably equivalent value” requirement can be satisfied with evidence that the transferee (1) fully performed under a lawful, arm’s length contract for fair market value, (2) provided consideration that had objective value at the time of the transaction, and (3) made the exchange in the ordinary course of the transferee’s business.

Id. at 572 (quoting *Janvey v. Golf Channel, Inc.*, 487 S.W.3d 560, 564 (Tex. 2016)).

The Fifth Circuit distinguished its earlier decision in *Warfield v. Byron*, 436 F.3d 551,

[*continued on page 17*](#)

[From the Chair continued from page 3](#)

kinda like a Piñata pyramid rising slightly higher than the cab of the pickup. In 1970, it was groovy.

We purchased the Piñatas for 25 cents. We had a buyer in San Antonio. Kerr's Curio Shop on the Riverwalk in San Antonio agreed to pay us 50 cents a-piece plus the shipping costs for 100 Piñatas a week. Our weekly cost was \$25 dollars, and our weekly revenue was \$50. We shipped the Piñatas in discarded cardboard refrigerator boxes which we found at the back of the Sears store close to our house. A clear profit of \$25 per week. Not sure we ever paid Pop for the gas. \$12.50 for each of us for a few hours of work on a Saturday morning was not bad. In our other summer job, Donald and I made \$1.25/ hour working construction in the Texas heat. We could make more money in four hours' time on a Saturday than we could working all day during the week. And, running an international importing company was much more fun!

Until, it wasn't. Operating an international importing company became complicated in about our third week. On our third Saturday, we were waived down by the Federales on the Mexican side. We parked the pickup in a parking lot and waited for a uniformed officer to come talk (mostly yell) to us in Spanish. Neither Donald nor I were completely fluent, but it became clear that if we wanted to proceed back to El Paso with our pickup full of Pinatas, there was a fee to pay. The *mordida* would be \$10. We paid the fee with a smile and proceeded across the Border. The payment of the *mordida* became a weekly thing. After two weeks, we simply held out the \$10 as we passed the same border guard every Saturday and he waived us through with a smile and our \$10. The fee was simply part of doing

international business and while it cut into our profit margin, we were still making a little bit of spending money for our time

A few weeks after figuring out how to clear customs on the Mexican side, we encountered our first import problem on the U.S. side. One Saturday morning, after sitting in the El Paso Port of Entry line for about an hour, we pulled up to the immigration booth on the U.S. side, declared "U.S." and expected to be waived on through. This Saturday, however, we were told to pull over to the "Secondary" loading dock for inspection. We did and the Customs Officer politely asked us to unload all of the Piñatas onto the loading dock. He needed to look for illegal contraband. It was pretty hot and we had struggled to pack the Piñatas perfectly into the bed of the pickup only an hour before at the Piñata factory. Nevertheless, we proceeded to unload the Piñatas. After about ten minutes, the Customs Officer said he had some guys who could help us with the unloading and the re-stacking for \$10. It was not so much an offer as an instruction. We begrudgingly paid the \$10 for the "Help." For the remainder of the Summer of 1970, we were helped at the loading dock more often than not. And we paid the \$10 inspection fee.

Taking \$20 out of our profit margin reduced our share down to \$2.50 each. Making \$2.50 as a shipper on a Saturday was not nearly as fun as making \$12.50 as an international trader. We tried to pass along our price increase to Kerr's Curios in San Antonio but they declined to pay more than the 50 cents we were charging them. Apparently, they had a supplier in Laredo, Texas at the same price.

Unfortunately, as with many businesses importing products into the United States, Boo and Donnie's Piñatas went out of

[continued on page 17](#)

From the Chair continued from page 16

business in the Fall of 1970. Be it a tax, a tariff or a bribe, any chaos in international trade is challenging. It was a bummer. My

first real world lesson in bankruptcy and the international trade wars.

See you in Chicago in September at the All-Fellows Luncheon! ¶

From the Foundation continued from page 7

8th Circuit Director: Eric Johnson

9th Circuit Director: Mark Shinderman

9th Circuit Director: Steve Berger

10th Circuit Director: Mike Johnson

11th Circuit Volunteer: Richard Carmody

11th Circuit Director: Jay Bender

11th Circuit Director: Leyza Florin

We thank those leaving our board and welcome new members as we celebrate our success this year. A special thanks to our colleagues and friends transitioning off our board, including Foundation Secretary, Lisa Schweitzer, and Foundation Directors Jay Goffman, Mark Shinderman, Jay Bender, Leyza Florin and Lynn Tavenner. Each of

them has helped the Foundation further its mission. We are a better organization thanks to them. And a hearty welcome to our new Board members:

2nd Circuit Director: Natasha Labovitz

2nd Circuit Director: Brett Miller

4th Circuit Director: Paula Beran

9th Circuit Director: Jeff Bjork

11th Circuit Director: Jordi Guso

11th Circuit Director: Jayna Lamar

Looking forward to working with all of you this year to continue our good work.

Finally, a special thanks to Vince Lazar and Jenny Cudahy who are constantly keeping me on my toes! ¶

The Splits from page 15

560 (5th Cir. 2006), based on its deference to the Texas Supreme Court as the ultimate interpreter of TUFTA, while reaffirming its earlier decision as controlling law of this question under Section 548.

Weighing in again after *Janvey*, the Eleventh Circuit in *In re Caribbean Fuels Am., Inc.*, 688 Fed. App'x, 890 (11th Cir. 2017), addressed this issue not in a Ponzi scheme case, but in a case where the debtor used his rented home both as a residence and as a home office for his company. When the company filed bankruptcy, since it had paid the lease payments, the trustee sued alleging that the company had not received reasonably equivalent value under Section 548 for the payments it made on the lease because these payments only

partially benefited the company. *Id.* at 892-93. In reversing the Bankruptcy Court and remanding the case for further proceedings, the Eleventh Circuit reiterated the objective standard for determining value under Section 548: "The question is not whether the debtor subjectively benefitted from the property it received; the operative question is whether the property, good or services provided had objective value." *Id.* at 894-95. The case was reversed and remanded.

So this split is not only between the Fifth and Eleventh Circuits but also between different states within the Fifth Circuit interpreting fraudulent transfer law under state, rather than federal, bankruptcy law. And the most common cases in which this question is raised are Ponzi scheme cases, which is where this split began in Utah almost 40 years ago. ¶

President's Message continued from page 5

The second panel was "Chapter 15 and Foreign Third-Party Releases Post Purdue: Back to the Drawing Board-Status Quo or A Better Path Forward," moderated by Zack Clement. The program raised important issues with respect third party releases in cross border cases after Purdue Pharma.

Saturday morning brought more fascinating and informative programs. The first panel presented Professor Melissa Jacoby talking about her new book, "Unjust Debts/Feasible Steps to Building a Better Bankruptcy System." Professor Jacoby was challenged by panelists Professor Douglas Baird, Jennifer Hagle, and Richardo Kilpatrick.

The next panel was Cryptocurrency's New Regulator, an introduction to U.C.C.'s New Article 12, moderated by Judge Mindy Mora teaching us all about how to control, lien, and enforce against a digital asset.

The last panel in the morning was, "How Ethics Dies, the Role of Laws and Lawyers in Nazi Germany," featuring Professor Eric Muller, University of North Carolina School of Law. The program left the audience deep in thought.

The Big Event

On Friday evening at the National Historic Landmark Building that houses the Center for American Art and Portraiture, we bestowed the Distinguished Service Award on Patrick Vance for his lifetime of service and commitment to the excellence of our profession. Pat accepted the honor with gratitude and elegance and emphasized his lifelong commitment to pro bono. Pat's comments underscored the work that the Foundation and Pro Bono Committee of the College are doing. This year, the Foundation

raised more funds than ever and is able to commit to additional pro bono organizations that provide services to clients who would otherwise be without access to our legal system.

Personal Note

As many of you will recall, I was the winning bidder at the Foundation Auction to raise funds for a seat on the Iris Float in Mardi Gras, the oldest and largest Krewe in New Orleans. I was joined by Lynn Tavenner who won another seat in the Foundation Raffle. Being part of the Iris Float was an experience of a lifetime which I will never forget. As we threw all sorts of beads and toys to the people along the parade route, it was most heartwarming to see the faces of the children hoping to catch a toy. I think I saw more smiles and warmth that day than in recent memory.

Many thanks to Jan Hayden and Vince Lazar for this and all of their work for the Foundation and for their commitment to the College and the mission of giving back and paying it forward in the insolvency space.

Networking

From the circuit luncheons, to the new fellows' breakfast, to the post-induction dinners, we spent time welcoming new friends and making memories with cherished lifetime friends. It was an unforgettable weekend for everyone.

I look forward to seeing everyone at a summer program or in September in Chicago.

Stay safe and please stay connected with the College until we see you again in the Fall. Hope you have a joyous and magical summer! 🍷

Hard Work from page 13

and its External Subcommittee are planning at least two (and possibly three) additional DREAMS events over the next 12 months, including: (i) the third annual HBCU DREAMS, at a location and on a date to be announced; (ii) a Bay Area “DayDREAMS,” led by Judges Erithe Smith and Maureen Tighe and also on a date to be determined; and (iii) an additional DayDREAMS event, most likely at a law school in the upper Midwest.

At its March meeting, the Board approved additional funding for each of these exciting programs planned for later in 2025.

The DEI Committee’s Response to Challenges Directed to DEI Principles, Objectives, and Initiatives. Finally, the DEI Committee is keenly aware of the changed political environment since the 2024 general election, particularly relative to its core mission (as defined by the Board in 2022) and, more generally, its diversity, equity and inclusion initiatives. The Committee remains deeply committed to that mission, and it is similarly focused on its responsibility to minimize third-party interference in the various programs we have undertaken to further our objectives

as well as related efforts to undermine the overall work of the College.

Accordingly, since the election, the Committee has:

- carefully monitored daily legal and political developments regarding DEI programs, particularly in non-governmental, non-profit contexts analogous to the College’s circumstances;
- consulted extensively with the Committee’s outside consultant, Dr. Arin Reeves, regarding what changes (if any) should be made to our ongoing or planned initiatives; and
- engaged in extensive discussions with the College’s senior leadership, to provide updates and seek guidance regarding ongoing developments and planned responses.

With the unwavering support of the College’s Officers and Board of Directors, as well as the College’s Fellows generally, the DEI Committee has concluded that it should make no changes to its existing programming and other initiatives and, accordingly, expects to continue its ongoing work to further the College’s established mission of inclusiveness in the organization itself and the insolvency community at large. **I**

Pro Bono from page 9

- *Access Justice Brooklyn (Brooklyn, New York).* One of the cases closed during the period was for Amelia, a Spanish-speaking client who came to Access Justice Brooklyn to file for Chapter 7 bankruptcy in late 2023. Amelia is in her late 60s and, like many of AJB's senior clients, lives on her own in Bedford-Stuyvesant, Brooklyn; she had \$25,000 in debt that she wished to discharge, and her only income came from Social Security and disability benefits. After confirming eligibility for our services, we placed Amelia's case with a pro bono volunteer who had completed our Continuing Legal Education (CLE) training program. Shortly thereafter, Amelia and the volunteer attorney met at Access Justice Brooklyn's office to review Amelia's case. One of our legal assistants also joined the meeting as a translator for Amelia and to assist with completion of the retainer and bankruptcy questionnaire. Following the initial meeting, AJB's Director of Legal Services and Supervising Attorney provided the volunteer attorney with guidance at various stages throughout the case, including to address questions about the client's taxable income and the required documents to submit to the Trustee prior to Amelia's hearing. As Amelia did not have access to a computer, she and the volunteer attorney joined the hearing from AJB's office, where AJB's Supervising Attorney was present to provide support as needed. Two months later, in mid-December 2024, Amelia's case was discharged, allowing her to move forward without being burdened by debt.

- *Consumer Bankruptcy Assistance Project (Philadelphia, Pennsylvania).* Mr. E is an older gentleman who had a physical job working forklifts most of his adult life. He

also helps take care of his autistic grandson, driving across the Greater Philadelphia area to do so. Due to being laid off, he got behind on his already lean budget. It took some time to find a new position and as a result he accrued a significant amount of debt. The price of gas had gone up as well and he was unable to catch up from the time he was out of work. Knowing he is approaching retirement age, he wanted to file for bankruptcy, to wipe out the back debt and plan for retirement. While in the process of working with us, he was injured at his current forklift job and went on worker's compensation income. We connected him with a worker's compensation attorney, once again stabilized his income so that he could pay his post-petition bills, and then completed his bankruptcy. Similarly, in the process of the bankruptcy, it became clear he was a good candidate to discharge long-time student loans under the relatively new Department of Education guidance that allows for discharge in a Chapter 7 bankruptcy through an adversary filing. With significant work put into that plan, it then changed after his workplace injury. He was at that point eligible for a Total and Permanent Disability waiver to discharge the student loans. Mr. E's advocate worked with his physician to get the paperwork completed and submitted. Mr. E is a wonderful example of a client who, even when presenting to us with a straightforward factual and legal case, still took extensive time and resources as well as coordination with multiple other parties. As a result of his advocate's hard work and persistence he received a full discharge of his unsecured debt and his student loans. He is now entering into his retirement with new financial security.

- *DC Bar Pro Bono Center (Washington, D.C.).* Ms. S, an elderly woman, suffered an

injury at work and was subsequently unable to return to her job. After her injury, she began receiving Social Security Disability Insurance (SSDI). Ms. S contacted the Pro Bono Center for help during a period when she was receiving many letters from her creditors. She was very concerned and confused about her debt. Living on the limited SSDI income, she would not have been able to pay back her debt. The Pro Bono Center placed her case with a pro bono attorney, who had attended the Pro Bono Center's bankruptcy training series supported by American College of Bankruptcy Foundation. While originally Ms. S had contacted the Pro Bono Center to file for Chapter 7 bankruptcy, the volunteer lawyer worked closely with Ms. S to determine her options. Ultimately, the attorney concluded that Ms. S was actually collection-proof and issued letters to her creditors, informing them that they would not recover any debt through litigation. Additionally, all future communications were to be directed to the attorney. This effectively rendered further pursuit by creditors unfeasible, while also ensuring that Ms. S would no longer directly receive distressing letters from her creditors.

- *The Pro Bono Project (New Orleans, Louisiana).* After meeting with a volunteer attorney at one of our local community clinics sponsored by the American College of Bankruptcy Foundation, a client requested legal help with a Chapter 7 bankruptcy case. She was self-employed, a student, had recently lost her transportation due to a car accident, and had about \$45,000 in debt. She gave us a list of her creditors and debts and met with a volunteer attorney to discuss her legal options. After he determined that she was a candidate for Chapter 7, another volunteer accepted the case. The volunteer attorney met with the client, made sure she

met all legal requirements, represented her at a hearing, and ultimately secured a discharge order. The client is now able to move on with her life and pursue her goals.

- *Nashville Conflict Resolution Center (Nashville, Tennessee).* A single mom had gotten behind on her rent due to daycare bills. At first, she communicated with her landlord that her rent would be late, but then went silent as time went on. Her landlord explained that he felt he had no choice but to file for eviction since he had not heard from her. At the start of mediation, he said he just wanted her to move out within 10 days. After hearing of her hardship, he expressed that he was frustrated that she did not communicate, but that he really does not want to formally evict her. He is a new, young landlord, and expressed that he "has had some awful landlords himself", and that he wants to do things differently and "be one of the good guys." They waffled between getting caught up on the rent so she could remain in the property, but eventually the tenant opted to move out so that she can get her security deposit back and find a cheaper place. Landlord agreed to forgive her last month of rent so long as she moves out on the date they agreed to.

- *Legal Aid Society of San Diego (San Diego, California).* Jane Doe Client was a senior citizen in her late 70s living on Social Security and food stamps. She fell for an online impersonation scam in which she maxed out all of her credit cards buying gift cards for the scammers. Because of the nature of the scam, the client could not get relief under the laws applicable to identity theft or electronic funds transfers. LASSD worked with the client to prepare a Chapter 7 bankruptcy petition and guided her through the case to a successful discharge, providing

[*continued on page 22*](#)

Pro Bono from page 21

a much-needed fresh start and the ability of the client to secure credit in the future.

- *South Alabama Volunteer Lawyers Program (Montgomery, Alabama).* Barry was terminally ill and lived alone, having tragically lost his adult child. With no close family to rely on, he struggled to navigate his illness on his own. His condition made it impossible for him to work, and he had to survive solely on Social Security benefits. As his medical bills continued to pile up, Barry found himself falling further behind on his payments. The debt became overwhelming. The stress of his financial situation weighed heavily on him, adding to the burden of his declining health. With no other realistic options, Chapter 7 bankruptcy began to look like his only way forward. Barry wanted to keep his vehicle so he could continue making it to his doctor's appointments. More than anything, he wanted to stay in his home, not only to have a stable place to live but also to ensure that when his time came, he could pass away in the comfort of his own house rather than in a hospital or care facility. Through our assistance, Barry was able to file for Chapter 7 bankruptcy and eliminate the crushing weight of his debt. We worked to reaffirm his home and his car, ensuring that he could keep both despite his financial struggles. By providing Barry with a path forward, we were able to help him regain a sense of security, allowing him to focus on his health without the constant fear of losing everything. His story is one of resilience and serves as a powerful testament to the importance of accessible legal assistance for those in need.

Michael L. Cook Grant Award. The Foundation established the Michael L. Cook Extraordinary Grant for a program that is "such an innovative and exemplary approach to a previously under-served area

of need as to justify an extraordinary grant in excess of the grant limits customarily applied by the Foundation." The budget for the Cook Grant is \$20,000. This year, based on the recommendation of its Working Group (Judge Laurel Isicoff and James Baillie), the Committee selected a new grantee, The Northern District of Florida Bar Association, Inc., a newly formed 501(c)(3) organization, initiated by the bankruptcy bar of that district. This is a new program for that district. It is based on a model already in place in the Middle District of Florida and the Southern District of Florida. Because it is following a successful model in operation in other districts in the state, has bankruptcy bar and bankruptcy court support, and with our grant will have adequate financial support, its success seems assured. This model (in all three districts) may be replicable elsewhere in the country.

2024 DEI Grants

In 2022 the Foundation and the Committee took on a more active role in implementing the College's DEI initiatives. The Committee has been working closely with the leadership of the DEI Committee and the Foundation to expand the Foundation's grant function to include programs designed to implement those goals. The Committee expanded its role in 2024 and reviewed and recommended approval of 6 grant requests totaling \$56,000 for DEI initiatives. These recommendations were approved by the DEI Committee and the Foundation Board. The grantees are located in Illinois, Louisiana, Michigan, Nevada, and New York.

Here are 2 of the programs funded in 2024 from DEI grants:

- *The Federal Bar Association for the Eastern District of Michigan Bankruptcy Court Internship Program (Northville, Michigan).* The internship program was very successful.

The students who participated in the program received valuable experience. The judges in our district reported having a very positive experience working with the students. Chief Judge Daniel Opperman (Bankr. E.D. Mich., who is being inducted as a Fellow in the spring) previously submitted a letter to the College noting what a successful program this was and thanking the College for its support.

- *Legal Services Eastern Michigan (Flint, Michigan)*. The LSEM ACBF grant project successfully developed and published a 20-page educational civil legal comic book focused on bankruptcy with input from private attorneys. The comic book was designed to make information about individual legal rights accessible to diverse audiences and demystify the process. The comic book features relatable, multidimensional characters facing financial challenges, each navigating bankruptcy from a unique cultural and socioeconomic perspective. By incorporating historical and diverse context about disparate impacts on marginalized communities, the comic book not only educates readers about the legal process but also highlights systemic inequities. This approach continues to further our DEI efforts by addressing financial literacy through a lens of inclusion and equity. In practice, the comic book

has been sent to print for distribution to community partners across the state and our 14-county service area, including legal aid organizations, bar associations, courtrooms, libraries, schools, community centers, and more. This resource will serve to reduce the stigma around bankruptcy and foster empowerment through knowledge. The accessible format and culturally relevant narratives support a better understanding of individual rights and options, including recent updates relating to student loans. The project also serves to initiate critical conversations about financial literacy, systemic inequality, and access to justice. By integrating storytelling with legal education, this project will continue to advance our vision of an inclusive legal system that ensures every individual has equal access to justice, regardless of status or means.

Let's Get Those Applications In For Our 2025 Grants!

If you are aware of a worthy pro bono program (particularly if they are not a current grant recipient) or a worthy DEI program, please encourage them to submit an application on or before May 15. Thank you again for your generosity and for enabling us to be able to make a difference in so many lives. **I**

[Click here to Apply for a Pro Bono Grant from the American College of Bankruptcy Foundation](#)

2025 Patrons & Sponsors

The American College of Bankruptcy would like to acknowledge and thank the following 2025 Benefactors, Sustaining Patrons, Patrons, Sponsors, and Supporters. The generous support of these 182 firms and Fellows enables the College to fund activities including educational programs, annual meeting and induction events, including our expanded Distinguished Student Program, committee activities, the National Bankruptcy Archives, pro bono grants through the American College of Bankruptcy Foundation, and our DEI initiatives.

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Upcoming Events

8th Circuit Nancy C. Dreher Memorial Lecture May 28, 2025

Register now for the 10th Annual Nancy C. Dreher Memorial Lecture to be held on Wednesday, May 28, 2025 at the University of Minnesota Law School. This event will be held in conjunction with the University of Minnesota, TMA and Minnesota Bar Association. [Click here](#) for the agenda for this hybrid (and free!) event.

[Register Here](#)

American College of Bankruptcy All Fellows Luncheon (in Connection with NCBJ) September 17, 2025

Please mark your calendars for the ACB All Fellows Luncheon in connection with NCBJ in Chicago, Illinois.

Class 37 Induction Ceremony and Events March 19-21, 2026

Please save the date for the Class 37 Induction Ceremony and Events to be held March 19-21, 2026 in San Antonio, Texas!

Focus on Fellows

We invite all fellows to submit information about awards, news, and/or recent publications. If you have news about yourself or a colleague, please send announcements to Michelle Foster, ACB Communications Director, at focus@amercol.org.

Effective May 15, 2025, Class XIII inductee and Southern Illinois University Simmons Law School Professor **Peter C. Alexander** will be retiring after 33 years in legal education. Professor Alexander will be a visiting faculty member at the University of Iowa in the fall of 2025, then he plans to represent clients in bankruptcy matters with a law firm in Southern Illinois. During his long career, Professor Alexander has published 32 law review articles, the majority of which focus on bankruptcy topics, co-authored a monograph on bankruptcy and family law, and wrote a book about the financial life of architect Frank Lloyd Wright.

J. Scott Bovitz observes that every lawyer in Los Angeles has a creative side project. Bovitz' side project is producing music — 747 original songs to date, all free and available on bovitz.com (click on the guitar picks).

Thomas L. Canary, Jr. is the President-Elect of the National Creditors Bar Association and will be installed as President, for a one year term, at the Association's October NCBA Connect/Annual Meeting.

Hon. Justice Paul R. Heath was appointed as a Judge of the Abu Dhabi Global Market (ADGM) Courts, with effect from 7 December 2024. He is sitting in the Commercial and Civil Division of the Court of First Instance.

James R. Irving was appointed to serve as the American Bankruptcy Institute's Vice-President of Membership, where he will serve on the ABI's Executive Committee.

Michael Jacoby was named Practice Lead of J.S. Held's newly formed Strategic Advisory practice.

The American Bankruptcy Institute (ABI) has elected **Stephen D. Lerner**, partner and global chair of the Squire Patton Boggs Restructuring & Insolvency Practice Group, as President-Elect. Stephen will serve in this capacity for a one-year term and assume the position of President in April 2026.

Marc B. Merklin recently joined the law firm of Roetzel & Andress after the lawyers in his prior firm, Brouse McDowell joined Roetzel in a combination.

Roger J. Minch, Fargo ND, authored the book "Capital Projects, a Case Study", published in May of 2024 by Community Associations Institute, a 40,000 member association of board members and managers of HOAs and condominium associations throughout the USA. The book aims to help associations raise funds for badly needed structural repairs, to fully fund structural integrity reserve studies (SIRs), etc., and especially if special assessments are or might be necessary.

Hon. Jim D. Pappas, retired United States Bankruptcy Judge for the District of Idaho, was honored with the Award of Legal Merit by the Faculty of the College of Law. This Award recognizes the outstanding contribution of an Idaho Law graduate whose career exemplifies the best in the legal profession.

Samir Parikh's new articles, *The Alchemist's Inversion and Mass-Tort Trusts and the Faustian Bargain* will be published by Cornell Law Review in Fall 2025. His new essay, *Crossing the Rubicon: Assembling a Litigation Colossus in Mass Torts* will be published this summer by the University of Michigan Law Review Online. NYU Law Review recently selected Samir to be the lead organizer for its 2026 symposium on litigation finance and aggregate litigation.

Edward J. Peterson III joins Berger Singerman as a partner.

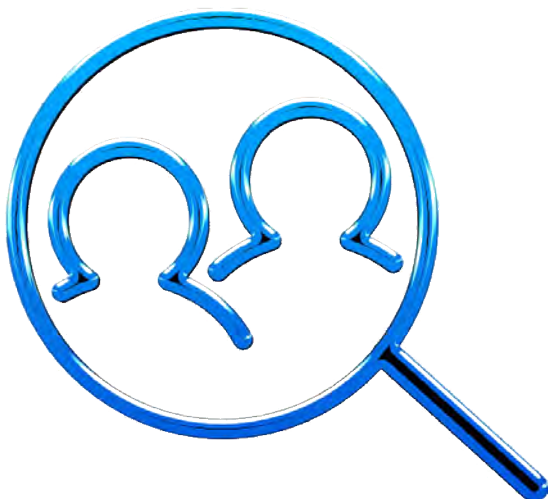
Mark J. Roe published [Bankruptcy's Turn to Market Value](#), 92 U. Chi. L. Rev. 285 (2025), and [Absolute Priority, Relative Priority, and Valuation Uncertainty in Bankruptcy](#), 173 U. Pa. L. Rev. 389 (2025), each with Michael Simkovic as coauthor.

Steven L. Schwarcz recently published *Physics Informs Law: Analyzing Legal Issues that Turn on the Scale of Observation*, 85 Ohio State Law Journal 593 (2025) (available [here](#)). He also has these shortly forthcoming articles forthcoming in the American Bankruptcy Law Journal: *The Legal Anomaly of Non-Recourse Financing* (available [here](#)), which examines section 1111(b)(1) and the non-recourse to recourse debt conversion and *Bankruptcy's Redistributive Policies: Net Value or a 'Zero-Sum Game'?* (available [here](#)).

George H. Singer updated a chapter for the LEXIS Practical Guide entitled "Pay-to-Play Doctrine in Chapter 11 Bankruptcy Sales" and also published an article that was featured in The American Bankruptcy Institute Law Journal entitled "Tax and You Shall Receive: How the Federal Priority Statute Can Upset Receiver and Lender Expectations."

Hon. Deborah L. Thorne received the Judge Ilana Rovner Lifetime Achievement Award on May 8 at the Illinois Jewish Judges Annual Dinner. In March, she also received the Elkhart Community Schools Alumni Award.

David Wender has assumed the role of Practice Group Leader for Eversheds Sutherland's US Finance practice.





Email the Editors

We are constantly adding content to the Columns and making other updates. **Submissions for the December 2025 newsletter are due November 10.**

If you have input on what you would like to see here, please email us at:

Melanie Cyganowski, mcyanowski@otterbourg.com
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We value your input. Thank you!

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