



Fellows Enjoy Collegiality in 2009 and Look Forward to 2010 Events



▲ Eighth Circuit Event September 25, 26, 2009, Chicago, Illinois

The 8th Circuit Cruises Along in the Fall

By Hon. Nancy Dreher, Meetings and Events Committee Chair

The 8th Circuit held an event on September 25-26 in Chicago for a social, business and education weekend. The event was hosted by the Chicago office of Thompson Coburn Fagel Haver. There was a buffet dinner on Friday night, a business education meeting, architectural boat tour and dinner on Saturday. A group of the Fellows went on an Architectural River Cruise.

6th Circuit Fellows Enjoy a Full November Weekend of Camaraderie, Culture, Dining and Legal Education

By Stephen Lerner, 6th Circuit Regent

During the weekend of November 13 - 15, thirty-two College Fellows and spouses



▲ Bill Cohen, David Heiman and Stephen Lerner

from all four states of the 6th Circuit (Michigan, Ohio, Kentucky and Tennessee) gathered in Cincinnati, the Queen City of the West, for a weekend of camaraderie, culture, dining and legal education. Three of the Circuit's four new Fellows were in attendance -- Judge Jeffery Hopkins of the Bankruptcy Court for the Southern District of Ohio, Colette Gibbons of Cleveland, Ohio, and Ron Gold

of Cincinnati, Ohio.

Hosted by 6th Circuit Regent Stephen Lerner and his wife Julie, the weekend began with dinner Friday night at the famed Montgomery Inn Boathouse restaurant on the banks of the Ohio River. On Saturday morning, the Fellows and several spouses enjoyed two and a half hours of continuing legal education. Professor Jeffrey Morris provided an entertaining look at the most notable reported bankruptcy decisions of the last year. This was followed by a panel discussion on the recent high-profile chapter 11 cases of Chrysler and General Motors. The panel consisted of David Heiman, Bill Cohen and Stephen Lerner. All three panelists provided interesting and sometimes conflicting views on a variety of issues, including whether these cases are *sui generis* or of substantial precedential import.

On Saturday afternoon, the group was treated to a private tour of the nationally acclaimed National Underground Railroad Freedom Center. The weekend concluded with a sumptuous dinner at Via Vite on Fountain Square in the heart of downtown Cincinnati. This gathering of 6th Circuit Fellows was memorable and enjoyed by all.



▲ Mike Coury of Memphis, Jim Kelley of Nashville, Harlan Hertz (spouse of Collette Gibbons), Collette Gibbons (2010 inductee) of Cleveland and Stephen Lerner of Cincinnati.

First Circuit Fellows will Honor one of their Own on January 23, 2010

By Dan Cohn, 1st Circuit Regent

The 1st Circuit Fellows of the College are scheduled to hold their annual wine-tasting and dinner on Saturday, January 23, 2010, amidst the Edwardian splendor of the Harvard Club of Boston. Special thanks are due to long-time fellows Phil Hendel, Michael Pappone and Bob Seder, who will contribute some gems from their respective wine cellars to help make this a memorable evening.

It has become the custom at this event, now in its tenth year, to honor an individual who has made an outstanding contribution to the College or to bankruptcy

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View from the Chair

By David G. Heiman

Any jackass can kick down a barn, but it takes a good carpenter to build one.

– Sam Rayburn



▲ David G. Heiman

Professional courtesy and constructive, long-term restructuring strategies are in the dumpster – this according to Steve Cooper, our wonderful lunch speaker in Las Vegas. In his view, the focus now is on the kicking rather than the building; the ego-centric “quick kill,” with a large dose of militant arrogance, has become pervasive. Steve should know. He has led some of the most significant debt restructurings of our time.

Thankfully, Steve did exclude “present company” in his remarks. Indeed, a requisite for admission to the College is that candidates must demonstrate that they are:

. . . dedicated to the improvement of the bankruptcy process and the enhancement of the professional quality of and public respect for the insolvency and bankruptcy process.

Lest some of us have lost our way, however, it is good to be reminded of this important mission.

With that in mind, we have asked Harvey Miller to share his observations on the state of our practice based on his more than 50 years in the profession. As noted elsewhere in this publication, Harvey will be our Keynote Speaker on March 12 at the Supreme Court. Harvey has seen it all – in fact, he has led it all – and we will get to hear about that in the halls of our legal system’s most sacred edifice.

How fortunate the College is to have these two extraordinary professionals among us. Okay, I will say it before you do – they each have done their fair share of “kicking”! Yet, each has proven conclusively that you can be a tough advocate for your client but still advance the quality of the profession and garner the public respect. Let’s all go out and build some barns!

Join us in March.

President’s Remarks

By Paul M. Singer



▲ Paul M. Singer

ACB at a High Level, but Room to Grow

The several reports contained in this edition of College Columns reflect the vibrancy of our College. All of our Committees are functioning at a very high level. The Pro Bono Committee, through Michael Cook’s leadership, not unexpectedly in this economy, has supported a variety of important projects around the country and will no doubt continue to do so next year.

- Sally Neely’s Education Committee likewise has increased its activity level over prior years with important new programs in the Third and Sixth Circuits and an expansion of the International Bankruptcy Law Course to be held in the spring of 2010 at as many as ten law schools with Columbia as the host. Through Sally’s efforts the Educational Committee has been an extremely important element in helping us to fulfill our mission to be more than an honorary organization.
- Through the efforts of Judge Barbara Houser (Judicial Liaison) and Judge Nancy Dreher (Meetings and Events), we have made great strides in including our Judge Fellows in College activities. We continue to work on ways to include other groups, such as our Financial Fellows in College activities.

- The one area in which we continue to be challenged is how to grow the corpus of the College’s Foundation. The original goal when the Foundation was created was to create an endowment to fund the College’s pro bono and education programs. Unfortunately, we have been unable to achieve this goal in part because of the growth of our College programs and in part, of course, due to the economic climate. We are open to ideas that will help us grow the Foundation’s resources, and, of course, we welcome any and all year-end pledges you may wish to make.

Finally, we are already planning for our March, 2010 meeting. Those that attended the induction ceremony at the Supreme Court this past March were once again awed by both the simplicity and majesty of the place. The Courtroom itself, while relatively small, is very impressive. The public space with its great portraits, statutes and carvings is majestic. It was great to be back to the Court to honor our new Fellows.

Editor's Column

By Grant T. Stein



Where do you fit in?

What is it that you appreciate most about being a member of the College? Is it the educational programs? Clearly, having the opportunity to be taught by those who make the news and are involved in the most significant and precedential cases at the highest levels is an unparalleled benefit of our organization. The work of the Circuit educational committees is very valuable on a regional scale, and the careful planning for the March meeting programs each year by those who work with the Scholar in Residence is readily apparent to all who are able to attend.

Is it the opportunity to serve in any of the innumerable capacities we have for you to become involved? Participation levels can range from attendance at and support of regional and national College events, to planning for those programs, presenting an educational program at a Circuit Luncheon in March in Washington, or service on any of the diverse formal Committees including Judicial Outreach, Bankruptcy Policy, Best Practices, and Distinguished Law Student.

Maybe your focus is on giving back through the work supported by the Pro Bono Committee. Or, it is possible that you simply endeavor to recognize your membership in the College by raising a little higher the already high standards of professionalism and integrity you have always had with a view toward setting an example by actions and not words.

There are many opportunities to contribute to and through the College. One of the purposes of the College is to provide you a vehicle to do that at a high level with your peers based on whatever degree of time and commitment you chose to, and are able to, provide. During what has been an extraordinarily busy time for insolvency professionals, we appreciate more than usual your time and commitment to our shared endeavor. 🏛️



2009 Pro Bono Grants Assist Indigent Debtors During Downturn

By Mike Cook Pro Bono Chair



▲ Michael L. Cook

The pro bono committee made 17 grants during 2009 totaling \$100,000. The following list is a selective sampling shows how the College and Foundation's resources have helped indigent consumer debtors. For more detailed information on the 2009 grants issued or to submit a grant request, please refer to the website at www.amercolbankruptcy.org/probono.

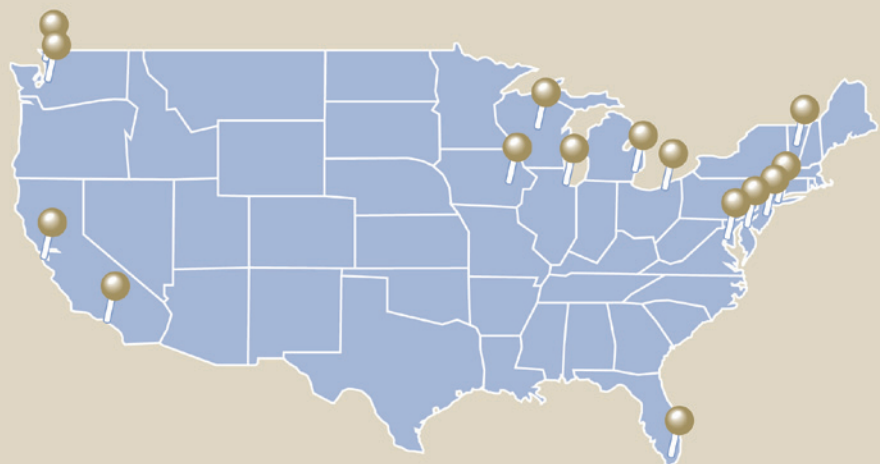
- Grant helps Iowa Legal Aid respond to major flood
- Florida effort translates basic bankruptcy video into Spanish and Creole
- Funding allows Washington State Project to offer debtor clinic
- Legal Aid of Cleveland reaches out to five counties
- ACB funds clinics, referral and training program in New Jersey
- In Wisconsin, grant meets the needs of indigent HIV-positive population
- New York City Project addresses predatory lending
- Grant to financial advocacy program at Widener University assists Delaware seniors

- San Francisco debtors provided a web-based credit counseling service
- Latino consumer debtors receive a series of legal aid clinics in Southeast Detroit
- Los Angeles families receive information on avoiding financial victimization
- Bankruptcy attorneys provide legal services in Vermont through an ACB grant

Criteria For Grants

The College and the Foundation support existing or newly formed bankruptcy consumer debtor programs or projects that counsel or deliver bankruptcy-related legal services to indigent consumer debtors. The Committee favors grants to organizations with educational programs for indigent consumer debtors and for volunteer attorneys who provide pro bono indigent consumer legal advice. Facilitating the delivery of effective volunteer bankruptcy legal services to indigent debtors is an essential goal of the College's pro bono effort. A grant applicant must show in its request that its services are free of charge and generally available to indigent consumer debtors. 🏛️

\$100,000 in Pro Bono Grants Issued in 2009 Around the U.S.



Federal Judicial Center “Baby Judge School” Cases Transition to Bankruptcy Bench

By Denise M. Neary and Hon. C. Ray Mullins

Career transitions pose delicate issues.



▲ Denise M. Neary

The Federal Judicial Center (FJC) has a two phase orientation program to help the new bankruptcy judge transition into that important new role. (The judges often refer to the orientation program as “baby judge school.”)



▲ Hon. C. Ray Mullins

Judges Drilled to be Fair, Prepared and Responsive.

The first phase of the orientation program is essentially a facilitated small group discussion session. The FJC invites a small group of new judges and appointees to spend four days together with experienced mentor judges. The FJC has prepared a series of taped presentations on judicial ethics, case management, substantive law and judging issues—those taped presentations, which feature judges from all across the country, are used as a springboard for discussion. The discussions cover any topic the participants want to talk about—from “why is everyone laughing so hard at my jokes now” to sophisticated and vigorous debates about how and why different courts and different judges do things the way they do them.

It is a gift to be able to talk to others similarly situated about issues of shared concern—and the bonds that form among the phase one groups, and the mentor judges who lead those sessions, are strong. The group learns together, eats together, laughs together, and commiserates together about their FBI investigations and their increased understanding of some of the things they have given up to become judges (e.g., I can NEVER use my former firm’s basketball tickets?), —a favorite program evaluation noted that not only was the program strong, but that it had created a group of friends.

The second phase of the orientation program is slightly more formal,—typically, two or three phase one groups come together to spend a week in Washing-

ton, DC. So the group is larger, typically twenty-five or so judges, and the presentations are all in-person. The topics are in many ways repeats of what was touched upon in the phase one program—there is much more on judicial ethics, on case management, and on a range of judging issues—and topics like legal writing and the art of judging are explored.

Each New Judge Finds a Unique Path.

The FJC wants the new judges, who are selected for their position through an incredibly competitive process, to know that different styles work for different people, and that it is important for each new judge to find his or her own path. Each new judge brings strengths to the position—it is the rare new judge who is equally familiar with business and consumer law, and acquainted with being a trial court judge.

The new judge may be a sophisticated business lawyer with substantial chapter 11 experience but little or no familiarity with chapter 13, a former state court judge with considerable trial background but no bankruptcy experience, a consumer lawyer with little chapter 11 experience—each new judge uses their strengths in conversations during the orientation program to help bolster the confidence and background of others in the group.

Experienced judges are eager to serve as faculty for the phase two program. The FJC’s goal, at both the phase one and phase two programs, is to provide some experienced judges as exemplars for the new judges. The FJC, and the new judges, are so fortunate to be able to call on a diverse group of experienced judges who are willing to help the new judge with any issue before them—from where to buy a robe from what to sign in a first day order.

During the course of the two weeks of the FJC orientation program, the new judges will hear the same messages many times, said different ways, by very different people. Be fair, be prepared, and be responsive. You stand on the shoulders of giants, and the system of justice depends on you to continue in that tradition.

Before long, the “new” judges are volunteering to participate in future orientation programs. ☮



▲ Paul Singer Inducting Tony Schnelling into Class XIX, March 2008

Class XIX Fellows Support Schnelling Endowment

By Jo Ann J. Brighton, Class XIX Fellows



▲ Jo Ann J. Brighton

This past July, Tony Schnelling, Class XIX (and husband of Fellow, Bettina Whyte), passed away after a long and courageous battle with cancer.

Tony was a co-founder of Bridge Associates, a turn around management firm, and also an adjunct law professor at the Fordham School of Law. Tony was very committed to investing in teaching the next generation of lawyers, particularly in the areas of finance and restructuring. Toward that end, it was Tony’s desire that a full time professorship be endowed at Fordham Law School.

Many members of Class XIX desired to do something to honor Tony’s contribution to the profession and determined to help Tony’s dream become a reality. \$700 was donated by the Fellows of Class XIX to the College Foundation in memory of Tony which the Foundation will then donate to the Schnelling Lectureship Series in Commercial Bankruptcy at Fordham. ☮



Pro Bono Committee Shares Grantee Thanks

Iowa Legal Aid

- February 26, 2009: US Bankruptcy Judge Paul J. Kilburg: "On behalf of the Bankruptcy Court for Northern Iowa, I would like to thank you for the grant to Iowa Legal Aid, which in conjunction with the Iowa Law School, is [helping] pro bono debtors. The funds were put to good use for the purchase of software to help prepare Chapter 7 petitions."
- From Peter R. Moyers, Staff Attorney: "The Project so far has been a terrific success. At our training sessions for the law students, three experienced practitioners gave presentations on the nuts and bolts of individual consumer debtor bankruptcy cases. Indeed, [College] Fellows Eric Lam and Dan Childers were great presenters and have made significant contributions to the success of this project."

AIDS Resource Center of Wisconsin

- From Doug Nelson, President and CEO: ". . . Thank. . . the American College of Bankruptcy and the American College of Bankruptcy Foundation for the generous pledge of \$1,914 to assist our bankruptcy program with a purchase of a computer for our Legal Director as well as staff training on bankruptcy law and bankruptcy guide books. . . . Thanks so much. Your support is so helpful in these tough times."

The Tides Center, San Francisco, California

- From William McGrane, Board Member: "Thanks so much. This \$10K will be a tremendous help, not just because of the money (which comes at a good time), but also by showing that [the College], with all its well-deserved prestige, is taking a leadership role in supporting this project."

From Hon. Arthur Federman, U.S. Bankruptcy Court, St. Louis, MO

This morning we held a training program for attorneys interested in participating in our new pro bono program for adversary proceedings. We had 56 registrants who seemed quite enthused about the program. Many of them were litigators in other fields who look forward to the opportunity to actually get into court and try cases. My thanks to the Foundation, and to John Cruciani for taking the lead in putting our new program together.

Bankruptcy Bar Association of the Southern District of Florida

from Hon. Laurel Isicoff, U.S. Bankruptcy Court, Miami, FL

For those of you who are interested in seeing the pro se videos that our grant helped underwrite, go to flsb.uscourts.gov, click on "information for individuals filing without an attorney", and then you will see the video options. We are working on the closed caption versions now. The Bankruptcy Bar is working on the Press Release (which will include an acknowledgement of the College's generosity). Thank you again for your support.

Internationally Speaking...

By Bruce Leonard, International Committee Chair



▲ E. Bruce Leonard

It looks like 2010 will be a busy year for Fellows of the College and the international side of things is no different.

Upcoming Events

In February, the College will hold its first-ever European regional meeting in London, England. Thanks to the good work of International Fellows Nick Segal and Michael Crystal, a College meeting will proceed followed by a Dinner in a splendid venue in London. A leading U.K. Judge has been invited to deliver Keynote Remarks on coordinating transatlantic insolvencies and reorganizations.


In March, plans are developing for an elegant Dinner in Paris for the Fellows and International Fellows of the College courtesy of arrangements by Houston Fellow John A. Barrett. A spectacular Paris venue is being planned. Details of the London and Paris events will be circulated to all Fellows as they are developed.

International News & Initiatives

In other news, we are delighted to be able to report that International Fellow Justice Luciano Panzani has recently been appointed President of the Tribunal in Torino, Italy by the Consiglio Superiore della Magistratura in Rome. He now heads one of the most important Courts in Italy with over 160 Judges. Justice Panzani previously served on the Italian Supreme Court (Corte di Cassazione) and retains the rank of Consigliere of that Court.

The College is also working on another exciting international initiative. Thanks to

Widener University School of Law Financial Advocacy Program for Seniors (Wilmington, DE).

From an article in the Philadelphia Inquirer August 27, 2009 by Mari A. Schaefer Inquirer Staff Writer regarding a grant made to the Widener School of Law "Four Widener law students helped seniors through a clinic program funded with a \$10,000 grant from the American College of Bankruptcy Foundation. In July, law student Meryl Peterman of Pottstown and two other students visited the Upper Darby Senior Center - one of five centers - to talk about the U.S. Fair Debt Collections Practices Act." 

the assistance and support of College Fellows Hon. Barbara J. Houser, the incoming President of the National Conference of Bankruptcy Judges, and Hon. C. Ray Mullins, the Chair of the NCBJ's Conference Program for the 2010 NCBJ Conference in New Orleans, the College is working at developing an International Roundtable to be presented during the New Orleans Conference (October 13 - 16, 2010). The concept is for a dynamic small group discussion with leading practitioners and Judges on crucial international and internationally-oriented issues. Registration for the prospective International Roundtable will be limited so interested Fellows should be sure to sign up for the NCBJ and the International Roundtable as soon as the registration forms for New Orleans become available.

The College's International Committee will meet again in Washington during the Annual Induction Ceremonies. The tentative time for the International Committee meeting will be on the afternoon of Saturday March 13, 2010. For Fellows of the College who are interested in international issues and developments, the International Committee would welcome your interest and participation. To join the Committee, please drop a note to the College's Executive Director, Shari Bedker or contact Dan Glosband (dglosband@goodwinprocter.com) or Bruce Leonard (bleonard@casselsbrock.com). We appreciate everyone's interest in the College's International activities. 

Professor Alan Resnick Lauds Ralph R. Mabey, the Recipient of the American College of Bankruptcy Distinguished Service Award

The opening remarks by Professor Alan Resnick¹, the American College of Bankruptcy's Scholar in Residence from 1999 to 2005, set the stage for the Reply by Ralph Mabey, the recipient of the College's Distinguished Service Award, in March 28, 2009. The full text of their comments can be found on the website at www.amercolbankruptcy.org/dsa.



▲ Alan N. Resnick

I have known and observed Ralph in his many capacities during the past 25 years. I say "many capacities" because he has served in so many different roles, and has contributed in so many different ways — to his profession, to the bankruptcy field, and to his community at large. If anybody has "given something back" to his profession and his society, it is Ralph.

As everyone in this room knows, the characteristic quality that makes a first and lasting impression on anybody who meets Ralph is that he is, first and foremost, a gentleman. Ralph is soft-spoken, calm, compassionate, unassuming, and humble. In our professional world where advocates can sometimes be less than civil, Ralph never loses his sense of civility and his utmost respect for others.

But though Ralph is a soft-spoken gentleman, his deeds have been loud and clear, and they speak volumes about Ralph's character and his impact in everything that he does.

Ralph was born and raised in and around Salt Lake City and was educated at University of Utah, but then, after spending time in the Army Reserves in Fort Dix, NJ, he decided to try the east coast for awhile and so he attended Columbia Law School.



Ralph went on to become a Harlan Fiske Stone Scholar and served on the Board of Editors of *Columbia Law Review*. Then, after he had graduated, he and Sylvia decided to move back to Utah and so Ralph accepted a clerkship in Utah with federal District Judge Aldon Anderson, Jr.

While teaching at the Business School at the University of Utah after his clerkship, in 1979, while still in his mid-30's, Ralph received a call from District Judge Anderson to ask him if he wanted to apply for the position of United States Bankruptcy Judge for the District of Utah. There was an opening. At first, Ralph declined but then thought about it and called him back, and Ralph became a bankruptcy judge.

That was the year when the Bankruptcy Code became effective and Ralph was often called upon to decide cases of first impression under the Code, which is a bit scary since Ralph knew absolutely nothing about bankruptcy when he became a judge. But Ralph learned on the job and went on to write a number of important decisions interpreting the new Bankruptcy Code. One that sticks out in my mind is the *Alyucan* decision, one of the most important early decisions analyzing the concept of adequate protection under the

Code (and concluding that an equity cushion is not always necessary to find that a secured creditor is adequately protected).

Ralph left the bench to enter private practice. He founded and, for 20 years, headed the international bankruptcy and restructuring practice at LeBoeuf, Lamb, Greene & MacRae LLP, and now serves as Senior Of Counsel to Stutman, Treister & Glatt, PC. His professional career in practice has been marked by his patient, calm style, as well as his tireless energy, dedication, integrity, wisdom, and his many successes.

One of my personal pleasures is when I was a guest at the Mabey family ranch in Wyoming. Ralph loves the outdoors (maybe that has something to do with the fact that Ralph was raised on a bird farm) and also loves to run. Ralph is a strong runner – he completed approximately 25 marathons, which is an amazing accomplishment.

We are all indebted to Ralph (the judge, the lawyer, the educator, and the scholar) for his enormous contributions to our profession, our laws, and our society.

It is my great pleasure to present the 2009 Distinguished Service Award to Ralph R. Mabey.

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▲ Alan Resnick and Ralph Mabey

Ralph Mabey Accepts Award



▲ Ralph R. Mabey
When I was appointed to the bankruptcy bench at 34, I had never had a bankruptcy class, I had never had a bankruptcy case, and I didn't know anything. (I certainly didn't know that the court was unconstitutional—as the Supreme Court would later find.) Some of the things I have learned since that time are:

In 1842 and 1843, Abraham Lincoln (with his law partner) filed more bankruptcy cases than any other lawyer in Springfield, Illinois.² I have, during my long tenure in this practice, met many lawyers, men and women, and other professionals who subscribe to those great standards and concerns for people that that great bankruptcy lawyer reflected.

This bankruptcy statute we have has a lot of flaws but it has as a solid cornerstone: a concept of fair and equitable. The statute gives examples of what is fair and equitable, but provides no definition. It is up to us to determine what is fair and equitable. If we can reach agreement, that defines it. If we can't, then we must search for, argue for, and establish what is fair and equitable if we are to reorganize. I think it's that concept that builds such great collegiality among us. (That, and the fact that we often find ourselves in the same leaky boat together, and we know that if we stamp our feet too hard the whole enterprise may go to the bottom.) The concept of fair and equitable, and our striving to find it, is so powerful and I know it is powerful

in your lives. I am just grateful to be associated with you in some modest way and to endeavor with you to increase fairness and equity in our area of the law.

I wish, in conclusion, to recognize my family as Alan did and as David did. Sylvia (my spouse of nearly 41 years) and I, notwithstanding many requests by my former law firm to move to New York (a wonderful city where we lived during law school), decided that we would try and make a living and make a go of it and continue to live and raise our family in Utah. As a result, I am looking back on over 3 million miles on Delta Airlines. Sylvia has treated me very fairly and equitably under the circumstances. She told our kids as they were growing up, "Oh, your dad would love to be here if he could be. Oh, he's a good man. He's making a living for us." She spun the tale in a way that allowed our family to prosper together and these daughters, who have traveled with me as mentioned by Alan on many business trips, have spread their wings. They've gathered here from Utah, New York and Oxford, England, they all have graduate degrees, they all have children and wonderful spouses. This is a great tribute to their mom. You know it takes somebody to say, "Ralph, it's nice to be important, but it's more important to be nice." Sylvia has said that to me and like our grandkids, she's pointed out that if you get too big for your britches, you'll be exposed in the end. I would just like my family to stand. Thank you very much. ☸

¹ These comments are abbreviated from the full presentation by Professor Resnick.

² *Journal of the National Association of Referees in Bankruptcy*, April 1943, at page 98.

Support for International Bankruptcy Course Continues in Spring 2010

By Professor David Epstein, Education Committee



▲ David G. Epstein
The College and the Foundation are once again providing financial support for a course for law students at 9 leading Law Schools around the country in International Bankruptcy Law. The course and materials will also be available to all College members.

The course will start on January 14th and will meet each Thursday from 6:20-8:20 p.m. EST. The class will meet at Columbia University Law School. The primary teachers will be College members Richard Broude, Dan Glosband, Judge Alan Gropper, Lewis Kruger, and Ralph Mabey. Richard Broude also has the responsibility of serving as academic coordinator for the course.

Columbia and the other law schools participating through technology provided by the University of Utah Law School will have local academic coordinators. College members Professor Ed Morrison will so serve at Columbia; Professor Ingrid Hillinger at Boston College; Pat Vance at Tulane; Robin Phelan at SMU; Judge Tom Waldron at Arizona; and Jerry Ancel at Indiana. Professor Mark Scarberry will be the local academic coordinator at Pepperdine and Michael Sousa at Denver.

The course will start with an introduction to the US bankruptcy code with a focus on chapter 11. Chapter 15 will occupy three sessions, followed by "area studies," in which experts from Latin America, the British Commonwealth, Eastern Europe, Western Europe and Asia will join one of the members of the primary faculty to discuss the insolvency laws of those areas. The course will conclude with discussions of the EU Insolvency Convention, the use of chapter 11 by foreign nationals, and sovereign debt.

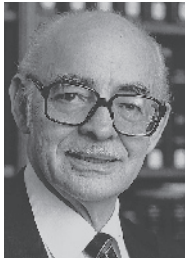
College members who would like access to the materials should contact Shari Bedker or Carole McNamara at 703-934-6154 or send their name and email address to college@amercol.org. We will then forward instructions for viewing the materials and the recorded classes to you. ☸



▲ Ralph and Sylvia Mabey, with daughters Sara, Elizabeth, Rachel and Emily.

Professor Frank Kennedy: Extraordinary Human Being and Key Contributor

By Gerald K. Smith



▲ Frank R. Kennedy

The following comments were presented by Jerry Smith at the 2009 Fall Conference in Las Vegas. The full text of Jerry's presentation can be found at www.amercol.org/comms.cfm#mem.

Harvey Miller is responsible for a remarkable interview of Frank Kennedy which is part of the Bankruptcy Law Project sponsored by the Second Circuit Committee on Historical Commemorative Events and the Federal Bar Council entitled "The Origins and Growth of Bankruptcy and Reorganization Laws in the 20th Century. An Oral History Perspective by Frank R. Kennedy, Thomas M. Cooley Professor Emeritus, University of Michigan Law School." Attached are excerpts of the interview. Harvey's introduction to the interview beautifully describes Frank Kennedy as an extraordinary human being and key contributor to the bankruptcy law.

Once in a great while there emerges a person of extraordinary qualities, intellectual purity, and great humanity. Frank R. Kennedy is one of those persons. Throughout a long and distinguished career as a teacher, writer, and even a practitioner, Professor Kennedy has enriched all those who have crossed his path. For more than fifty-five years he has contributed enormously in the public interest to the improvement of the bankruptcy laws of the United States and the functioning of the bankruptcy court. His impact on the development of the laws pertaining to debtors and creditors has been and continues to be profound. One need only glance at Professor Kennedy's bibliography to realize the enormous capacity of this quiet, gentle man who must surely be viewed a giant in his chosen field.

As a noted professor and as the Executive Director of the National Commission on Bankruptcy Laws appointed in 1970, his work product was prodigious and instrumental in shaping the Bankruptcy Reform Act of 1978 and subsequent amendments. Professor Kennedy recognized

that the bankruptcy court is a federal court that is most exposed to the general public and he has worked, and continues to work, to improve and enhance the functioning of that court so that it is receptive to parties in interest and all professionals. We are all fortunate to have enjoyed the fruits of the concentrated dedication and remarkable skills of Frank Kennedy. *Id.* at 1.

Professor David Epstein summarized Frank Kennedy's contributions to bankruptcy law and procedure on the occasion of Frank Kennedy's retirement as a teaching professor at the University of Michigan Law School in 1983.

Every person who studies, teaches, or practices bankruptcy law is, of course, indebted to Frank. His work with the National Bankruptcy Conference, with the Rules Committee, with the Commission on the Bankruptcy Laws of the United States has significantly improved bankruptcy law and bankruptcy procedure. His law review writings and continuing legal education talks have made those areas of bankruptcy law and bankruptcy procedure that he has not improved more understandable.

Educator, Mentor and Friend

Frank's work as a scholar is as important as it is extensive. The crowning achievement of that work is the Bankruptcy Reform Act of 1978. While not every word in that act came from his pen, Frank Kennedy has a greater claim to be its author than does any other single person. Passed in 1978, the Act is the direct descendant of the bill that was introduced in 1973 and was the product of the Commission on Bankruptcy Laws of the United States. During its entire existence beginning in 1971, Frank Kennedy served as the executive director of that commission. In that capacity he not only drafted portions of the law and directed drafting of other portions but also conducted and directed a variety of studies to determine the appropriate substantive content of the new law. How many scholars can make the claim not merely that they have tinkered with the law or proposed radical and provocative ideas but that they

have been one of the important forces in the enactment of an entirely new body of law? In that achievement alone Frank Kennedy surpasses nearly all of the rest of us. By it he has worked an influence on the law of the United States that few persons inside academia or out will ever be able to match.

Frank was indefatigable! He always preceded his staff to the office in the morning, getting in between 6:00 and 6:30 a.m. and of course he was the last to leave, seldom before 7:00 p.m. And of course Frank did not have lunch except when his role demanded it. A process I became used to and still follow nearly 35 years later. In the final stages of the drafting of the Commission's report and the proposed Bankruptcy Act, Frank slept on a couch in the Commission office. Vern Countryman and I had spent considerable time at the Commission office in June 1973 and after the second and final extension of the deadline for the report to the end of July 1973, Vern joined Frank and me in Washington for nearly a month (without compensation) to assist Frank, Harold and others in concluding the work. Vern was a person who enjoyed a cocktail. Much to Frank's dismay, at about 5:30 p.m., Vern would take any of the staff on hand for a drink at the Sheraton Carleton, a block or so away at 16th and K. Frank, of course, did not participate. It was not that Frank was a prude; he would have enjoyed joining us, but there was work to do and his work ethic would not let him leave early!

Frank had the final word on my becoming deputy director. Professor Seligson taught federal jurisdiction and practice in the New York University School of Law's night school. I took those courses from him and we had supper from time to time in small restaurants he knew of in the Village. He had also reviewed my student comment in my second year. Uniform Trust Receipts Act Section 10(b) - Security Interests in the General Assets of the Trustee not created, 35 N.Y.U.L. Rev. 948 (1960) (The comment prompted a response from Professor Richard W. Duesenberg, Lien or Priority Under Section 10, Uniform Trust Receipts Act, Boston College Ind. and Com. L. Rev. 73 (1960). It was my first introduction to bankruptcy. Professor Seligson later urged the Commission to hire me as a deputy director. I had become a Conferee of the National Bankruptcy Conference in 1970 at Professor Seligson's urging and I had some involvement in bankruptcy cases and creditors'

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The American College of Bankruptcy Foundation

By Joel Ohlgren, ACB Foundation Chair



▲ Joel R. Ohlgren

the "Foundation") has had a very successful year in 2009. The Foundation has continued with its primary goals of supporting educational and pro-bono projects of the College, with funding supplied by the College and by Fellows of the College and from the interest earned on the Foundations investments. (The Foundation has followed a

very conservative investment philosophy and its funds are primarily invested in insured accounts and Certificates of Deposit.)

The Pro Bono Committee was very active and made grants to a number of projects around the Country. See Michael Cook's column in this issue. (Thanks to Michael Cook and the Pro Bono Committee.)

We have encouraged College Fellows to seek out and work with worthy projects, and the response has been heartening. The Committee's grants exceeded the amounts

Frank Kennedy Tribute

continued from page 8

rights matters, primarily through Los Angeles attorneys Francis Quittner and Bob Shutan, but was not an expert in either field. I was asked to attend the California Financial Lawyer's Association program in the fall of 1971 at Alisal, California so that I could meet with Harold, Frank and Vern to discuss the possibility. Frank went along with what Professor Seligson desired and I soon heard from Frank that I had been approved by the Commission. My assistance was needed since Professor Phillips and Viles, the two remaining deputy directors after Professor Shuckman's departure, had been spending enormous amounts of time and energy developing statistical information and working on studies with various groups, including the Rand Corporation. The Administrative Office of the U.S. Courts was also involved and worked closely with Deputy Directors Viles and Phillips. Deputy Viles was also in charge of consumer bankruptcy, one of the main reasons for the legislation creating the Commission, and was spending a substantial amount of time on that project. This left for me, among other subjects, the proposed agency, property of the estate, community property, initiation of cases, avoidance sections, exemptions, reorganizations, municipal bankruptcy, farm bankruptcy and taxes. It was an overwhelming project! But I had about a year to get on top of the history, case law, recommendations from numerous sources and to work with the leading experts on each of the topics. However, one thing I did not know much about was legislative drafting, although I had drafted some changes to Arizona's conflict of laws rules in so far as community property law was concerned. When I professed my igno-

rance of the subject to Frank, he steered me to a small book, Reed on Legislative Drafting, and worked with me until I had some ability. However, as Ken Klee and Rich Levin can attest, drafting bankruptcy legislation is difficult. Fortunately my desk was a few feet from Frank's office and I had the advantage of his vast store of knowledge and his brilliance to rely on. I was also assisted by those who donated substantial time to the Commission. The written input from the scholars was invaluable. Frank had arranged for the leading experts to participate by submitting working papers on proposed revisions to the bankruptcy laws. For example, William T. "Tom" Plumb of Hogan and Hartson was the leading expert on the interface of tax and bankruptcy law and I worked closely with him in integrating his tax recommendations into the Report and the framework of the proposed Bankruptcy Act of 1973.

A final anecdote. Professor Kurt Nadelmann was a leading expert on international law at Harvard. He strongly believed in making a concession only if a concession were made by the other country. When he heard of the proposal to unilaterally recognize foreign administrators in § 4-103(b) and (c) of the Proposed Bankruptcy Act of 1973, Report of the Commission of the Bankruptcy Laws of the United States Part II (July 1973), he flew from Cambridge to D.C. and burst into the office and vehemently protested to Frank in his heavy German accent. He was visibly upset. He accused Frank of destroying a lifetime of work by him in the international insolvency field. The Commission's recommendation of voluntary concession so opposed by Professor Nadelmann was enacted into law in sections 304 and 305 of the Bankruptcy Code in 1978 and it was incorporated in Chapter Fifteen in 2005. ☞

originally budgeted for Pro Bono, and the budget was adjusted to provide for all approved grant applications. Keep up the good work.

The Foundation has provided funds for the International Insolvency Course presented by College Fellows concurrently at several University Law Schools across the country by video presentation. This course will be given again in 2010. Each location has a law faculty member or a Fellow of the College attending each session as a facilitator of the program discussion on each campus. Fellows of the College may have access to view this course by contacting Carole McNamara at college@amercol.org.

The Foundation has provided fund for a significant Credit Abuse Resistance Education program that was developed and presented in the First Circuit. The Foundation and the College encourage and will provide support for Credit Abuse Resistance Education programs designed to be given to high school and college students. Materials for such programs can be seen on the CARE website.

The Foundation also has provided funding for the Bankruptcy Archives project at the University of Pennsylvania. Fellows may access these archives by going to the College homepage.

The Foundation has received funds from generous gifts from College Fellows, and from the College. Unfortunately in the existing interest rate climate the Foundation's investment returns are not as high as they have been in the past, and this year in particular there has been an increased need for funds to assist Pro Bono activities in Districts throughout the country. We encourage participation in projects supported by the College and the Foundation and we encourage each of us to support these projects by our work and our monetary gifts to the Foundation.

It is a continuing mission of the College to give back to the communities that sustain us. The Foundation is a Section 501(c)(3) charitable organization; donations are tax deductible.

If you wish to make a donation in memory or in honor of an individual, or to recognize an event, we will advise the designated party. Unless otherwise mentioned, your contribution may also be acknowledged to the College membership from time to time. We do not publish the amount of any contribution.

Please participate and give something back. ☞

Best Practices Committee – The Circuit Review Today and Tomorrow

By Prof. Jeff Morris



▲ Prof. Jeff Morris

The Best Practices Committee, in conjunction with LexisNexis, is continuing to publish the Circuit Review which highlights conflicts among the circuits that can have an impact on venue selection. Since venue selection opportunities effectively arise only in business bankruptcy cases, the focus of the review is on cases addressing business issues. The review is an invaluable source to consider when undertaking the task of selecting a venue for any case in which an option is available under 28 U.S.C. § 1408. How do these two circuits differ in their treatment of third party releases in plans? Can the debtor assume and assign a particular kind of executory contract in each of the circuits, or will we lose this valuable contract? Can a trader in a debtor's debt serve on an unsecured creditors' committee if a wall is erected to segregate the trading function from the participation in the case? The list of questions is probably not endless, but it's certainly long enough that having a source with these decisions compiled for you will ease your burdens.

Your Research and Input is Needed

While the issue of "venue selection" is a primary reason for the publication of the circuit review, you should not make the mistake of thinking it is limited to that use. It's also a great resource for research on a wide range of topics. You can certainly shorten your research time and focus your analysis by making the circuit review your first stop on the research trail. Your circuit may not have addressed a particular issue, but there is a good chance that one or more other circuits have taken a position on the issue your client is facing. The circuit review gives you a ready source for answers to the questions pending in your case. By compiling these decisions, the review also makes it easier for you to find those dreaded contrary opinions that you must be prepared to distinguish or limit. Getting a quick start on your research and response is a whole lot easier with the circuit review. So, it's not just for "mega cases" and deciding between potentially available venues. You will find yourself turning to the circuit review for answers

throughout a case and throughout your practice.

Changes are coming...

The circuit review is also undergoing some changes in its preparation. We are initiating a rotating participation program for Fellows and their firms to serve as authors for their circuit. After an initial transition period, a Fellow and his or her firm will prepare the circuit review for their circuit on a three year basis. At that time, another Fellow and firm will take over that responsibility. Our hope is that this system will ease the burden on a small group of Fellows who have shouldered much of the responsibility for preparing the review thus far. The new system also provides an opportunity for greater participation in the work of the College by more Fellows. The strength of the College is our membership and the talents of our Fellows. More widespread participation will serve to publicize the breadth and depth of that strength. Working with other Fellows also provides a unique opportunity to establish relationships that will enhance your practice and make great friendships. Along the way, work on the circuit review will continue to provide the College membership with an excellent resource whether in use prior to the filing or in the middle of a case. The "gems" in the circuit review and the ease with which they can be found makes the text many times more valuable than its cost. We urge you to go to the College website and order your copy today.

We are also always looking for Fellows who are especially interested in working on the circuit review. If you would like to join in the effort, please contact me and we will be delighted to put you to work.

The Best Practices Committee is also considering other projects similar to those we have published in the past. Check out reports such as "Debtor Employee Retention and Incentive Compensation Programs in Light of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005," and "Selling Assets Outside a Chapter 11 Plan Under Section 363," to mention just two. All of the reports thus far published are excellent and can be obtained through the College website. The Committee is beginning to put together additional reports, so check out the website periodically, and keep an eye out for future issues of the College Columns News-

letter for further information. As always, if you have an idea for a Best Practices Report, or if you would like to participate in such a project, please let us know.

Thank You to Prof. Douglas Baird

It is also especially appropriate to acknowledge the extraordinary efforts of Professor Douglas Baird in the past publication of the circuit review. His contributions to bankruptcy law are legendary, and his work as the Chair of the Best Practices Committee is further testament to his exceptional talent and commitment to the College in particular and the bankruptcy law and legal system more generally. Thank you, Douglas. ☞

Fellows 2009 and 2010 Events

continued from page 1



▲ Richard E. Mikels

practice. This year's honoree, Rick Mikels, has done both. He will be honored for his distinguished service as First Circuit Regent and for his many contributions to bankruptcy practice. Current Regent Dan Cohn and long-time fellow Paul Daley will make the presentation in Rick's honor.

The January 23 event will also serve to welcome the new First Circuit Fellows, Robert Duffy, Bruce A. Harwood and George A. Tetler III, who will be inducted in March. The event, which in past years has been attended by a very high percentage of the First Circuit Fellows along with spouses and guests, also serves as an occasion for the Fellows to reconnect with each other and their families. Fellows from outside the Circuit are invited to attend as well. ☞

Stay Tuned to the ACB Website for Further Details on these and other Upcoming 2010 Events

- The Ninth Circuit will hold an Annual Meeting in January 2010
- The Seventh and Eleventh Circuits will be hosting a joint social/educational program in Miami in February

Circuits Provide Top-Notch Educational Programs for Fellows and Local Communities

6th Circuit Reaches out to Law Students through Educational Program

By Chris Meyer, Educational Committee Member



▲ G. Christopher Meyer

On November 16, 2009, College Fellows participated in a panel discussion in Cleveland entitled "Reorganization in the Fast Lane — Automotive Chapter 11 Cases." The presentation was organized by the Sixth Circuit's Educational Programs Committee, jointly sponsored by the College and the Cleveland Marshall College of Law and was hosted by the law school. The panelists were David Heiman of Jones-Day, Steve Karotkin of Weil, Gotshal & Manges, Stephen Lerner of Squire, Sanders & Dempsey and Tom Mayer of Kramer, Levin, Naftalis & Frankel. — each of whom was intimately involved in the Chrysler and General Motors bankruptcy sales. Chris Meyer of Squire, Sanders & Dempsey acted as panel moderator. The audience of approximately 130 included law students, local practitioners and several bankruptcy judges. The panelists shared their insights as counsel for the debtors and major creditor constituencies in the Chrysler and General Motors Chapter 11's. The discussion gave the audience a unique view of the events behind the headlines. Comments on the event have been uniformly enthusiastic and the presentation furthered the College's Educational Programs Committee's goal of expanding the College's profile across the country and adding to the quality of available bankruptcy education.



Third Circuit Preparing An In-Depth Program: Auto Bankruptcies-New Paradigm or Aberration?

By Mike Reed, Education Committee Member



▲ Michael H. Reed

On January 22, 2010, the College will present a program entitled "Auto Bankruptcies — New Paradigm or Aberration?" in conjunction with the Annual Forum of the Eastern District of Pennsylvania Bankruptcy Conference. The Annual Forum will be held at the Pennsylvania Convention Center in Philadelphia, Pennsylvania.

The Program will consist of a panel including the Honorable Robert E. Gerber and the Honorable Arthur J. Gonzalez, the judges presiding over the *GM* and *Chrysler* Chapter 11 cases, Margery N. Reed, Professor David A. Skeel and Michael H. Reed, who will serve as moderator. An overview of the *GM* and *Chrysler* bankruptcy cases will be provided by Thomas E. Biron and Professor Walter J. Taggart. The panel will then discuss the following topics: §363 sale v. plan of reorganization (*Lionel*); *sub rosa* plan (*Braniff*); the absolute priority rule and the United States as dominant creditor and lender; and sales free and clear of successor liability under § 363(f) and "future claims."

The program was organized by a committee of fellows in the Third Circuit chaired by Mike Reed, a member of the College's Education Committee. The other members of the Third Circuit committee are the Honorable Judith K. Fitzgerald, Tom Biron, Norman Pernick, Michael Sirota, Professor David Skeel and Professor Walter Taggart.

Any fellow of the College who is not a member of Eastern District of Pennsylvania Bankruptcy Conference and desires to attend or obtain further information about the program should contact Mike Reed at 215-981-4416 or reedm@pepper-law.com.

Bankruptcy Policy Committee Off to a Running Start

By Jan Baker, Chair Bankruptcy Policy Committee



▲ D.J. (Jan) Baker

The American College of Bankruptcy has created a committee to focus on issues related to bankruptcy policy and issues related to bankruptcy reform. The committee will be called the Bankruptcy Policy Committee, and is chaired by D.J. (Jan) Baker and David Lander and includes College members Dan Cohn, Dennis Connolly, Paul Harner, Reggie Jackson, Alan Kornberg, John Kozyak, Jonathan Landers, Heather Lennox, Richard Levin, Kayalyn Marafioti, Richard Mason, Jim Patton, Tom Paterson, Michael Stewart, and Dan Sklar.

As its first order of business, the Committee is analyzing a variety of bankruptcy issues and topics, to determine which issues in particular seem to be of the greatest interest and relevance. Working in conjunction with the Board of Directors of the College, the Committee will pursue work on a variety of issues relevant to practice under the Bankruptcy Code today. Specific issues that might be considered include revisions to section 365; standards for appointment of examiners and equity committees; treatment of intellectual property licenses, credit bidding, and committee communication issues under section 1102(b)(3), among others.


Undistributable And Unclaimed Funds Can Benefit Non-Profits

The Board of the College Foundation discussed the potential for additional funding of the Foundations projects, particularly the Pro Bono projects. During this discussion we learned of the Southern District of Florida's practice regarding Undistributable and Unclaimed Funds in Chapter 11 cases. We suggest that College Fellows consider taking advantage of this provision by suggesting the College Foundation as a potential recipient of such funds when working on Chapter 11 Plans.

Chapter 11 liquidations may finance charitable organizations if simple provisions authorizing the donation of estate funds are included in chapter 11 liquidating plans. In the Southern District of Florida, the Bankruptcy Court's Local Rules specifically authorize the donation

of funds that cannot be dispersed under a liquidating chapter 11 plan ("Undistributable Funds") and/or funds left unclaimed after final distributions are made under a liquidating chapter 11 plan ("Unclaimed Funds"). Local Rule 3011-1(B) applies to Unclaimed Funds and defines such funds as "any funds left unclaimed 120 calendar days after the final distribution under the plan." Local Rule 3011-1(B)(1)(b). Local Rule 3011-1(C) applies to Undistributable Funds and defines such funds as "any funds other than unclaimed funds, including, but not limited to, funds that cannot be disbursed because: (a) a creditor has affirmatively rejected a distribution, (b) the administrative costs of distribution effectively interfere with distribution, or (c) all creditors, including administrative claimants, have

been paid in full and there is no one that has a right to the funds." Local Rule 3011-1(C)(1). Both section (B) and section (C) of Local Rule 3011-1 authorize the donation of the funds to which they apply "to a not-for-profit, non-religious organization identified in the plan or disclosure statement accompanying the plan" by explicitly stating that a chapter 11 liquidating plan may provide for such donations.

If a chapter 11 liquidating plan does not specifically provide for donation of Unclaimed Funds or Undistributable Funds, the *cy pres* doctrine may be a basis for nevertheless donating the funds to charitable organizations. The *cy pres* doctrine is a common-law doctrine most often used by probate courts to save a charitable trust when the trust's objective is or has become impossible or impracticable. In such cases, the doctrine permits the dedication of funds to the "next best" use. Federal courts similarly have relied on *cy pres* to authorize the distribution of unclaimed or undistributed funds to charitable organizations in class action litigations and in at least one bankruptcy case. *See, e.g., Jones v. National Distillers*, 56 F.Supp. 2d 355 (S.D.N.Y. 1999); *In re Expedior, Inc.*, 354 B.R. 210 (Bankr. N.D. Ill. 2006). Thus, all liquidating chapter 11 cases should be examined for potential donations to charitable organizations. 

2009 Foundation Donations

As of December 15, 2009, 126 Fellows have donated a total of \$41,115 to the Foundation. Please note, we have added an online donation form to the homepage of the website, www.amercolbankruptcy.org, if you would like to make a donation at any time during the year.

Hon. David H. Adams	Gregory B. Crampton	Richardo I. Kilpatrick	Richard T. Peters
Michael H. Ahrens	CRG Partners Group	Gary E. Klausner	Joel B. Piassick
Hon. John C. Akard	<i>in memory of Tony Schnelling</i>	Alan W. Kornberg	Hon. James F. Queenen, Jr.
Prof. Peter C. Alexander	Prof. Marianne B. Culhane	Lewis Kruger	John Rao
Hon. Thomas L. Ambro	James D. Decker	David S. Kurtz	Prof. Nancy B. Rapoport
Daniel E. Armel	Francis P. Dicello	H. Kenneth Lefoldt	Patricia A. Redmond
D.J. (Jan) Baker	Bonnie Kay Donahue	Heather Lennox	Margery N. Reed
Hon. Helen S. Balick	Hon. Nancy C. Dreher	E. Bruce Leonard	Harley E. Riedel
R. Neal Batson	Joseph A. Dworetzky	Stephen D. Lerner	Randy Rogers
Michael St. Patrick Baxter	Mark C. Ellenberg	David E. Leta	Adam L. Rosen
Philip E. Beard	Hon. Joan N. Feeney	Richard B. Levin	Leonard M. Rosen
H. Bruce Bernstein	Hon. Judith K. Fitzgerald	Dr. Shuguang Li	Lewis S. Rosenbloom
Thomas E. Biron	Lucio Ghia	Hon. Basil H. Lorch III	Lowell E. Rothschild
<i>in memory of Tony Schnelling</i>	Prof. S. Elizabeth Gibson	Alfred S. Lurey	Hon. Mary Davies Scott
Michael A. Bloom	Leonard H. Gilbert	Hon. Paul Mannes	J. Robert Seder
J. William Boone	Herbert M. Graves	Steven J. McCardell	Hon. Diane Weiss Sigmund
J. William Boone	Stephen S. Gray	Jarrel D. McDaniel	Paul M. Singer
<i>in memory of Tony Schnelling</i>	Hon. James B. Haines, Jr.	W. Clarkson McDow, Jr.	Lawrence K. Snider
Prof. Charles D. Booth	David J. Hamernik	Hon. Mark B. McFeeley	Henry J. Sommer
Mark V. Bossi <i>in memory of Tony Schnelling</i>	Craig D. Hansen	G. Christopher Meyer	Ted Stenger
Joseph Braunstein	Grover Hartt, III	Harvey R. Miller	Don M. Stichter
Jo Ann J. Brighton	David G. Heiman	J. Gregory Milmo	Tomoo Tasaku
<i>in memory of Tony Schnelling</i>	Philip J. Hendel	Prof. Jeffrey W. Morris	Hon. Douglas O. Tice, Jr.
John Wm. Butler, Jr.	Camille Hope	Hon. C. Ray Mullins	Hon. Steven B. Towbin
Robert A. Byrd	Hon. Barbara H. Houser	Hon. Geraldine Mund	Myron Trepper
Richard P. Carmody	Hon. Kevin R. Huennekens	Edward J. Nazar	J. Ronald Trost
George L. Cass	Hon. Laurel Myerson Isicoff	Sally Schultz Neely	Michael L. Tuchin <i>on behalf of Randy Rogers</i>
Rudy J. Cerone	Steven T. Kargman	William L. Norton III	Judge Jean-Luc Vallens
Janet L. Chubb	Steven T. Kargman	Robert E. Ogle	Hon. Mark W. Vaughn
Mitchell H. Cohen	<i>in memory of Tony Schnelling</i>	Joel R. Ohlgren	James A. Wagner
Hon. Joy Flowers Conti	Stephen Karotkin	Richard M. Pachulski	Richard L. Wasserman
Michael L. Cook	Danny C. Kelly	Deryck A. Palmer	Howard J. Weg
Lawrence D. Coppel		Dr. Klaus Pannen	Prof. Jay L. Westbrook
		Peter V. Pantaleo	Hon. Gregg W. Zive
		Lawrence Peitzman	Samuel J. Zusmann, Jr.
		Norman L. Pernick	
		<i>in memory of Tony Schnelling</i>	

Suggested language for Chapter 11 Plans

(a) "Unclaimed Property" means any distribution of Cash or any other property made to the holder of an Allowed Claim pursuant to this Plan that (a) is returned to the Plan Administrator as undeliverable and no appropriate forwarding address is received within the later of (i) 90 days after the Effective Date and (ii) 90 days after such attempted Distribution by the Plan Administrator is made to such holder or (b) in the case of a distribution made in the form of a check, is not negotiated within 90 days and no request for re-issuance is made. Pursuant to Local Rule _____, Unclaimed Property shall be donated to the _____, a not-for-profit, non-religious organization dedicated to, among other things, promoting the pro bono legal representation of the indigent.

The American College of Bankruptcy Foundation through the Pro Bono Committee is one such not-for-profit, non religious organization dedicated to funding pro bono legal services.

American College of Bankruptcy Invites 35 Nominees to Join as Fellows of Class XXI on March 12–13, 2010



American College of Bankruptcy

2010 INDUCTION OF CLASS XXI CEREMONY AND EVENTS



The schedule below is as of December 11, 2009-subject to change, please check the website for the latest information

The Renaissance Mayflower Hotel

1127 Connecticut Avenue, N.W.
Washington, D.C. 20036
Room Reservations: 202-347-3000 or 1-800-468-3571
Cutoff date for reduced room rates: February 26, 2010
Ask for "American College of Bankruptcy" or "Judges/Academic" reduced room block
Rate: Single/Double \$249.00

Thursday, March 11, 2010

All events are held at the Renaissance Mayflower Hotel unless otherwise noted

Foundation Board Meeting

3:00 - 4:30 p.m.

Distinguished Bankruptcy Law Student Reception

(leadership and students only)-Cabinet Room
6:00 - 7:00 p.m.

Friday, March 12, 2010

Board of Directors Meeting

8:00 a.m. - 12:00 p.m. *(continental breakfast served)*

Circuit Luncheons - Offsite

12:00 - 2:15 p.m.
(Regents to inform Circuit Members of meeting locations. Contact your Regent for details.)

American College of Bankruptcy Current Topic Discussion

Moderated by
Martin Bienenstock
2:15 - 3:30 p.m.

International Insolvency Institute/College

Panel Discussion - East Room

3:30 - 4:15 p.m.

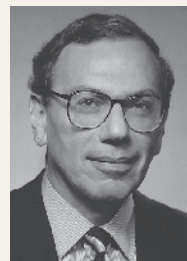
The new International Fellows of the College will discuss some of the most important crises and successes in which they have been involved.

Induction Ceremony

6:45 - 7:30 p.m.

Location

U.S. Supreme Court
One First Street, N.E.
Washington, D.C. 20543



▲ Harvey R. Miller

Induction Ceremony

Keynote speaker:

Harvey R. Miller
Weil, Gotshal & Manges LLP
New York, NY

7:30 - 8:15 p.m.

Reception, East and West Conference Rooms, U.S. Supreme Court

8:15 p.m.

Buses depart back to Mayflower Hotel

9:00 p.m.

About Town Dining Event

Saturday, March 13, 2010

New Fellows Orientation

7:45 - 8:50 a.m. *(All Fellows Invited)*

Judicial Outreach Committee Meeting

8:00-9:00 a.m. *(All judges invited)*

Continental Breakfast

8:00 - 9:00 a.m. *(Fellows Only)*

Education Session

9:00 - 12:30 p.m.

Luncheon and Distinguished Service

Award Presentation - State Room

12:45 - 2:00 p.m.

Distinguished Service Award Recipient



▲ R. Neal Batson

R. Neal Batson

Alston & Bird LLP
Atlanta, GA
Presented by
Raymond L. Shapiro
Blank Rome
Philadelphia, PA

ACB Educational Programs Committee Meeting

ACB Distinguished Law Student Committee Meeting

2:15 - 3:30 p.m.

ACB Board of Regents Meeting

2:15 - 3:30 p.m.

International Insolvency Institute Meeting

2:15 - 3:30 p.m. *(III members only)*

ACB International Committee Meeting

3:30 - 4:30 p.m.

International Fellows Dinner *(by Invitation Only-for International Fellows)*

6:30 p.m. Cocktails, 7:00 p.m. Dinner, Oval Room Restaurant, 800 Connecticut Avenue NW (a short walk or cab ride from the Mayflower) ☰

Distinguished Law Student Program Ready For Facebook!

By Kaaran Thomas, Chair of the Distinguished Student Committee



▲ Kaaran E. Thomas

If you hear good news about a Distinguished Student alum let me know so I can put it in the next Column and publish it on the Facebook page.

Greetings from Distinguished Student Alums

Kelly Bozanic, Research Fellow Penn State Law (Class of 2009) writes:

As an aspiring legal scholar, I had determined fellowship opportunities would be the best next-step in my career. The current state of the economy, however, seems to have motivated many highly qualified, mid-career attorneys to pursue careers within the legal academy. This created increased competition for entry-level, tenure-track positions. The ripple was felt amongst those graduating in the Class of 2009, who found these fellowships difficult to obtain.

I am in my second month as a Research Fellow at Penn State Law and, so far, I am nothing but excited and grateful for the role I find myself in.

As a Research Fellow, I am able to continue the academic relationships fostered during my career as a law student, as well as contribute to the vision of Penn State Law. I am pursuing my own research interests (bankruptcy, taxation, and insurance), contributing to the communications and academic affairs teams, and developing teaching experience through a workshop series for current first-year students called: Academic Success. What is most thrilling is the chance to build my career while serving the school that has benefited me so much. The role is challenging, varied, and fun. I could not imagine being anywhere else.

Clark Sugar, the Meyers Law Group, San Francisco, (Class of 2006) writes

I just recently got married (Hon. Nancy C. Dreher came to the ceremony and it was great to see her), and my wife and I took what we called a "mini-moon" for a few days.

The current economic downturn has undoubtedly had a profound effect on the career paths of many experienced legal practitioners as well as recent graduates seeking employment in the legal industry.

Against conventional wisdom, after graduation I decided to seek legal employment in San Francisco, California, a particularly difficult legal market to navigate. My journey was not without obstacles, as I first had to pass the California bar, and second compete against job seekers from more universally recognized graduate programs. In fact, during my initial job search, San Francisco was considered a poor market for insolvency related work, although that viewpoint rapidly changed as the economy spiraled downward. Notwithstanding those obstacles, however, I was not only fortunate enough to find legal employment, but moreover it was as an associate with a firm in downtown San Francisco (The Meyers Law Group) specializing solely in the practice of insolvency law. A great deal of my interest and success in insolvency practice is directly attributable to my affiliation with the American College of Bankruptcy.

Juraj Alexander, Associate with Salans, Prague (Class of 2009) writes:

I am working on several cases with the Salans LLP's bankruptcy practice in New York, gaining an understanding of the day-to-day operation of the U.S. bankruptcy law. Given that I had worked for a couple of years as a lawyer before coming to the U.S. for LL.M., my work oscillates between that of a first-year associate and more advanced matters.

My entire stay in the U.S. has turned around the crisis, as the Lehman bankruptcy filing came less than a month after I came. Although the current economy provides many opportunities to see the U.S. corporate rescue process and the bankruptcy bar at their best and to observe and learn from some of the most complex cases in history, it has restricted my options for staying as a bankruptcy associate in New York longer than the several months of my internship. Nevertheless, I am taking my experience, including from the American College of Bankruptcy, back to the Czech Republic, where I hope it will help me to be a part of the reconstruction of a insolvency resolution system having a very bad reputation. ☰

Nominate Your Distinguished Summer Clerks!

Remember to nominate your outstanding student clerks and interns from schools in the Fifth, Sixth, Seventh, Eighth and Tenth Circuits for our 2010 class. Nominations must be in by December 30. Contact me to get the nomination forms. Your part of the nomination process is very minimal. You need to give the nomination form to the student, tell them about the program and the prizes and let them know that if they are interested they must obtain the necessary academic records and recommendations from their bankruptcy professor and/or dean and submit an essay describing how they came to be interested in bankruptcy and discussing why they are interested in pursuing bankruptcy law and being awarded 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. In the alternative, you can forward the student's contact information to the Distinguished Student Committee member for the circuit where the student attends school and they will follow up. The committee members for circuits that are eligible 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 L.L.P.

Help us find:

We are (still) looking for the following alums. If you have information on their whereabouts please send it to Kaaran Thomas at 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



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