Bankruptcy Court Liaison Committee Newsletter

Winter 2017

In This Issue

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Welcome to New Bankruptcy Judge LaShonda A. Hunt

While the bankruptcy bar is certainly sad to see Chief Bankruptcy Judge Bruce Black retire after serving on the Bankruptcy Court for the Northern District of Illinois with distinction for 15 years, we are pleased to welcome Judge LaShonda Hunt to the bench.

Judge Hunt is a trial lawyer with over 20 years of litigation experience having served as General Counsel for the Illinois Department of Central Management Services, Legal Counsel of the Illinois Department of Corrections, Assistant U.S. Attorney and in private practice. Judge Hunt earned her bachelor's degree from the University of Illinois at Urbana and her law degree from the University of Michigan. She was admitted to practice in Illinois in 1995.

Judge Hunt is a fine example of giving back to the legal community. Judge Hunt is on the Board of Directors for the Black Women Lawyers Association, a member of the BWLA Scholarship Fund, a member of the Chicago Bar Association (when she served on the Judicial Evaluations Investigation Committee, acted as Co-Vice Chair of the Federal Civil Practice Committee and Chair of the Government Services Committee), a member of the Cook County Bar Association, the American Law Institute and serves on the Northern District Rules Subcommittee of the Illinois Pro Bono Advisory Committee. In addition, Judge Hunt served on the Illinois ARDC Hearing Board as a Panel Member.

Judge Hunt also gives of herself to multiple charitable organizations. She is on the Board of Directors of the Just Beginning Foundation, served as Chair of the Biennial Conference Youth Programs and was also on the Board of the Directors of the Cabrini Green Legal Aid, to name just a few of the organizations that Judge Hunt graciously donates her time and efforts.

Judge Hunt's exemplary legal career and extra-curricular service to the community makes her an exceptional choice to fill Judge Black's vacancy on the Bankruptcy Court for the Northern District of Illinois. We look forward to her tenure on the bench. ■

Jevic Decision Coming From Supreme Court – Will It Be a Game Changer For Chapter 11 Cases?

By Brad Berish, Adelman & Gettleman, Ltd.

In December 2016, the Supreme Court heard argument in *Czysewki v. Jevic Holding Corp.*, a case in which the Third Circuit Court of Appeals upheld the use of so-called "structured dismissals" in bankruptcy cases. The Supreme Court's decision could have dramatic consequences for practitioners, potential debtors and various creditor constituencies with respect to a whole host of issues, not just limited to structured dismissals which have become an increasingly common exit strategy in chapter 11 cases.

Jevic was a liquidating chapter 11 case where the debtor's assets were to be distributed, and the case was to be dismissed, pursuant to a settlement approved by the Delaware bankruptcy court. At the time of the settlement, the debtor corporation had long since stopped operating. The primary claims against the bankruptcy estate consisted of two secured claims that exceeded $53 million, various administrative claims, the former employees' prepetition priority claims, and millions in general unsecured claims. The only remaining assets consisted of the creditor committee's highly speculative fraudulent conveyance actions against the two secured creditors, and $1.7M of cash that was subject to the undisputed liens of one of those secured creditors.

The Bankruptcy Court approved a settlement between the debtor, the committee, and the two secured creditors, under which (a) the parties released each other and the lawsuit was dismissed with prejudice, (b) the creditor holding the lien on the $1.7M of cash released its lien, allowing that cash to be contributed to a trust to pay the tax and administrative claimants in full, and then to pay the general unsecured claimants a 4% dividend, (c) the other secured creditor contributed $2M to an account to pay the debtor's and the committee's legal expenses, and other administrative expenses, and (d) the bankruptcy case would be dismissed. The only creditors that didn't receive any benefit from the settlement were the former employees, whose asserted prepetition priority claims far exceeded the settlement proceeds to be paid to the general unsecured creditors. Although the employees participated in the settlement talks, it appears that they were excluded from the ultimate settlement because they refused to dismiss their WARN Act claims against one of the secured creditors. In turn, the secured creditor refused to relinquish its liens on any of the estate's cash for the benefit of the employees, fearing that it would be used to fund the employees' pending WARN Act claims.

The employees and the U.S. Trustee objected to the settlement and were overruled by the Bankruptcy Court. The employees filed appeals to the District Court and Appellate Court, both of which affirmed the Bankruptcy Court's decision. No party disputed the Bankruptcy Court's findings that supported approval of the settlement. Those findings included that "[t]he litigation promised to be complex and lengthy", and its chances were far from compelling especially in view of the [defendants'] substantial resources and the committee's lack thereof." Furthermore, there was no prospect of a plan being confirmed and conversion to chapter 7 would have resulted in the secured creditors taking all that remained of the estate" leaving no dividend for any other creditors.

The employees' main argument is that the settlement violated § 507 of the Bankruptcy Code because it distributed property to creditors of a lower priority (i.e., to tax and general unsecured claimants) without making any payment to the employees for their prepetition priority wage related claims. The U.S. Trustee objected on grounds that the Code does not permit "structured dismissals" in which assets

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are distributed to creditors outside of a chapter 11 plan. The employees also asserted that chapter 11 provides a debtor with only three exits from bankruptcy: confirmation of a plan, conversion to chapter 7, and dismissal with "no strings attached."

The Third Circuit rejected the argument that "structured dismissals" are not permitted, finding that section 349 of the Code allows the court to alter the impact of dismissal "for cause." The court found that cause was clearly shown given that no other outcome (i.e., plan or conversion) would result in any distributions, while the settlement resulted in a meaningful recovery for the unsecured creditors.

Second, the Third Circuit found that a settlement can provide a distribution to creditors which deviates from the priority scheme of §507 in rare circumstances "only if the[re are] 'specific and credible grounds to justify [the] deviation.'" Recognizing a split in the circuits, the Third Circuit rejected the Fifth Circuit's rigid approach in *Matter of AWECO, Inc.* in favor of the more flexible standard adopted by the Second Circuit in *In re Iridium Operating LLC*. In *Iridium*, the Second Circuit in rejecting *AWECO's per se* rule, still noted that a "court must be certain that parties to a settlement have not employed [the] settlement as a means to avoid the priority strictures of the Bankruptcy Code." To do that, the Court, in establishing a flexible standard, stated that while a "settlement's distribution plan compl[ying] with the Bankruptcy Code's priority scheme will often be the dispositive factor[, when]...the remaining factors [normally considered in approving a settlement] weigh heavily in favor of approving [the] settlement, the bankruptcy court, in its discretion, could [still] endorse a settlement that does not comply in some minor respects with the priority rule if the parties to the settlement justify, and the reviewing court clearly articulates the reasons for approving, a settlement that deviates from the priority rule."

In *Jevic*, the Third Circuit adopted the Second Circuit's flexible approach and found that other factors supported approval of the settlement's distribution scheme. The court explained that even though it deviated from section 507, the structured dismissal was appropriate because the settlement, "unsatisfying as it was, remained the least bad alternative since there was 'no prospect' of a plan being confirmed and conversion to chapter 7 would have resulted in the secured creditors taking all that remained of the estate."

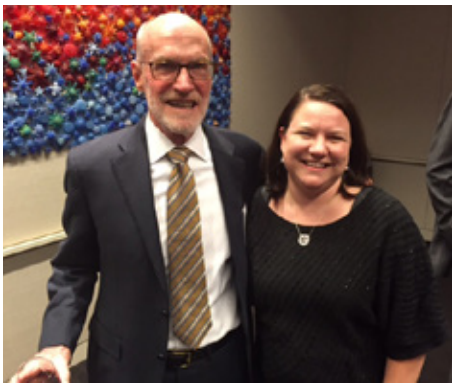
A variety of advocates filed briefs with the Supreme Court in *Jevic*. On the side of the employee petitioners are *amicus curiae* that include the United States, 17 law school professors, 36 States, and several legal and public interest advocacy organizations. On the side of the respondents are *amicus curiae* that include 14 law school professors. While the arguments and analyses of the issues raised in *Jevic* are extensive and complex, there are several overriding concerns which could have far reaching consequences. For example, some on the petitioners' side urge that (a) no distributions can ever be made to prepetition claimants in a chapter 11 case outside of a plan of reorganization, (b) the priority scheme of section 507 must be followed for distributions proposed under a settlement, or for that matter, any distributions proposed in a chapter 11 case, and (c) that "structured dismissals" are simply not permitted under the Bankruptcy Code under any circumstances. From a practical standpoint, they argue that if exceptions to these rules are permitted, it leaves open the possibility for abuse, and it also undermines the bargaining power of priority claimants. On the other hand, the respondents' side points out that, as a practical matter, adopting the petitioners' rigid approach could eviscerate several widely used concepts in chapter 11 cases, including the payment of critical vendors, pre-petition wages, or any other pre-petition claims as part of "first day" orders early in a case, the application of substantive consolidation in bankruptcy cases, cross-collateralization in DIP financing orders, and possibly even the new value exception to the absolute priority rule in chapter 11 plans, not to mention structured dismissals.

It is possible, however, that none of the foregoing issues will get addressed if the appeal is simply dismissed based on certain of the respondents' threshold arguments that (a) the employees have no standing because, as the Third Circuit noted, they would never have received any distribution in the case whether or not the settlement was approved, and (b) settlements do not require bankruptcy court approval, and thus the issues before the Supreme Court are moot.

And finally, the Court could adopt a middle ground that avoids the many potential consequences raised by the positions taken by the parties. One such middle ground is reflected in the dissenting opinion in *Jevic* which actually agreed with the majority's adoption of the Second Circuit's flexible standard for determining whether to approve a settlement's distribution scheme that deviates from the Code's priority system, but went on to find that the majority had merely improperly applied that standard to the facts of the case by having approved the settlement's distribution scheme that skipped over an entire class of creditors – i.e., the employee priority wage claims.

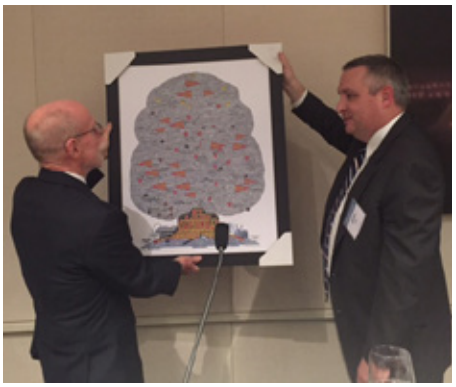
We anxiously await the Supreme Court's decision in *Jevic* and the impact, if any, that it will have on chapter 11 cases going forward. ■

Bankruptcy Court Liaison Committee honored retiring Chief Judge Bruce Black for his many years of service



Retired Judge Black and Rachael Stokas

Gordon Gouveia, Retired Judge Black, Mark Radtke and Jeff Schwartz



Retired Judge Black and Liaison Committee Co-Chair John Hiltz

On December 7, 2016, during the annual Holiday Party hosted by Kirkland & Ellis, the Bankruptcy Court Liaison Committee honored retiring Chief Judge Bruce Black for his many years of service to the local bankruptcy community. Judge Black retires after a distinguished career as a well-respected jurist both as a state court judge for 16 years and the last 15 years as a bankruptcy judge in the Northern District of Illinois. During the ceremony, incoming Chief Judge Pamela Hollis treated the many members of the Bankruptcy Bench and Bar in attendance to an original haiku in praise of Judge Black highlighting his kindness and intelligence that will serve as an example even after his retirement. John Hiltz, the current chair of the Liaison Committee and a proud former clerk to Judge Black, spoke of the positive impact Judge Black had on both those who were fortunate enough to have worked with him and the fairness and civility he always extended to those who appeared before him. Wishing him a happy retirement, the Bankruptcy Liaison Committee presented Judge Black with a framed "history tree" of his beloved St. Louis Cardinals. *Enjoy retirement in beautiful Colorado judge, you deserve it!* ■

Judge Hollis' Haiku:

Chief, Lawyer's Lawyer

Kind, Fair and Brilliant Judge

Not Replaceable

Interview with Judge Janet Baer

By Gordon Gouveia, Shaw Fishman Glantz & Towbin LLC

Janet Baer was appointed to a 14-year term as bankruptcy judge in the Eastern Division of the Northern District nearly 5 years ago. I recently had the opportunity to sit down with Judge Baer for a short interview. This is what I learned:

Q: Your website bio reflects that you graduated from Depaul University College of Law in 1982 and then clerked for bankruptcy judge Robert L. Eisen in the Northern District for two years. Was there something that drew you to bankruptcy law? And how did your clerkship influence your decision to become a bankruptcy judge?

A: I knew in law school that I wanted to be in court. I was drawn to code-based classes, like UCC, secured transactions and bankruptcy. My bankruptcy professor was Judge Ginsburg, who recommended me for a judicial clerkship with Judge Eisen. I became fascinated with bankruptcy because it implicates so many different facets of the law. Also, I had a great clerkship experience with Judge Eisen and decided right then and there that I wanted to be a bankruptcy judge someday. One little known fact is the Judge Deborah Thorne externed for Judge Eisen while I was a law clerk. We've both come full circle. Today we are both Judges in the court we clerked in and I am Judge Thorne's mentor judge.

Q: Can you explain how mentorship works at the court and more generally how the bankruptcy judges interact with one another?

A: Every new bankruptcy judge is assigned a mentor, who is a more senior bankruptcy judge they can go to with any questions they have no matter how mundane. Judge Goldgar is my mentor. The judges also regularly exchange ideas and debate legal issues over email and in person. If I feel like a particular judge may have insight regarding a case or issue based on his or her prior experience, I will direct my question to that judge instead of the entire group. I would also point out that

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the judges understand how they differ on legal issues and procedures. So, I would caution lawyers against arguing that another judge does something differently because we generally know what the other judges are doing.

Q: Do you have any other practice pointers?

A: As a lawyer, your reputation for truthfulness is key. As a judge in a busy court, particularly in consumer cases, I want to be able to rely on a lawyer's representations. For example, I want to trust a lawyer who tells me that a motion is not opposed so I don't have to check the docket or confirm with opposing counsel and we can move cases along. Judges don't forget when lawyers violate their trust and maintaining a judge's confidence is very important. Also, I value clear and concise writing. Lawyers often get carried away with defined terms and excessive background information. Start with an introduction that tells the judge what relief you are seeking and why you are entitled to that relief. Try to keep it simple.

Q: What were your biggest concerns about becoming a judge and how would you reflect on your first four years?

A: I did not have any prior experience with chapter 13 cases. My experience was mostly in large corporate chapter 11 cases. Because Chicago has one of the busiest consumer dockets, chapter 13 cases were my biggest concern. As it turns out, chapter 13 has also been the biggest surprise in terms of how much I really enjoy it. I initially learned about chapter 13 by sitting with other judges like Judges Wedoff and Goldgar when they were preparing their court calls and learning how to identify and resolve issues. While 98% of the chapter 13 cases are routine, the other 2% raise fascinating issues that really require me to dig in and figure it out. I have really enjoyed those challenges. That said, I would also really love to get more chapter 11 cases.

Q: Is there anything we can do to make Chicago a more attractive venue for large corporate chapter 11 cases?

A: This is a very difficult question and perhaps better aimed at the practitioners who make the decisions about where to file cases. In my experience as a practitioner whose firms filed cases around the country, I believe that one factor was that there was a sense that other jurisdictions like Southern District of New York and Delaware have rules and procedures that are better suited for complex chapter 11 cases. For example, the negative notice procedures and set briefing schedules for contested matters. Chicago, on the other hand, is an appearance jurisdiction where you can get into court on 3 days' notice and then you see if there will be a briefing schedule and evidentiary hearing. That is a very strange procedure for anyone who is not from Chicago and does not know how it works. I think that, if the practitioners want it, we could develop some similar rules and procedures to those in the East. However, in surveying the bar a few years ago, we did not get an overwhelming request for such procedures. As chair of the Local Rules committee, I want to look at that again. I believe that rather than trying to completely change the current procedural system, we could consider adopting a hybrid procedure for contested chapter 11 cases. ■

Frequent Tax Issues in Consumer Bankruptcy

By Michael Kelly

This column will be the first in a series that provides general guidance on frequently encountered IRS bankruptcy issues. Though I work for the United States as an Assistant United States Attorney assigned to cover bankruptcy litigation in the Northern District of Illinois, the views expressed in this column are mine alone and should not be construed as the views of my employer (the United States Department of Justice) or my favorite client (the IRS).

Who you gonna call?

As with any large, complex bureaucracy, getting the right person on the phone is half the battle to resolving your problem with the IRS. Who the right person is for resolving an IRS issue depends largely on context. The first step is to make sure that you provide proper notice to the IRS so that someone is assigned to your debtor's case in the first place. To assist with that, the IRS has authored a document (see article *Serving the Internal Revenue Service in Northern District of Illinois Bankruptcy Cases on page 9*) that offers guidance on what constitutes good service in a variety of circumstances.

If service is proper and your debtor owes federal tax, a proof of claim should be filed promptly. Anecdotally, the IRS usually files well ahead of the claim deadline, often appearing as claim number one on the register. If you disagree with or have questions about the filed claim (or other tax aspects of your case), your primary point of contact should be the assigned insolvency specialist – i.e., the person who signs the proof of claim filed in your case.

If your interaction with the insolvency specialist does not resolve matters or if you are unable to make contact with the insolvency specialist, then I encourage you to reach out to me as a fallback point of contact. The best way to reach me is my email address: michael.kelly@usdoj.gov.

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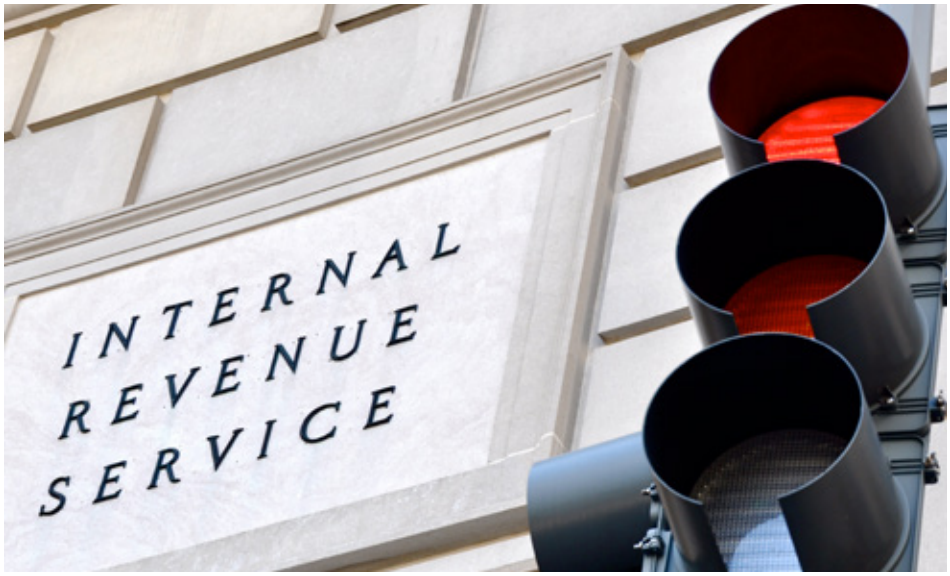
My debtor's house is underwater, what's the story with this secured tax claim?

Often, a debtor will object to IRS claims that include a secured claim component, arguing that there is



nothing for the lien to attach because the debtor lacks equity in a house and the remainder of their property is exempt. That objection proceeds from a couple of mistaken assumptions about how tax liens work. A tax lien is recorded against the tax debtor—not any specific property—and encumbers "all property and right to property, *whether real or personal*, belonging to such person." 26 U.S.C. § 6321 (emphasis supplied). That language is about as all-encompassing as it gets and as the Supreme Court has observed, "reveals on its face that Congress meant to reach every interest in property that a taxpayer might have." *United States v. National Bank of Commerce*, 472 U.S. 713, 719–20 (1985).

So even though the tax lien is recorded with the recorder of deeds, its scope is not limited to the debtor's real property. It covers everything. Including, per 11 U.S.C. § 522(c)(2)(B), exempt property: "exempt status under state law does not bind the federal collector." *United States v. Mitchell*, 403 U.S. 190, 205 (1971). Only *federal* law can exempt property from a federal lien. *Id.* And while 26 U.S.C. § 6331 exempts certain property from federal tax *levy* (i.e., the power to seize and sell property in order to collect on tax debt), those exemptions do not apply to exempt property from a federal tax *lien*. *In re Voelker*, 42 F.3d 1050, 1052 (7th Cir. 1994) ("Congress exempted this property from levy and has the capacity to do the same with the tax lien. It has chosen not to do so."). The practical effect of this is that the IRS secured claim will generally equal the total scheduled value of the debtor's unencumbered property, though the IRS can of course form its own opinion about the true value of scheduled property.

So before challenging an IRS secured claim, consider whether the debtor has exempt personal property that the IRS may be looking to as a form of security. Also consider whether there is a practical benefit to prevailing on the challenge in the first place. More than once, I've defended IRS secured claims against challenges that—if successful—would simply cause the secured claim to become an unsecured priority claim, both of which require 100% payment in a chapter 13 plan. 11 U.S.C. §§ 1322(a)(2); 1325(a)(5)(B)(ii). Those disputes, while academically engaging, have little discernible effect on the practical administration of the debtor's case.

That's all for this installment. If you have IRS bankruptcy questions that you'd like to see addressed in the public forum, please don't hesitate to send them my way at the earlier-mentioned email address. ■

The Joys of Pro Bono Appellate Practice

By Hon. Eugene R. Wedoff (ret.)

After 28 years as a bankruptcy judge, I decided to retire. My thinking was (1) the government is willing to pay my salary regardless of what work I do and (2) this gives me the opportunity to do something useful that other people can't afford to. And of all the work that fit into that category, pro bono bankruptcy appeals seemed my best choice. Why? First, it's meets a real need—too many disputed consumer bankruptcy issues remain unresolved on appeal, often with judges in the same district taking different positions—because one of the parties (usually the debtor) can't pay for appellate counsel. Second, my bankruptcy judging gave me some useful experience in dealing with disputed bankruptcy issues. And finally, I've always enjoyed appellate practice.

So I told all my bankruptcy friends about my plans for a new appellate career in retirement. But at the same time, I had doubts about whether the plans would work. Mostly, I was worried that I wouldn't be able to find worthwhile cases. So far, that's not been a problem—I've received leads for good appeals from friends at the National Consumer Law Center, the National Association of Chapter 13 Trustees, and from bankruptcy judges. I did

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find a problem that I hadn't expected though: working without a support staff is tough! Judges get very accustomed to law clerks, judicial assistants, and courtroom deputies, and now I'm left with my own minimal organizational skills. However, I've been very grateful for the volunteer help I've received in drafting, editing, and filing from my first law clerk, Kim Robinson; from lawyers at Jenner & Block; and from students at Northwestern. Several lawyers from Shaw Fishman also helped me in a practice oral argument. I'm hoping that with help like this, I'll continue to be able to do a competent job on all of the matters I've taken on.

And what are those matters? Six, in all, with a really interesting range of issues:

1. ***Denial of plan modification in Chapter 13.*** A trustee wanted to modify the debtors' plan to increase payments, and his only basis was that their net income had increased. The bankruptcy judge denied the motion, holding that the income increase, by itself, did not show that higher plan payments were required to comply with the obligation of good faith. She wanted evidence of the totality of circumstances. I had three arguments: (1) denial of plan modification, like denial of plan confirmation, is not a final order subject to appeal; (2) even if it were otherwise appealable, the debtors had made their final payment under their confirmed 60 month plan, so the appeal was moot, since plans can't be modified after 60 months; and (3) that, if the merits are reached, the bankruptcy judge's ruling was correct. Each of these arguments was rejected in the Seventh Circuit's opinion. I was particularly unhappy about the ruling that the plan could be retroactively modified after payments were completed, but the trustee's settlement offer was too good for my client to pass by. So, sadly, my first effort to clarify the law did result in clearer law—but the opposite of what I thought was good law. See *Germeraad v. Powers*, 826 F.3d 962 (7th Cir. 2016).
2. ***Dirt for debt in Chapter 13.*** Can a debtor convey to the mortgage holder property that is worth less than the mortgage balance? The bankruptcy judge said yes, the district court has reversed, and I'm trying to get the Second Circuit to reverse the district court. So far, no luck, because the district court's order, according to the Second Circuit, is not final. But we haven't given up. *See HSBC Bank USA, N.A. v. Zair*, 550 B.R. 188 (E.D.N.Y. 2016).
3. ***Extraterritoriality of exemption law.*** If a state in which the debtor used to live provides the exemption law for the debtor's bankruptcy case, does that law apply to property located in the debtor's current state of residence? The bankruptcy court said yes, the trustee appealed, and I'm trying to uphold the bankruptcy judge's decision. There's no reported decision yet, but briefing is complete and there should be a decision from the district court for the Northern District of West Virginia in the near future.
4. ***The effect of liens on a mortgage escrow account on the nonmodifiability of home mortgages.*** To be protected by the anti-modification provision of § 1322(b)(2), a mortgage loan can't be secured by any lien in personal property. The debtor in a case I worked on argued that a lien on a mortgage escrow account was an interest in personalty that negated the anti-modification provision. The bankruptcy judge disagreed, although another judge in the same district supported the debtor's position. I filed an opening brief in an appeal, but it turned out that there was actually no lien, because there were no funds in any escrow account. We had to dismiss the appeal. But if there had been an actual lien, the argument is still potentially valid. *See In re Capretta*, 542 B.R. 774 (Bankr. N.D. Ohio 2015).
5. ***Fact finding in student loan dischargeability complaints.*** The bankruptcy court ruled that the debtor's student loans imposed an undue hardship and made detailed findings of fact to support the ruling. The district court reversed, making contrary fact findings and adding a new factor to the undue hardship analysis—whether the debtor should have known when she incurred the student loans that the increase in income that her education was likely to produce would not be enough to repay the loans. The appeal from the district court's opinion is fully briefed—with our arguments being that the fact-finding of the bankruptcy court was entitled to deference and that the economic wisdom of incurring a student loan has nothing to do with whether repaying the loan is an undue hardship. The Eleventh Circuit should be deciding the case this year. *See Ecmc v. Acosta-Conniff*, 550 B.R. 557 (M.D. Ala. 2016).
6. ***Jurisdiction to determine a debtor's tax liability.*** The IRS says that a bankruptcy judge can only determine a debtor's tax liability if that determination will affect distribution of the estate, so that there's no jurisdiction over tax disputes in a no-asset case. The bankruptcy court rejected this argument, since tax liabilities would affect the debtor's fresh start. The district court disagreed. We've filed a Seventh Circuit appeal, but briefing is currently on hold for some time while until the court determines whether the district court's decision was final for purposes of appeal. *See In re Bush*, 2016 U.S. Dist. LEXIS 106671 (S.D. Ind. 2016).

So—I've been able to deal with many good issues. I only hope they keep coming. ■

Do Something Good for the New Year: Volunteer!

By: Kari Beyer, Legal Aid Foundation of Chicago

Use your unique set of skills to help those in need of bankruptcy advice and representation. Here are some opportunities in the Northern District:

Bankruptcy Assistance Desks

The Northern District has two bankruptcy assistance desks where volunteer attorneys advise *pro se* debtors and creditors.

Eastern Division – The bankruptcy assistance desk in the Dirksen Building advises pro se parties on Mondays, Wednesdays, and Fridays starting at 9:30 a.m. Generally, two attorneys are scheduled to advise ten *pro se* parties on a first come, first served basis. The bankruptcy assistance desk is also seeking paralegal volunteers. LAF (formerly the Legal Assistance Foundation) offers training, support, and malpractice insurance coverage to volunteers. To volunteer or for more information, please visit: www.lafchicago.org/volunteer.

Western Division – The bankruptcy assistance desk in Rockford seeks volunteer attorneys who are familiar with bankruptcy law to advise *pro se* debtors. The bankruptcy assistance desk volunteers advise *pro se* debtors on Monday afternoons from 1-5 p.m. by appointment. Prairie State Legal Services screens the clients, sets the appointments, and provides malpractice insurance coverage for volunteers. To volunteer or for more information, please contact Wendy Crouch at wcrouch@pslegal.org or Jaime Dowell at jdowell@mckenna-law.com.

Volunteer Attorney Panel

The volunteer attorney panel program is seeking volunteers to represent *pro se* parties in adversary proceedings and contested matters. *Pro se* parties are referred to the program by judges who have identified a need for the *pro se* party to obtain representation. The program is voluntary and panel members are not required to accept any particular case solely because they have joined the panel. To volunteer or for more information, please visit the Volunteer Attorney Panel link on the court's website: http://www.ilnb.uscourts.gov/us-bankruptcy-court-volunteer-attorney-panel. ■

Chicago CARE (Credit Abuse Resistance Education) Program

Shara Cornell, Law Clerk

The Chicago CARE (Credit Abuse Resistance Education) program continues to serve Chicagoland making financial literacy presentations to local schools and community organizations. This past semester has been busy for Chicago CARE. CARE has formally adopted a set of bylaws and selected officers and directors. CARE partner TransUnion hosted a very well attended CARE Training Program at its downtown Chicago location. CARE would also like to thank Lauren Newman and the Thompson Coburn team for hosting the Care Fall 2016 Cocktail Social.

We have been working on programs to make CARE better for you and for the audience. CARE has improved the presentations that can be found on the Chicago CARE web site (www.CAREChicago.org). Not only is content updated but we have revised the presentation format so that you and your audience can pick and choose the topics on which you want the presentation to focus.

In other news, CARE has begun to implement a new online calendaring system to make volunteering easier! Our new system will include upcoming presentations and volunteer information. This will help reduce e-mail volume and make coordinating presentations easier for everyone! Look for e-mail information on how to sign up.

Looking to get involved? There's always time to observe. Observing a CARE presentation is a great way to get training. Simply attend a presentation to see what experienced presenters do in front of a class of students.

We look forward to a busy and productive spring semester in the short term and to even greater successes in the long term. Join us and show us that you CARE! As always, you can find us at www.CAREchicago.org. ■

Serving the Internal Revenue Service in Northern District of Illinois Bankruptcy Cases

Adversary Proceedings and Contested Matters

Rule 7004(b)(5) requires that pleadings in adversary proceedings and contested matters (see Rule 9014(b)) may be served by "first class mail postage prepaid" upon the "the civil process clerk at the office of the United States attorney for the district in which the action is brought," "the Attorney General of the United States," and the applicable "officer or agency." Claim objections are contested matters, subject to the requirements of Rule 7004. For adversary proceedings or contested matters directed against the IRS in the Northern District of Illinois (both Eastern and Western Division), the addresses for the Rule 7004 recipients are as follows:

D. Patrick Mullarkey
Tax Division (DOJ)
P.O. Box 55
Ben Franklin Station
Washington, DC 20044 [1]

United States Attorney
Civil Process Clerk
219 South Dearborn Street, Room 500
Chicago, Illinois 60604

Internal Revenue Service
P.O. Box 7346
Philadelphia, Pennsylvania 19101

The address above to D. Patrick Mullarkey, Tax Division (DOJ) constitutes service on the Attorney General for purposes of complying with Rule 7004(b). It is unnecessary to serve the Attorney General's direct address (U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530) if you have served the Tax Division (DOJ) address. The IRS encourages you to supply Tax Division (DOJ) with a courtesy copy of pleading via fax to (202) 514-5238, but cautions that a fax does not fulfill the applicable service requirements.

Notice Under Rule 2002

For documents required to be served on the IRS under Rule 2002, Rule 2002(g)(1) provides that notices should be addressed to the service address designated on the proof of claim or, if no proof of claim is filed, the address designated under Rule 5003(e). Further, Rule 2002(j) provides that notices in chapter 11 cases should be mailed to the IRS at its address designated under Rule 5003(e). The IRS's Rule 5003(e) address—which should be identical to the address listed on IRS proofs of claims—is:

Internal Revenue Service
P.O. Box 7346
Philadelphia, Pennsylvania 19101

Courtesy copies of pleadings

In Chapter 11 cases, a courtesy copy of the pleading may be mailed or faxed to the below address, but sending a courtesy copy to the below address does not excuse serving the IRS at its Rule 5003(e) address:

Internal Revenue Service
Mail Stop 5014CHI
230 S. Dearborn Street, Room 2600
Chicago, Illinois 60604
Fax: (312) 292-2826

Additional information

The instructions in this memorandum apply only for cases before the United States Bankruptcy Court for the Northern District of Illinois (both Eastern and Western Division). Please use these addresses exactly as given. Do not address notices to the name of any individual (except D. Patrick Mullarkey as specified above); use of names will slow down delivery, not expedite it. Do not serve the IRS at other locations. Do not serve bankruptcy related notices or pleading on revenue officers at any post of duty. Do not serve bankruptcy related notices or pleadings on any IRS Service Center.

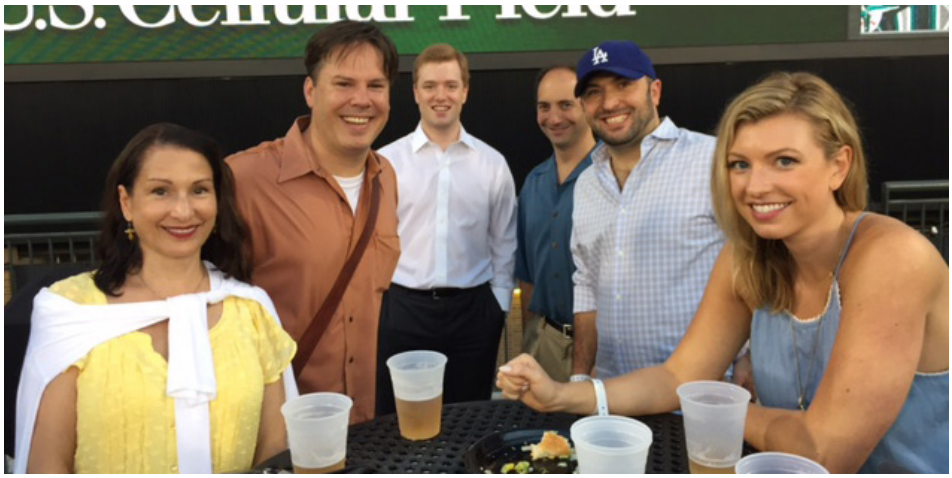
Contact Information

The IRS encourages you to attempt to resolve bankruptcy-related disputes with the IRS administratively rather than through motion practice. The IRS endeavors to amend its proofs of claims to incorporate new information received from taxpayers. For example, where the IRS has filed a proof of claim that asserts liability for an unfiled return and the debtor later files a return, the debtor should furnish a signed copy of the filed return to the case worker who will amend or withdraw the original claim, rather than objecting to the IRS's claim. The case worker's contact information is indicated in the IRS's proof of claim.

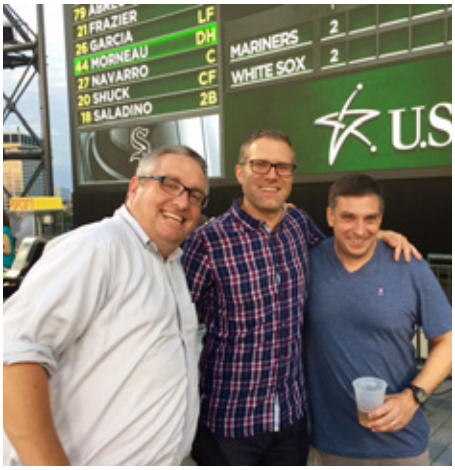
If you have any questions about an open bankruptcy you may contact the IRS Centralized Insolvency Operations Unit, Monday through Friday, 7:00 a.m. to 10:00 p.m., EST, at (800) 973-0424. Please be prepared to furnish the bankruptcy docket number or taxpayer identification number (i.e., the employer identification number or social security number). ■

[1] Private delivery services cannot deliver correspondence to Post Office boxes. If you choose to send notice via private delivery service, please address to the street address for Tax Division (DOJ), which is: D. Patrick Mullarkey, Tax Division (DOJ), Room 7804, JCB Building, 555 4th Street, N.W., Washington, D.C. 20001.

Bankruptcy Liaison Committee Hits One Out of the Park! "The Summer White Sox Outing."



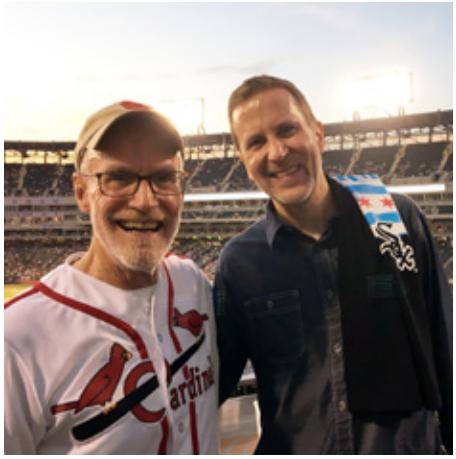
Monette Cope, John Guzzardo, Bill Williams, Steve Chaiken, Kevin Morse & Meg Buck



John Hiltz, Erich Buck, Tim Stallkamp

This year the Bankruptcy Liaison Committee hit a homerun with its annual White Sox Outing. The committee decided to change the party's location to the Fan Deck in center field. The new location offered a relaxed and casual atmosphere for all that attended. It also gave all attendees a chance to mingle and chat while still being able to enjoy the baseball game.

The ticket price also allowed members to partake in the unlimited food and beverage service before and during the game. This seemed to be a welcome change from the past patio ticket that only provided food and drink up until the first inning of the game. The food was traditional ball park favorites and included hot dogs, hamburgers, potato chips and popcorn. Add in a little libation and a great time was had by all who attended.



Judge Black & Jerry Mylander

Those who stuck it out to the end were rewarded with seeing crazy Sox fans run on to the field in the 9th inning and a White Sox win.

Kudos to the committee for taking the ball park experience to the next level! HOME RUN BANKRUPTCY LIAISON COMMITTEE! ■

Mission Statement

The Bankruptcy Court Liaison Committee for the Northern District of Illinois was formed to assist the Bankruptcy Court and its practitioners to create a more efficient and collegial environment throughout the entire Northern District of Illinois. In addition to promoting communications, supporting educational programs, and sponsoring social events, Section 2.01 of the Committee's Bylaws provides that practitioners may relay issues, concerns, or complaints about Bankruptcy Judges or the Bankruptcy Court to the Committee – anonymously – through the Co-Chairs or any other Committee Member. The information will then be anonymously presented to the appropriate Bankruptcy Judge Committee Members for review and consideration under 28 U.S.C. § 154(b), which provides that the Chief Judge ofthe Bankruptcy Court "shall ensure that the business of the bankruptcy court is handled effectively and expeditiously."

Practitioners wishing to share any issues, concerns, or complaints with the Committee may contact any of its Members anonymously via, mail, email, phone, or on the Bankruptcy Court's website at the following link : http://www.ilnb.uscourts.gov/bankruptcy-court-liaison-committee

United States Bankruptcy Court, Northern District of Illinois Judges

Judge Pamela S. Hollis
Chief Judge

Judge Janet S. Baer
Judge Timothy A. Barnes
Judge Donald R. Cassling
Judge Jacqueline P. Cox
Judge Carol A. Doyle
Judge A. Benjamin Goldgar
Judge LaShonda A. Hunt
Judge Thomas M. Lynch
Judge Jack B. Schmetterer
Judge Deborah L. Thorne

2016-2017 Bankruptcy Court Liaison Committee

Honorable Janet S. Baer
Honorable Pamela S. Hollis
Honorable Thomas M. Lynch
Honorable Deborah L. Thorne

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