

34TH ANNUAL BANKRUPTCY SECTION SEMINAR

FEDERAL BAR ASSOCIATION
WESTERN DISTRICT OF MICHIGAN



July 29 – July 31, 2022

The Federal Bar Association for the Western District of Michigan invites you to attend this year's educational seminar at the Mission Point Resort on Mackinac Island, Michigan, featuring:

- plenary and breakout sessions covering hot topics and recent developments in bankruptcy law
- expert consumer and commercial insolvency professionals, including 17 sitting judges
- networking opportunities at one of Northern Michigan's most exciting destinations

FRIDAY, JULY 29

8:00 am – 5:00 pm

3rd Trial Advocacy Skills Workshop (ADVANCE REGISTRATION REQUIRED)

Mission Point Resort
Mackinac Island, Michigan

Faculty:

Hon. Jane M. Beckering
U.S. District Court
Western District of Michigan

Hon. Hala Y. Jarbou
U.S. District Court
Western District of Michigan

Hon. Robert J. Jonker
U.S. District Court
Western District of Michigan

Hon. Sally J. Berens
U.S. District Court
Western District of Michigan

Hon. Phillip J. Green
U.S. District Court
Western District of Michigan

Hon. Maarten Vermaat
U.S. District Court
Western District of Michigan

Hon. Christopher P. Yates
Michigan Court of Appeals

Coordinator:

Michelle M. Wilson
Clerk of the Court
U.S. Bankruptcy Court
Western District of Michigan



FRIDAY, JULY 29 (continued)

- 4:00 – 6:00 pm Registration
Mission Point Resort
Mackinac Island, Michigan
- 5:00 – 6:00 pm First Timers Mixer with FBA Steering Committee Members and Judges (INVITATION ONLY)
Mission Point Resort
Mackinac Island, Michigan
- 6:00 – 10:00 pm 8th Annual Dennis Chamberlain Friending Reception (ALL INVITED)
Mission Point Resort
Mackinac Island, Michigan
Cocktails and Hors d'oeuvres



SATURDAY, JULY 30

8:00 – 9:00 am BREAKFAST WITH THE JUDGES

Description: Moderator Jon Moothart, with the benefit of some devious fact patterns created by the law clerks to the bankruptcy judges, will pose thorny practical questions for each table to ponder. The emphasis will be on difficult ethical issues that all bankruptcy lawyers will encounter. Enjoy breakfast in a small group setting with one of our guest judges at your table.

United States District Court Judges: Chief Judge Robert J. Jonker, Judge Hala Y. Jarbou and Judge Jane M. Beckering

United States Magistrate Judges: Judge Phillip J. Green, Judge Sally J. Berens and Judge Maarten Vermaat

United States Bankruptcy Court Judges: Chief Judge Scott W. Dales, Judge James W. Boyd, Judge John T. Gregg, Chief Judge Daniel S. Opperman, Judge Maria L. Oxholm, Judge Lisa S. Gretchko, Judge Mark A. Randon, Chief Judge Gregory Schaaf, Chief Judge Mary Ann Whipple and Judge Jeffrey P. Norman

Michigan Court of Appeals: Judge Christopher P. Yates

Moderator: Jonathan R. Moothart, Moothart & Sarafa PLC



SATURDAY, JULY 30 (continued)

9:05 – 10:05 am

BREAKOUT SESSIONS

Session A: *The Non-Filing Spouse Dilemma in Consumer Cases*

Description: This consumer panel will examine the non-filing spouse dilemma. What if the NFS isn't a happy camper and doesn't cooperate? How are the NFS's income and expenses accounted for in Chapter 13? How about the NFS's share of the income tax refunds in a Chapter 7 case, or the impact of tenancy by the entirety ownership on the Debtor's case in both Chapter 7 and 13?

Presenters: Elizabeth T. Clark
Office of Brett N. Rodgers, Chapter 13 Trustee

Michelle Marrs
Marrs & Terry, PLLC

Aaron J. Kenyon
Dietrich & Kenyon, PLLC

Hon. Jeffrey P. Norman (Moderator)
U.S. Bankruptcy Court
Southern District of Texas

Session B: *If You Were the Judge, What Would You Do?* [Consumer]

(All are welcome; however, this hour is focused on issues of interest to *consumer* practitioners. The Sunday 8:00 am panel will focus on issues of interest to commercial practitioners.)

Description: Once again, our popular, highly experienced presenters will discuss hypothetical consumer situations and ask, "if you were the judge, what would you do?"

Presenters: David A. Lerner
Plunkett Cooney, P.C.
Steven L. Rayman
CBH Attorneys & Counselors



SATURDAY, JULY 30 (continued)

Session C: *Dancing with Wolves: The Chase Into Chapter 11!*

Description: How do you handle difficult commercial litigation that ends up in Chapter 11? The litigators (often both sides) may have poisoned the well. Does the automatic stay apply to claims against non-debtors, who remain as state court defendants? Is state court discovery stayed by the bankruptcy? Should a creditor immediately file a motion for relief from the automatic stay? Does abstention come into play? What role does mediation play? And how does the debtor afford all of this litigation? These and other thorny issues will be addressed by this panel of seasoned bankruptcy practitioners.

Presenters: Ann Marie Uetz
Foley & Lardner LLP

Brendan G. Best
Varnum LLP

Andrew J. Gerdes
Capital Bankruptcy

Hon. Daniel S. Opperman (Moderator)
U.S. Bankruptcy Court
Eastern District of Michigan

10:05 – 10:25 am Coffee Break



SATURDAY, JULY 30 (continued)

10:25 – 11:25 am

BREAKOUT SESSIONS

Session D: *Unusual, Alternative, and Just Weird Assets: The Debtor Owns Them, So What Do We Do With Them?*

Description: You've read about Blockchain, Crypto, Coinbase, Bitcoin, NFTs (non-fungible tokens), and odd collectibles. What are they? How do you account for them on the schedules? How do you value assets like this? Can a trustee administer them? This expert panel will tell you how to locate, control and, if necessary, dispose of these assets.

Presenters: Ryan F. Beach
Law Office of Ryan F. Beach, PLLC

Michael P. Hanrahan
CBH Attorneys & Counselors

Ian Northon
Rhoades McKee, P.C.

Hon. James W. Boyd (Moderator)
U.S. Bankruptcy Court
Western District of Michigan



SATURDAY, JULY 30 (continued)

Session E: *East Loves West? East Meets West? East Versus West?*

Description: Over the years, the old stereotypes of big-city sharks versus country hicks have gone by the wayside; in fact, attorneys regularly practice in both districts, and educational efforts typically involve both districts. But some differences—certainly respectful—still exist. This panel will note the similarities, and contrast the differences, between the two districts in both consumer and commercial contexts.

Presenters: April Hulst
CBH Attorneys & Counselors

Susan M. Cook
Warner Norcross + Judd LLP

Susan Jill Rice
Alward Fisher

Hon. John T. Gregg (Moderator)
U.S. Bankruptcy Court
Western District of Michigan



SATURDAY, JULY 30 (continued)

Session F: *Formulating a Confirmable Chapter 11 Plan in a Not-So-Ideal World*

Description: Chapter 11 plans are often consensual as the byproduct of significant negotiation among the various stakeholders. . . in an ideal world. But what happens when the world is less than ideal? This high-level discussion regarding confirmation issues in Chapter 11 will focus on, among other things, creditor impairment, the solicitation of votes and the sale of claims, the gerrymandering of classes, and the designation of votes for cause.

Presenters: Elisabeth M. Von Eitzen
Warner Norcross + Judd LLP

A. Todd Almassian
Keller & Almassian, PLC

Marc M. Bakst
Bodman, PLC

Hon. Mark A. Randon (Moderator)
U.S. Bankruptcy Court
Eastern District of Michigan

11:30 am – 12:30 pm

PLENARY SESSION: *The Economy and Bankruptcy Filings: Where We've Been and What Comes Next?*

Presenter: Dr. William T. Rule, II, Ph.D., Senior Economist
Administrative Office of the United States Courts



SATURDAY, JULY 30 (continued)

4:30 – 6:00 pm **Speaker & Sponsor Reception (INVITATION ONLY)**
Mission Point Resort
Mackinac Island, Michigan

6:00 pm **Dinner (Additional Cost, Advanced Registration Required)**
Mission Point Resort
Mackinac Island, Michigan



SUNDAY, JULY 31

8:00 – 9:00 am

Session G: *Alternatives to Bankruptcy*

Description: This panel will discuss the current state of alternatives to bankruptcy in Michigan, such as receiverships, assignments for the benefit of creditors, out-of-court workouts, and UCC Article 9 sales and foreclosures. How do these work and what is their impact on a company's directors and officers?

Presenters: Patricia J. Scott
Foster, Swift, Collins & Smith, P.C.

Kelli L. Baker
Plunkett Cooney, P.C.

Charles D. Bullock
Stevenson & Bullock, P.L.C.

Hon. Christopher P. Yates (Moderator)
Michigan Court of Appeals

Session H: *If You Were the Judge, What Would You Do?* [Commercial]

(All are welcome; however, this hour is focused on issues of interest to *commercial* practitioners. The Saturday 9:05 am panel will focus on issues of interest to consumer practitioners.)

Description: Once again, our popular, highly experienced presenters will discuss hypothetical commercial situations and ask, "if you were the judge, what would you do?"

Presenters: David A. Lerner
Plunkett Cooney, P.C.

Steven L. Rayman
CBH Attorneys & Counselors



SUNDAY, JULY 31 (continued)

Session I: *Current Mortgage Issues in Chapter 13 and Chapter 7*

Description: This panel will discuss Fed. R. Bankr. P. 3002.1 and possible modifications to the rule, damages under the rule, and how to address an aggressive creditor when damages are limited. The panel will also discuss mortgage forbearance agreements, particularly in light of Covid-19, how the pandemic has affected lenders' collection strategies, and what lenders are likely to do in the future. Also, "hot" mortgage avoidance issues in Chapter 7 cases will be reviewed.

Presenters: Lisa K. Mullen
Office of David Ruskin, Chapter 13 Trustee

Crystal Price-Buckley
Trott Law, P.C.

Jeremy B. Shephard
USADebt Bankruptcy Attorneys

Hon. Lisa S. Gretchko (Moderator)
U.S. Bankruptcy Court
Eastern District of Michigan



SUNDAY, JULY 31 (continued)

9:05 – 10:05 am

Session J: *Split Open and Melt*

Description: After over forty years, the courts continue to disagree on numerous issues, some of which are encountered by practitioners on a daily basis. Our insightful panel of bankruptcy practitioners will highlight certain consumer and commercial issues that remain unsettled in the Sixth Circuit, as well as “hot” national issues.

Presenters: Rozanne M. Guinta
Warner Norcross + Judd LLP

Paul R. Hage
Jaffe, Raitt, Heuer & Weiss

Elizabeth K. Lamphier
Office of the U.S. Trustee

Hon. Maria L. Oxholm (Moderator)
U.S. Bankruptcy Court
Eastern District of Michigan



SUNDAY, JULY 31 (continued)

Session K: *Valuation in Chapter 11*

Description: Valuation issues are often perceived to be as bland as the title of this program. While that may at times be true, without understanding basic valuation principles, any bankruptcy practitioner's skillset is lacking. Join this expert panel of bankruptcy professionals and one mathematically-minded judge as they explore the relationship of valuation to numerous facets of daily bankruptcy practice, including plan confirmation issues, disputes regarding secured claims, sale motions, and relief from the automatic stay,

Presenters: Perry G. Pastula

Dunn, Schouten & Snoap, PC

Marc N. Swanson

Miller, Canfield, Paddock and Stone, P.L.C.

Patrick W. O'Keefe

O'Keefe

Hon. Joel D. Applebaum (Moderator)

U.S. Bankruptcy Court

Eastern District of Michigan



SUNDAY, JULY 31 (continued)

Session L: *I Want to Sell Your Home!!*

Description: This panel will focus on sales in consumer cases particularly in light of the hot real estate market, how Section 363 really works, sales free and clear of liens, sales of co-owned property, appreciation in conversion cases, evicting or otherwise dealing with a recalcitrant debtor, carve-outs, and exemptions.

Presenters: Rebecca L. Johnson-Ellis
USADebt Bankruptcy Attorneys

Tracy M. Clark
Steinberg, Shapiro & Clark

Kelly M. Hagan
Hagan Law Office, PLC

Hon. Mary Ann Whipple (Moderator)
U.S. Bankruptcy Court
Northern District of Ohio

10:05 – 10:25 am

Coffee Break



SUNDAY, JULY 31 (continued)

10:25 – 11:25 am

Session M: *Creative Ch. 13 Plan Drafting; How Far Can You Go, and What Can You Do?*

Description: Model Chapter 13 Plans allow for nonstandard provisions which are not otherwise included in the Model Plan. How creative can you be without running afoul of the Chapter 13 trustee or the Bankruptcy Code? How far can you think “outside of the box”? Can you address attorney fees in nonstandard provisions? Student loan claims? Other nondischargeable claims? This panel will tell you what you can do, and how to do it.

Presenters: Courtney K. Roberts
Office of Barbara P. Foley, Chapter 13 Trustee

Greg J. Ekdahl
Keller & Almassian, P.C.

Steven M. Bylenga
CBH Attorneys & Counselors

Hon. John T. Gregg (Moderator)
U.S. Bankruptcy Court
Western District of Michigan



SUNDAY, JULY 31 (continued)

Session N: *SBRA Update*

Description: This panel will review current trends and issues in SBRA cases, such as strategies for confirmation, consensual versus cramdown plans, what happens after confirmation, the involvement of Sub V trustees, how they are being paid, and whether they can employ and pay professionals.

Presenters: Ken Lau

Office of the U.S. Trustee

Scott A. Chernich

Foster, Swift, Collins & Smith, PC

Kimberly R. Clayson

Jaffe, Raitt, Heuer & Weiss

Hon. Gregory Schaaf (Moderator)

U.S. Bankruptcy Court

Eastern District of Kentucky



SUNDAY, JULY 31 (continued)

Session O: *Managing E-Discovery in Bankruptcy Cases*

Description: All consumer and commercial bankruptcy lawyers will encounter the discovery of electronically stored information (ESI), which refers to information existing in digital form, such as email systems, text messages, spreadsheets, and data bases. This panel will discuss the complexities and costs of e-discovery, proportionality, how to address e-discovery in typical bankruptcy litigation, and best practices when addressing e-discovery issues.

Presenters: Jason W. Bank
Kerr, Russell and Weber, PLC
Shaun Fitzpatrick
Fortz Legal Support, LLC
Madelaine C. Lane
Warner Norcross + Judd LLP
Hon. Phillip J. Green (Moderator)
U.S. District Court
Western District of Michigan

11:30 am – 12:30 pm **PLENARY SESSION: *Caselaw Update***

Presenters: Thomas D. DeCarlo
Osipov Bigelman, P.C.
Laura J. Genovich
Foster, Swift, Collins & Smith PC
Hon. James W. Boyd (Moderator)
U.S. Bankruptcy Court
Western District of Michigan



SEMINAR PLANNING COMMITTEE

Seminar Co-chairs:

Elisabeth M. Von Eitzen
Warner Norcross + Judd LLP

Lisa A. Hall
Plunkett Cooney, P.C.

Educational Co-chairs:

Hon. James W. Boyd
U.S. Bankruptcy Court
Western District of Michigan

Hon. John T. Gregg
U.S. Bankruptcy Court
Western District of Michigan

Michelle M. Wilson
U.S. Bankruptcy Court
Western District of Michigan

Consumer Committee:

Elizabeth T. Clark
Office of Brett N. Rodgers
Chapter 13 Trustee

Michael P. Hanrahan
CBH Attorneys & Counselors

Ryan F. Beach
Law Offices of Ryan F. Beach, PLLC

Commercial Committee:

A. Todd Almassian
Keller & Almassian, PLC

Paul R. Hage
Jaffe Raitt Heuer & Weiss

Patricia J. Scott
Foster, Swift, Collins & Smith, P.C.

