

35TH ANNUAL BANKRUPTCY SECTION SEMINAR

FEDERAL BAR ASSOCIATION
WESTERN DISTRICT OF MICHIGAN



July 27 – July 29, 2023

The Federal Bar Association for the Western District of Michigan invites you to attend this year's educational seminar at the Park Place Hotel in Traverse City, Michigan, featuring:

- plenary and breakout sessions covering hot topics and recent developments in bankruptcy law
- expert consumer and commercial insolvency professionals, as well as over 20 federal and state court judges
- networking opportunities at one of Northern Michigan's most exciting destinations

THURSDAY, JULY 27

8:30 am – 5:00 pm

4th Annual Trial Advocacy Skills Workshop (ADVANCE REGISTRATION REQUIRED)

Robert P. Griffin Hall of Justice

Traverse City, Michigan

Faculty:

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

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

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

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

Hon. Scott W. Dales
U.S. Bankruptcy Court
Western District of Michigan

Hon. Christopher P. Yates
Michigan Court of Appeals

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



THURSDAY, JULY 27 (continued)

- 4:00 – 6:00 pm Registration
Park Place Hotel, Lobby
Traverse City, Michigan
- 5:00 – 6:00 pm First Timers Mixer with FBA Steering Committee Members and Judges (INVITATION ONLY)
Park Place Hotel, Conference Center
Traverse City, Michigan
- 6:00 – 10:00 pm 9th Annual Dennis Chamberlain Friending Reception (ALL INVITED)
Sponsored by Distel Thiede Advisory Services
Park Place Hotel, Conference Center
Traverse City, Michigan
Cocktails and Hors d'oeuvres



FRIDAY, JULY 28

8:00 – 9:00 am

BREAKFAST WITH THE JUDGES

Sponsored by Plunkett Cooney

Park Place, Grandview I

Description: Moderator Jon Moothart, with the benefit of some devious fact patterns created by the law clerks to the bankruptcy judges, will again 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 judges at your table.

United States District Court Judges: Chief Judge Hala Y. Jarbou, Judge Robert J. Jonker 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 Mark A. Randon, Judge Maria L. Oxholm, Judge Joel D. Applebaum, Judge Lisa S. Gretchko, Chief Judge Mary Ann Whipple, Judge Alan M. Koschik, Judge John P. Gustafson, Judge Tracey N. Wise, Judge Paul H. Singleton, Judge Robert D. Drain (ret.) and Judge James D. Gregg (ret.)

Michigan Court of Appeals: Judge Christopher P. Yates

Moderator: Jonathan R. Moothart, Moothart & Sarafa



FRIDAY, JULY 28 (continued)

9:05 – 10:05 am

BREAKOUT SESSIONS

Session A: *Concrete or Quicksand: The Foundation of a Confirmable Chapter 13 Plan (Consumer)*

Park Place, Front Conference Room

Description: This experienced panel representing the primary stakeholders in any chapter 13 case will address recent developments related to plan confirmation while revisiting certain aspects of any proposed plan likely to attract attention from parties or, even worse, the court. Among other things, the panel will discuss the date upon which the applicable commitment period commences, preconfirmation payments, classification of claims, and satisfaction of attorneys' fees and trustee commissions upon preconfirmation dismissal or conversion.

Presenters: Charissa Potts

Freedom Law

Kurt Steinke

Office of Barbara P. Foley, Chapter 13 Trustee

Elizabeth M. Abood-Carroll

Orlans

Hon. Mary Ann Whipple (Moderator)

U.S. Bankruptcy Court

Northern District of Ohio



FRIDAY, JULY 28 (continued)

Session B: *Rules? There Are Rules? - Using the Federal Rules of Bankruptcy Procedure to Your Advantage (Cross-Over)*

Park Place, Park Conference Room

Description: The Federal Rules of Bankruptcy Procedure can both giveth and taketh away. Join this seasoned panel of professionals and one enthusiastic moderator for a strategic discussion regarding both common and often overlooked procedural weapons. Just be prepared for The Rules Enabling Act....

Presenters: Allison R. Bach
Dickinson Wright

Elizabeth K. Lamphier
Office of the United States Trustee

Ann Marie Uetz
Foley & Lardner

Hon. Scott W. Dales (Moderator)
U.S. Bankruptcy Court
Western District of Michigan



FRIDAY, JULY 28 (continued)

Session C: *Burn It Down: The Cannabis Industry Aflame (Commercial)*

Sponsored by Warner Norcross + Judd

Park Place, Boardman Conference Room

Description: What on earth is going on in the Michigan cannabis industry? Why are there dispensaries on just about every streetcorner? Several cannabis entities are currently the subject of state court receiverships. Why is this occurring, and how are they reorganizing? How distanced from the cannabis industry must a debtor be in order to file for bankruptcy protection? This expert panel will review the cannabis industry in Michigan, how it's evolved over the past few years, and how it is likely to unfold in the future.

Presenters: Charles D. Bullock

Stevenson & Bullock

Robert A. Hendricks

Warner Norcross + Judd

Patrick O'Keefe

O'Keefe

Hon. Christopher P. Yates (Moderator)

Michigan Court of Appeals

10:05 – 10:25 am

Coffee Break

Sponsored by Miller Canfield

Park Place, Conference Center Hall



FRIDAY, JULY 28 (continued)

10:25 – 11:25 am

Session D: *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 Saturday 10:30 am panel will focus on issues of interest to commercial practitioners.)

Sponsored by CBH Attorneys & Counselors

Park Place, Front Conference Room

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

Steven L. Rayman

CBH Attorneys & Counselors

Session E: *Exemptions. Period. (Consumer)*

Park Place, Park Conference Room

Description: If the debtor wants to keep it, he must claim it, and then attempt to retain it. That sounds easy, but the analysis can be treacherous. This panel will examine various exemption issues, including trustee/mortgagee carveouts, competing exemption schemes, tenancy by the entirety in Chapter 13, and the effect of conversion.

Presenters: Harlee Alexander

Russell, Tighe & Alexander

Rebecca L. Johnson-Ellis

USADebt Bankruptcy Attorneys

Tracy M. Clark

Steinberg, Shapiro & Clark

Hon. Joel D. Applebaum (Moderator)

U.S. Bankruptcy Court

Eastern District of Michigan



FRIDAY, JULY 28 (continued)

Session F: *It Ain't Over Yet: Post-Confirmation Issues in Chapter 11 (Commercial)*
Sponsored by Rhoades McKee

Park Place, Boardman Conference Room

Description: As tempting as it may be to raise a glass at a consensual confirmation hearing, the work is far from done. After all, the court may have some questions or, perhaps even worse, the confirmed plan and confirmation order may not be as airtight as you once thought. This panel will discuss various confirmation and post-confirmation issues in chapter 11, including exculpation, post-confirmation structure and governance, jurisdictional limitations, modifications under section 1127, and the effect of confirmation/discharge under section 1141.

Presenters: Brendan G. Best
Varnum

Jacob L. Carlton
Miller Johnson

Julie B. Teicher
Maddin Hauser

Hon. Alan M. Koschik (Moderator)
U.S. Bankruptcy Court
Northern District of Ohio

11:30 – 11:45 am

Awards Presentation
Park Place, Grandview I



FRIDAY, JULY 28 (continued)

11:45 am – 12:45 pm

Session G: A Conversation with Hon. Robert D. Drain (Plenary)

Park Place, Grandview I

Description: Over his twenty years serving as a bankruptcy judge in the Southern District of New York, Judge Drain presided over numerous high-profile commercial bankruptcy cases, including *Purdue Pharma*, *Sears*, *Delphi Automotive* and *Hostess* while also confronting some of the most challenging consumer bankruptcy issues in the country. Judge Drain joins us for a candid discussion regarding some of these matters, as well as his thoughts on the role of a bankruptcy judge. The moderator will be taking notes. . . .

Presenters: Hon. Robert D. Drain (ret.)
U.S. Bankruptcy Court
Southern District of New York

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

4:30 – 6:00 pm

Speaker/Sponsor Reception

Sponsored by Warner Norcross + Judd and Keller & Almassian

Park Place, Top of the Park
Traverse City, Michigan
Cocktails and Hors d'oeuvres



SATURDAY, JULY 29 (continued)

SATURDAY, JULY 29

7:00 – 7:45 am **Breakfast**
Park Place, Grandview I

8:00 – 9:00 am **Session H: *I Knew That Stuff Was Fake: Crypto Redux (Cross-Over)***
Sponsored by Taft
Park Place, Front Conference Room

Description: *FTX. Voyager. Celsius. Binance.* What is going on with the meltdown in crypto? And how does the instability of this unregulated, digital currency impact property of the estate and governmental oversight? Join this highly-experienced panel to find out “what’s in your wallet”—if anything.

Presenters: Paul R. Hage
 Taft Stettinius & Hollister

Landon Raiford
Jenner & Block

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



SATURDAY, JULY 29 (continued)

Session I: *Avoid It. All of It. (Cross-Over)*
Sponsored by Miedema Asset Management Group
Park Place, Park Conference Room

Description: This prolific panel will address various topics regarding avoidance actions on both a consumer and commercial front under the Bankruptcy Code and applicable non-bankruptcy law, including standing, the statute of limitations, the impact on the liquidation analysis, prima facie elements of causes of action, affirmative defenses, and the elusive golden creditor.

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

Sandra S. Hamilton
Clark Hill

Marcia R. Meoli
Marcia R. Meoli

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



SATURDAY, JULY 29 (continued)

Session J: *No Bankruptcy For You! Alternatives for Dealing with Student Loans (Consumer)*

Sponsored by Keller & Almassian

Park Place, Boardman Conference Room

Description: Gain insight from this experienced panel as they identify and address recent trends in student loan non-dischargeability actions, non-bankruptcy relief programs, and the forgiveness of student loan debt for those eligible, including the recent DOJ guidance for discharging student loans in bankruptcy.

Presenters: Michelle H. Bass

Wolfson Bolton Kochis

Nicholas S. Laue

Keller & Almassian

Nicole L. Mazzocco

United States Attorney's Office

Western District of Michigan

Hon. John P. Gustafson (Moderator)

U.S. Bankruptcy Court

Northern District of Ohio



SATURDAY, JULY 29 (continued)

9:05 – 10:05 am

Session K: *Claims – They Seem So Simple. Right? (Cross-Over)*

Sponsored by Miller Canfield

Park Place, Front Conference Room

Description: For over forty years, the statutory provisions and rules regarding proofs of claim have remained, for the most part, unchanged. Yet the procedural aspects of claim adjudication remain subject to dispute. This crossover panel will address recent developments regarding proofs of claim, objections thereto, deadlines, applicable rules, and related notice/service requirements.

Presenters: Matthew L. Boyd
Taunt Law Firm

Michael E. Moore
Miller Canfield

Susan Jill Rice
Alward Fisher

Hon. Tracey N. Wise (Moderator)
U.S. Bankruptcy Court
Eastern District of Kentucky



SATURDAY, JULY 29 (continued)

Session L: *Wash, Rinse and Repeat: Consumer Mortgages and Bankruptcy (Consumer)*

Park Place, Park Conference Room

Description: Some programs are so good that they cannot be repeated. Or can they? Join this panel for part two of their popular program from last year addressing all things mortgages in consumer bankruptcy cases.

Presenters: Lisa K. Mullen
Community Financial Credit Union

Karen Rowse-Oberle
Butler Rowse-Oberle

Jeremy Shephard
USADebt Bankruptcy Attorneys

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



SATURDAY, JULY 29 (continued)

Session M: *Getting What You Want From the Court (Cross-Over)*

Park Place, Boardman Conference Room

Description: This panel of judges will provide strategies and insights with respect to oral advocacy, including what is persuasive, and just as importantly, what is NOT.

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

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

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

A. Todd Almassian (Moderator)
Keller & Almassian

10:05 – 10:25 am

Break

Sponsored by Miller Canfield

Park Place, Conference Center Hall



SATURDAY, JULY 29 (continued)

10:30 – 11:30 am

Session N: *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 Friday 10:25 am panel will focus on issues of interest to consumer practitioners.)

Sponsored by Plunkett Cooney

Park Place, Front Conference Room

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

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



SATURDAY, JULY 29 (continued)

Session O: *Over, Under and Through – Whatever It Takes to Obtain a Discharge in Chapter 13 (Consumer)*

Park Place, Park Conference Room

Description: Sometimes it's easier to get the Chapter 13 plan confirmed than it is to reach the finish line over the life of a plan. Jobs and income are lost. Debtors become ill or get divorced. Vehicles wear out. Attorneys file last minute fee applications. This panel will discuss the pitfalls Chapter 13 debtors face in obtaining that elusive discharge under section 1328, including when, why and how a plan can be modified under section 1329.

Presenters: Laura C. Duncan

Dietrich & Kenyon

Barbara P. Foley

Office of Barbara P. Foley, Chapter 13 Trustee

James R. Oppenhuizen

Oppenhuizen Law Firm

Hon. Mark A. Randon (Moderator)

U.S. Bankruptcy Court

Eastern District of Michigan



SATURDAY, JULY 29 (continued)

Session P: *Nothing As It Seems: Understanding the Subtleties of the SBRA (Commercial)*

Sponsored by Distel Thiede Advisory Services

Park Place, Boardman Conference Room

Description: Sub-V continues to be subject to differing interpretations, resulting in some lingering uncertainties. This panel will address recent developments in SBRA cases, including post-confirmation modifications, non-dischargeable debts of corporate debtors, the amorphous fair and equitable standard, and the differences between consensual and cramdown plans.

Presenters: Kimberly R. Clayson
Taft Stettinius & Hollister

David Distel
Distel Thiede Advisory Services

Greg Ekdahl
Keller & Almassian

Hon. Paul H. Singleton (Moderator)
U.S. Bankruptcy Court
Northern District of Indiana

11:35 am – 12:35 pm

Session Q: *Caselaw Update*

Park Place, Grandview I

Presenters: Thomas D. DeCarlo
Osipov Bigelman

Laura J. Genovich
Foster Swift Collins & Smith

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



SEMINAR PLANNING COMMITTEE

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Plunkett Cooney

Elisabeth M. Von Eitzen
Warner Norcross + Judd

Educational Co-chairs:

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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:

Ryan F. Beach
Law Offices of Ryan F. Beach

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

Michael P. Hanrahan
CBH Attorneys & Counselors

Commercial Committee:

A. Todd Almassian
Keller & Almassian

Paul R. Hage
Taft Stettinius & Hollister

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