

THE FIFTH ANNUAL EMORY BANKRUPTCY DEVELOPMENTS JOURNAL SYMPOSIUM

March 6, 2008

INTRODUCTION

The *Emory Bankruptcy Developments Journal* hosted its Fifth Annual Symposium on March 6, 2008. The Symposium addresses prevailing bankruptcy topics in a format that provide practicable information to today's bankruptcy practitioners. In that effort, the Journal enjoys tremendous support from Atlanta's bankruptcy and financial community. We at the Journal would like to extend our thanks to our generous sponsors and our unwavering Advisory Board members.

This year's Symposium, through three moderated panels, addressed pertinent issues affecting consumer, business and general bankruptcy litigation. The Honorable Paul W. Bonapfel, United States Bankruptcy Judge for the Northern District of Georgia, moderated each of this year's three panels. The first panel, entitled "The Rise of Non-Bankruptcy Consumer Actions and Emerging Trends in Consumer Bankruptcy Litigation," addressed consumer mortgage claim disputes. Howard D. Rothbloom, principal in his own Marietta-based law firm, argued for the debtor. Mr. E. Franklin Childress, Jr., shareholder in the Memphis office of Baker Donelson and leader of their Bankruptcy & Restructuring practice group, argued for the creditor. Beth Anne Harrill, law clerk to the Honorable Paul Bonapfel and Journal Advisory Board Member, prepared the materials for this panel and her significant contributions lent greatly to its success.

The second panel, entitled "Emerging Trends in Chapter 11 Litigation and Evidentiary Issues in Bankruptcy," addressed trustee claims against professionals and evidentiary issues. Harris Winsberg, who concentrates his practice in the areas of bankruptcy law and corporate restructuring matters at Troutman Sanders LLP, and Kit Weitnauer, a member of the Bankruptcy Group at Alston & Bird, served as panelists. Mr. Weitnauer and Mr. Winsberg and Felton Parrish, King & Spalding LLP and Journal Advisory Board

Member, and Jennifer Meyerowitz, Alston & Bird LLP and Journal Advisory Board Member, all contributed significantly to the development of this panel.

The final panel addressed alternative dispute resolution and its application to consumer and business bankruptcies. Marjorie L. Girth, Professor and former Dean at Georgia State University's College of Law, and Robert E. Meade, Senior Vice President for Program Development of the American Arbitration Association, served as panelists. The panel addressed the variety of alternative dispute resolution products available to today's bankruptcy practitioner. Professor Girth, along with Michael Tillman-Davis, the Georgia State College of Law's Reference Librarian, and his research assistants, Chiquita Woolfolk Banks and Keith Hayasaka, contributed their tremendous skills and talents to the panel's development.

The following represents an edited transcript of the panels. Again, the Journal would like to thank the efforts of its Advisory Board members, the panelists, and our moderator for their exceptional efforts on our behalf. Finally, I would like to thank Noel Bartels, Editor-in-Chief, Melody Bray, Symposium Editor, and the Journal Staff for their personal efforts toward the success of this year's symposium.

KEVIN A. SPAINHOUR
EXECUTIVE SYMPOSIUM EDITOR

WELCOME

KEVIN SPAINHOUR: Good morning, ladies and gentlemen, I think we're going to begin. My name is Kevin Spainhour, and I want to welcome you to the Emory Bankruptcy Developments Journal, Fifth Annual Bankruptcy Symposium. I want to start by saying that we at the Journal could not undertake an event such as this without a tremendous amount of help from the bankruptcy community. Specifically, I want to thank our sponsors for this event, and very specifically I want to thank the advisory board members of the Journal. Particularly, I want to point out Jennifer Meyerowitz from Alston & Bird, Felton Parrish from King & Spalding, Brett Berlin from Jones Day, and Beth Anne Harrill, who is the law clerk to the Honorable Paul Bonapfel.

I also want to take a brief moment to thank the Journal staff, in particular, Noel Bartels, our Editor-in-Chief and Melody Bray, our Symposium Editor. And, finally, I want to thank the staff, faculty, and the administration of Emory University School of Law. And, at this time, I would like to introduce to you Dean David Partlett.

Dean Partlett assumed the deanship of Emory Law in July of 2006. Prior to that, he was the vice president, dean, and professor of law at Washington and Lee University in Virginia. He also held positions in the Australian government where he was instrumental and responsible for policy advice on the racial discrimination act and other related human rights and racial discrimination legislation. He currently also holds an academic position here at Emory University and he remains an active scholar with recent work focusing on tort law, defamation, free speech, child mental health, and medical malpractice. I give you Dean Partlett.

DEAN PARTLETT: Thank you very much, Kevin. It was a very nice introduction, and I want to welcome everyone to the Symposium, the Fifth Symposium. I just want to say how proud we are at Emory Law of the Bankruptcy Journal. Its established an enviable reputation in the field. We've got just a wonderfully distinguished panel of experts today to discuss pressing matters relating to the topics of today, and there are many pressing matters in the bankruptcy area.

Bankruptcy never seems to disappoint. There are the economy, the power of the economy, its global reach, its fluctuations, all produce a kaleidoscope of

legal and policy issues that we can chew on and that are of surpassing importance. And they're of importance to the great corporations and to the humble consumer. Now, I'm an old tort lawyer and tort law is very simple. We realize that there are great institutions sitting behind tort law. There's insurance and, of course, the other aspect of tort law that tort students don't always get much of in that first year classroom is bankruptcy. So much of complex tort litigation, of course, ends in bankruptcy. I know myself spending far too many days in Bay City, Michigan on the silicone breast implant litigation when that was taking place in the bankruptcy court in the Eastern District of Michigan at the time. Bay City, Michigan is not a place to spend a lot of time. But it was remarkable that in this courtroom, a small courtroom, we had lawyers from all over the country, all over the world then, as a matter of fact, because we were working out what the settlement should be in respect of all the international claimants, as well as, all the domestic claimants in that bankruptcy.

So, as I look at the panelists today, I see that we've got a tremendous wealth of talent and expertise, and I know that the collaborations of the day will start to unearth all sorts of possibilities for us and certainly reveal some wonderful information and perspectives on the issues of the day. Along with Kevin, let me thank the sponsors; without the sponsors, this symposium would not be possible. It's an extraordinary Board that we have here, and we've got a superb editorial. My colleagues, Charlie Shanor and Fred Tung, who are the faculty representatives, do a marvelous job, I think, in supporting the work of the Bankruptcy Journal. Keith Shapiro, our alumni representative, is tireless in his support of the work of the Bankruptcy Journal. I see him from time to time around the country. I saw him in Washington, D.C. recently, and he speaks very enthusiastically about what is happening here and continues his support. So, I hope the proceedings of the day will inspire all of our visitors to come back to Emory Law often. This is a wonderful community. It's one that's denoted by the closeness of the contact between faculty and students and by its intellectual vibrancy. So, I wish you all the best as you go ahead today and again thanks to all of the organizers and thanks to all of you who traveled here from various parts to be with us. Thank you.

KEVIN A. SPAINHOUR
EXECUTIVE SYMPOSIUM EDITOR