



College Inducts Twenty-First Class



▲ Class XXI Inductees March 12, 2010

Harvey Miller Presents: Bankruptcy and Reorganization, through the Looking Glass of 50 Years (1960-2010)

By Jo Ann J. Brighton

Renowned bankruptcy lawyer, Harvey Miller, delivered the Keynote Address at the induction of the Class XXI Fellows on March 12, 2010. The address was entitled "Bankruptcy and Reorganization, through the Looking Glass of 50 Years (1960-2010)."



▲ Harvey R. Miller

In introducing that he was going to speak about a 50 year perspective on bankruptcy and reorganization law, Mr. Miller's opening comment was: "...all I can say is that it has been one hell of a half Century!!!" Mr. Miller described bankruptcy as a "substantive and procedural process that is intended to resolve the claims to the assets of a debtor that is unable to satisfy its obligations and that may be insufficient to satisfy all legitimate claims." He noted that bankruptcy has "expanded in scope and size to include a variety of third parties with different objectives propelled by the hope of financial gains."

Mr. Miller started looking at the 1960's and discussed how, at that time, bankruptcy was considered to be a "substrata of commercial law, a small, arcane undesirable practice inhabited, allegedly by somewhat shady groups accused of feeding off the carcasses of failures." He also

"...all I can say is that it has been one hell of a half Century!!!"

noted that most elite law schools did not offer a bankruptcy course at that time. He also reminded the audience that federal courts were considered "too formalistic to assist in bankruptcy cases" and that debtor creditor issues were resolved through "the medium of common law compositions or in state courts through reownerships and assignments for the benefit of creditors." He reminisced that bankruptcy cases at that time were filed in the United States District Court and referred to, and administered by, referees (who presided over bankruptcy

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Neal Batson: A Tapestry Filled with Strong Fibers of Leadership

Excerpt from the Presentation of the Distinguished Service Award to Neal Batson by Raymond L. Shapiro.

**March 13, 2010
Washington, D.C.**

The Distinguished Service Award is the Highest Honor given by the College. Ray Shapiro's warm presentation to Neal Batson reflected on Neal's career as a pre-eminent lawyer and leader in the legal community. The following is an excerpt from Ray's remarks.



▲ R. Neal Batson

Today the College honors Richard Neal Batson with our Distinguished Service Award.

I first met Neal in the Cajun Electric case in the late 1980s. He represented the Debtor, and I represented a bank with a significant exposure. The Cajun Case, afforded me the opportunity to observe Neal in action.

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College Succeeds by a Small Amount of Financial Resources and a Large Amount of Effort and Intellect

Chair's Column

Paul M. Singer, Chair



▲ Paul M. Singer

We have just admitted our new class of Fellows at a very compelling ceremony in the Supreme Court. As in the past, our new colleagues come from all areas of the country, from Canada and Germany, and from all areas of our profession: academics, judges, Chapter 13 trustees, lawyers, and financial professionals. Our College has been very successful since its inception 21 years ago. This class will continue that legacy. I continue to believe that our institutional success would not have occurred except for the willingness of Fellows to pool a small amount of financial resources and a large amount of effort and intellect from each of us to achieve this enviable result.

Under the leadership of David Heiman, the College attained new levels of participation by Fellows. The Education Committee, the Pro Bono Committee, and the Distinguished Law Students Committee were restructured along Circuit lines. We recently expanded the Archives Committee, about which you will hear more in New Orleans, and we are expanding opportunities for participation by increasing the size of the Bankruptcy Policy Committee and our Best Practices efforts.

In the last several years the Pro Bono Program under Michael Cook's leadership reached new heights in both dollars provided as well as the breadth of programs supported. It is now in Larry Coppel's capable hands to continue Mike's legacy. Recently, under Sally Neely's guidance, the Education Committee has helped foster a number of successful regional programs. And most notably, with a little help from Ralph Mabey, we have reconfigured our International Bankruptcy Law Course by updating the technology and readdressing the materials. This coming year the course will be taught and/or proctored by a number of Fellows including Lewis Kruger, Dan Glosband, Prof. Charles Booth, Hon. Allan Gropper, Richard Broude, Hon. Charles Case, Ralph Mabey, Prof. Ian Fletcher and Zack Clement.

Further, on education, Rick Mikels has agreed to help determine whether we could transport some of our wonderful regional

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Policy Committee Process Focuses on Equity and Creditor Communication Issues

President's Column

D.J. Baker, President



▲ D.J. (Jan) Baker

Last year, David Heiman and Paul Singer spearheaded the creation of our new Bankruptcy Policy Committee. David and Paul proposed, and the Board of Directors agreed, that the Policy Committee be formed to address and comment on restructuring issues of interest to the College.

David Lander and I were honored to be asked to co-chair the Policy Committee, and we were fortunate to be able to attract an array of talented practitioners to join us. They include Dan Cohn, Dennis Connolly, Paul Harner, Reggie Jackson, Alan Kornberg, John Kozyak, Jon Landers, Heather Lennox, Rich Levin, Kayalyn Marafioti, Ricky Mason, Tom Mayer, Tom Patterson, Jim Patton, Chris Redmond, Dan Sklar, and Mike Stewart. It is a wonderful group, with a wide range of experience and a shared commitment to the College.

David and Paul were remarkably open minded with respect to the topics and projects that should be undertaken by the Policy Committee. As a result, its first order of business became that of evaluating different topics that might be of interest to the restructuring community and deciding where to focus its energies. That process was a true exercise in Committee participation - we had 8 or 10 topics that were suggested for consideration, followed by Committee calls to discuss and evaluate the various topics, and then, finally, a vote. We asked every member of the Committee to rank topics in terms of their preference. We then counted the votes for each topic, based on the ranking. After further calls with members of the Policy Committee, two topics emerged as consensus choices. These topics were (1) equity committees; and (2) issues related to creditor committee communications. I don't know that any of us would necessarily have predicted at the beginning of the process that those would be the two topics that would emerge as the preferences of Policy Committee members. It is a commentary on the interest and thoughtfulness displayed by the members, however,

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Keep your Eyes and Ears Open!

Editor's Column

By Grant T. Stein



▲ Grant T. Stein

This past March during our Annual Meeting and Induction, I had the opportunity to observe in a new way how significant an offer to become a member of the College is to our new Fellows. For some reason, I was able to spend more time with more of the inductees than in the past through a combination of dinners, combined Circuit Meetings, and general contacts. The enthusiasm and immediate sense of honor from the new Fellows, for being recognized by their peers for excellence and service spanning an entire career, is reinvigorating to say the least.

We have a tradition in the Eleventh Circuit of making a moderately brief introduction of the new Fellows at our Circuit Lunch each year to remind both the inductee and ourselves of the high personal standard that led to his or her nomination and selection to be a Fellow in the College. Each Circuit has its own approach, and every new class causes us to grow and reminds us of the sense of duty that is part of the purpose of the College. There is nothing unique about the view I had this year. We all have seen it at one time or another. What made me decide to make it the subject of this Column is to use it as a framework to ask each of us to ensure that we invest the time to participate in the nomination process in a deliberate and thorough way.

Ask yourself how many nominations you have been involved with in the past two to three years, and then, if appropriate, ask yourself why you have not nominated at least one new Fellow during that time. While the standards for nomination are certainly very high, and should remain so, there are professionals who meet those standards, and who will be able to contribute even more through their formal inclusion in the College. However, to give them that opportunity, we must do our jobs by identifying, assessing and presenting a well-researched quality nomination.

We should recognize the sense of honor and enthusiasm in our new Fellows, and we should use it to inspire each of us to raise our own bars a little higher. Their enthusiasm should be the catalyst for us to in-

Board of Regents March Meeting Sets Active Agenda

The College's Board of Regents met on March 13, 2010, in Washington, DC. The Regents reviewed activities for the coming year and accelerated the nomination and evaluation process.

Reconstituted Circuit Admissions Councils.

By early April, 2010, each Regent reconstituted his/her Circuit Admissions Council. Because Council Members are limited to two terms of two years each, members had to be replaced by each Regent.

Streamlined Nomination Forms.

The Chair streamlined the current nomination forms. He refined and clarified language, reduced the number of pages, and modified the form slightly to elicit more meaningful background information.

Circuit Activities.

The Regents, at the urging of the ACB Board of Directors, have sponsored social and educational activities. The First, Second, Sixth and Eighth circuits have already established educational/social programs to be held over the next year. On May 4, 2010, the Second

Circuit held an induction ceremony for a new Fellow who could not attend the March 12, 2010, induction ceremony because of personal religious beliefs. The ACB Chair and President attended the ceremony, which was followed by a cocktail party with a large attendance from Fellows in the Second Circuit.

Nominations.

The Chair circulated the new nomination forms to all Fellows on April 27, 2010. In his covering memorandum, the Chair identified the relevant criteria, described the evaluation process, and stressed the need for confidentiality. Nominations must be submitted to the individual Regents by June 15, 2010. The Regents and Circuit Admissions Councils will be evaluating nominations over the summer months.

Board of Regents Evaluation Session.

The Board of Regents will be meeting on October 13, 2010, for a final vote on all nominations. They expect to send out invitations to prospective Fellows in early November, 2010. 🏛️



▲ Scholar in Residence Douglas Baird moderates a panel on perspectives with Hon. Thomas Ambro, Harvey Miller, and Judge Christopher Sontchi.

vest more time in the nomination process, to provide others with the opportunities we have had. This task is not something to pass off to other College Fellows, and *your acceptance of your induction as a Fellow includes with it a duty to keep your eyes and ears open* in this area. This is, in my view, an individual responsibility. If your Circuit already has procedures to allow you to actively participate in identification of potential new Fellows (and most do), you should

take advantage of them. If it doesn't, you should find other ways to ensure that you can be involved in the process of identifying new Fellows. These activities are very significant to the College, and I appreciate the opportunity this column gives me to get on my soapbox. 🏛️

Distinguished Student Alumni Make Their Marks

Kaaran Thomas, Chair
Distinguished Student Committee



▲ Michael Gieseke, Ryan Dattilo, John Beck, Hillard Moore, Benjamin Beckman.



▲ Kaaran E. Thomas

Our distinguished student alums are fully engaged in the practice of bankruptcy. Here are recent reports from some of them.

Daniel Reynolds, Class of 2003 (Email: dreynolds@mccarthy-law-firm.com) was named a

junior partner in the McCarthy Law Firm last year. His office is in Columbia, South Carolina.

Patrick Jackson, First Circuit Class of 2005 (Email: PJackson@ycst.com)

Patrick's firm, Young, Conaway, Star-gatt & Taylor LLP, Wilmington, DE, is Chapter 11 debtors' counsel to American Home Mortgage and the Catholic Diocese of Wilmington. Patrick is the lead associate on both cases and finds them extraordinarily complex, albeit in much, much different ways. Patrick got his first cover article in the December/January 2010 edition of the *ABI Journal* (having been a contributing editor since 2005): Patrick A. Jackson and Robert S. Brady, Dismissal for Bad-Faith Filing under Section 1112(b)(1): Whose Burden Is It Anyway?, XXVIII *ABI Journal* 10, 64-66, December/January 2010.

Gregory Napier, Sixth Circuit Class of 2006 (Email: gnapier@troutmanhays.com) is with Troutman & Hays, PLLC, Lexington, Kentucky. He covers the Eastern District of Kentucky, primarily Lexington, Nicholasville, Versailles, Georgetown, Richmond, Frankfort, Cynthiana, Paris Winchester,

Lawrenceburg, and Berea. Gregory specializes in individual debtors, both consumer and non-consumer. He reports that both practices are growing steadily.

Maya Anderson, Tenth Circuit Class of 2008 (Email: maya.ruth.anderson@gmail.com). Maya is now working for the firm of Robinson Tait, PS in Seattle. They are a small firm (7 attorneys) and represent creditors in bankruptcy cases.

Vince Buccola, Seventh Circuit Class of 2008 (Email: vincent.buccola@bartlit-beck.com) has joined Bartlit Beck Herman Palenchar & Scott LP, in Chicago as an associate. Vince is publishing a paper in the *George Mason Law Review* on credit bidding in bankruptcy auctions (SSRN link: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1545423).

Brent Meyer, Ninth Circuit Class of 2009 (Email: brent@meyerllp.com) just opened his own Consumer Bankruptcy Firm in San Francisco. He services the Bay Area (Oakland, San Francisco, and Santa Rosa Divisions). His clients are primarily Chapter 7 and Chapter 13 debtors. Brent just submitted an Appellate Brief on behalf of San Francisco Chapter 13 Trustee David Burchard. The case is *Heal v. Burchard*. The Bankruptcy Case Number is: 09-13026 (Northern District of California Bankruptcy Court, Santa Rosa Division) and the District Court Case Number is: 10-00397). The issues on appeal are:

1. Whether the Bankruptcy Court committed clear error by making a factual determination that the Debtors' Chapter 13 plan did not satisfy the requirements of good faith under 11 U.S.C. § 1325(a) (3) by proposing only to pay attorney fees for eight months; to provide zero dividend to all unsecured creditors; to completely "strip off", without payment, a junior secured mortgage; and to grant the Debtors the benefit of a Chapter 13 discharge; and
2. Whether this Court has jurisdiction to address whether below median income

debtors with negative disposable income are subject to an applicable commitment period when the Bankruptcy Court never ruled upon this issue.

Brent is working on writing two additional briefs, one at the Ninth Circuit BAP and another before the 9th Circuit.

Michael Gieseke, Eighth Circuit Class of 2010 (Email: Michael@giesekelaw.com) is currently employed as Judicial Clerk to the Hon. Casey J. Christian in the Third Judicial District of Minnesota, Owatonna, MN 55060. Michael is planning to move to Colorado, and will be licensed to practice in Colorado in about four weeks. He will also be licensed to practice in Minnesota within a few months. Michael is still looking for employment in the Denver area.

Facebook Site: Fourteen alums have signed up on the Distinguished Student Facebook site. Thanks again to Kelly Bozanic, Penn State Research Fellow and Distinguished Student Alum, for setting up the site. Check it out! <http://www.facebook.com/pages/American-College-of-Bankruptcy-Distinguished-Student-Alumni>

Class of 2011 (Your Summer Clerk?):

Nominations are now open for the Distinguished Student Class of 2011. Students must be enrolled in schools in the First, Second, Third, Fourth, and Ninth Circuits. Contact Kaaran Thomas (Email: kthomas@mcdonaldcarano.com) for nomination forms and information. Nominations must be submitted by year end 2010.



Harvey Miller 50 Years

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cases 2 or 3 days per week and practiced law on the other days in bankruptcy) who did not have law clerks and very little in the way of facilities. He noted there was no centralized bankruptcy court filing system. He shared that: "bankruptcy, despite its stigma, was considered something akin to public service...[which] mandated that bankruptcy professionals be compensated at rates less than those prevailing in the private sector."

As the 60's progressed, and the economy was changing, Mr. Miller noted that access to credit became "more liberal and the use of leverage became seductive." He also discussed how "businesses and the economy became more credit intensive and, naturally, because financial discipline did not grow at the same pace, led to overleveraging and failures." It was at this time, he believes, that the concept of constructively dealing with failures emerged.

He noted that Chapter XI, as enacted, was limited to voluntary cases and small businesses, and, although the debtor in possession concept was recognized, it was not uniform through the United States. He did note that Chapter XI did contain the exclusive right to file a plan of arrangement for so long as a case was pending which represented a "tactical weapon of significant potential."

Mr. Miller noted that when the Bankruptcy Code was enacted, it essentially fused former Chapters X and XI in the business reorganization chapter which "evidenced the mutually agreed principle that the reorganization paradigm was better than liquidation as it preserved going concern value, protected industries and jobs, and generally, projected greater recoveries for impaired creditors." He then noted that the LBO buyout mania of the 80s, massive toxic tort litigation and airline cases, led to massive Chapter 11 cases involving complex issues including labor, environmental and pension disputes. In his opinion, at that time, the consensus was that Chapter 11 worked.

In looking at the beginning of the 21st Century, Mr. Miller noted that it began with a "sense of major cases precipitated by claims of fraud and other misdeeds." He noted that the first decade of the 21st Century "ended with even larger, more complex, difficult and novel cases initiated under Chapter 11" which led to a "morass" that caused the Federal government to become a major player in the bankruptcy arena as it "endorsed and financed the use of Chapter 11 to resolve the financial distress of General Motors,


Chrysler and Delphi corporation and injected billions of dollars into various entities to stave off bankruptcy."

He then noted that something occurred in 80s, 90s and into 21st Century that would "dramatically" change bankruptcy reorganization. Specifically, he referred to the amendments to the Bankruptcy Code and that "each Amendment made to the Bankruptcy Code starting in 1984 through 2005 has tilted the proverbial level playing field against the debtor, as special interest legislation was enacted." In his view, each "claw back amendment" has "clawed bank debtor protections both for individuals and businesses, and reduced the efficacy of the Bankruptcy Code as a vehicle to rehabilitate businesses, preserve jobs, serve the public good and provide a fresh start to debtors."

He concluded that there are at least six major defining events of the past 50 years that have been "seminal in the evolution of bankruptcy law and practices" - specifically:

1. The enhancement and elevation of the Bankruptcy Court;
2. The trading of claims;
3. The worlds of finance and business have changed;
4. Debtor in possession financing became available and added another facet to the reorganization process;
5. The prepackaged or prearranged Chapter 11 reorganizations; and
6. The emergence of the readily available §363 sale option.

He concluded by noting that the Chapter 11 scenario that evolved during the 50 years ending in 2010 is "materially different form that which was contemplated in the mid 60s and by the Bankruptcy Reform Act of 1978." It was his view that: "In today's world, a debtor essentially is a captive of secured creditors, the designated CRO, and the trading market. The secured creditors have become de facto creditors in possession." Mr. Miller also recognized that "esoteric, virtually incomprehensible securities represent the backbone of much of the credit market."

Mr. Miller discussed what the future role of bankruptcy in the economy should be and how it is vastly different than what has existed in the past. He encouraged the Fellows in the College to "participate with your co-Fellows as member of the College to work in the best interest of a feasible and effective bankruptcy law that will serve the objective of fairly dealing with economic distress and failure, and assist in the appropriate deployment of the assets of a filed business." 


College Succeeds...

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educational programs, such as the First Circuit's April program, to other Circuits or cities that may not have the resources to develop programs of their own but want to provide a benefit to their communities. If you are interested in working on a "transferred" program in your Circuit, please get in touch with Rick, Sally or the member of the Education Committee from your Circuit.

Two years ago we formed a Judicial Liaison Committee. This effort, chaired by Judge Barbara Houser, has been successful in encouraging participation by judges at our Annual Meeting. We all benefit from the presence of our judges and, hopefully, they benefit from not only our educational programs but also from the interaction with others in the profession who have a desire to improve bankruptcy process and procedures.

Speaking of judges, Judge Nancy Dreher, who has served both as a Regent and Director and is currently Chair of our Meetings and Events Committee, has been a driver in our goal to have regional meetings. As we have grown, these regional meetings have become an important part of our College's architecture. Besides using the talents of Fellows to do good work, one of the important parts of our mission is to honor those who have made a contribution to our profession. We do that while enjoying each other's company, and the regional meetings allow those who, for one reason or another, cannot attend our spring or fall meetings to share that fellowship. Nancy has a small budget, for which we made her negotiate quite hard, to support regional meetings and attendance by judges and academics at those meetings. We would like nothing more than to have to increase this budget because you are taking advantage of it! Please contact Nancy if you have an idea for a regional meeting. These meetings do not, and I emphasize do not, have to be along Circuit lines. We welcome regional meetings based on geography or other community interest. And they do not have to have an educational component. If the sole purpose is to break bread or bend an elbow with Fellows, we support it.

I look forward to seeing everyone in New Orleans. You won't want to miss Judge Randy Newsome's presentation on Bankruptcy History. For many of us our written history is the timesheets we prepare at the end of the day. Randy will convince you of the importance of the work of our predecessors to our success as he discusses his efforts on behalf of the National Bankruptcy Archives, an important project of our College. 



Save the Date! Fall All-Fellows Luncheon in New Orleans October 13, 2010

By Shari Bedker, Executive Director



We are excited that Judge Randall Newsome will be the keynote speaker for the All Fellows Luncheon to be held immediately before NCBJ's Annual Conference in New Orleans in October 2010. Judge Newsome will be discussing his experiences conducting personal interviews for the National Bankruptcy Archives oral histories: *Our Heritage, Our History: Interviews with Prominent Figures in U.S. Bankruptcy Law*.

The NCBJ is being held at the Hilton New Orleans Riverside. You may register for the College events through our website at www.amercolbankruptcy.org and you can register for NCBJ events through www.ncbj.org. Below for your reference and planning is a schedule of events. I look forward to seeing you in New Orleans!



▲ Judge Newsome

Tuesday, October 12, 2010

2:00 p.m. – 4:30 p.m. Foundation Board Meeting, Oak Alley Room
7:00 p.m. Cocktails, followed by 7:30 p.m. Leadership Dinner at Galatoire's Restaurant (in the Bourbon and Bienville rooms), 209 Bourbon Street. (For Officers, Board, Committee Chairs, Foundation Board Members, and their guests)

Wednesday, October 13, 2010

8:00 a.m. – 12:00 p.m. Board Meeting (continental breakfast served), Oak Alley Room

9:00 a.m. – 12:00 p.m.; 2:15 – 5:00 p.m. Board of Regents Meeting (continental breakfast served), Elmwood Room

12:00 p.m. – 2:00 p.m. All Fellows Lunch, *Our Heritage, Our History: Interviews with Prominent Figures in U.S. Bankruptcy Law* presented by keynote speaker Hon. Randall J. Newsome, Grand Salon 1-6

2:15 p.m. – 4:15 p.m. III Members Meeting, Oak Alley Room

NOTE: NCBJ opening reception is Wednesday, October 13, 2010, 6:00 – 8:00 p.m.

Policy Committee Process Focuses on...

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that we worked through the alternatives, settled on these two choices, and secured David and Paul's concurrence on behalf of the College.

We then had to come up with a process by which to organize the work of the Policy Committee. The members ultimately decided to divide into two subcommittees, to focus on each topic and prepare a draft report analyzing the issues and making whatever recommendations seemed appropriate. Heather Lennox agreed to chair the subcommittee that will look at equity committee issues, while Tom Mayer and Tom Patterson agreed to serve as co-chairs of the subcommittee looking at creditor communication issues. David Lander and I are confident that, under their leadership, we will have very interesting and worthwhile results for the College later this year.

The process described above is in many ways a microcosm of what makes participating in the College so rewarding. The Policy Committee members are all outstanding practitioners who are also incredibly personable. As a result, everyone involved in the process has the pleasure of getting to think about and discuss interesting issues relating to what we do in our professional lives, while interacting with a group of extraordinarily congenial colleagues. Although many people on the Policy Committee already knew one another, others met there for the first time, and they will have an opportunity to work with and get to know one another. The College, like so much else in life, is characterized by the fact that, the more one puts into it, the more one gets out of it. Our members will put a lot into the Policy Committee, but they will derive an extraordinary amount of professional and personal gratification and enjoyment.

If you have any thoughts, comments or suggestions related to either topic, please feel free to contact Heather Lennox, Tom Mayer or Tom Patterson. They would be very glad to hear from you and would welcome your input. Likewise, if you have not yet had an opportunity to get involved with a project sponsored by the College, please think about doing so. There are any number of opportunities, as you can see by looking at Paul's column in the current issue. The College is a wonderful organization, and the more involved you are able to be, the more exciting and interesting you will find your membership in it to be. ☰

Wanted: Judicial Fellow Nominations

By Leonard H. Gilbert, Chair
Judicial Nominating Committee




▲ Leonard H. Gilbert

The role of judges in the College has long been a prominent one. The College seeks to have in its membership not only practicing attorneys and other insolvency professionals, but also the leading members of the bench who deal with insolvency. Some of our members may not be aware that our judicial membership includes not only bankruptcy judges, but also judges of the District Courts and Courts of Appeal.

As of this year's class admissions, there are 734 Fellows in the College, of which 89 (or 12%) are members of the Judiciary. The distribution of these members varies throughout the country, with most members east of the Mississippi River. For example, 49 members are judges in the First, Second, Third, Fourth and Fifth Circuits. The largest number of member judges from any circuit is 19, from the Ninth Circuit. There are many more excellent judges out there who meet the qualifications for membership. All that is required is for members of the College to submit a judge's name in nomination to the Judicial Nominating Committee.

The procedures for nominating members of the judiciary are the same as for nominating a practicing attorney for membership, and the same requirements exist. The Committee encourages all members to review the College bylaws before submitting a nomination. Each candidate undergoes a rigorous examination as well as a thorough investigation of that person's qualifications. When a candidate is presented for consideration to the Board of Regents, the individual has been thoroughly vetted.

The College is fortunate to have a very strong and experienced Judicial Nominating Committee. This committee's current composition is Michael S. Baxter, David Lander, Honorable Barbara Houser, Professor Kenneth Klee, Alan Miller and Victor Vilaplana.

The Judicial Nominating Committee encourages you to consider and to begin working on nominations for the coming year to present to the Judicial Nominating Committee. We hope that the Fellows of the College will continue to search out and nominate the most qualified judges to be members of the College. 

2010 Foundation Donations

As of June 15, 2010, 115 Fellows have donated a total of \$23,335 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	Hon. Mary Grace Diehl <i>(to honor Neal Batson's DSA)</i>	Danny C. Kelly	Mary Ann Rabin
Prof. Peter C. Alexander	Bonnie Kay Donahue	Kay Standridge Kress	Prof. Nancy B. Rapoport
Daniel E. Armel	Hon. Thomas B. Donovan	Lewis Kruger	M. Freddie Reiss
James L. Baillie <i>(to honor Neal Batson's DSA)</i>	Hon. Nancy C. Dreher	Hon. Joe Lee	Lynne F. Riley <i>(to honor Neal Batson's DSA)</i>
D.J. (Jan) Baker	Dennis F. Dunne	Heather Lennox	Randy Rogers
Barbara George Barton	Joseph A. Dworetzky	E. Bruce Leonard	Robert J. Rosenberg
Paul J. Battista	Mark C. Ellenberg	David E. Leta	Robert H. Scheibe
Philip E. Beard	Hon. Joan N. Feeney	Richard B. Levin	J. Robert Seder
H. Bruce Bernstein	Hon. Judith K. Fitzgerald	Marc A. Levinson <i>(to honor Neal Batson's DSA)</i>	Hon. Diane W. Sigmund
Michael L. Bernstein	Jean-Yves Fortin	William Lobel	Paul M. Singer <i>(to honor Neal Batson's DSA)</i>
Martin J. Bienenstock	Leonard H. Gilbert <i>(in memory of David Sykes)</i>	Alfred S. Lurey	Lawrence K. Snider
Peter C. Blain	Neil C. Gordon	Steven J. McCardell	Henry J. Sommer
Michael A. Bloom	Gordon Brothers Group, LLC <i>(in honor of Induction of Robert Duffy, Bruce Harwood, George Tetler & in recognition of service of Richard Mikels)</i>	Hon. Mark B. McFeeley	Stichter, Riedel, Blain & Prosser P.A. <i>(joint gift from Russell Blain, Harley Riedel, and Don Stichter)</i>
J. Michael Booe	James B. Haines, Jr.	G. Christopher Meyer	J. Robert Stoll
J. William Boone <i>(to honor Neal Batson's DSA)</i>	David J. Hamernik	J. Gregory Milmo	Tomoo Tasaku
Hon. Paul W. Bonapfel	Grover Hartt, III	Hon. C. Ray Mullins	Charles W. Throckmorton
Matthew J. Botica	Bruce A. Harwood	Hon. Geraldine Mund	Hon. Douglas O. Tice, Jr.
William E. Brewer	Philip J. Hendel	Edward J. Nazar	Steven B. Towbin
James L. Bromley	Hon. Robert F. Hershner, Jr. <i>(to honor Neal Batson's DSA)</i>	Sally S. Neely <i>(in memory of David Sykes)</i>	Justice Jean-Luc Vallens
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Neal Batson: A Tapestry Filled...

continued from page 1

He is an exceptionally well-organized professional, thoroughly prepared and very articulate on his feet. In sum, he is an impressive court room lawyer.

By coincidence we both became active in this College. When I served as Chair, Neal served as President. God gave us only one front so it's always nice to have someone watch your back, and Neal excels in that endeavor. I learned early on that with Neal on your team, big mountains are reduced to little hills. He follows the basic principles of a skilled leader: have the vision to identify what has to be done, identify who best to do it, and don't worry about who gets the credit. Neal is a leader who solicits the views of others. He demonstrates fairness and integrity in all that he does.

Neal's distinguished professional career started at Vanderbilt Law School, where he excelled in scholarship, was elected editor in chief of the law review and a member of the Order of the Coif. He was then selected to serve as a law clerk to the Honorable Griffin B. Bell on the Fifth Circuit. Judge Bell later became Attorney General of the United States, and they remained friends. Neal launched his private practice with the firm of Alston, Miller and Gaines which is now the prestigious firm of Alston & Bird. Neal has been a fixture in that firm, spending his entire career there as a trial lawyer and bankruptcy specialist, while also serving the firm in several leadership capacities.

Indeed, the tapestry portraying Neal's distinguished career is filled with strong fibers of leadership: President and then Chair of this College; President of the Southeastern Bankruptcy Law Institute, and President of the Atlanta Bar Association, just to name a few. Is it any wonder that he also played a lead role in other major cases like A.H. Robbins, and most significantly, as Examiner in Southmark and, the ultimate jewel in his crown, as Examiner in Enron. The Wall Street Journal favorably commented on the Batson Examiner report, and I quote: "*The examiner, Neal Batson, is by all accounts a re-*



▲ R. Neal Batson and Raymond L. Shapiro

spected and conservative bankruptcy lawyer. And despite the fact that the report is a masterpiece of legal understatement, readers will find it difficult to suppress the cry: Guilty! The Batson report is deliciously specific, naming names via internal memos, phone conversations, faxes, sworn testimony and, of course, the white collar equivalent of the smoking gun – e-mails."

He said a "good ole boy" is really someone with an amiable disposition, a good drinker, and fond of dogs and good-looking women but not necessarily in that order.

Neal's skills as a trial lawyer and his breadth of knowledge about bankruptcy law and practice elevate him to the platinum level. He is comfortable in the courtroom and at the conference table. His prodigious talent brought him a national reputation. He is also a member of the National Bankruptcy Conference, the American Law Institute and the American College of Trial Lawyers. Indeed, Neal may be one of the few professionals and, the only professional that I can call to mind, who is a member of this College, the National Bankruptcy Conference and the American College of Trial Lawyers. Quite an achievement.

Neal has also followed professor Larry King's mandate to "give something back". Somehow he also found time to be an adjunct professor at Emory Law School, a contributor to publications like Norton Bankruptcy Law, and the Bankruptcy Litigation Manual, and to participate in numerous speaking engagements and seminars for ALI/ABA, the NYU Workshop and the Federal Judicial Center Workshop for Bankruptcy Judges. He also served on the Advisory Committee on Rules of Bankruptcy Procedure. Time simply does not permit me to list all of his many contributions to enhance bankruptcy law and practice.

And all of this is apart from his efforts on behalf of local charities, non-profit boards and on projects for his church. Neal's energy and achievements clearly demonstrate that one person can make a huge difference.

Neal Batson is one of the good guys you meet on your professional journey. He is certainly the consummate lawyer, a superb leader, and a caring man: as a professional completely dedicated to protect the rights of his clients and to enhance our legal process, and as a citizen, to add significant value to the many organizations he serves. On behalf of this College, we thank you Neal for all that you have achieved as a professional and for all that you have accomplished by supporting so many community activities. We congratulate you and your family for receiving this well deserved honor, the 2010 American College of Bankruptcy Distinguished Service Award. 🏆



R. Neal Batson Remarks on Receiving Distinguished Service Award

March 13, 2010

Neal Batson's remarks below reflect on the earliest history of College and its commitment to recognize and honor service to our profession and community.

Ray, thank you so much for your kind words, for your friendship, and for the fun that we have had working together over the years.

It's been a great privilege and honor to work with many of you who are here today, but I would especially like to mention Judge Bill Norton.

Judge, I remember when you were working on the creation of the College in the late 1980's. You called one day and asked me to send you a copy of the by-laws of the American College of Trial Lawyers. Not long thereafter, you called again to tell me that I would be invited to join the first class of the College—a great honor for me. Thank you for all that you have meant to me and to my career, particularly for the opportunity to work on your treatise and to participate in your seminars. And, Judge, I want you to know that Jeanie and the boys also thank you, for they learned how to *ski* at your Park City seminars while I was inside *lecturing!*

As we all know, our work often requires long hours, frequent travel and time away from home and family, so I especially want to thank my wife, Jeanie, who has been a vital part of my life and career—without your love, support and assistance I would not have been able to devote so much time and energy to my law practice and pro-bono activities.

The Distinguished Service Award is especially meaningful to me because it comes from an organization and a group of people who are dedicated to service.

Whether you are a judge, professor, lawyer, accountant or other professional – you are all involved in serving other people.

But it is the *volunteer* service – a requirement for membership in our college – that has distinguished you and this organization. Whether it is working with a legal aid clinic, speaking at a seminar, mentoring a law student or young lawyer, or some other activity, you would not be here today had *you* not demonstrated a

commitment to putting something back into your profession.

So, as I accept this award, I am cognizant that each one of you in this room is deserving of recognition for what you have done and continue to do in your service to others.

I am also cognizant of the example we must set for others. And, as I think about that, I am reminded of a life experience.

Jeanie and I spend our summers hiking in the mountains of Western Colorado. Several years ago we were hiking the Grizzly Lake trail just outside of Aspen. While we were crossing a snowfield Jeanie spotted some animal tracks in the snow. She took photographs and when we returned home she confirmed that they were the paw prints of a mountain lion. Now, we knew from talking to some of the old-timers that mountain lions roam the Colorado mountains but they are seldom seen or encountered. Yet, this was a reminder to us that the lions are there, and they are watching you as you hike.

Whether you are a judge, professor, lawyer, accountant or other professional – you are all involved in serving other people.

There are those in our professions who, like the mountain lion, are watching us—not because we are hiking in their territory, but because of our accomplishments. We may not be aware of them, but they are there, and they are watching.

Therefore, I believe that as leaders in our professions it is especially important for us to be good role-models, and, as such, to encourage those who are watching, to follow our example of giving back to our professions *and* to society.

Thank you. 🏛️

U.S. and International Fellows Participate in Colloquium in Paris

By Hon. Charles G. Case II



▲ Hon. Charles G. Case II

Several College Fellows had the unique opportunity to participate in an intimate, three day case-based discussion of the US, UK and French insolvency systems at an invitation only conference

in Paris in March. The colloquium was conceived by Yves Merlat, judge of the commercial court in Evry, just outside Paris, and was sponsored by the Fondation pour le Droit Continental and the Conseil National des Administrateurs Judiciaires et des Mandatateurs Judiciaires.

The North American team was led by fellow John Barrett and included fellows Rich Levin, Alan Kornberg, Peter Gilhuly, Bill Boone, Bruce Leonard and Judge Charles Case. The French team included fellow Judge Jean-Luc Vallens; among the members of the UK team were fellows Nick Segal, Professor Ian Fletcher and Mr. Justice David Richards. The format involved the preparation of detailed case studies based on recent real world insolvencies. Each case study was then presented by the national team from the jurisdiction where the case was filed, followed by commentary reflecting the point of view of the other national systems. This led to very lively interaction among the group; each participant took away the discussion new ideas on how to approach difficult insolvency issues under his or her national scheme.

Care was taken to include liquidations, reorganizations, sales, and out of court restructurings. For example, the North American team learned in detail about the various French procedures for commencing and supervising essentially private negotiations under the often secret supervision of the French Court. Another key point of interest was the differing roles of the professionals charged with administering the estate. The eternally vexing question of exactly how much process is "due" in the context of a fast moving insolvency case was a point of particularly lively discussion.

The meeting included several opportunities for members of all teams to socialize and establish stronger bonds among the participating countries. Future meetings are in the planning stage, with thought being given to broadening the number of jurisdictions involved. 🏛️

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