

FELLOWS: START YOUR
ENGINES!

Indianapolis, October 4-6

CLASS 33:

A Long Play Record

HOUSING
INSECURITY

In the Post-Pandemic
World



COLLEGE COLUMNS

A MAGAZINE FOR AMERICAN COLLEGE OF BANKRUPTCY FELLOWS | JUNE 2021



From the Chair

Fellows, Start Your Engines! Indianapolis, October 4-6

*Mark D. Bloom, Baker & McKenzie
Chair, American College of Bankruptcy*



Every Fall so many of us look forward to the College meetings held at the front end of the Annual Meeting of the National Conference of Bankruptcy Judges. Never a big production like our own Annual Meeting each Spring, the Fall Meeting typically involves a Leadership Dinner, meetings of our Boards of Directors and Regents, the Foundation Board and certain of our Committees, and is highlighted by

the All Fellows Luncheon on the afternoon preceding the NCBJ Opening Reception.

Crossing our fingers as the country begins slowly and hopefully to emerge from the COVID-19 pandemic that, among other things, required that we sharply curtail and convert our last two Annual Meetings and last October's Fall Meeting to a virtual format, we are planning once again to "go live" just ahead of the NCBJ Meeting. So if you've not already done so, we ask you to get vaccinated, mark your calendars for October 4-6, 2021, and get ready to start your engines with us in Indianapolis.

This year's expanded version of our Fall Meeting will include our usual array of Board and selected Committee meetings and related events, and feature the first-time-ever induction of not one but two new classes of Fellows. This festive evening at the Indianapolis Museum of Art on Tuesday, October 5, will be highlighted by the presentation of our Distinguished Service Award to the **Hon. Barbara J. Houser**, followed by a gala reception and dinner.

Classes 31 and 32 bring us a combined 68 new Fellows, a remarkably talented and diverse group of business and consumer lawyers, judges, financial professionals, academics and insolvency practitioners from across the country and around the world. (Leaving no stone unturned, our Executive Committee will consider whether to proceed with the traditional handshake for new Fellows as they are called to the stage for induction, or replace with a fist bump or elbow knock.)

[continued on page 28](#)

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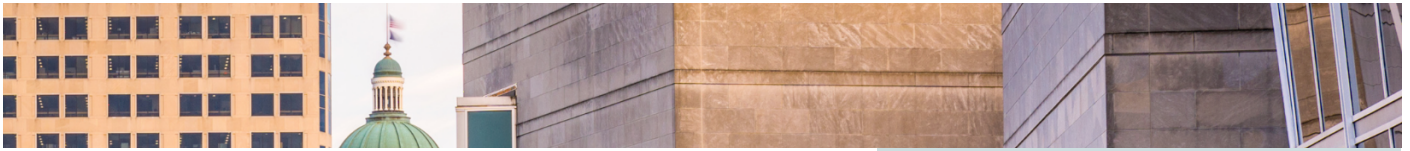
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College Columns June 2021 Issue

Editors
Steven N. Berger
Deborah Langehennig
Layout
Michelle Foster



From the Column...ist...

Steven N. Berger, Engelman Berger
Co-Editor, College Columns



How would you describe the last year (+/-) in a few words? “I don’t know.”

A year ago I wrote with consternation about the prospect of working from home for a protracted period of time. Little did I know that it would be over a year later and I and my firm are still not fully back

to the office. I commend those who never left, went back early or used the office as needed, assuming they stayed healthy and didn’t pay the price by bringing home the virus.

I opted for a safe and conservative plan, staying away except for a few client meetings – say 5 or 6 office visits over the year. What did this bring? – well (among other things):

- a comfort and efficiency with Zoom,
- waves of self-motivation or no self-motivation,
- the making of a completely spoiled rescue Poodle named Royal that lays down by my feet all day in the home office,
- a now quenched soaking in of daytime news (at least up through the inauguration),
- huge bills for delivered comfort food,
- huge bills for comfort groceries,
- absence of dry cleaning bills,
- zoom social events;
- zoom CLE;
- zoom College functions;
- zoom family functions;
- zoom firm management committee meetings;
- an appreciation for my mother’s historical search for interesting things to cook for supper;
- an appreciation of all the new things that I learned about my life partner;
- less hugging and human contact than is healthy

[continued on page 22](#)

In This Issue

President’s Message.....4

From the Foundation Chair.....6

Pro Bono Update.....7

Class 33: A Long Play Record.....8

Doing The Splits.....9

Why Should Any Fellow Care about DE&I?.....10

ACB Distinguished Business Student Awards.....12

The DC and Fourth Circuit February 15, 2021 Virtual Moot Court.....14

Housing Insecurity in the Post-Pandemic World.....16

ACB Distinguished Law Student Awards.....18

2021 Patrons & Sponsors.....34

American College of Bankruptcy Foundation 2021 Donations.....37

Focus on Fellows.....38

Columns XWords.....39

Upcoming Events.....40



President's Message

*Melissa S. Kibler, Mackinac Partners
President, American College of Bankruptcy*



Greetings to all our Fellows. I hope you each are seeing light at the end of the proverbial tunnel.

Restructuring activity has recently slowed somewhat in the face an influx of liquidity, sustained

low interest rates and an economic recovery that is stronger and faster than expected in the US. However, a return of more normalized credit conditions, tapering relief measures and pandemic-induced systemic change, coupled with vast disparities in the pace and progress of recovery on a global basis, will continue to fuel volatility and financial challenges that drive a heightened need for our Fellows' restructuring and insolvency expertise for some time to come. As described in Chair **Mark Bloom's** column, the College remains engaged on many fronts in supporting the leaders of our profession and our nations in navigating these shifting sands.

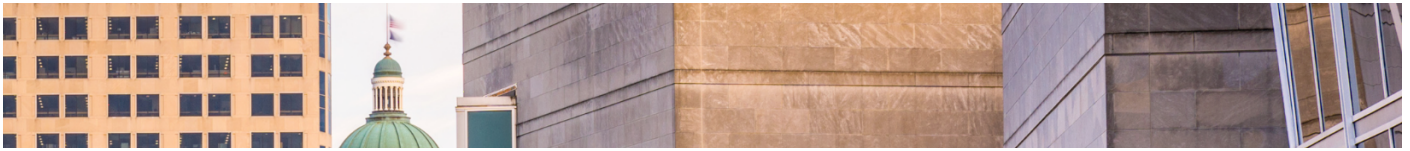
Like many other institutions, the College faced considerable uncertainty at the beginning of the pandemic. However, not only did we avoid incurring financial penalties thanks to the deft financial management of **Shari Bedker** and her staff, but our reserves provided a (thankfully unnecessary) safety net, and our investments performed well under the watchful eye of our Investment Committee, led by **Marti Kopacz** and **Liz Tashjian**. Perhaps most impressive, though, was the staunch financial support of our Fellows, who stepped up through their firms

and individually to lead both the College Patrons & Sponsors Program and the Foundation campaign to record years.

The College and Foundation each conduct separate annual fundraising efforts. The Patrons & Sponsors Program targets firms to generate financial support for the College's operations, while the Foundation's campaign targets individual Fellows to generate tax-deductible donations that directly fund pro-bono and other grants. (See Foundation President **Paul Harner's** column for additional information about their most recent campaign results.) The College's Patrons & Sponsors Program provides almost 60% of the College's core receipts, with dues and induction fees comprising the remainder. These sponsorships fund expenditures including the spring and fall programs, committee projects, educational programs, and the National Bankruptcy Archives, as well as the College's sizeable contribution to the Foundation.

Over 145 firms donated a total of more than \$380,000 to support the College in 2021, an increase of 9% over the prior year. We are gratified that 50 new firms have joined the Patrons & Sponsors Program since 2019, and particularly thank those new Fellows who joined the ranks. The table on the following page illustrates the number and amount of donors at each level.

We implemented several changes designed to streamline the pledge and payment process, including customized invoices and on-line payments, and suggestions for further improvement are always welcome. However, these extraordinary results would not have been possible without the



	# of Firms		Amount	
	2020	2021	2020	2021
Sustaining Patrons (\$5000)	32	36	\$160,000	\$180,000
Patrons (\$2,500)	43	44	107,500	110,000
Sponsors (\$1,500)	54	57	79,500	85,500
Supporters (\$750)	7	9	5,250	6,750
	136	146	\$352,250	\$382,250

diligent follow-up work of our Patrons & Sponsors Committee: **Jim Baillie, Charlie Beckham, Mark Bloom, Joan Feeney, Karen Giannelli, Annette Jarvis, Stephen Lerner, Marc Levinson, Taft McKinstry, Rick Mikels, Claudia Springer, Grant Stein, and David Stratton.** As the individual tasked with leading this effort, I express my sincere thanks to each of them and to **Jenny Cudahy**, who kept us all organized and on task.

The list of Patrons & Sponsors can be found beginning at page 34, or on the College website under the “About” menu item. We know that 2020 was a difficult year in many ways, and that firms re-examined their spending and sponsorship priorities closely. In that context, we are especially appreciative that the College’s important work remained a priority for our Fellows.

Shifting gears and hearkening back to my column in the December 2020 issue of College Columns, I was thrilled to announce at our March 19, 2021 virtual All-Fellows Meeting the formation of the College’s Select Commission on Diversity, Equity and Inclusion (the “DEI Commission”). The

mission statement of the DEI Commission is as follows:

To develop a comprehensive plan that instills mindfulness regarding all aspects of diversity, equity and inclusion, and actively promotes those values through the resources and endeavors of the College and Foundation.

Our objective was to appoint selected Fellows of diverse backgrounds to conduct a thorough examination over the next year of where we stand and what we should be doing, and concurrently to begin implementing their recommendations. We are fortunate that **Hon. Jeffery Hopkins** and **Hon. Laurel Isicoff** have agreed to co-chair this distinguished group of Fellows and express our gratitude to each of them for volunteering their time and efforts for this important undertaking: **Omar Alaniz, Michael St. Patrick Baxter, Jack Butler, Kelley Cornish, Prof. Mechelle Dickerson, Richardo Kilpatrick, Connie Lahn, Gil Miller, Nina Parker, Sandeep Qusba, Nancy Rapoport, Hon. Erithe Smith, George Snyder and Bettina Whyte.**

[continued on page 31](#)



From the Foundation Chair Never Happier – To Have Been Dead Wrong

*Paul E. Harner, Sheppard Mullin
Chair, American College of Bankruptcy Foundation*



Prognostication has never been my long suit. But I’ve never been happier to have been simply wrong.

A year ago, I predicted in this column that the 2020 Foundation fundraising campaign would be our “most challenging . . . in memory,” particularly given the “overwhelming number of demands for your charitable dollars” in the unprecedented environment

engendered by the COVID-19 pandemic. And that certainly proved true.

I also warned College leadership, albeit not for general consumption, that we accordingly should expect anemic fundraising results. Happily, about that, I could not have been further off the mark.

Thanks to your incredible generosity, gifts to the Foundation for 2020 totaled a record \$389,035, substantially (in fact, 18%) in excess of our announced, College-wide goal of \$330,000. This result surpassed the prior record of \$345,964, set in 2019, by a wonderful \$43,071, or 12%. It also represented the fifth consecutive year that the campaign’s result broke the magic \$300,000 barrier.

Our Fellows also contributed to the Foundation in substantially increased individual amounts. The average individual gift in 2020 increased by 13.7% to \$720.44 (versus \$622.63 in 2019). Likewise, Four Figure Club donations of \$1,000 or more increased significantly, by 27.8%, from 133 in 2019 to an impressive 170 in 2020.

I join the entire Foundation board in thanking you for your support, particularly in such a challenging year. Our Fellows’ generosity was particularly heartening in 2020 (and continues to be so in 2021): for obvious reasons, the pandemic has produced unprecedented demand for the pro bono legal services provided by the Foundation’s grantees. And you answered the bell.

I also want to thank those who worked so tirelessly to make our 2020 campaign such a resounding success, including our

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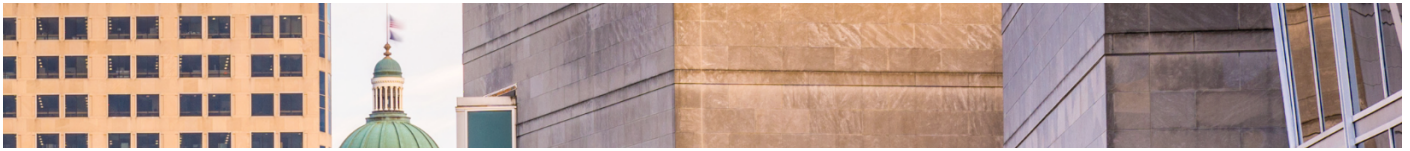
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Executive Director

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Foundation directors and other Circuit fundraisers and our stellar executive office staff, led by Jenny Cudahy. Particularly during the fourth quarter – year after year – that entire group devotes countless hours to ensuring that we leave no fundraising stone unturned.

Now on to the 2021 campaign. We are off to a (typically) somewhat listless start, having raised only \$29,743.96 through May 15. Wouldn't it be wonderful if, starting this year, we began to take some of the pressure

off of the fourth quarter – particularly in a year when we again expect substantial demand for our pro bono grantees' services? And if you could avoid repeated calls and pleas from Foundation representatives during the holiday season? Please give early in 2021!

THANK YOU again, on behalf of the Foundation, its board of directors, its Pro Bono Committee, and all of our grantees for your extraordinary support of our mission in 2020. And stay safe. 🙏



From the Pro Bono Committee

*Hon. Janet E. Bostwick, U.S. Bankruptcy Court
Co-Chair, Pro Bono Committee*

With grant applications due as of June 1, 2021, the Pro Bono Committee will begin its work to review and recommend pro bono grants to be funded this year. Our grantees come from across the country, in every circuit, in cities large and small, as well as in rural areas. We fund programs designed to maximize the reach of our grantees by increasing volunteers and expanding resources. Applications include requests to fund (i) pro bono clinics and volunteer attorney trainings to recruit additional volunteers, or expand the reach of volunteer attorneys, (ii) self help desks and pro se clinics to assist those individuals who must navigate the process on their own, (iii) development of training or informational videos to reach pro bono attorneys or potential clients, (iv) software and hardware upgrades to enable remote connections to clients; and (v) community education and outreach, to provide individuals with needed information on debt and bankruptcy relief.

Support for access to justice is an important part of the mission of the Foundation and College. On behalf of the Committee and our grantees, I thank the College, the Foundation and the Fellows, whose support and generosity make the grants possible. I would like to take this opportunity to share with you a few stories of clients you have helped. (Client names have been changed to protect their privacy.)

From the Brooklyn Bar Association Volunteer Lawyer Project, Brooklyn, NY:

"After years of domestic violence, Anna and her two young children fled from their home and moved hundreds of miles away to New York City, seeking anonymity and a fresh start. It was not an easy transition as she lived in two domestic violence shelters with her children while trying to find permanent housing. In addition to the emotional toll of the relationship, Anna was dealing with the financial toll as well: her former partner had used her credit cards during their relationship and ran up thousands of dollars of debt in her name.

[continued on page 33](#)



Class 33, A Long Play Record

*Charles A. Beckham, Jr., Haynes and Boone, LLP
Chair, Board of Regents*



I hope all of you and your families are safe and doing well.

Only our most distinguished Fellows will recall the significance of 33s; the other name of the long play vinyl records we all

purchased in record stores until around 1990 (and millennials are collecting now). It was around 1990 that the average nominee for Class 33 of the College started in the bankruptcy profession. With that in mind, we should be able to elect some classic new Fellows to Class 33.

Having endured what we hope is the worst of the coronavirus situation, we are now ready to embark on something more enjoyable – the nomination process for the 33rd Class of Fellows.

While we missed seeing the Induction of Class 31 in Washington, D.C. in March 2020 and Class 32 in Washington, D.C. in March 2021, we can look forward to seeing their Induction of Class 31 and Class 32 in Indianapolis in October 2021. Here are a few remarkable attributes of the members of Class 32. The members include:

- A musician who has appeared on Saturday Night Live
- A Chapter 7 Trustee in a Chapter XI case filed in 1923
- A former President of the American Bankruptcy Institute
- A member of the Executive Committee of the Equestrian Order of the Holy Sepulchre of Jerusalem, Western Lieutenancy

• A Knight of the Legion of Honor presented by the President of the French Republic

• A journalist who is Editor-at-Large for Bloomberg News and the American Bankruptcy Institute.

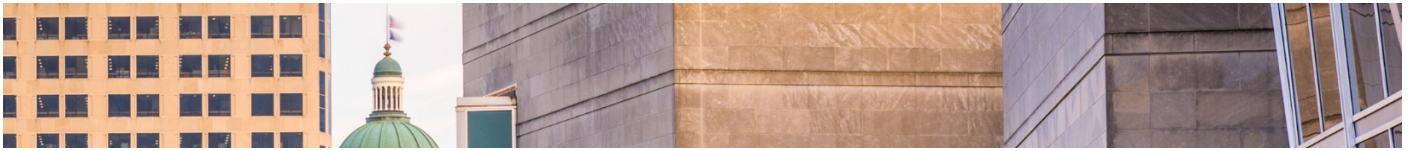
• Volunteers for legal aid society and many many more accomplishments.

The members of Class 32 are accomplished scholars who have spoken in virtually every major city in our country. They support charitable endeavors benefitting veterans, the homeless, the disabled, and minority groups. They come from numerous states and Canada and France. They are described as highly ethical, consummate professionals, unselfish, dedicated servants, paragons of civility, and tremendously well liked. We all admire the outstanding attributes of the members of Class 32 and applaud their accomplishments.

As we engage in the nomination process for Class 33, I ask that you thoughtfully consider how you will contribute meaningfully to our efforts to make the College even more reflective and representative of the diverse dimensions within our professional circles, including with reference to race, ethnicity, gender, sexual orientation, physical ability, type of practice and geography.

The Board of Regents will be meeting October 6, 2021 during NCBJ in Indianapolis to nominate the 33rd Class of Fellows, who will be inducted in March 2022 in Denver. We admit only the most worthy candidates – truly the best and brightest insolvency professionals and academics. I hope that many of you already are in the process of working on a nominating package, the

[continued on page 23](#)



Doing the Splits

SBRA and the Ghosts of Business Past, Present and Future – a Circuit Split in the Making

*Annette W. Jarvis, Greenberg Traurig, LLP
Secretary, American College of Bankruptcy*



In the last year or so since the effective date of the Small Business Reorganization Act (SBRA), or Subchapter V as it is commonly known, courts have grappled with a particular aspect of eligibility for this streamlined Chapter 11 process designed for small businesses. There are four requirements for eligibility: 1) the debtor must be a “person,” as defined in the Bankruptcy Code; 2) the debtor must be “engaged in commercial or business activities;” 3) the debtor cannot have aggregate debts exceeding \$7.5 million as of the date of the petition (the debt limit being raised temporarily under the CARES Act and then extended for another year); and 4) at least 50% of the debts must have arisen from the debtor’s commercial or business activities. The issue that arises in these eligibility cases arises from the second requirement: whether “engaged in commercial or business activities” requires a current business, a past business, or a future business and the exact nature of the business required. Thus arises the Dickensian specter of whether the Ghosts of Business Past, Present and Future are needed for eligibility under Subchapter V.

The question of the meaning of the “engaged in commercial or business activities” has led to a split in the lower courts, with no case yet having been decided at the circuit level. However, given the growing division among the lower courts, this issue appears to be a circuit split in the making and an important issue in this current business environment. Further, while the requirement that at least half of the debts must be from the debtor’s commercial or business activities is separate from the “engaged in commercial or business activity” requirement, these two requirements are often conflated.

The Ghost of Business Past and Present – The Broader Approach

In *In re Ventura*, 615 B.R. 1 (Bankr. E.D.N.Y. 2020), while the court addressed the meaning of “commercial or business activities,” the real focus was on whether a mortgage debt on a house that was the debtor’s primary residence could qualify as debt arising from the debtor’s commercial or business activities for purposes of eligibility under Subchapter V. The court found that “[w]hile the Property is clearly the Debtor’s primary residence, the primary purpose of purchasing the Property appears to have been to own and operate a bed and breakfast,” thus qualifying the debtor as being “engaged in commercial or business activities” with the mortgage debt being a debt arising from such activities. Noting that the “Congressional intent for the SBRA was to keep small business owners in business,” the court took a broad approach in interpreting the statute, rejected a “bright-

[*continued on page 24*](#)



Why should any Fellow Care about DE&I? Because It's Who We Are

Hon. Laurel Isicoff and Hon. Jeffery Hopkins

To develop a comprehensive plan that instills mindfulness regarding all aspects of diversity, equity and inclusion, and actively promotes those values through the resources and endeavors of the College and Foundation.

In October 2020, the College determined to form a Select Commission on Diversity, Equity and Inclusion. We were given the honor of co-chairing this Commission, joined by a group of 14 of our College thought leaders.¹ While our formal mission charges us to bring an interim and final report to the College over the coming year, we are a group committed to action. Our three subcommittees have been meeting regularly, and over the next year we will reach out to you from time to time to work with us on the mission with which we have been charged, while helping and encouraging you to use your leverage and influence to move the College forward in its goals to further expand the College's multi-dimensional diversity while maintaining its highest professional standards.

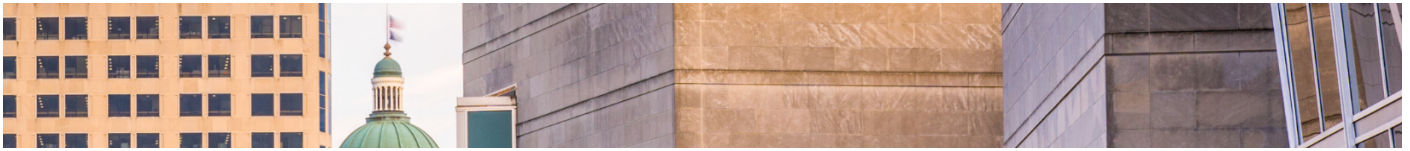
In the next few weeks you will be asked to complete an anonymous survey. It will only take you a few minutes to complete but the information you provide will be critical for us. You will also be hearing from us on proposals to examine and reconsider the procedures that we have set up to select our fellows and select our College Leadership, how we define our "multi-dimensional diversity," as well as invitations to act, think, and listen, as we did in our initial message to you with the Awadagin Pratt podcast.² We who practice our craft in this field and by our

very election as Fellows in this prestigious institution have an innate tendency to want to rebuild, restructure, reconstitute, restore, redeem, retool, reclaim, and indeed reform that which we find broken, whether it be in the business or individual matters we are assigned or in our society at large, as reflected on your "Part B" of the nomination form for admission to the College. We will be providing you the opportunity to bring that energy to this mission and to radiate that energy outwards.

In today's article we will focus on one challenge - no, invitation - proposed by our Action Subcommittee - Mentorship and Sponsorship.

Co-chair Jeffery Hopkins's early life has been captured in a video project labeled Pathways to the Bench available on the federal court's website and YouTube, among other sites. In the Pathways to the Bench video Judge Hopkins talked about mentoring and how important it has been in his career. Mentoring can be done in very many ways by busy Fellows with only a small investment of time. We are engaged in professions that are far more than businesses—we are guardians of traditions and ideals. Beyond the billable hour and beyond a desire to gain market share, we must as Fellows take an interest in persons younger, more diverse—and probably (but not always) less fortunate than we are—because we are so privileged and so blessed to do what we do.

A second undertaking that we as Fellows can do is sponsorship. Former ABI president and current commissioner, Richardo I. Kilpatrick, calls this "expanding your Rolodex." We Fellows are at a point in our careers where



we have many connections through which we have had the opportunity to meet younger professionals in the insolvency field – many of them diverse. Many of those younger people work for you; others you may meet through your various professional associations. The next time you need a speaker for a panel, or you are looking for a co-writer for an article, or you are attending an event with other people of influence, invite one of these young professionals to join you. Invite them to join your team on a case or project. Your invitation becomes their opportunity, and from there, they can grow. By expanding your Rolodex, you could be nurturing the growth and development of a future College Fellow while you make the bankruptcy community more diverse. Besides that, you will get far more personal satisfaction, and potential business (stay tuned for our next College Columns article) from your new relationship with a diverse lawyer or restructuring professional than you will ever contribute as you watch that person sprout wings and take flight.

Richardo's journey to bankruptcy started

when Professor Larry King took Richardo under his wing. Richardo credits his development as a bankruptcy practitioner to the mentoring he received from Professor King. Richardo's bankruptcy career began in 1984 when he joined a small firm in Detroit. An initial assignment was to handle the docket of the Hon. George Brody who, for some particular reason, took an interest in Richardo as a young practitioner and manifested that interest by making Richardo brief every substantive issue that he brought before the judge. Realizing that Richardo did not have the same resources as existed at the larger firms Judge Brody introduced Richardo to Lawrence (Larry) King a visiting professor from NYU who was teaching at Wayne State University. Prof. King assisted Richardo in understanding and interpreting the Bankruptcy Code. Prof. King also introduced Richardo to many national figures including the Hon. Ralph Kelly from Tennessee and Judge William Norton. The education and insights that Richardo gained through Professor King's

[continued on page 32](#)





ACB Distinguished Business Student Awards

In 2020, for the first time, the College through its Distinguished Student Committee selected two business students to be awarded a Distinguished Business Student Award. To qualify for this prestigious award, the students must be nominated by a professor or dean of their business school. The students undergo a rigorous evaluation process that includes interviews, submission of written materials and a review of the candidate's academic standing. Business student nominations are considered on a national basis by a separate subcommittee of the College.



Richard Jove

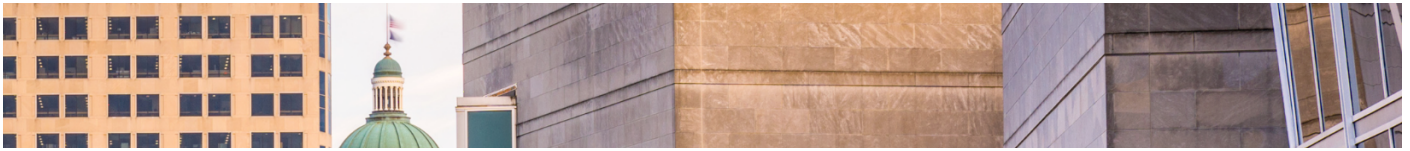
Richard is one of our first students to receive the ACB's Distinguished Business Student Award. He is originally from Old Greenwich, Connecticut and is a senior in Boston College's Carroll School

of Management Honors Program. He serves as the Co-President of the Boston College Investment Club, a student-run investment organization that manages a \$1 MM portfolio. He also co-founded the college's Parliamentary Debating Union.

Richard was first introduced to the field of bankruptcy during his freshman summer internship at Odinbrook Global Advisors, a restructuring advisory firm. He immediately became interested in the role because he recognized the direct impact that restructuring advisors have on the success or failure of companies and therefore on the livelihoods of individuals. He realized

that working in restructuring would allow him to tie his interests in corporate finance together with his desire to make a positive impact on society. In speaking with other industry professionals, Richard also learned that restructuring advisory is inherently more complex and strategic than some of the other products offered by an investment bank because there are no cookie-cutter solutions to a client's unique needs; this added intellectual challenge excites Richard.

During the early days of COVID-19, Richard authored a paper on the dearth of activity in the debt capital markets and the potentially catastrophic ramifications that zombie companies would have suffered had it not been for government intervention. Soon after, Richard joined Perella Weinberg Partners' restructuring team for his junior year internship. His summer with the firm highlighted the evident risks posed by exogenous shocks such as COVID-19 and the beneficial impact that restructuring advisors can have by helping companies bridge to a recovery. Richard is excited to be joining Perella Weinberg Partners full-time this summer. During his final year at Boston College, Richard further explored the concepts that he learned at Odinbrook and Perella by completing Professor Edith Hotchkiss' course on corporate valuation and restructuring. Richard also served as Professor Hotchkiss' research assistant for a bankruptcy-related project. A fun fact about Richard is that he speaks Italian fluently and has family in both Italy and Spain – he is excited to visit his relatives once the travel restrictions are lifted.



William Lenhart

Will Lenhart is the second recipient of the ACB's Distinguished Business Student Award. He is a fourth-year student at the University of Virginia, graduating with a double major in Economics and Spanish this spring. This past summer he worked as a Summer Financial Analyst in Houlihan Lokey's Financial Restructuring Group. Prior thereto, he worked as a research assistant at the McIntire School of Commerce, where he helped examine the decline in U.S. corporate loan covenant violations with Professor David Smith (see paper: "Losing Control? The 20-Year Decline in Loan Covenant Restrictions"). Upon graduation this spring,

he will be returning to work full-time in Houlihan Lokey's Financial Restructuring Group in New York.

Will first came to learn about the field of restructuring during a talk given by a UVA alumnus and former Brigade Capital principal. Excited by the combination of financial and legal analysis, Will began following distressed and special situations in his role as a Portfolio Manager at the McIntire Investment Institute (MII), a long/short, student-run equity fund with \$900K in AUM. This past spring, Will continued his passion for distressed investing and restructuring by serving as the Teaching Assistant at the McIntire School of Commerce for COMM 4559: Corporate Restructuring and Distressed Investing – a popular fourth-year capstone course. 🏛️

Duberstein 7th Circuit Moot Court Practice February 2021

A screen shot from the final round. Thanks to the Seventh Circuit Fellows and the ABI for sponsoring. The Fellows who assisted included **Tim Nixon, Brian Shaw, Ron Peterson, Eugene Wedoff, Nancy Peterman, Hon. Deborah Thorne.**





The DC and Fourth Circuit February 15, 2021 Virtual Moot Court

Caroline Dority, Denise Neary, and Beth Wiggins



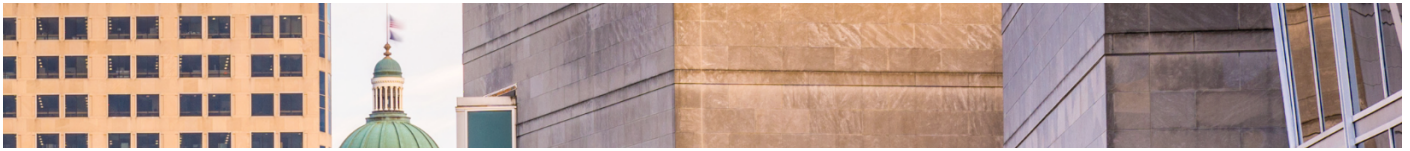
On February 15, 2021, fellows from the DC and Fourth Circuit Education Committee hosted their fourth annual, and first virtual, moot court. Although we missed gathering together in person, we were delighted with the day and the results.

The American College of Bankruptcy Fourth Circuit Moot Court serves as a practice platform for the Duberstein Moot Court and allows for student advocates to present their arguments to a panel of judges and gain feedback on their performance.

It was organized by six Fourth Circuit fellows, **Denise Neary** of Berkeley Judicial Institute, **Beth Wiggins** of the Federal Judicial Center, **Hon. Craig Goldblatt** of WilmerHale, **Michael Bernstein** of Arnold & Porter, **H. David Cox** of the Cox Law Group,

and **Douglas Foley** of McGuireWoods LLP. The success of the day can be attributed to them, as well as **Shari Bedker**, for providing the zoom platform that made the day possible. Her knowledge of the platform made all the difference in this year's virtual event. The assistance of **Caroline Dority**, undergraduate student intern at the Berkeley Judicial Institute, also helped ease the event's transition into the virtual world.

The judges in Courtroom 1 were **Hon. Patrick M. Flatley**, U.S. Bankruptcy Court for the Northern District of West Virginia (retired), **Hon. Michelle M. Harner**, U.S. Bankruptcy Court for the District of Maryland, and **Hon. Brian F. Kenney**, U.S. Bankruptcy Court for the Eastern District of Virginia. The judges in Courtroom 2 were **Michael**



L. Bernstein of Arnold & Porter, **Douglas M. Foley** of McGuire Woods LLP, **Danielle Spinelli** of Wilmer Cutler Pickering Hale and Dorr, and **Lynn Lewis-Tavener** of Tavener & Beran, PLC. The judges from Courtroom 1 judged the final round. The bailiffs were **Jana Laks** and **Beth Wiggins**.

Teams had the opportunity to argue both sides of the issue and to appear before both panels of judges. Private rooms were set up for teams to confer with each other throughout the day in addition to the two courtrooms and private deliberation rooms for judges.

Teams from Howard University School of Law (**Jordan Greer** and **Emony Robertson**), Brooklyn Law School (**Alexa Cohn** and **David Kim**), Emory University School of Law (**Robert Brown**, **Kaitlyn Gilbert**, and **Remya Menon**), University of Maryland School of Law (**Sandy Lamy** and **Jason Owens**), and two from Campbell University School of Law (**Ben Aydlett** and **Savannah Singletary**; **Breann Burns** and **Diane Ford**) competed.

Both teams from Campbell were coached by **Pam McAfee** and **Margaret Westbrook**. The Brooklyn team was coached by **Jordan Khorshad** and **Marissa Wong**, and the Emory team was coached by **Cayton Christman** and **Kate Dolansky**. Howard's team was coached by **Matthew Bruckner**, and Maryland's team was coached by both **Hon. Robert Gordon**, U.S. Bankruptcy Judge for the District of Maryland (retired), who serves on the law faculty, and **Hilary Hansen**.

The fact pattern of this year's competition involved two highly contested issues of bankruptcy law. The subjects argued by the advocates were (1) whether 11 U.S.C. § 362 and related judicial code provisions impliedly repealed the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq., and (2) whether 11

U.S.C. § 362(c)(3)(A) applies to property of a debtor's bankruptcy estate.

All student advocates who participated in the competition demonstrated strong knowledge of the material, presented compelling arguments, and clearly articulated their stance on the issues. Their performances were outstanding.

Guests were invited to attend the final round which consisted of advocates Robert Brown and Kaitlyn Gilbert of Emory University School of Law and advocates Ben Aydlett and Savannah Singletary of Campbell University School of Law.

The competition was won by Campbell's Ben Aydlett and Savannah Singletary. The Best Oral Presentation Award went to Howard's Emony Robertson.

The 29th annual Duberstein Bankruptcy Moot Court Competition took place virtually from February 27th to March 1st 2021, where student advocates from this past weekend's moot court competed.

The Fourth Circuit fellows plan to hold future regional competitions, offering more students the opportunity to participate. ¶





Housing Insecurity in the Post-Pandemic World

by Susan Block-Lieb, Scholar in Residence, ACB and Cooper Family Professor in Urban Legal Issues, Fordham Law School



Lots of people acquired dogs and cats and other pets during the pandemic – to provide company; to calm nerves; to feel less self-conscious about taking four walks a day – but my husband and I

adopted Charlie Precious Paws from a local rescue agency this past weekend. Getting a dog was something we'd been planning for a while; timing this acquisition was trickier than we thought it would be. Although we were sheltering in place in the Berkshires of westernmost Massachusetts, we knew that was only a temporary home. We wanted to settle fully into our new residence and our new post-pandemic reality before changing everything again by adding a dog to the mix.

We had the luxury, in other words, of emerging from last year by turning our backs on the past and striding into the future with our newly reconfigured family. Not everyone will be as lucky as us.

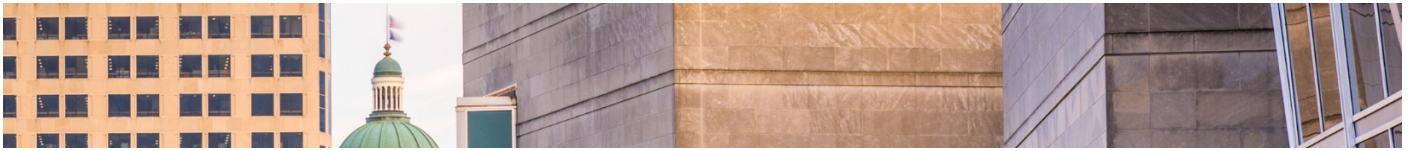
Millions of Americans lost their jobs as a result of COVID-related constrictions of the economy. Unemployment levels soared between February and April 2020 (from below 4 to slightly above 14.8 percent). Since then, the unemployment rate has improved considerably – by the end of April 2021, the rate had decreased to 6.1 percent. Still, the current 6.1 percent unemployment rate remains 50 percent higher today than

the historically low unemployment rates that had hovered below 4 percent between April 2019 and February 2020.

Moreover, national unemployment rates continue to hide disparities on the basis of gender, race, age, and educational attainment. Although the unemployment rate for adult women shifted recently and is now, perhaps surprisingly, slightly better than that for adult men (5.6 percent as compared to 6.1 percent), teen unemployment is twice as high as the national unemployment rate (12.3 versus 6.1 percent). Unemployment rates for Blacks (9.7 percent) and Hispanics (7.9 percent) are also significantly higher than the national average (6.1 percent). Most predictive of unemployment is educational attainment, however, College graduates (3.5 percent) are roughly half as likely to be unemployed as those with some college experience (5.8 percent) and high-school graduates (6.9 percent). Workers without a high school diploma are nearly three times as likely to be unemployed as those with 4-year college degrees or more (9.3 percent versus 3.5 percent).

Disparities in unemployment mean that, while many are returning to work and an otherwise financially stable U.S. economy is set to open fully this summer, some Americans continue to exist on the precipice of financial disaster.

One indicator of this economic insecurity is provided by the Household Pulse Survey conducted by U.S. Census Bureau over the past year or so. In the most recent survey



(April 14-26, 2021), nearly 6 percent of adult respondents across the U.S. reported that they are behind on rent or mortgage payments and that they have slight or no confidence that their household can pay next month's rent or mortgage on time; of the respondents reporting arrears in rent or mortgage obligations, roughly 30 percent said that eviction or foreclosure in the next two months was very likely or somewhat likely. The Household Pulse Survey data from late April 2021 show important improvements over survey data from late April 2020; last year, a full 24.6 percent of respondents had reported that they were not current on rent or mortgage payments.

The Census Bureau's survey data report perceptions of housing insecurity -- not actual evictions and foreclosures and, in theory, there should have been few residential disposessions given federal and many state laws staying these remedies. But these moratoria are all temporary and have been imperfectly enforced across the U.S. Moreover, although self-reported numbers of housing insecurity have improved, improvements in perceptions of housing security continue to show substantial numbers of Americans at risk for homelessness. Eviction of even a fractional percentage of the 123 million households in the U.S. would represent an economic disaster -- for those evicted, as well as for the extended families and communities with responsibilities for the evicted.

A recent report published by the Consumer Financial Protection Bureau further confirms Census reported levels of U.S. housing insecurity. The March 2021 CFPB report concludes that "[o]ver 11 million families are behind on their rent or mortgage payments: 2.1 million families are behind at



least three months on mortgage payments, while 8.8 million are behind on rent." Once federal and states stays on eviction and foreclosure lapse, warns the report, millions of Americans are at "enormous risk of losing their homes." These figures suggest the possibility of homelessness in numbers we haven't seen since the Great Depression, when 2 to 3 million recently evicted and foreclosed Americans lived in Hooverilles across the U.S. It is important to recognize, in addition, that housing insecurity threatens some Americans far more than others. The CFPB study specifies that "Black and Hispanic families are more than twice as likely to report being behind on housing payments than white families," and that risks of eviction and foreclosure are graver for manufactured home residents than residents in multi-unit buildings, and multi-unit residents are at greater risk than those in single residential-unit buildings.

Remember that tsunami of bankruptcy filings that we have been hearing about since last year? So far, federal and state

[continued on page 27](#)



ACB Distinguished Law Student Awards

Each year the American College of Bankruptcy selects a group of students to receive a Distinguished Law Student Award. To qualify for this prestigious award, the students must be nominated by a professor or dean of their law school. The students undergo a rigorous evaluation process that includes interviews, submission of written materials and a review of the candidate's academic standing. All the nominated law students are considered by their respective Circuit council, which selects the Distinguished Law Student; only one student is selected from each Circuit. The Circuits are divided into two groups with each group selecting a winning student from each of their member circuits every other year. The honorees are awarded an all-expenses paid trip to the College's annual Induction Ceremony and Events, which for 2021 will take place on October 4-6, 2021 in Indianapolis where they have an opportunity to meet and get to know the most distinguished bankruptcy practitioners and judges in the country. Many of the Distinguished Students honored by the College have gone on to make their own important contributions to bankruptcy law and practice.

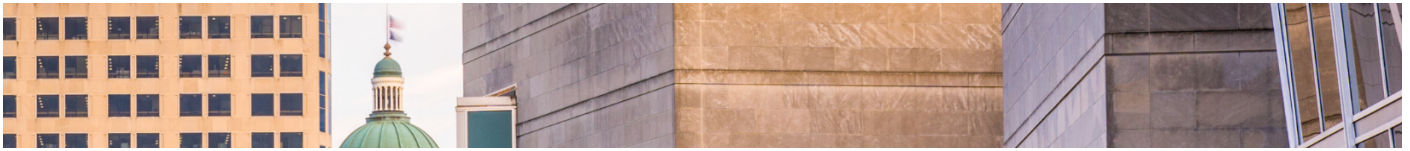
Alexis Soares (First Circuit)



Alexis Soares, the First Circuit Award winner, is currently completing her last year of law school at Suffolk University Law School. A Boston native, Alexis attended undergraduate at Ohio State University. She went to Ohio originally to train to be a news correspondent. After college she worked

for Kappa Delta sorority and while there did some diversity and inclusion programming which involved her working with an in-house lawyer. It was this experience that inspired her to become a lawyer. She received accolades from a law school professor who coached the SULLS team in the Duberstein Moot Court Competition. According to that professor, Alexis was a stand out student who excelled academically as exemplified by her high class standing; exhibited professional accomplishments, as exemplified by her service on the SULLS Moot Court Board and as a member and captain of the SULLS team in the Duberstein Moot Court Competition; is committed to public service, as exemplified by her internships with the United States Bankruptcy Court for the District of Massachusetts and the Massachusetts Attorney General's Office; and has a keen interest in and familiarity with bankruptcy law, as exemplified by her course work, her work involving the Duberstein Competition, and her internship with a bankruptcy judge. As captain of the SULLS Duberstein Team, Alexis was an effective leader, making sure that the team's brief comported with all the competition's rules and wrote a thorough, effective, and compelling argument. Moreover, Alexis acted as a supervisor and mentor for the other team members, essentially an assistant coach, advising them on their assigned tasks with the brief and oral argument, and organizing all practice arguments. Her team's debate topic is whether the Bankruptcy Code has impliedly replaced the federal Arbitration Act.

Alexis' hobbies outside of law school include reading and fitness. One of her previous jobs was working as a spin instructor.



Jamie Baum (Third Circuit)



Jamie is our Third Circuit Award winner. She is a 2L at University of Pennsylvania law school. Originally from New York, Jamie worked at Cadwalader in the H.R. Department before attending law school. She then enrolled at Penn for law school where she took Professor Mooney's bankruptcy class, which she really enjoyed. During her first-year summers she worked as a Bankruptcy Law Research Assistant for Professor Mooney, focusing on emerging issues related to the insolvency of international cryptocurrency exchanges. She also volunteered her time by working on a financial literacy project which involved mentoring students in the Philadelphia Public School system regarding financial matters, a program supported by the law school in conjunction with Penn's Wharton school. In addition to her work on Crypto currency, Jamie wrote a memo for Prof. Mooney on free and clear sales. In addition to her studies, Jamie serves as co-President of the Jewish Law Students Association, as a Morris Fellow, a Legal Humanities Fellow, Executive Online Editor of the Journal of International Law and as a member of the Student Advisory Board for Equity and Inclusion. Jamie also volunteers her time at the Philadelphia public high schools through the Youth Education pro bono project. Before law school, Jamie was an NCAA championship fencer at Yeshiva University, where she graduated with a B.A. in Psychology. This summer she will be joining the law offices of Morgan Lewis LLP.

Savannah Lavender (Peterson) (Fourth Circuit)



Savannah, our Fourth Circuit honoree, grew up in Florida where she attended undergraduate school at University of Central Florida in Orlando. During and immediately after college she worked for the Disney Corporation at the Magic Kingdom and later in their corporate offices. After college Savannah moved to Raleigh, NC and enrolled in Campbell Law School. Savannah signed up for to work in the bankruptcy clinic in her second year. It was from that time on that she fell in love with the field of bankruptcy law. She views bk as the perfect blend of litigation and transactional work. During her time in law school, she participated in the Campbell Law Innocence Project and the Peer Mentor Program. She also worked in the Stubbs Bankruptcy Clinic assisting debtors in filing chapter 7 and 13 petitions on a pro bono basis and has completed an independent study in Bankruptcy Law through the Clinic. In addition to participating in the Stubbs Bankruptcy Clinic, she took a fundamental bankruptcy law class as well as a Chapter 11 Reorganization Seminar. In her work, she met someone who worked for the Bankruptcy Administrator who offered her a summer job. In her circuit they have a bankruptcy administrator instead of a U.S. Trustee. The experience convinced her she wanted to practice in the field of bankruptcy law. Savannah is currently externing with Bankruptcy Judge David Warren. Her duties include attending hearings, drafting orders and reviewing motions. After graduation she would like to stay in Raleigh and is hoping to join a local firm. She has loved every moment spent in the Bankruptcy Court and



is looking forward to creating a career for herself in Bankruptcy Law.

Fun Facts: Loves to be outside. Has 2 dogs. Loves to hike with them.

Hannah-Kaye Fleming (Ninth Circuit)



Hanna-Kaye is our Distinguished Law Student from the Ninth Circuit. She grew up in the Southeast and attended undergraduate at Auburn University. She applied to laws schools in both Arizona and California

and chose the Sandra Day O'Connor Arizona State University Law School. One of her law professors, Laura Cordes, is a bankruptcy and secured transactions professor at ASU and inspired Hannah-Kaye to pursue a career in bankruptcy law. Hannah-Kaye excelled in her classes which included Advanced Bankruptcy, a course that even the Professor described as difficult. She is especially interested in the field of healthcare bankruptcies. Hannah-Kaye was also lauded by Bankruptcy Judge Daniel Collins for whom she externed and by his former clerk David Barlow. David was very impressed by Hannah-Kaye's proactive approach to problem solving, her excellent legal writing skills and ability to grasp complicated legal issues. Another of Hannah-Kaye's professors noted her insightful questions and preparation for his bankruptcy class and shared that she earned an A plus in his class. During her 2L summer, Hannah-Kaye externed for Judge Collins. She really enjoyed the experience and took Advanced Bankruptcy and Secured Transactions during her first semester of her third year, receiving high grades in both. Hannah would ideally like to practice bankruptcy law in Phoenix. She will be clerking for Bankruptcy Judge Daniel Collins in September.

Her hobbies include tennis which she plays competitively in USTA tournaments. Loves hiking and outdoors sports.

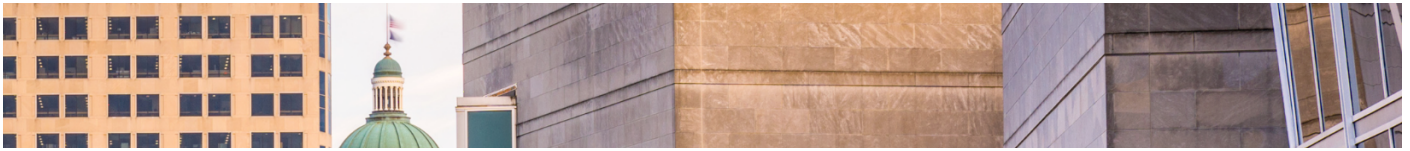
Kennedy Bodnarek (Eleventh Circuit)



Kennedy is our Distinguished Law Student from the Eleventh Circuit. She attends Emory University Law School where she is in her third year. She took a bankruptcy course with Professor Pardo

and then became his research assistant. He wrote that she excelled both in his class and as his research assistant and was an invaluable help in the completion of a book he wrote. Kennedy also worked with the Atlanta Legal Aid Pro Se Bankruptcy Project processing intake forms. Kennedy was a Legal Honors Intern for the U.S. Securities and Exchange Commission during her second year of law school. She served as the Executive Administrative Editor of the Emory Bankruptcy Developments Journal. Kennedy authored a Comment entitled Critical Vendors in the Retail Apocalypse: How the Economic Crunch Exacerbates the Need for Critical Vendor Codification. This earned her the Michael P. Gullet award for Excellence in Legal Writing and Editing. Kennedy is also a CPA and was inspired to go into bankruptcy for a number of reasons, including the fact that it is Code based. She also really likes the fact that it is a combination of transactional and litigation work. Kennedy will be clerking for Bankruptcy Judge Cavender of the Northern District of Georgia bankruptcy court after law school and then will be working for Eversheds in Atlanta.

Hobbies: loves running. Has 2 cats obtained during quarantine. Has travelled extensively. ¶



WANTED



UPDATES TO YOUR COLLEGE PROFILES

It has come to our attention that some Fellow profiles and photos might not be as up to date as they should be (extra points if you know who is pictured to the left!). We encourage all Fellows to log in and update their bios/photos and contact information at your earliest convenience. It is very easy to do with the following steps:

1. www.amercol.org
2. Click the red "login" button in the upper right corner with your email address and your password (if you don't remember your login, you can request a reset password).
3. Your personal information then shows up.
4. If you would like to update your contact information, biographical

profile or your photo, select the red "update" button in the upper right corner and then fill in the information on each tab that you want to update.

5. **IMPORTANT:** you must hit "save" on EACH page down in the bottom left corner to save your information.

In addition, to protect our Fellows' data and privacy, we have made some adjustments to the website so that by default, the only information that will be seen on the public side of the website is your name, firm, city and state (country, if applicable) and your biographical data. If you would like your mailing address, phone, fax and/or email on the public side of the website you will need to OPT IN for the data you would like shown.

All Fellows however, will be able to view Fellows' full contact information by logging into the website and accessing the directory after logging in with their email and password.

If you have any questions or problems with any of the above steps, please reach out to the College's Administrative Specialist, Jenny Cudahy, jcudahy@amercol.org, 434-939-6004 or Shari Bedker, sbedker@amercol.org.



From the Column...ist... continued from page 3

for a human;

- increased review of social media pages,
- renewed interest in photography hobby, including posting numerous pics on Flickr.com,
- having my 90-year old mother tell me for the first time ever to “keep my distance”; and
- drafting pleadings with the internet connection disconnecting and reconnecting as I struggled to hit “save” before losing my work;

This list informs me that it was a year of “making do.” And that is what most of us

did. As we hopefully turn the corner, we can appreciate those things we missed and also appreciate those things we didn’t really miss after a while. Adjustments to our work logistics can be made to preserve some of the more enjoyable time at home, or to enhance our time at the office. Increasing our people to people contact and communication without a screen in between us is one of the more appreciated changes.

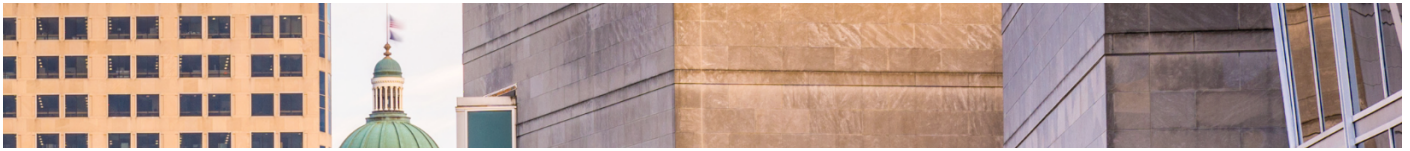
So, let me send a virtual handshake or hug to each of you, and hope that by the time we see each other in Indianapolis, we can turn it back to analog! Best. S. 🇺🇸



Once again during these times of remote work and virtual meetings, the Committees of the College have been going about their work with the same sense of purpose and regard for excellence to which we all have become accustomed. In order to expand and enhance opportunities to join in that work, we would like to invite ALL Fellows to consider volunteering for and actively participating on one of our College Committees.

Click the button below to access the survey and view the descriptions of the various Committees.

[**Volunteer Survey**](#)



Class 33 continued from page 8

deadline for completion of which is June 18, 2021. Completing the nominations materials takes a lot of work and the process is strictly confidential -- candidates must not know that they are being considered.

As is our custom, before you begin work on a nomination, we ask that you reach out to the relevant Regent or Chair of the Judicial Nominating Committee or International Fellows Nominating Committee to preview your proposed nominee. After nomination packages are submitted to the Regent or Nominating Committee, the members of each Circuit Admissions Council and the two Nominating Committees undertake the important and arduous task of reviewing and vetting the nominations. They will be contacting many of you on a strictly confidential basis for your input about potential nominees. Each year, more than 100 College Fellows are involved in the nominations process. The list of Regents, members of the Circuit Admissions Councils and the Chairs and members of the two Nominating Committees can be accessed on the College website at: <https://www.americancollegeofbankruptcy.com/about/membership-information/>

We welcome your active participation in the nominating process. Nominees must possess a number of qualities to meet the exacting standards of the College. These are discussed below and are described in the bylaws of the College (found in the About section of the College website at the URL noted above).

The bylaws provide that the College honors those professionals whose sustained performance in the practice of their profession exemplify the highest standards of professionalism among bankruptcy specialists by granting them

membership as Fellows. Fellows consist of bankruptcy professionals, including lawyers, judges, law professors, accountants, appraisers, auctioneers, officers of the government, officers of lending institutions, reorganization, workout and liquidation specialists and others who are dedicated to the improvement of the bankruptcy process and the enhancement of the professional quality of and public respect for the insolvency and bankruptcy practice.

Membership is by invitation to honor those individuals who have proven to their peers, and to the bar, bench and public, through long, continuous performance in their bankruptcy specialty that they possess:

- the highest professional qualifications and ethical standards

- that high level of character, integrity, professional expertise and leadership which demonstrates the likelihood that they will continue to contribute to the enhancement of bankruptcy scholarship, continuing education, and the bankruptcy process

- a commitment to fostering and furthering the objectives of the College

- sustained, exceptionally high quality professional services to clients, bar, bench, and public

- significant evidence of scholarship, teaching, lecturing, and/or distinguished published writings on bankruptcy practice, procedure, philosophy, improvements and reforms which demonstrates a consistent contribution to the enhancement of bankruptcy literature, education, practice and process.

Nomination applications will be reviewed and thoroughly vetted by the relevant Circuit Admissions Councils and Nominating Committees between June 18, 2021 and August 20, 2021. They will then vote to determine their recommended candidates

continued on page 24



[Class 33 continued from page 23](#)

after which additional due diligence will be conducted. The substantial vetting is an important check and balance to ensure that all relevant information on nominees is obtained and available to the Board of Regents. The Board of Regents will then meet on October 6, 2021 during the NCBJ to make final decisions on the admissions of new Fellows for the 33rd Class of the College.

On behalf of all the Regents, the Chairs of the Nominating Committees and the members of the Circuit Admissions Councils and Nominating Committees, I want to thank you in advance for your participation in this critically important process. It is among the most important functions of the College, and your participation will help guaranty that the College continues to be the preeminent organization that it is. 🏛️

[Doing the Splits continued from page 9](#)

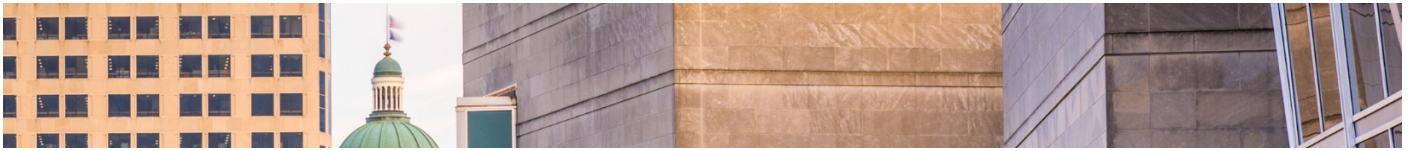
line test,” and found that if the “primary purpose” for purchasing the house was to run it as a business, the debtor qualified for Subchapter V protection.

Expanding on this broad interpretation of the “engaged in commercial or business activities” test, the court in *In re Wright*, 2020 WL 2193240 (Bankr. D.S.C. 2020), addressed the situation where the debtor was the owner of two businesses that had ceased operations two years before filing bankruptcy and which had sold all of their assets the year before the bankruptcy was filed. The debts from these defunct businesses that the debtor guaranteed were secured by the debtor’s primary residence. Interpreting the statutory language as not limited to debtors “currently” engaged in business or commercial activities, the court found the debtor met the Subchapter V standard “by addressing residual business debt.”

Since Ventura had included in its reasoning that the debtor qualified as “engaged in commercial or business activities” because, in part, these activities were intended to make a profit, the obvious follow-on question was addressed in *In re Ellingsworth Residential Cmty. Ass’n*, 619 B.R. 519 (Bankr. M.D. Fla. 2020), of whether a non-profit community

association could qualify as “engaged in commercial or business activities.” The court found the statute to be “unambiguous” in allowing “[a]ny corporation that conducts ‘commercial or business activities’ [to be] a small business debtor” where “[n]o profit motive is required.” The court focused on whether the debtor engaged in contracting for goods and services and in hiring professionals such that the debts were not for “personal, family or household purposes,” a blending of the debt structure and activities requirements for qualification under SBRA.

In *In re Blanchard*, Case No. 19-12440 (Bankr. E.D. La. July 16, 2020), the debtor was allowed to convert from Chapter 11 to Subchapter V based on debt incurred by individual debtors resulting from guarantees of commercial or business loans to separate entities, owned by the debtors but not in bankruptcy. Following the reasoning in *Wright*, the court noted that “the statute neither qualifies ‘engaged in’ as currently nor formerly ‘engaged in,’” and explained that as the debts “stem from operation of both currently operating businesses and non-operating businesses,” the “engaged in commercial or business activities” standard was met.



[Doing the Splits continued from page 24](#)

The Ghost of Business Present and Future – The Narrower Approach

On the other side of this statutory interpretation, the court in *In re Thurman*, Case No. 20-41400, 2020 WL 7249555 (Bankr. W.D. Mo. Dec. 8, 2020) found that individual debtors who had ceased operating their businesses, sold the business assets and retired several months before filing under Subchapter V did not qualify as debtors “engaged in commercial or business activities.” When the debtors filed under Subchapter V, their company had “no employees, no customers, no vendors, and no intent to resume business activities.” All the company had was “some outstanding accounts receivable and two cars,” even though the entity itself remained in good standing under state law. In determining the debtors did not meet the “engaged in commercial or business activities” standard, the court interpreted “engaged” in line with several other long-standing provisions of the Bankruptcy Code and other federal statutes. Concluding that “[t]he plain meaning of ‘engaged in’ means to be actively and currently involved,” the court noted that “[t]o add the word ‘currently’ to the phrase ‘engaged in’ would be redundant.” As there were no business activities at the time of the bankruptcy filing, the court found that the debtors did not qualify under Subchapter V.

Following the *Thurman* rationale, the court in *In re Johnson*, No. 19-42063-ELM (Bankr. N.D. Tex. Mar. 1, 2021) found individual debtors not to be “engaged in commercial or business activities” and thus ineligible for Subchapter V relief. One of the individual debtors had owned and managed several oil and gas companies prior to the bankruptcy filing, but each of these companies had ceased operations and were defunct before the date of the bankruptcy



filing. This individual debtor then took a job as an employee of a family owned business. His co-debtor wife worked as a nurse unrelated to his oil and gas business involvement. The court held, based on the plain language, prior statutory and judicial interpretation of that language and the legislative history, that “the ‘engaged in’ inquiry is inherently contemporary in focus instead of retrospective,” requiring current and not just past involvement in business. Further, the court found that simply being an employee of a company does not qualify as being “engaged in commercial or business activities.”

The Ghosts of Business Past, Present and Future – A Mixture of the Broader and the Narrower Approach

In *In re Ikalywych*, 2021 WL 1433241 (Bankr. D. Col. 2021), the court found the individual debtor to be “engaged in commercial or business activities” when he filed for bankruptcy based on his ownership interests in operating companies and his “wind down” work for a non-operating failed company even though his sole source of

[continued on page 26](#)



[Doing the Splits continued from page 25](#)

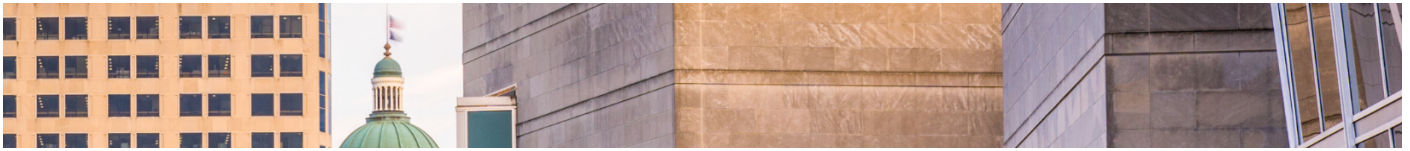
income was from a job as an employee. The court grouped the “engaged in commercial or business activities” and the 50% of debt from these activities requirements and read them in tandem. Interpreting “commercial or business activities” as “exceptionally broad,” the court also found the term “engaged in” to mean “that a person or entity is presenting doing something,” thus requiring present activity. Specifically rejecting the rationale of Wright and factually distinguishing both Thurman and Johnson, the court found the requirement dictated that the debtor must be currently engaged in business or commercial activity as of the petition date, but found this requirement to be met through the debtor’s ownership of operating businesses, the supervision of wind down activities of a closed business, and as an employee of a commercial business. While the court recognized its reasoning opened the door for the filing under Subchapter V to all employees, the court relied on the 50% or more of business debt requirement to limit this otherwise broad eligibility. In this case, the commercial debt requirement was found to be met because of the guarantees of company debt (which the court said in and of itself was a commercial or business activity).

Finally, In re Offer Space, LLC, Case No. 20-27480 (Bankr. D. Utah. April 22, 2021), the eligibility question came up for a debtor who had ceased operations and sold its primary asset prior to the filing of bankruptcy. The only assets the debtor had upon filing were bank accounts, accounts receivable, causes of action and stock (the proceeds from the previous sale of the primary asset). The debtor had no intention of resuming business, but only intended to liquidate the remaining assets for creditors. Rejecting the argument that the debtor


had to be an operating business, the court did agree, however, that “engaged” means the debtor “must be presently ‘engaged in commercial or business activities’ on the date of filing the petition for relief.” Using a “totality of the circumstances approach,” the court found that the statutory use of the word “activities” was broader than the word “operations,” and found that while the mere fact of engaging in the bankruptcy process was not a commercial or business activity, “a debtor’s actions in winding down its business constitute ‘commercial or business activities’” as long as those wind down activities were not completed prior to filing bankruptcy. The court further noted that, in this case, unlike in Thurman and Johnson, it was the company itself, and not just the owners, who filed bankruptcy.

As the debate rages on, the courts can all agree that there must be a Ghost of Business Past for Subchapter V eligibility. Courts are split on the necessity for a Ghost of Business Present. And even though the legislative history talks about saving small businesses, there appears to be no requirement for a Ghost of Business Future. ¶





Housing Insecurity continued from page 17

governments have stalled these from happening. But policymakers have not eradicated the heightened bankruptcy risks caused by the pandemic; they have mostly addressed the possibility of an impending homelessness crisis by extending deadlines. Charlie and I won't rest until all Americans find housing protection. 

¹See News Release, The Employment Situation – April 2021, Bureau of Labor Statistics, U.S. Dept of Labor, Summary Table and Table A-4 (May 7, 2021), available at <https://www.bls.gov/news.release/pdf/empsit.pdf>.

²Id., at Table A-4, page 17.

³Household Pulse Survey, U.S. Census Bureau, Likelihood of Eviction or Foreclosure (Week 28, ending April 26, 2021), available at <https://www.census.gov/data-tools/demo/hhp/#/?measures=EVICTFOR&periodSelector=28&areaSelector=st> (of these respondents, residents of Indiana [54%], West Virginia [51.3%], South Dakota [48.5%], Alaska [45.6%], Iowa [44.4%], Tennessee [44.4%], Nevada [44.2%], Oregon [44.2%], Oklahoma [43.4%], and Kentucky [41.7%] were most likely to report strong levels of housing insecurity).

⁴Id. (Week 1, ending May 5, 2020), available at https://www.census.gov/data-tools/demo/hhp/#/?periodSelector=1&measures=HINSEC_1(these figures also varied by state).

⁵Federal stays on eviction and foreclosure first emerged in the CARES Act. Congress extended the stays set out in the CARES Act until July 24, 2020, but not thereafter. Former President Trump issued an executive memorandum in late August recommending agency regulatory protections, and by early September the Center for Disease Control promulgated a regulation to stay certain residential evictions. Center for Disease Control and Prevention, Dept. Health and Human Services, Order Under Section 361 of the Public Health Service Act (42 U.S.C. 263) and 42 Code of Federal Regulations 70.2, Temporary Halt in Residential Evictions to Prevent Further Spread of COVID-19, 85 Fed. Reg. 55,292 (Sept. 4, 2020) [hereinafter, CDC Order]. Congress temporarily extended the CDC Order from 31 December 2020 to 31 January 2021 as part of the Consolidated Appropriations Act. Pub. L. No. 116-260, § 502, 134 Stat. 1182 (2020), but not thereafter. The Center for Disease Control itself extended the CDC Order, most recently to June 30, 2021. CDC Order (March 24, 2021), available at <https://www.cdc.gov/coronavirus/2019-ncov/more/pdf/CDC-Eviction-Moratorium-03292021.pdf>. In May 2021, a federal district judge for the District of Columbia ruled that the CDC exceeded its authority under the Public Health Service Act (PHSA) by imposing a nationwide eviction

moratorium. Ala. Ass'n of Realtors v. U.S. Dep't of Health & Hum. Servs., 1:20-cv-03377 (D.D.C. May 5, 2021). See also COVID-19: Federal Judge Rules CDC not Authorized to Issue Nationwide Eviction

Moratorium, The National Review (May 10, 2021), available at <https://www.natlawreview.com/article/covid-19-federal-judge-rules-cdc-not-authorized-to-issue-nationwide-eviction>. The district court subsequently agreed to stay this order pending appeal to the D.C. Circuit Court of Appeals. COVID-19 Update: Decision Striking Down CDC Federal Eviction Moratorium Temporarily Stayed, The National Review (May 12, 2021), available at <https://www.natlawreview.com/article/covid-19-update-decision-striking-down-cdc-federal-eviction-moratorium-temporarily>.

⁶For information on state moratoria, see Justia, Eviction, Mortgage, & Foreclosure Relief During COVID-19: 50-State Resources, available at <https://www.justia.com/covid-19/50-state-covid-19-resources/eviction-mortgage-foreclosure-relief-during-covid-19-50-state-resource/>.

⁷For research on the frequency of evictions notwithstanding the CDC Order, see Pete Hepburn and Renee Louis, Preliminary Analysis: Six Months of the CDC Eviction Moratorium, The Eviction Lab: Princeton University (finding that eviction filings were at 50.1% of historical average), available at <https://evictionlab.org/six-months-cdc/>.

⁸Consumer Financial Protection Bureau, Press Release, New Report From Consumer Financial Protection Bureau Finds Over 11 Million Families At Risk Of Losing Housing (March 1, 2021)(hereinafter, CFPB Report), available at <https://www.consumerfinance.gov/about-us/newsroom/new-report-from-consumer-financial-protection-bureau-finds-over-11-million-families-at-risk-of-losing-housing/>.

⁹Id.

¹⁰Id.

¹¹For discussion of homelessness during the Great Depression, see, e.g., MATTHEW DESMOND, EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY (2017); Elaine S. Abelson, "Women Who Have No Men to Work for Them": Gender and Homelessness in the Great Depression, 1930-1934, 29 FEM. STUD. 1 (2003).

¹²Id.

¹³Id.





From the Chair continued from page 2

There is probably no Fellow in the College who is better known and more widely admired than Judge Houser, and we look forward to honoring her with our most prestigious award. While Judge Houser needs no introduction, she will be presented by the Hon. Thomas L. Ambro, himself a recipient of that same award in 2017.

With lots of ground to make up as we emerge from the virtual format restraints of our last three meetings, we also plan for two educational programs to be organized by our Scholar in Residence, Prof. Susan Block-Lieb; an Orientation Luncheon for Class 31 and 32 new Fellows; the introduction of our Distinguished Law and Business Students; and our traditional All Fellows Luncheon to cap off the Fall Meeting on Wednesday, October 6. As important, we've also built in open time across all three days to meet and greet new and old friends whom all of us have missed seeing and spending in-person time with over the past year and a half.

The College's Board of Directors also looks forward to receiving the initial status report of the Select Commission on Diversity, Equity and Inclusion that we appointed in the first quarter of this year. Chaired by Judges Laurel M. Isicoff and Jeffery P. Hopkins, the Commission has embraced its Mission Statement and task to present a final report at the March 2022 Annual Meeting in Denver. Consistent with that Mission Statement, the Commission is also putting together a program during the All Fellows Luncheon to promote mindfulness of its objectives among all Fellows -- details will be forthcoming.

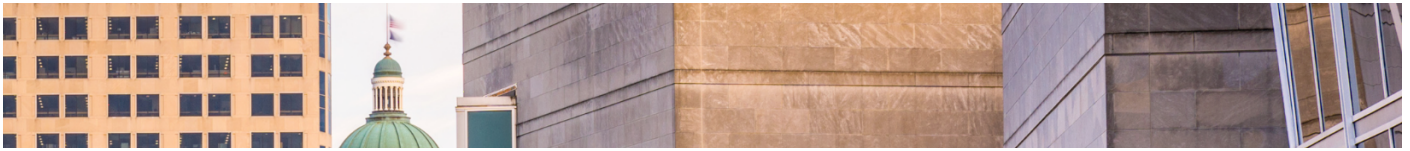
We are cautiously optimistic that conditions will permit us to meet in person in Indianapolis in October. Hotel accommodations already are available



through the NCBJ room block at <https://ncbjmeeting.org/2021/hotel-travel/hotel-reservations/>, and we thank the NCBJ for sharing that block and the meeting facilities with us from October 4-6. For those of you who are not ready to travel in October, we will be offering a hybrid option for at least some of our events; details to follow in the coming weeks.

While looking ahead to the future and our time together, I would be remiss if I did not look back to our virtual meeting held in March and highlighted by the outstanding program on "The Wall of Corporate Debt, and Other Financial Legacies of COVID-19." The College is grateful to Judge Michelle M. Harner, Richardo Kilpatrick and Jim Millstein for their detailed and provocative discussion of economic trends and forecasts, corporate and personal finance, and the outlook for our economy and the insolvency industry as we work through and emerge from the COVID-19 pandemic. Over 280 Fellows registered for the meeting and presentation, and came away with a greatly enhanced understanding of the domestic and global challenges on the economic front, as well as the pressures that are likely to confront

[continued on page 30](#)



The College would like to acknowledge the hard work and dedication of the following Fellows who have served as an integral part of the College Leadership:

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Regents

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Kenneth L. Cannon II (10th Circuit)
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David E. Leta

Committee Chairs

Michael St. Patrick Baxter (Judicial Nominating)
Lisa G. Beckerman (Distinguished Service Award)
Hon. Robert E. Gerber (Bankruptcy Policy)

Please join us in welcoming and confirming the nominations of the new members of the College Leadership:

Officers (First Term) (elected by College Board)

Michael St. Patrick Baxter (Vice President)

Directors (First Term) (elected by Fellows)

Hon. Lisa G. Beckerman

Directors (Second Term) (elected by Fellows)

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James T. Markus
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Prof. Robert M. Lawless (At-Large)

Foundation Directors (First Term) (elected by College Board)

Cecily A. Dumas
Jay M. Goffman
Peggy Hunt
Hon. Margaret M. Mann
Lisa M. Schweitzer

Foundation Directors (Second Term) (elected by College Board)

Kenneth H. Eckstein
Richard L. Wasserman

Committee Chairs (First Term) (elected by College Board)

D.J (Jan) Baker (Judicial Nominating)
Daniel C. Cohn (Bankruptcy Policy)
Ronald R. Peterson (Bankruptcy Policy)
Elizabeth C. Wiggins (Distinguished Service Award)

Committee Chairs (Second Term) (elected by College Board)

Craig Goldblatt (Education)
Deborah Langehennig (College Columns)
Hon. Cynthia A. Norton (Judicial Outreach)
Claudia Z. Springer (Distinguished Law Students)

The senior leadership of the College also would like to thank the Hon. Lisa G. Beckerman, Cecily A. Dumas, and Richardo I. Kilpatrick for their service on the 2020 Nominating Committee.

2/5/2021



[From the Chair continued from page 28](#)

and drive the U.S. bankruptcy system in the coming period. For those of you who may have missed it or might benefit from viewing it again, the presentation and excellent accompanying materials are available on the College website [here](#).

At the March meeting, we also welcomed the new members of our College leadership, including our new Vice President Michael St. Patrick Baxter and a new Director, the Hon. Lisa G. Beckerman, whom we also congratulate on her recent appointment as a bankruptcy judge in the Southern District of New York. The College will be enriched by the contributions that Michael and Judge Beckerman will continue to make in their new roles, just as our work has been enhanced by the Fellows whose leadership terms expired at the conclusion of that meeting. The full list of our incoming and outgoing leadership members is published elsewhere in this issue.

Of course, that smooth transition would not have been possible without the extensive and detailed work of our 2021 Nominating Committee, for which I thank our President Melissa Kibler, Board of Regents Chair Charlie Beckham, Foundation Chair Paul Harner, and our three at-large members Hon. Lisa Beckerman, Cecily Dumas and Richardo Kilpatrick.

The College remains active on the policy front, having submitted a letter to Congressional leaders on December 17, 2020 in support of an important reform in the administration of the Paycheck Protection Program to eliminate any blanket prohibition against participation in that Program by debtors in bankruptcy cases. As with all such communications, this letter is posted on our website and available [here](#).

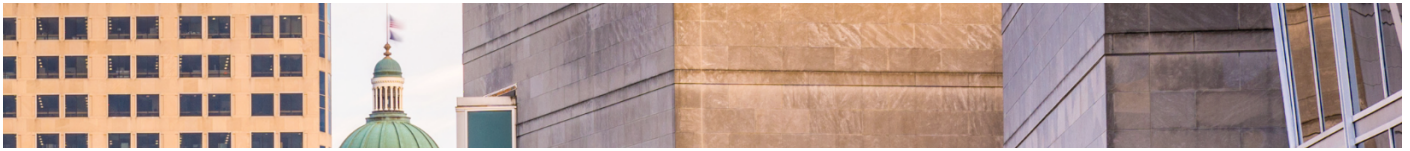
More recently, on March 3, 2021, we sent a [similar letter](#) expressing our support for the extension of bankruptcy relief provisions in the 2020 CARES Act and December 2020 omnibus appropriations bill -- specifically, a one-year extension of the debt limit increase in the Small Business Recovery Act to \$7.5 million that was slated to sunset in March.

The College is proud of its support for these legislative initiatives that enhance the quality of bankruptcy practice, and grateful for the diligent work of our Policy Committee in preparing the letters for my and Melissa's signatures. In particular, we express our fond appreciation to the Hon. Robert E. Gerber (ret.), whose second two-year term as chair of that Committee expired at the close of our March meeting.

And a final word about leadership and involvement: It's never too late for our Fellows, young and (not-young), new and (not-new), to volunteer for a Committee from the updated list maintained on our website [here](#). It's really easy: when you click on the red "Show Members" language for each Committee on that site, you get a full list of members and can contact the chair or any member by clicking on that person's name to pull up their College biography and contact information. The College is an organization of leaders, and there are so many ways in which to serve -- including many that I'm sure we haven't even thought of yet! We'd love for all of you who are able to step up and volunteer.

And, of course, a great way to start is to join us in Indianapolis in October! Stay safe, stay busy, and we hope to see you then.

Wishing everyone a safe and enjoyable summer!



President’s Message continued from page 5

The DEI Commission will present its final report at the March 2022 Annual Meeting in Denver. Our Fellows should also expect to hear from the DEI Commission as they report on their plans and progress and provide information to enhance our awareness regarding these important issues. Consistent with that objective, the DEI Commission will be presenting a program during the upcoming All-Fellows Luncheon in Indianapolis to promote mindfulness regarding diversity, equity and inclusion

among our Fellows.

The DEI Commission is oriented towards action and will need our collective support and participation. In the words of Judge Hopkins and Judge Isicoff, “We can accomplish anything to which we set our hearts and our minds to make our profession look more like the broad cross-section of people whose interests we serve.”

Looking forward to meeting you where you are, whether virtually or – hopefully – in person in Indianapolis. Keep well. 🏛️



Third Circuit Fellows’ Education Program

On January 25, 2021, the Third Circuit Fellows, together with Rutgers Center for Corporate Law and Governance and Rutgers Institute for Professional Education, hosted their fourth annual education program discussing important bankruptcy decisions of the last 12 months. Presented in a virtual format, the program was moderated by Fellow **Bill Rochelle**, Editor-at-Large for the American Bankruptcy Institute, and featured Bankruptcy Judges **Rosemary Gambardella** (NJ), **Eric L. Frank** (ED PA), **Brendan Linehan Shannon** (DE) and Chief Bankruptcy Judge **Michael B. Kaplan** (NJ) as well as Rutgers Professor of Law and Judge Morris Stern Scholar, **Chrystin Ondersma**.



[Diversity Committee continued from page 11](#)

mentorship, support and introductions aided in Richardo’s professional growth and maturation.

Judge Hopkins’s journey as an attorney began with a clerkship with Judge Alan E. Norris (Sixth Circuit). Judge Norris made the personal decision the year Judge Hopkins graduated from law school in 1985 that he was going to hire an African American new lawyer. There were no lawyers in Judge Hopkins’s family and less than a handful of college graduates. Judge Hopkins overcame his doubts about his ability to think and write like a lawyer—under the watchful eye of Judge Norris.³

Because Judge Hopkins demonstrated an ability to work hard, research the law thoroughly, and most importantly, mimic Judge Norris’s wonderful prose, Judge Norris invited Judge Hopkins to come along to a prized clerkship when Judge Norris was appointed to the Sixth Circuit Court of Appeals. Judge Hopkins notes that working for Judge Norris was more than just a clerkship; it was a stewardship in mentoring.

So, ask yourself. Who can YOU take under your wing?

These are times when complacency has no place. To paraphrase the immortal words of Rev. Dr. Martin Luther King, Jr., “injustice prevails when good women and good men do nothing.” Being a Fellow means not just knowing the law or being proficient at drafting a plan of reorganization or closing on a deal. It does mean that we ought to be experts and exhibit the highest professionalism and ethics standards while plying our craft. And it also means that we must serve as thought leaders in order to improve the diversity, inclusion and equity of the professionals who occupy the seats around the board rooms, conference



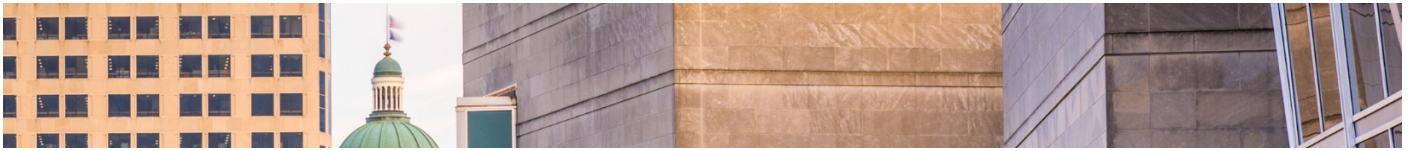
tables and courtrooms where important bankruptcy, debt restructuring and insolvency decisions are being made that affect the whole community—especially communities who have not had a voice.

It is our hope, and the hope of all the commissioners and the reporter serving with us that each and every Fellow will heed the call and join us in this noble endeavor. Because we are experts at reorganizing an enterprise and because we subscribe to the highest ideals of our respective professions, we can achieve greater diversity, equity and inclusion in the bankruptcy and restructuring profession so that it mirrors the people being served and provides much needed diverse voices in important decision making. Among other initiatives that the commission is working on, this effort will take mentorship, sponsorship and, most importantly, the commitment of our hearts and minds, individually and collectively, as Fellows in this august institution to the cause. ¶

¹The names of all Commission members, including our Reporter, and the subcommittees on which they serve, are listed on the College website at www.amercol.org.

²For those of you who would like to listen again here is the link again. www.artofthepiano.org (Episode 2).

³Watch for the DEI Webpage for a more complete description of Judge Hopkin’s personal journey to the bench.



[Pro Bono Update continued from page 7](#)

Although Anna started working full-time, there was no way that she could provide for her children and pay off the debt in her name. She reached out to the Brooklyn Bar Association Volunteer Lawyer Project (VLP) and was placed with a volunteer attorney within 6 weeks of her initial call and the volunteer attorney started working on her bankruptcy case right away.” The pro bono attorney was able to assist Anna in filing bankruptcy and obtaining a fresh start.

From Conejo Free Clinic, Thousand Oaks, CA:

“Kathy is a 45-year old woman who had been through over a year of unemployment. She was overwhelmed with wage garnishments that creditors had put in place. Even when she re-gained a steady job, the garnishments continued and she found herself in vicious, unsolvable cycle. Our bankruptcy attorney volunteer worked with her situation to determine that Chapter 7 was her best option. This process stopped the garnishments and her creditors were even required to pay back a part of them.”

From the D.C. Bar Pro Bono Center, Washington, D.C.:

“After Anna lost her job, she began falling behind on her credit card payments. She struggled to pay for basic necessities like rent. The arrival of the COVID-19 pandemic and the possibility of it delaying her ability to file a bankruptcy petition made it difficult for her to understand which, if any, of her creditors she should pay at the outset of the virus-related shutdown. She sought help from the Pro Bono Center’s Bankruptcy Clinic hoping to have her debt discharged and get a fresh start. Anna’s case was placed with a

pro bono attorney, who advised her on how to approach her pre-petition obligations to her creditors and then helped her file a bankruptcy petition. Her pro bono attorney represented her at a meeting of creditors and successfully secured a discharge for bankruptcy on her behalf. Anna now has the fresh start that she needed to get her financial life back on track.”

And these clients from Put Something Back Pro Bono Project, Dade Legal Aid, Miami, FL, remind us of the personal impact of our grants:

Client 1: “I am an elderly lady and was dealing with damages to my home due to past hurricanes. I was unable to meet the financial burden of the repairs and my day to day living expenses, so I had no other option but to file for bankruptcy. Luckily, I found Put Something Back. Today we had the final hearing at bankruptcy court, which was successful, we won our case. . . . I am very grateful, from the bottom of my heart for Put Something Back that guided me through the application process, eased my concerns and swiftly referred me to a pro bono attorney.

Client 2: “I remember walking into your office at the beginning of the year. I was drowned in financial debt and you guys were definitely a light at the end of the tunnel. I just received my discharged noticed last week and I can finally go to sleep at night and think of about having a bright future while at the same time reflect on past mistakes.”

Thank you again for your generosity. I look forward to sharing with you the client stories we will hear this year – and the difference in their lives you will make. 🙏



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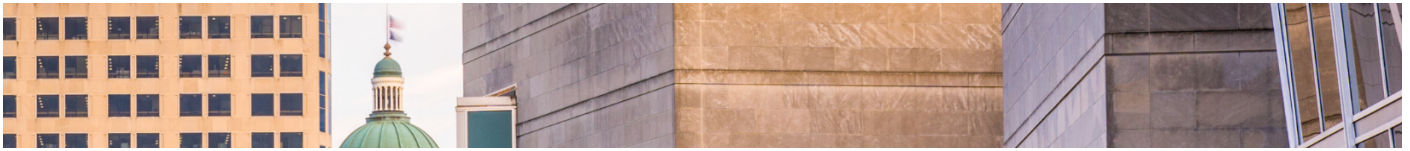
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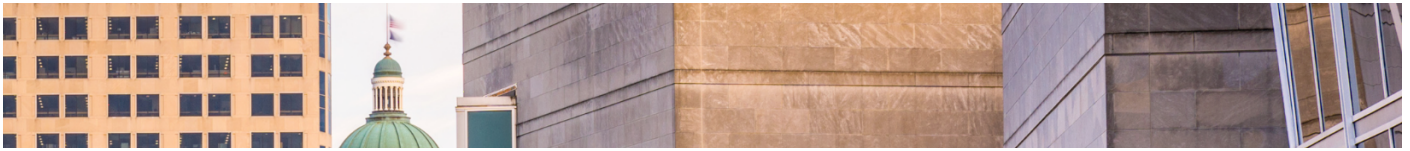
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As of May 4, 2021, the American College of Bankruptcy Foundation has received over \$29,118 in donations. The current list of contributors can be found below.

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Focus on Fellows

We invite all Fellows to submit information about awards, news, and/or recent publications. Member highlights will be published on a bi-monthly basis to all Fellows through email or the College Columns as appropriate. If you have news about yourself or a colleague, please send announcements to Michelle Foster, ACB Communications Director, at focus@amercol.org.

Lisa Beckerman was sworn in as a United States Bankruptcy Judge for the Southern District of New York.

Ogonna Brown has been recognized as one of The Liberty Bell Award recipients for 2020 presented by the Clark County Nevada Law Foundation's Let Freedom Ring Committee.

Reinhard Dammann and Christoph Paulus published a book entitled, "European Preventive Restructuring."

Matthew Feldman joined Willkie Farr & Gallagher as its new joint chairman.

Craig Goldblatt was sworn in as a United States Bankruptcy Judge for the District of Delaware.

Paul E. Harner joined Sheppard, Mullin, Richter & Hampton LLP's New York office as a partner in the Finance & Bankruptcy practice group.

Thomas Heather joined Creel, Garcia-Cuellar, Aiza y Enriquez, S.C. as an of counsel.

Christopher Andrew Jarvinen was profiled in a chapter of the recently published book, "Handbook for Protection of Credits' Claim in Bankruptcy," published by the Law Press-China of the People's Republic of China.

Eve H. Karasik was named by The American Bankruptcy Institute to serve a two-year term as the organization's first vice president of diversity and inclusion.

Melissa Kibler's firm, Mackinac Partners, a leading financial advisory, restructuring, turnaround and interim management firm, has been acquired by Accordion, a private equity-focused financial consulting firm dedicated to empowering the finance and accounting functions and driving performance improvement. The combined firm has capabilities to support clients in value creation and value stabilization through all phases of their

commercial lifecycles from nine offices across the United States. [Read more here.](#)

Nathalie Martin, who has been a part of the University of New Mexico law faculty since 1998, was featured in a magazine put together by the Property Brothers and HGTV as a very accomplished Yogi – someone who studies and is proficient in yoga.

Lawrence G. McMichael was elected Chairman of Dilworth Paxson LLC.

Brett Miller joined Willkie Farr & Gallagher as a partner.

Judge Robert Nugent III received the Distinguished Alumni Award from the University of Kansas School of Law.

Kevyn Orr was promoted to Partner-in-Charge of the United States at Jones Day.

Kathy Bazoian Phelps joined Raines Feldman LLP.

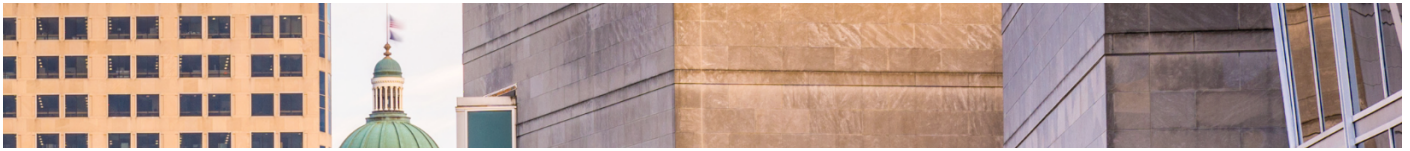
Suzanne Roski was as appointed new partner to expand and lead CR3's practice in its new Richmond office.

Morris G. Shanker, Case Western Reserve University Professor Emeritus, who passed away last August at the age of 93, designated a \$2 million bequest to the School of Law to endow a chaired professorship to be named in his honor. The gift was announced during an April 20 online memorial celebrating Shanker's life and works.

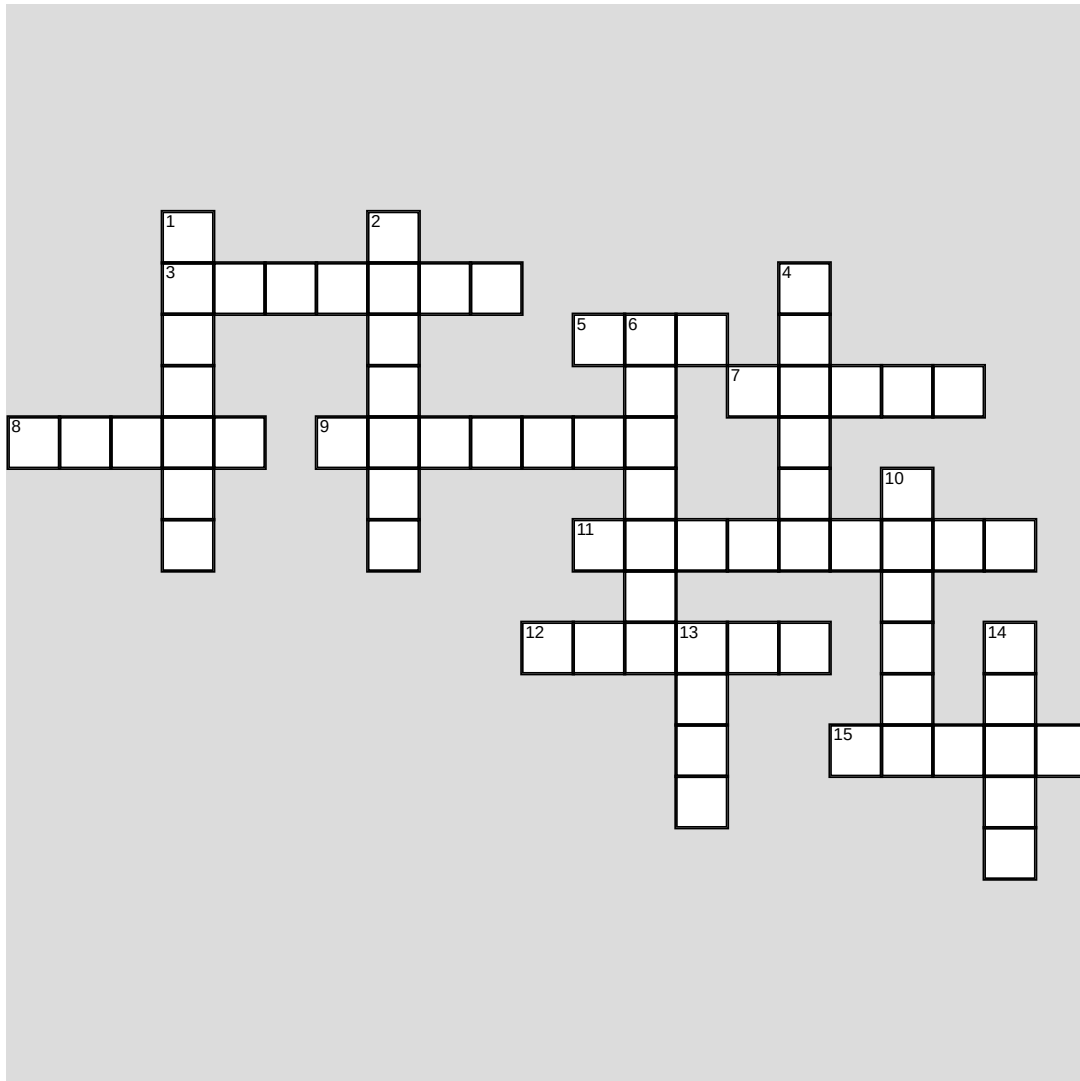
Claudia Springer joined Novo Advisors, where she is focusing on mediation and doing advisory work in the restructuring area.

Adrian Walters, a professor at at the IIT Chicago-Kent College of Law, received the Michael J. Graff Teaching and Advising Innovation Award from Illinois Tech.

Keith Wofford joined White & Case in New York.



Columns XWords



Across

- 3** Selected Distinguished One in our Program
- 5** Now known as a UAP
- 7** Not jury
- 8** State wins Bronze for number of business filings
- 9** State of NCBJ 2021
- 11** New Commission with Inclusion
- 12** 2022 City of Induction
- 15** Kennedy honored with 1st Distinguished Service Award

Down

- 1** Expected Wave of Filings
- 2** Board of _____
- 4** 2021 Distinguished College Honoree
- 6** Expected Economic "In" could also be "De".....
- 10** POACB cf. POTUS
- 13** Stay Violation in some Circuits
- 14** All fellows meal

[Answer Key on page 41](#)



DIVERSITY, EQUITY AND INCLUSION COMMISSION UPDATE

June 30 · 3 p.m. EDT · Via Zoom



On behalf of the Diversity, Equity and Inclusion Commission (“DEI Commission”), we would like to invite all Fellows to a meeting on June 30, 2021 at 3:00 p.m. EDT for an update on the work of the Commission. The format of the session is described below, and also will allow time for Fellows to discuss their thoughts and offer input in smaller groups.

[Click here to register.](#)

ACB Education Chair Judge Craig Goldblatt will interview DEI Commission Co-Chairs Judge Jeff Hopkins and Judge Laurel Isicoff.

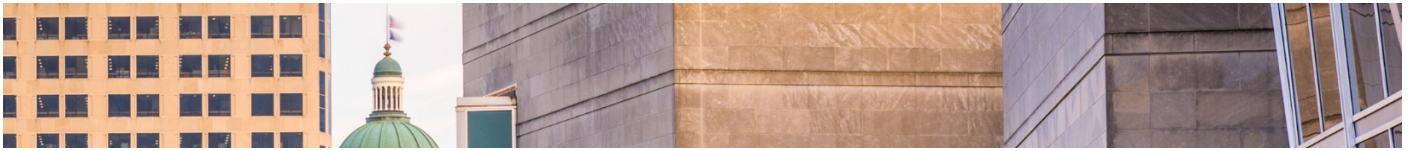
We anticipate a 20-minute update from the Judges on the important work and activities of the DEI Commission, followed by discussion sessions where Fellows can connect informally with Commission members in smaller groups.

Class 31 and 32 Induction Ceremony and Fall Meeting

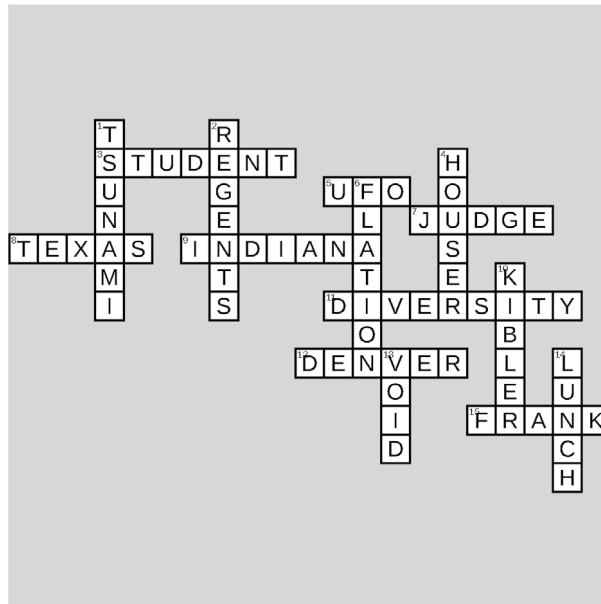
October 4-6, 2021 • Indianapolis, IN



Save the date for the upcoming Class 31 and 32 Induction Ceremony and Fall Meeting in Indianapolis, Indiana on October 4-6, 2021. Registration will be open in late June. You can use the NCBJ block of rooms to make your hotel reservations at this link.



Columns XWord Puzzle Key



Email the Editors

We are constantly adding content to the Columns and making other updates. If you have input on what you would like to see here, please email us at:

Steven N. Berger, snb@eblawyers.com
Deborah Langehennig, trustee@ch13austin.com

We value your input. Thank you!

American College of Bankruptcy
P.O. Box 249
Stanardsville, VA 22973
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