

90th Annual Meeting

Oct. 26-29

NCBJ | National Conference
of Bankruptcy Judges

2016



Attendee e-Brochure

San Francisco
Marriott Marquis

NCBJmeeting.org



President's Welcome



October in San Francisco! The National Conference of Bankruptcy Judges welcomes you and invites you to savor the full flavor of the city and the 90th Annual NCBJ Conference. You will find the hotel location ideal to access the cable cars, the ferries to Sausalito, Angel Island and Alcatraz, museums and the nearby shopping and cuisine. There is more than enough time to fulfill your continuing education needs and still fit in cultural and social activities.

We are extremely proud of this year's education program. Tune in to Broken Bench Radio at the opening plenary session. Hosts and guests on the radio hour will enlighten and entertain you! Deal with the stress that bankruptcy clients and lawyers both experience by attending the Intersection of Bankruptcy and Mental Health. And, don't miss the opportunity to sit at a table with at least one bankruptcy judge in Saturday's "Tell It to the Judge" roundtables. Of course, our affiliate organizations, ABA, ACB, ABI, AIRA, CLLA and IWIRC join us in hosting this broad-based conference.

From the Opening Reception on Wednesday night through the Final Night Dinner featuring entertainment from the streets of San Francisco, there is plenty of merriment to enjoy with old and new colleagues. Our Next Generation program was again fully subscribed to introduce forty new professionals to the wonderful world of restructuring that we have all made a significant part of our lives. Be sure to include these attendees in your networking plans.

NCBJ thanks you for your attendance and participation at this all-inclusive gathering. We are all looking forward to a fun-filled conference!

Best regards,

A handwritten signature in cursive script that reads "Mary Grace". The ink is dark and the signature is fluid and elegant.

Hon. Mary Grace Diehl
NCBJ President 2015 - 2016

Conference Information Hub



NCBJmeeting.org

Conference Schedule, Program Details & Written Materials

All the details are available and frequently updated on www.NCJBmeeting.org

The schedule includes various organizations' working meetings, the complete education program detail, all the social and networking opportunities, exhibits information, tours and more. On the website home page visit Schedule & Events icon and choose "Detailed Schedule" in the drop down list. From the Education icon in the drop down list, click on each organization's link for their detailed educational program offerings, presenter Bio Books, and written materials.

CLE and CPE Credit

The NCBJ Annual Conference applies for CLE accreditation from all states that require legal continuing education. Credits issued will be based upon verified attendance and applicable state rules. For 2016, NCBJ will process CLEs and AIRA will process CPEs credits for NCBJ, ABI, AIRA and CLLA programs that have been approved for accounting credit. Some programs are not approved for CLE or CPE credit. NCBJ does not offer credits for ABA sessions. As in the past, ABA processes all credit for all its programs. Please check in at the ABA registration desk onsite if you wish to get credits for any ABA session.





WEDNESDAY / THURSDAY

Shaded areas are non-NCBJ Programs

Wednesday, October 26

1:30 – 3:30 pm | *Golden Gate C1-C2*
Next Generation Roundtable (by invitation)

3:00 – 5:00 pm | *Yerba Buena Salons 11-12*
CLE Program: Almost Everything You Wanted to Know About... The Nuts and Bolts of DIP Financing
PRESENTED BY: ABA Business Bankruptcy Committee

3:00 – 5:00 pm | *Yerba Buena Salons 13-14*
CLE Program: Multi-Disciplinary Pro Bono Professional Collaboration on Financially Distressed Companies In and Out of the Courtroom
PRESENTED BY: ABA Business Bankruptcy Committee

3:00 – 5:30 pm
Exhibits Open (Yerba Buena Foyer, YB Salons 1-6 & Networking Corridor)

5:30 – 7:30 pm | *Golden Gate Ballroom*
AIRA Opening Reception (ticket included in NCBJ registration)

Thursday, October 27

6:30 – 7:30 am | *Pacific H*
Zumba with Judge E. Smith (everyone invited)

7:30 – 9:00 am | *Yerba Buena Salons 1-6*
NCBJ Attendee Continental Breakfast

8:00 am – 5:00 pm
Exhibits Open (Yerba Buena Foyer, YB Salons 1-6 & Networking Corridor)

8:45 – 9:00 am | *Yerba Buena Salons 8 & 9*
NCBJ Welcome Ceremony

NCBJ Plenary
9:00 – 10:00 am | *Yerba Buena Salons 8 & 9*
Bankruptcy Morning Edition From Broken Bench Radio

Tune in for the latest news and analysis from the world of bankruptcy in a radio news and talk-show format. Hosts, reporters, special guests, and audience members will discuss current issues that bankruptcy practitioners need to know about.

NCBJ Tours depart at 9:30 & 10:00 am (ticketed)
Art & Architecture or Walt Disney Family Museum

NCBJ Concurrent
10:30 – 11:30 am | *Yerba Buena Salons 8 & 9*
Hot Spots in a Cold Bankruptcy World: Health Care and Energy Restructurings

A panel of leading experts will discuss hot topics in two key industry sectors that continue to produce bankruptcy and restructuring work despite a strong U.S. economy and “cold” bankruptcy market: health care (including non-profits) and oil and gas (and energy, more generally). The panel members not only will provide information on issues from key cases during 2015 and 2016 but also will give their opinions on the future of these industries and the challenges they will face.

NCBJ Consumer Concurrent
10:30 – 11:30 am | *Yerba Buena Salons 11-13*
Chapter 13 Exit Strategies

Dealing with dismissal motions is an unavoidable aspect of chapter 13 practice. When plan modification is not possible, a common reaction is simply to do nothing and allow the case to be dismissed. This can be the right result in some cases, but often other options are not considered. This panel will discuss how practitioners and courts can respond more strategically to dismissal motions, what options are available to a debtor facing dismissal of a chapter 13 case, and the role of debtor’s counsel and the court in facilitating consideration of these options. Panelists will cover real-life examples of the various options and offer practical tips on getting clients to respond at this stage of the case.



THURSDAY

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NCBJ Concurrent

11:45 am – 12:45 pm | Yerba Buena Salons 8 & 9
Diffusing the Stress in Financial Distress: The Intersection of Bankruptcy and Mental Health

Bankruptcy is an inherently stressful event; litigation is an inherently stressful event. Bankruptcy lawyers and insolvency professionals are not mental health experts – but exposure to some basic mental health concepts can aid your representation and can benefit you and your colleagues. You might not be able to control certain behavior, but you can better understand it. This program will provide insight into some mental health issues and concerns that often arise in bankruptcy court, both for parties and those representing them; consider what practitioners can do to better arm their clients to handle the stress of bankruptcy; discuss what those in the bankruptcy field can do if they sense a colleague is in trouble; and point out how to recognize key warning signs in yourself and others.

NCBJ Consumer Concurrent

11:45 am – 12:45 pm | Yerba Buena Salons 11-13
The Modern Mortgage

In today’s lending market, it’s not your grandmother’s mortgage. In the last two years, nearly every aspect of mortgages has dramatically changed. New loan disclosure rules are in use, underwriting standards now require evaluating a borrower’s “ability to repay,” servicing is adapting to new federal regulations, and foreclosure prevention faces the expiration of the HAMP loan modification program. This program will describe key changes in four areas: underwriting, disclosure, servicing, and loss mitigation. Industry and advocate panelists will identify how evolving mortgage issues are likely to surface in bankruptcy. Not quite everything you used to know about mortgages is wrong, but close enough to make for a challenging program.

1:00 – 1:45 pm | Golden Gate A (ticketed)
CLLA Luncheon, Lawrence P. King Award for Excellence in Bankruptcy Presentation followed by Keynote Speaker



Andy Dillon

1:45-2:45 pm | Golden Gate A
CLLA Keynote, Andy J. Dillon, ConwayMacKenzie, Detroit: From Detroit to San Juan—Perspectives on Municipal and Territorial Restructurings

1:00 – 3:00 pm | Golden Gate B (ticketed)
ABA Chapter 11 Luncheon, Heidt Award Presentation and CLE Program: The State of Play: Managing State AG Hot Button Issues in Chapter 11 Cases

3:00 – 4:05 pm | Yerba Buena Salon 9
CLLA Honorable Frank W. Koger Memorial Education Program: Current Developments in Hot and Emerging Areas of Bankruptcy – Session 1 Restructuring and Bankruptcy Challenges In the 21st Century World of Not For Profits

ABLJ – ABA Symposium

3:00 – 5:00 pm | Yerba Buena Salon 7
The NCBJ at 90: The Evolution, Role and Impact of Bankruptcy Courts from 1926 to 2016

The American Bankruptcy Law Journal – American Bar Association Symposium features a series of presentations.

PRESENTATIONS:

The Keepers of the Code: Evolution of the Bankruptcy Community, 1926 to 2016

Prof. Karen Gebbia, Golden Gate University School of Law, San Francisco, CA

The Rise and Fall of Bankruptcy Courts’ Equitable Powers Over the Past 90 Years

Prof. John A. E. Pottow, University of Michigan Law School, Ann Arbor, MI



THURSDAY / FRIDAY

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Municipal Bankruptcies and Bankruptcy Courts: Then and Now

Prof. Melissa Jacoby, University of North Carolina School of Law, Chapel Hill, NC

History of Valuation Techniques in the Bankruptcy Court, 1926-2016

Prof. Michael Simkovic, Seton Hall University School of Law, New York, NY

3:15 – 5:00 pm | Yerba Buena Salons 11-12 CLE Program: Bankruptcy Appeals: Does The Bench Matter?

PRESENTED BY: ABA
Business Bankruptcy Committee



3:15 – 5:15 pm | Golden Gate C1-2 NCBJ-ACB International Program

Current Topics in Chapter 15 Cross-Border Cases

The program will focus on issues that are arising in Chapter 15 cases. Particular attention will be devoted to additional relief that may be granted under 11 U.S.C. § 1519 upon filing a petition for recognition and under 11 U.S.C. § 1521 upon recognition. There also will be discussion of the role of choice of law in recognition matters.

4:15 – 5:15 pm | Yerba Buena Salon 9 CLLA Honorable Frank W. Koger Memorial Education Program: Current Developments in Hot and Emerging Areas of Bankruptcy – Session 2

Nice Work If You Can Get It: Getting Employed, Staying Employed, and Getting Paid in Bankruptcy Cases
1-hour CLE Ethics

Friday, October 28

6:30 – 7:30 am | Pacific E
Zumba with Judge E. Smith (everyone invited)

6:30 – 7:30 am | Pacific A
Yoga with Judge C. Brown
(everyone invited, bring your own mat)

7:00 – 9:30 am | Golden Gate A
NCBJ Judges' Breakfast, Annual Meeting & Blackshear Introductions (by invitation only)

7:30 – 8:45 am | Yerba Buena Salon 7
AIRA Breakfast Program (ticketed)
Everything's Changed! What's Next in Bankruptcy Reporting Requirements?

The panelists for this breakfast discussion will update practitioners on recent, as well as anticipated, changes in bankruptcy reporting requirements

7:30 – 9:00 am | Yerba Buena Salons 1-6
NCBJ Attendee Continental Breakfast

8:00 am – 1:00 pm
Exhibits Open (Yerba Buena Foyer, YB Salons 1-6 & Networking Corridor)

8:45 – 8:50 am | Yerba Buena Salon 9
Inns of Court Award Presentation

NCBJ Concurrent
9:00 – 10:00 am | Yerba Buena Salon 9
The Color of Money: The Implications of Race and Ethnicity in Addressing Debt

Race, immigration, and inequality are prominent in public debate, and bankruptcy is not immune to these issues. Notwithstanding facially neutral laws, the credit and legal



FRIDAY

Shaded areas are non-NCBJ Programs

systems may vary for borrowers of different demographic characteristics. This session explores ways in which race, class, and immigration status (or perceptions thereof) may affect borrowing, debt collection, and bankruptcy. The panel will address topics such as exemptions and bankruptcy chapter choice and will take a broad look at the consumer credit markets. While the problems that may exist in consumer credit and bankruptcy elude easy solution, awareness and debate are first steps in progress or reform.

NCBJ Concurrent

9:00 – 10:00 am | Yerba Buena Salon 8

What Happens After Wellness?

After several years of uncertainty, the Supreme Court decided that parties can consent to a bankruptcy judge’s entry of final judgment on a “Stern claim.” But the ruling leaves significant procedural and tactical issues for counsel to address. For example, what implied conduct will be sufficient for the court to determine that consent was both knowing and voluntary? And when should a party consent? A panel of experienced lawyers will discuss strategic considerations that are important in deciding whether to consent and the consequences of the decision. The audience members will weigh in on these strategic decisions through polling technology.

9:00 – 10:00 am | Yerba Buena Salons 11-13

ABI Roundtable #1: Equitable Mootness in the 21st Century: The New Parameters

All Circuit Courts recognize the doctrine of equitable mootness, but application of the doctrine differs. What can you do to win an appeal based on equitable mootness? What can you do to defeat it? Come join our roundtable discussion on everything you need to know about the current state of the law on equitable mootness as well as best practices for addressing the doctrine in a bankruptcy appeal.

ABI Roundtable #2 | Golden Gate C1-2

Best Ethical Practices for the Consumer Attorney

The panel of experienced ethics lawyers and judge will discuss current topics from the ever-evolving world of consumer bankruptcy ethics. This discussion will highlight ethics trends, current cases and suggested best practices for lawyers involved in consumer bankruptcies. It will help you stay ahead of ethical issues affecting your practice.

NCBJ Tour 9:30 am (ticketed)

Magical Marin

NCBJ Concurrent

10:30 – 11:30 am | Yerba Buena Salon 9

The Consumer Financial Protection Bureau: What Bankruptcy Professionals Need to Know

In its first five years, the Consumer Financial Protection Bureau (CFPB) has dramatically changed consumer credit laws. Debtors borrow – and creditors lend – under new rules for mortgage underwriting, debt collection, credit reporting, and other activities. The CFPB also brings enforcement actions, handles consumer complaints, and produces education materials. The CFPB’s work is making a mark on bankruptcy practice, and that will only grow. Learn about the CFPB’s most important activities, including new defenses to mortgage foreclosure, actions against debt collectors, and pending rulemaking on payday loans. This program also discusses how the CFPB deals with bankruptcy issues (or not!).

NCBJ Concurrent

10:30 – 11:30 am | Yerba Buena Salon 8

Where Has Our Business Gone? – Alternatives to Chapter 11

Anecdotally, practitioners know that work has been slow in the chapter 11 arena. But workouts and distressed transactions are still happening – just in alternative ways. This panel will explore nonbankruptcy restructuring alternatives, such as assignments for the benefit of



FRIDAY

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creditors, receiverships, secured party sales and other solutions. The panelists will explore when nonbankruptcy alternatives are appropriate (and even preferable) and will consider some of the reasons why chapter 11 appears to have fallen out of favor.

10:30 – 11:30 am | Yerba Buena Salons 11-13

ABI Roundtable #3:

The ABI's "Elite Eight" of the Most Important Supreme Court Bankruptcy Cases Ever

Miss the NCAA basketball tournament this year? This roundtable panel will pick its own "national champion" from among the most important bankruptcy-related Supreme Court cases ever. Brackets will be released the day of the program.

ABI Roundtable #4 | Golden Gate C1-2

Addressing Environmentally Contaminated Property: A Primer

What issues do companies or trustees face in bankruptcy when they own environmentally contaminated real property? Who are the responsible parties? Can prior owners be held responsible? When can environmentally contaminated property be abandoned or liability arising from such property be discharged? And how does a debtor or CRO deal with these issues? The panel will address these issues and others as they arise in small, middle-market, and mega-cases.

NCBJ Concurrent

11:45 am – 12:45 pm | Yerba Buena Salon 9
OMG, How Will I Get This Evidence In?!

Imagine this scenario: You are at an evidentiary hearing and you desperately need to get some evidence in, but every time you try to lay a foundation you draw objections and the court sustains them. The sweat begins to form on your brow and your mind races through the rules of evidence! In this highly interactive program you

will see experienced trial lawyers and judges work through a variety of evidentiary issues as they seek to admit evidence commonly offered in bankruptcy court, including business and public records, voluminous business records, electronic evidence, audio recordings, and social media sites. The scene will be a courtroom setting and you will use electronic polling to predict whether the objections will be sustained. The program promises to be fast-paced and instructive.

NCBJ Concurrent

11:45 am – 12:45 pm | Yerba Buena Salon 8
Locking Up the Case: Plan Support Agreements, Intercreditor and Forbearance Agreements, and Other Strategies for Predetermining a Case's Outcome

Entities purchasing distressed securities and debt often do so with the expectation of "locking up" the chapter 11 case with a restructuring support agreement and control through negotiations on intercreditor agreement provisions. How much is too much? What can and should a debtor agree to do? What are the options to the late-to-the-party unsecured creditors who may be prejudiced by such lock-up agreements? Which provisions in intercreditor agreements have been challenged? Is the business judgment standard the right standard for approval of these agreements or does it depend? A panel of seasoned practitioners will share their strategies for when to use these agreements, what to ask for in them, and when to challenge them.

11:45 am – 12:45 pm | Yerba Buena Salons 11-13

ABI Roundtable #5: Hot Consumer Topics

This roundtable will cover recent developments in consumer cases at the bankruptcy and appellate levels.

ABI Roundtable #6 | Golden Gate C1-2

Where the Work Is

As the old saying goes "Times are tough all over." Come join and participate with this panel of nationally



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recognized professionals as they lead a roundtable discussion of the latest trends and services in the restructuring industry. Hear their prognostications of the type and industries where work will develop in the near future.

ABI Luncheon & Keynote

1:00 – 3:00 pm | *Golden Gate A-B (ticketed)*



*Rich Karlgaard
Publisher, Forbes*

Entrepreneur-turned-publisher, columnist, author, television commentator, private investor and board director, Rich Karlgaard offers a unique vantage point on trends driving business and investment climates. His insights help audiences see the global marketplace with new eyes.

Karlgaard is the publisher of *Forbes* magazine, where he also writes a biweekly column, “Innovation Rules”, known for its witty and honest assessment of technology trends and current business issues. He’s a regular panelist on cable news’ most popular business show, *Forbes* on FOX, and is a frequent contributor to the *Wall Street Journal’s* op-ed page. A successful entrepreneur and past winner of Ernst & Young’s “Entrepreneur of the Year Award,” Karlgaard understands firsthand the difficulties of navigating in today’s business climate and the opportunities available to those who have the courage to reach out for them. His assessment of technology trends, U.S. and global economic forces, and current business and political issues gives audiences solid insights they can use to make better business and investment decisions.

Unfailingly gracious, Karlgaard puts forth his insights for others to consider in a way to help them see the events that change their world—especially the impact of Washington politics—on business and innovation.

In his book, *The Soft Edge: Where Great Companies Find Lasting Success*, Karlgaard shares a surprising third element in addition to visionary strategy and superb execution that’s required to gain the competitive advantage.

1:00 – 3:00 pm | *Yerba Buena Salon 7 (ticketed)*
**ABA Secured Creditor Luncheon and CLE Program:
Unique Issues That Arise in Taking A Security Interest
in Intellectual Property**

Intellectual property (“IP”) can act as collateral to be pledged to secure an extension of credit. For example, a company that borrows money from a bank can pledge its patents as collateral for the loan. The bank will of course want to make sure that its security interest in the IP can be enforced against the borrower if the borrower defaults on the loan. However, issues can arise regarding perfecting a security interest in different types of IP, including copyrights, trademarks, and patents. Also, lenders who seek IP licenses as collateral for their loans also must be acutely aware of the implications of a bankruptcy filing, particularly the leverage licensors may hold over a licensee’s ability to transfer IP assets freely in a bankruptcy proceeding. For example, a licensee of intellectual property must meet certain criteria before assuming and/or assigning its license to a third-party user. Most importantly, the licensor – depending upon in which jurisdiction the bankruptcy is filed – may have the right to prevent either the assumption or the assignment of the license to a third-party, or both. This panel will address all these issues and more.



*Warren E.
Agin*



*Leianne S.
Crittenden*



*Robert L.
Eisenbach III*



*John G.
Loughnane*

6:00 – 7:00 pm | *Yerba Buena Foyer*
NCBJ Final Night Reception
(your badge is Reception admission)

7:00 – 9:00 pm | *Yerba Buena Salon 9 (ticketed)*
**NCBJ Final Night Dinner “Celebration of
San Francisco Neighborhoods”**



SATURDAY

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Saturday, October 29

7:00 – 8:15 am | *Golden Gate A*

Judges' Breakfast & NCBJ 2017 Formative Board Meeting (*judges & spouses only*)

7:00 – 8:30 am | *Yerba Buena Salons 1-6*

NCBJ Attendee Continental Breakfast

NCBJ Plenary

8:00 – 9:00 am | *Yerba Buena Salon 9 (ethics credit)*

To Tell the Truth: Bankruptcy Ethics Are Complicated

In the format of the old game show, To Tell the Truth, a panel of ethics gurus will highlight new and recurring ethical issues that the bankruptcy bench and bar face. The audience will vote on which guru is telling the truth as they cover topics such as: conflicts, duty of investigation, unbundling, social media and electronic discovery, employment and fee issues, judge recusal, privilege issues, soliciting clients, client controls, and more!

NCBJ Closing Plenary

9:15 – 10:15 am | *Yerba Buena Salon 9*

Tell It To The Judge!

Judges are human, too. Despite being (hopefully) some of the best and brightest in the insolvency universe, they too have quirks, idiosyncrasies, and habits that sometimes result in egregious things happening in the courtroom. Additionally, sometimes lawyers might not use the most effective means to “clue in” judges as to what is really happening outside of the courtroom—to get the judge focused on issues that need to be addressed. In this program, you will be seated at a roundtable with a bankruptcy judge for a free-flowing discussion designed to let you tell the judge what you think about specific topics that the panelists introduce. The small group discussions will give judges and lawyers an opportunity to exchange ideas to foster a better understanding of each others’ views from both sides of the bench.

SAN FRANCISCO TOURS

Tickets must be purchased by Wednesday, Oct. 26. Check at NCBJ Registration desk for availability.



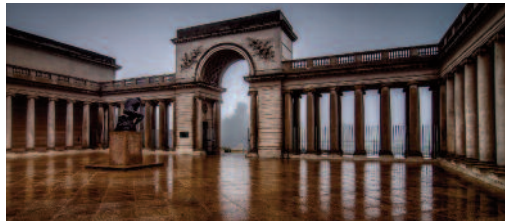
Art & Architecture
(*ticketed, lunch not included*)

Thursday

Oct. 27, 2016 | \$85 per person

9:30am-2:30pm

California Palace of the Legion of Honor private guided tour will take you on a journey through religious art of the Middle Ages, Impressionists, early contemporary works and the Rodin sculpture collection. Walk the historical Japanese Tea Garden in Golden Gate Park, built for the 1894 International Exposition and renewed through the years with Japanese plants and ponds.



Where Dreams Come to Life: Walt Disney Family Museum Followed by Lunch at Perry's on Union Street

Thursday, Oct. 27, 2016 | \$165 per person
10:00am-2:45pm (*ticketed, lunch included*)

This museum is one of San Francisco's most unique – housed in a restored 1890's army barracks in the Presidio, now part of the National Parks. Immerse in a comprehensive telling of the story of Walt Disney, the man who raised animation to an art, and tirelessly pursuing innovation in storytelling. Lunch follows in classic San Francisco-style at Perry's on Union Street.



Magical Marin with Lunch at the Spinnaker

Friday, Oct. 28, 2016 | \$175 per person

9:30am-3:30pm (*ticketed, lunch included*)

Cross the Golden Gate Bridge into Marin County's varied land and seascapes. See Muir Woods National Monument, the first park set aside for the coastal redwoods located here that have ancestry dating well over a million years. Visit sparkling Sausalito village with winding wooded streets, eclectic house boats and unique galleries and boutiques. Wrap up a special day with lunch at The Spinnaker restaurant located over the water with views of Richardson Bay and Angel Island.