

**DEBTOR/CREDITOR RIGHTS COMMITTEE
REPORT PREPARED FOR THE MARCH 18, 2010 COUNCIL MEETING**

1. Next Scheduled Meeting of the Committee.

The next scheduled meeting of the Committee's is May 18, 2010 at 6:00 p.m.

2. Council Approval

None at this time.

3. Membership

The membership of the Committee remains active and increasing. The Committee's March 3, 2010 meeting had 27 attendees, ten of whom were first time attendees, and one of which participated by telephone from Bay City.

4. Accomplishments Toward Committee Objectives.

With the approval of the Business Law Council on three separate occasions, the Committee has been seeking to amend Michigan's exemption statutes. Michigan's new statute, MCLA 600.5451, which became effective in January 2005, has been held by various Michigan Bankruptcy Courts to be preempted by the Bankruptcy Code and to preempt all other Michigan exemption statutes. Tom Morris and Charles Bullock, on behalf of the Committee, met on February 24, 2010 with Representative Mark Meadows, Chair of the House Judiciary Committee, on the amendment initiative.

Perhaps indicative of the progress the Committee has been making on the initiative is that the Michigan Creditors Bar Association ("MCBA"), representing collection attorneys, is actively opposing the amendment and seeking to have the Business Law Council withdraw its support. The MCBA's issues with the amendment, in summary, are (1) it would make it more difficult to collect judgments; and (2) the above described Bankruptcy Court rulings are wrong, and hopefully one day the issue will reach the United States Court of Appeals for the Sixth Circuit, which will so hold.

Representative Meadows would like the Business Law Section and MCBA to agree on the amendments. The MCBA and Committee representatives agreed to meet to see if agreement could be reached on an amendment both could support and, if not, to narrow the differences. The MCBA was asked to provide a redline of the proposed amendment showing what provisions of it they accept.

5. Meetings and Programs.

The Committee will have an educational presentation at its May 18, 2010 meeting on New Bankruptcy Pleading Standards After *Iqbal* and *Twombly* by the Honorable Phillip Shefferly, Paul Hage and Eric Linden.

The Committee and the Debtor/Creditor Committee of the Real Estate Section of the State Bar are discussing holding a joint educational program on New Issues in Enforcing Mortgages in Bankruptcy, tentatively to be held in July 2010.

6. Publications.

Committee members wrote the articles for the Michigan Business Law Journal issue, coming out around March 31, 2010.

7. Methods of Monitoring Legislative/Judicial Administrative Developments and Recommended Action

During each meeting, the members discuss new legislation rules making or cases of interest. The Co-Chairs of the Committee sit on the Advisory Committee of the Eastern District of Michigan Bankruptcy Court, and are active in other bar groups, and so are able to keep the Committee informed on issues of interest with respect to the Court and new case law. For example, on March 8, 2010 the Committee sent out an alert on its listserve about the issuance the same day of the Supreme Court's opinion in *Milavetz, Gallop & Milavetz, P.A. v. United States*, No. 08-119 (U.S. March 8, 2010), holding that consumer debtor bankruptcy attorneys are debt relief agencies.

8. Miscellaneous.

n/a

Judy B. Calton, Co-Chair

Judy Greenstone Miller, Co-Chair

DETROIT.4092281.1