

DEBTOR/CREDITOR RIGHTS COMMITTEE
REPORT PREPARED FOR THE DECEMBER 1, 2012 COUNCIL MEETING

1. 2012-2013 Budget Request and Anticipated Use of Funds.

\$2,500, to be used for meeting and seminar expenses. If our seminars break-even or are profitable, we will not need all budgeted funds.

2. Use of Budgeted Funds During 2011-2012.

The funds were used for meeting and seminar expenses.

3. Next Scheduled Meeting of the Committee.

Next scheduled meeting of the Committee is January 16, 2013, with dinner commencing at 6:00 p.m., to be held at the offices of Jaffe Raitt, 27777 Franklin Road, Suite 2500, Southfield, MI 48034-8214.

4. Council Approval.

The Council had previously approved the Committee advocating amendments to Michigan exemptions. The more modern and generous set of exemptions applies only to debtors in bankruptcy. The Committee has advocated amendments so that these exemptions would apply both in or out of bankruptcy. The Committee's strongest argument was that the bankruptcy-only exemptions were held pre-empted by the Bankruptcy Code. On August 20, 2012, the United States Sixth Circuit Court of Appeals held the bankruptcy-only exemptions were not pre-empted. *In re Schafer*, Nos. 11-1340/1387 (6th Cir. August 20, 2012). Accordingly, the Committee voted to suspend its efforts to advocate the amendments to Michigan exemptions, believing the efforts would be futile.

The Committee is currently reviewing proposed amendments to the Federal Rules of Bankruptcy Procedure. The comment period runs until February 15, 2013. The Committee may seek authority from the Business Council to submit comments to the proposed amendments to the rules.

5. Membership.

The Committee communicates regularly with its membership through its list serv, with announcements of Committee events, case law alerts, and announcements of events of interest to bankruptcy and insolvency law practitioners. This increases the Committee's profile. In addition, holding regular meetings and educational events increases the interest of the bar in becoming members. We regularly receive inquiries from bar members about joining the Committee and respond immediately to reach out to the individuals.

6. Accomplishments Toward Committee Objectives.

See other entries.

7. Meeting and Programs.

The Committee held a meeting on October 17, 2012 at which, among other topics, the members discussed subjects for future educational events. There were several good suggestions, and it was agreed we would survey our membership for further suggestions and preferences among the current suggestions. We anticipate three to four meetings during 2013, including two educational events.

8. Publications.

The Committee is responsible for the March 2013 edition of the Michigan Business Law Journal. Five articles have already been completed by the authors:

Judy B. Calton & Daniel W. Linna, What Business Lawyers Need to Know About Bankruptcy Court Authority After *Stern v. Marshall*.

Scott Eisenberg, Mapping the Fall: The Descent From Troubled Company to Bank Fraud Perp.

Paul R. Hage & Richard G. Kruger, In re Touse: To What Extent Can Indirect Benefits Be Considered for Purposes of Determining Whether Reasonably Equivalent Value Is Provided in Fraudulent Transfer Acts?

Daniel Morley & Megan Smith: Builders Trust Fund Act Debts: Building A Care for Conversion As a Basis for Nondischargeability.

Lisa K. Mullen & Heather D. McGivern Revised Federal bankruptcy Rule 3001 and Federal Bankruptcy Rule 3002.1 – What It Means and What You Need to Know

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

The members of the Committee are aware of the Committee's goal to keep members advised of Legislative/Judicial/Administrative Developments, and forward information to the co-chairs to share with the Committee. Also, the co-chairs are active in many bar activities and organizations, and pick-up information to share with the Committee, including information provided at Business Law Council meetings. For example, at the October 17, 2012 meeting,

we reviewed the proposed amendments to the Federal Rules of Bankruptcy Procedure, Michigan's new Durable Power of Attorney legislation, the Legislative Review Report and the proposed amendments to MCR 2.621 and MCR 2.622 regarding receiverships.

10. Miscellaneous.

N/A

Judy Calton, Co-Chair

Judith Greenstone Miller, Co-Chair

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