

**DEBTOR/CREDITOR RIGHTS COMMITTEE
ANNUAL REPORT PREPARED FOR THE
DECEMBER 7, 2013 ANNUAL MEETING**

1. Sponsorship of programs for Continuing Legal Education via a means accessible to Section Members, including holding at least one program yearly (Article 1, 3, of the Strategic Plan).

The May 7, 2013 meeting of the Committee included a presentation by Mike Weinczok of Dickinson Wright's Toronto office on what U.S. business lawyers need to know about Canadian insolvency proceedings.

The Committee, along with the Small Business Forum and the Commercial Litigation Committee, presented a webinar organized and hosted by Douglas Toering on August 14, 2013, on the Detroit Bankruptcy: Navigating Uncharted Waters For Your Client. Fifty-five persons participated, and the materials were posted on the Section's website.

The Committee is co-sponsoring a tribute dinner for Bankruptcy Judge Steven R. Rhodes, in connection with his retirement. Because of his appointment as the judge for the Detroit bankruptcy case, the tribute dinner is being postponed from December 2013 to December 2014.

2. Addressing substantive legal issues for committee members, including holding regular committee meetings, (at least once a year) and reporting on the meetings to the Council (Article 1, 4).

The Committee regularly discusses new case law, court rules and other matters at its meetings. Our members will bring issues to our attention for list serv alerts or discussion at meetings.

At the January 16, 2013 meeting the Committee discussed new cases on the Circuit Court of Appeals level in *Stern v. Marshall*, __ U.S. __, 131 S. Ct. 2594 (2011), which limited the constitutional authority of bankruptcy courts.

An American Bankruptcy Institute committee, of which the Honorable Steven Rhodes is a member, is looking into recommending amendments to 11 U.S.C. §548, the Bankruptcy Code provision on avoidance of fraudulent transfers, and the Uniform Laws Commission is considering a new uniform law on avoidance of fraudulent transfers. At the January 16, 2013 Committee meeting, Judge Rhodes and Paul Hage of Jaffe Raitt led a discussion of what changes our members would like to see in both statutes.

That meeting was attended by 27 in person, including two bankruptcy judges.

3. Promoting involvement in the committee and making the committee more responsive to members including the designation of a contact person (Article 1, 5).

Involvement in the Committee is promoted by regular meetings, events and use of the Committee list serv. In addition to the co-chairs, Craig Schoenherr and David Lerner have agreed to be contact persons for persons interested in the Committee.

4. (A) monitoring and raising awareness of laws or developments in laws that affect Michigan businesses and, when appropriate, making recommendations of updates and improvements;

The co-chairs regularly monitor new developments and discuss them with the Committee. In addition, our members alert the co-chairs of issues.

(B) providing assistance to appropriate state government personnel with respect to business-related legislation and rule making;

Co-chair Judy Calton worked on a Committee formed to assist the Michigan Supreme Court in drafting proposed amendments to MCR 2.621 and MCR 2.622 governing appointment of receivers and other aspects of receivership. The Business Law Council supported adoption of the proposed amendments to MCR 2.621 and MCR 2.622. The rules, as sent out for public comment by the Michigan Supreme Court, drew critical comment primarily on the provision that the trial court should defer to the movant's selection of a receiver, unless the court makes findings as to why another receiver was selected. We understand that the Court will revise that provision of the rule and then issue the amended rules.

The Committee commented to the Committee on Rules of Practice and Procedure Administrative Office of the United States Court against a proposed amendment to add a new Federal Rule of Bankruptcy Procedure 8002(c) giving extra time in bankruptcy cases for inmates to appeal.

(C) as appropriate, providing amicus curiae briefs related to business-related issues being addressed by the courts, and

Not applicable in 2013 – 2013.

(D) educating Michigan businesses, their owners and employees about changes to Michigan's laws in order to maintain Michigan's ability to attract and retain new business enterprises and enable existing businesses to remain competitive. (Article II, 1)

Not applicable in 2012 – 2013.

5. Please comment on your plan regarding succession (Article III, 5).

The issue has been discussed with the Committee. There are active members ready to assume the roles of co-chairs.

6. Please list your Committee's goals and objectives for the next 12 to 24 months and whether you will require additional support from the Section to achieve these goals (Article III, 5).

Once revised MCR 2.621 and MCR 2.622 on receiverships are finally adopted, the Committee would like to present an educational program on receiverships.

Judge Brian Sullivan of the Wayne County Circuit Michigan Business Court has asked for a checklist of sensitive issues to be considered in approving receivership orders. Co-chair Judy Calton is working on that list and a proposed form to be used by parties requesting entry of such orders.

The Committee also plans to hold regular meetings. The first in the new year is scheduled for January 14, 2014.

Co-Chairs

Judy B. Calton

Judith Greenstone Miller

ACTIVE MEMBERS OF THE DEBTOR/CREDITOR RIGHTS COMMITTEE

Andersen, Soren

Bakst, Marc

Baty, Don

Baughman, Lee

Boylan, Winnifred

Calton, Judy

Drucker, Seth

Fellrath, Richard

Gerdes, Andrew

Gretchko, Lisa

Hage, Paul

Heilman, Ryan

Hirshhorn, Austin

Howell, Steve

Kaminski, Shanna

Kochenderfer, Adam

Kochis, Anthony

Kovsky-Apap, Debra

Lerner, David

Lindahl, Tom

McGill, Joseph

Miller, David

Miller, Judy

Morris, Thomas

Novetsky, Eric

Ottoni, Clay

Rochkind, Larry

Schneider, Charles

Schoenherr, Craig

We have a large membership whose participation varies from meeting to meeting. We may have inadvertently omitted some active members.