

American Bankruptcy Institute – Bankruptcy 2016: Views From the Bench

OCTOBER 7, 2016

Bankruptcy 2016: Views From the Bench offers a unique opportunity for bankruptcy practitioners to hear from 18 bankruptcy judges during a full day of high-quality CLE and networking opportunities. The theme of this year's program is both a pragmatic and philosophical examination of the systematic and existential "threats" to the historical way the bankruptcy system has functioned, including structured dismissals, equitable mootness, gifting, successor liability, RSAs, and costs and legal fees. Is there a "shadow" bankruptcy system, prompted in part by hedge funds and equity funds, that seeks ways to dominate and expedite the process, perhaps in the name of greater efficiency? Are clients, especially in the middle market, reluctant to use the bankruptcy system because it is too expensive, with no way to appeal bad results? Should judges be using the Chapter 11 Commission Report as an agent for change by adopting its recommendations or admonishing the bar to implement the changes?

The conference will also reflect on the system today, and how it is functioning "on the ground." Have parts of the process gone "over the top," and if so, should they be re-balanced? What strategies do we need to know to practice effectively in this environment? Finally, without effective appellate relief (the equitable mootness problem), is there any way to redress this?

Two great debates will be the centerpiece. WilmerHale Partner Craig Goldblatt will debate Hon. Kevin J. Carey over the use of structured dismissals, especially where the settlement is not consistent with the absolute priority rule. Hon. Robert E. Gerber (ret.) will debate William Weintraub (Goodwin Procter) on whether asset sales under § 363 should lawfully be free and clear of successor-liability claims.

In addition to participating in the debate, Craig Goldblatt will also serve on the advisory board for the conference.

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