M B C NEWSLETTER

MISSISSIPPI BANKRUPTCY CONFERENCE

Editors: Robert Byrd and William P. Wessler **Fall 2010**

PRESIDENT'S MESSAGE

Terre M. Vardaman, President

To serve as President of the Mississippi Bankruptcy Conference this past year has been an honor. I appreciate the members of the conference who gave me this privilege. It has been enjoyable dealing with conference members and especially members of the Board.

This year was not without sad times—both former Judge Glover Roberts and Judge Edward Gaines passed away this past fall. The bankruptcy bar will welcome a new judge, Katherine Samson from Gulfport, who will be sitting in Gulfport. We welcome her wholeheartedly and look forward to practicing before her.

We are still in the process of setting up a website for the conference. It will probably be informational only, but should aid those who are interested in membership. We will announce this website as soon as it is up and running.

The Conference hosted the Duberstein Competition in Jackson, and all students and sponsors from Mississippi College and the University of Mississippi Schools of Law were then treated to a dinner at Nick's along with members of the Board. Special thanks to Doug Noble for coordinating this event.

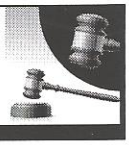
The annual seminar this year will again be at the Hilton Hotel in north Jackson on December 9-10, 2010. Please mark your calendars. Jeff Collier and Paul Ellis have worked extremely hard putting together a program everyone will enjoy. Of special note, Hank Hildebrand and Judges Lundin and Brown are scheduled speakers this year. Everyone registering and attending will receive the latest "Recent Developments in Bankruptcy" that these gentlemen are constantly updating.

As usual, Charlene Kennedy has been invaluable in her help in putting on the seminar. She and Ken Lefoldt make my job so easy!! Thank you to all.

SEMINAR NEWS INSIDE

OFFICERS 2010

2010 Fifth Circuit Court of Appeals Bankruptcy Decisions



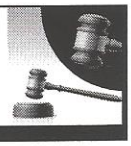
Submitted by Paul Murphy

1.

Reed v. City of Arlington, 08-11098-CVO; 5th Cir. decision filed September 16, 2010. Appeal from the United States District Court for the Northern District of Texas.

Lubke won a large judgment (in excess of $1M, including fees and costs) against the City of Arlington, TX., his former employer, under the Family and Medical Leave Act. While the case was on appeal, **Lubke and his wife filed for Ch.7 bankruptcy, but failed to mention the judgment and some other property** (including five goats); with the trustee (Diane Reed) thinking that theirs was a no-asset case, the Lubkes obtained a discharge of some $300K. After the Fifth Circuit affirmed liability but remanded for recalculation of damages, Lubke apparently told his lawyer in the FMLA case about his prior bankruptcy for the first time. The lawyer got in touch with the trustee, who quickly got permission from the bankruptcy court to reopen the case. Meanwhile Arlington, newly informed about the bankruptcy, supplemented its petition to the Fifth Circuit for rehearing, **arguing that judicial estoppel protected it from any effort to collect the judgment.** In December 2006, the Fifth Circuit denied rehearing but instructed the district court to consider, in addition to the damages issue that had already been remanded, the question of judicial estoppel. **On remand, the district court held that the trustee should not be estopped from collecting the judgment**, and that any money left over after disbursement to creditors should be returned to Arlington rather than remitted to Lubke. It also recalculated the damages and awarded additional fees and costs. The 5th Circuit Court reversed. The Court acknowledged that its **case law on judicial estoppel arising from omission of assets from bankruptcy filings** (Kane v. Nat'l Union Fire Ins. Co., 535 F.3d 380 (5th Cir. 2008); Superior Crewboats, Inc. v. Primary P&I Underwriters, 374 F.3d 330 (5th Cir. 2004); Browning Mfg v. Mims, 179 F.3d 197 (5th Cir. 1999)) has been, "to put it kindly, a mosaic," in which "[t]he lowest common denominator appears to lie in a holistic, fact-specific consideration of each claim." Here, the 5th Circuit Court reasoned that allowing Reed to collect the judgment would not help creditors much because most did not refile their claims when the case was reopened, and that the main beneficiaries of not applying estoppel would be the trustee and Lubke's lawyer in the FMLA case. The Court stated that "[E]quity does not favor ignoring Lubke's misuse of the court system for the primary benefit of attorneys, " and further stated that, allowing the Trustee to collect but not Lubke (because only he concealed the judgment) ignored the fact that the Trustee "succeeds to the debtor's claim with all its attributes, including the potential for judicial estoppel."

Recent DECISION BY FIFTH CIRCUIT (MS Cases)



1.

In the Matter of Nancy Barner, 09-60394; 5th Cir. decision filed February 15, 2010. Barner v. Saxon Mortgage Services, Inc. Appeal from the United States District Court for the Southern District of Mississippi.

Appellee Saxon Mortgage Services, Inc. ("Saxon"), conducted a foreclosure sale of Appellant Nancy Barner's ("Barner") principal residence a day after her bankruptcy filing and subsequently moved for a determination that the automatic stay was not in effect at the time of the sale. The bankruptcy court, citing a 2004 order issued in Barner's previous bankruptcy, granted the motion and the district court affirmed. Barner appealed, arguing that the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA") precluded application of the prior order. Specifically, Barner argued that 11 U.S.C. §§ 362(d)(4) and (b)(20) prohibit enforcement of the 2004 order lifting the automatic stay as to her residence, reasoning that subsection (d)(4) allows the bankruptcy court to grant relief from the automatic stay as to real property when it finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved multiple bankruptcy filings affecting the real property, and that orders granted under (d)(4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court. Subsection (b)(20), in turn, sets forth the exception to the automatic stay allowing for enforcement of (d)(4) orders from prior cases. It too provides that such a(d)(4) order may be enforced for 2 years after the date of its entry. However, the 5th Circuit held that because the 2004 order lifting the automatic stay was entered prior to the effective date of BAPCPA, it is not subject to compliance with §362(d)(4). The Court cited to BAPCPA's provision stating that it would not apply retroactively to cases filed before its effective date, and ruled that BAPCPA was irrelevant to the 2004 order because it did not exist at the time the 2004 order was entered.

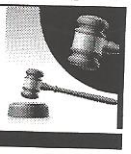
Barner also argued that Rule 7001 of the Federal Rules of Bankruptcy Procedure required Saxon to seek relief via an adversary proceeding rather than by motion. The 5th Circuit Court disagreed, holding that Saxon's request did not fall within the bounds of Rule 7001 because Saxon sought a determination of whether the automatic stay was in effect as regarding the debtor's residence at the time of the petition under rule 4001(1), rather than seeking an in rem order on a lien.

2.

In the matter of Northlake Development L.L.C., 09-60743; 5th Cir. decision filed August 6, 2010. Kinwood Capital Group, L.L.C.; George Kiniyalocts, individually and as general partner of Kiniyalocts Family Partners I, Ltd. v. Bankplus Appeal from the United States District Court for the Southern District of Mississippi.

Kinwood Capital Group, L.L.C. ("Kinwood") was a member-managed Mississippi LLC formed in March 1998 for the purpose of purchasing and developing an approximately 520-acre tract of land in

Recent DECISION BY FIFTH CIRCUIT (MS Cases) (continued)



Panola County (the "Property"). Kinwood was formed by George Kiniyalocts and Michael Earwood, his attorney and business partner, with Kiniyalocts owning 80 percent of the LLC and Earwood owning 20 percent. One month after the formation, Kiniyalocts conveyed his interest in Kinwood to a family limited partnership he controlled, less 5 percent of the LLC, which he conveyed to Earwood, so that Kiniyalocts owned 75 percent of the LLC and Earwood owned 25 percent. Though Kinwood's Certificate of Formation did not contain any limitation on the authority of Kinwood's members to convey Kinwood-owned property, the LLC's Operating Agreement, which was not publicly available, did contain the following limitation:

> All management decisions shall be by a vote of the Members owning a majority of the Membership Interests. Notwithstanding any provision in this Agreement to the contrary, the affirmative vote of Members holding at least Seventy-five percent (75%) of all Membership Interests shall be required to approve the sale, exchange, or other disposition of all, or substantially all, of the Company's assets (other than in the ordinary course of the Company's business) which is to occur as part of a single Transaction or plan.

The effect of this limitation was that Kiniyalocts held veto power over any major asset sale.

Kinwood bought the Property at a foreclosure sale for $535,001. Kinwood, and both Kiniyalocts and Earwood in their personal capacities, borrowed a total of $575,000 from Mellon Bank to acquire the Property; all three remained liable for that debt. The plans to re-sell the Property to a golf developer fell apart. Soon afterwards Earwood formed Northlake Development, L.L.C. ("Northlake"), with himself as sole owner, managing member, and registered agent for service of process. Kiniyalocts had no knowledge of Northlake. Without Kiniyalocts's knowledge, Northlake undertook a separate negotiation with the golf developer and entered into a contract. Ultimately, this sale did not close either.

On July 12, 2000, Earwood, on behalf of Kinwood, signed a warranty deed conveying the Property from Kinwood to Northlake (the "Kinwood Deed"). Earwood signed the deed as Kinwood's "Managing Member." The Kinwood Deed was recorded on August 7, 2000. Before recording the deed, Earwood approached BankPlus about borrowing money for Northlake with the Property as collateral. BankPlus agreed to lend Northlake approximately $300,000. In return, Earwood, on behalf of Northlake, executed a deed of trust to the Property in favor of BankPlus (the "BankPlus Deed"). The BankPlus Deed pledged Northlake's interest in the Property as collateral for the loan. BankPlus obtained a title certificate to the Property from Earwood's two-person law firm, signed by Earwood's law partner, on August 10, 2000. Earwood put most and perhaps all of the BankPlus loan proceeds to his personal use.

These facts came to light after Northlake filed for Chapter 11 protection in August 2005. Earwood signed the petition for Northlake and listed the Property as a Northlake asset. After a dismissal and a second bankruptcy filing, the case was converted to a Chapter 7 case, and a trustee was appointed.

The bankruptcy court found that Earwood never had the authority to convey the Property from Kinwood to Northlake and that, as a result, the Kinwood Deed could not pass title of any kind. The bankruptcy court entered judgment for Kinwood, declared the Kinwood Deed and the BankPlus Deed null and void, and required both to be cancelled in the land records of Panola County.

BankPlus appealed to the district court, which affirmed. The district court noted that no Mississippi court had construed Mississippi LLC law on the ability of an LLC member to bind the LLC in a case where the LLC member's action led an innocent third party to purchase an interest in the property. The district court then made an Erie guess that Earwood's signature on the Kinwood Deed was more akin to a void forgery than a voidable transfer— i.e. , one in which a deed is facially valid but induced by fraud.

The 5th Circuit court noted that the Mississippi statute governing the agency power of LLC members, Miss. Code Ann. 79-29-303, did not directly control the matter is case. Because Kinwood is a member-managed LLC, three parts of the statute affect Earwood's power to bind the LLC:

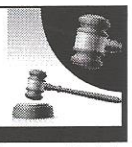
> (1) . . . [E]very member is an agent of the limited liability company for the purpose of conducting its business and affairs, and the act of any member, including, but not limited to, the execution in the name of the limited liability company of any instrument for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is a member, binds the limited liability company, unless the member so acting has, in fact, no authority to act for the limited liability company in the particular matter and the person with whom he is dealing has knowledge of the fact that the member has no such authority.
>
> (3) An act of a manager or a member which is not apparently for the carrying on in the usual way the business of the limited liability company does not bind the limited liability company unless authorized in accordance with the limited liability company agreement.
>
> (4) No act of a manager or member in contravention of a restriction on authority shall bind the limited liability company to persons having knowledge of the restriction.

The Court stated that language in 79-29-303(4) ("No act of a manager or member in contravention of a restriction on authority shall bind the limited liability company to persons having knowledge of the restriction") did not affect the relationship between Kinwood and BankPlus because the entities did not have any direct contact with one another; rather, the transactions at issue were between (1) Kinwood — Northlake, and (2) Northlake — BankPlus. The court also held that the statute addresses the nature of Kinwood's obligations to Northlake, but does not determine whether a deed that is valid on its face, but that does not bind the grantor to the grantee, becomes valid when passed to an innocent third-party purchaser. Accordingly, the 5th Circuit court certified the following determinative question of law to the Supreme Court of Mississippi:

When a minority member of a limited liability company prepares and executes, on behalf of the LLC, a deed to substantially all of the LLC's real estate, in favor of another LLC of which the same individual is the sole owner, without authority to do so under the first LLC's operating agreement, is the transfer of real property pursuant to the deed: (i) voidable, such that it is subject to the intervening rights of a subsequent bonafide purchaser for value and without notice, or (ii) void ab initio , i.e. , a legal nullity?

The Supreme Court of Mississippi has not

Recent DECISION BY FIFTH CIRCUIT (MS Cases) (continued)



yet addressed he certification from the 5th Circuit Court.

3.

In the matter of Condor Insurance Limited, in Official Liquidation, 09-60193; 5th Cir. decision filed March 17, 2010.

Richard Fogerty and William Tacon, in their capacities as Joint Official Liquidator of Condor Insurance Limited v. Condor Guaranty, Inc., et als.

Appeal from the United States District Court for the Southern District of Mississippi.

Condor Insurance Ltd. ("Condor"), a Nevis corporation, was in the insurance and surety bond business. On November 27, 2006, a creditor filed a winding up petition in Nevis, much like a Chapter 7 proceeding under United States law. The petition was granted and Richard Fogerty and William Tacon were appointed Joint Official Liquidators. Fogerty and Tacon, as foreign representatives, filed a Chapter 15 bankruptcy proceeding in Mississippi contending Condor fraudulently transferred over $313 million in assets to Condor Guaranty, Inc. to put them out of the reach of creditors during the Nevis proceeding. Chapter 15 permits foreign representatives of a foreign insolvency proceeding to seek assistance from U.S. courts in an ancillary proceeding once the foreign proceeding is recognized by the bankruptcy court as a foreign main or nonmain proceeding under the Chapter. The bankruptcy court recognized the Nevis winding up proceeding as a foreign main proceeding and the foreign representatives filed an adversary proceeding alleging Nevis law claims against Condor Guaranty to recover the assets.

Condor Guaranty moved to dismiss the proceeding pursuant to Rule 12(b)(1) or alternatively Rule 12(b)(6) as avoidance actions only available through a Chapter 7 or 11 proceeding. As Condor Insurance Limited is classified as a foreign insurance company, it is prohibited from filing a Chapter 7 or 11 case. The bankruptcy court dismissed the proceeding and the district court affirmed.

The foreign representatives appealed to the 5th Circuit court, contending that section 1521(a) of Chapter 15 permits the district court to grant relief under foreign avoidance law in the bankruptcy proceeding. Specifically, section 1521(a) of Ch. 15 allows the bankruptcy court to grant "any appropriate relief," including staying various aspects of the proceedings, suspending rights of transfer, providing for discovery, granting administrative powers to the foreign representatives and "granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a)."

The 5th Circuit Court agreed. The Court examined the statute under the guidance of the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Cross-Border Insolvency, and noted that Chapter 15 directs courts to "consider the UNCITRAL's international origin, and the need to promote an application of the chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions" in interpreting its provisions. The 5th Circuit reversed the decision of the district court dismissing for want of jurisdiction, and remanded for further proceedings. The 5th Circuit Court interpreted section 1521(a) as intending to facilitate cooperation between U.S. Courts and foreign bankruptcy proceedings, and held that section 1521(a)(7) granted the authority to permit relief under foreign avoidance law. The Court reasoned that, while the statute denies the foreign representatives the powers of avoidance created by the U.S. Code absent a filing under Chapter 7 or 11 of the Bankruptcy Code, neither the statute, nor Congress, expressly excluded the powers of avoidance granted to a foreign representative under applicable foreign law.

Recent Decisions by HONORABLE DAVID W. HOUSTON, III

Summaries prepared by Hal Barkley

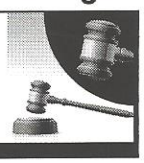
In re Scott, 2007 WL 3294847 (Bankr. N.D. Miss. 2009)

A motion to dismiss was filed by Memphis Orthopaedic Group in the adversary proceeding filed by the debtor. The debtor's claims included an objection to the claim of Memphis Orthopedic, alleged violations of HIPAA, contempt of court for violating the E-Government Act of 2002, contempt for violating Rule 9037 FRBP, invasion of privacy, as well as, intentional and negligent infliction of emotional distress. The filing of personal identifiers in the proof of claim was not one of the nine factors set out in §502(b) that would mandate the disallowance ofthe claim. The motion to dismiss was sustained as to that count of the complaint. HIP AA does not provide a private right of action so this count was dismissed. The E-Government Act of 2002 also does not allow a private right of action and that complaint was dismissed as well. The court did not dismiss the Rule 9037 Federal Rule of Bankruptcy Procedure count on the basis that this rule requires redaction of certain private information when a document is filed with the court. The court ruled that this count was viable. The court also dismissed the invasion of privacy and the intentional and negligent infliction of the emotional distress claims because the court lacked jurisdiction to decide personal injury tort claims.

In re Jones, 422 B.R. 58 (Bankr. N.D. Miss. 2009).

The discharged debtor brought an adversary proceeding against Walter Mortgage Company; Mid-State Homes, Inc.; and Best Insurors, Inc.; after the defendants allegedly sought to collect post-plan confirmation premiums for forced placed hazard insurance and charged unauthorized fees and expenses to her account in violation ofthe Bankruptcy Code, Bankruptcy Rules, and orders of the court. The defendants moved for summary judgment. The court determined that there were no material factual issues that remained in dispute. The court held that the defendants ignored the trustee's §1322(b)(5) motion

Recent Decisions by HONORABLE DAVID W. HOUSTON, III (continued)



to determine that the long term debt was current and that all defaults were cured and disregarded the court's §1322(b)(5) order. The §1322(b)(5) proceeding has an obvious purpose, that is, to "flush out" all undisclosed charges and assessments that might have arisen during the administration ofthe Chapter 13 case. For failure to acknowledge the motion and order without justification, the court imposed sanctions for the intentional misconduct in the amount of $2500.00 which was offset as a credit against the principal amount ofinsurance premiums that the debtor owed to the defendants.

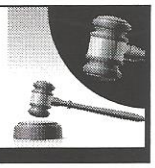
In re Evans, 421 B.R. 217 (Bankr. N.D. Miss. 2009).
The Chapter 13 trustee filed a motion for entry oforder declaring mortgage debt current pursuant to §1322(b)(5) and all defaults cured upon completion ofdebtor's payments under the Chapter 13 plan. A response to this motion was filed by Mid-State Homes opposing the relief based on the fact that the debtors had not paid for hazard insurance that had been force placed on their property during the life ofthe Chapter 13 plan. During the pendency of the case Best Insurors, Inc., notified the debtors each year that the insurance was being acquired, as well as, the debtor's bankruptcy attorney concerning this coverage on two separate occasions. Best Insurors, Inc., or Mid-State Homes never notified the Chapter 13 trustee or the court of any of the premium charges and never petitioned the court pursuant to Rule 2016(a), Federal Rules of Bankruptcy Procedure, to have these charges approved. The proof-of-claim was also never amended to reflect these additional expenses. The court discussed the requirements of Rule 2016(a). The court held that Mid-State Homes did not comply with either the letter or spirit of Rule 2016(a) in regard to the hazard insurance premiums, but it also stated that the debtors were not completely blameless. The court reached an equitable solution which required the debtors to repay Mid-State Homes the total amount ofthe insurance premiums over a five year period at a
market rate of interest.

In re FF Acquisition Corp., 422 B.R. 64 (Bankr. N.D. Miss. 2009)
Admiral Insurance Company filed an adversary proceeding pursuant to its policy, which contained a $100,000.00 per occurrence self-insured retention (SIR), against the Chapter 11 debtor seeking a determination that it had no duty to defend or indemnify the debtor in a pending personal injury action against it until the SIR had been paid in full. Admiral Insurance Company filed a motion for summary judgment on this issue. The court noted that this issue had been previously addressed in Admiral's motion for a temporary restraining order filed in this same adversary proceeding. The court overruled the motion for temporary restraining order on the basis that the non-payment ofthe SIR would apply only to damages that might be payable under the policy and not to the cost of defense. The court took note of several bankruptcy court decisions around the country concerning this same issue. Courts have consistently held that the failure of a bankrupt insured to fund a SIR will not excuse the insurers performance under the contract. In this case, FF Acquisition had fully paid the policy premium. The court held that the policy was not an executory contract, insofar as providing a defense was concerned, despite FF Acquisition's ongoing obligation to fund the SIR.

In re Edwards, 421 B.R. 757 (Bankr. N.D. Miss. 2009)
The Chapter 13 trustee objected to confirmation of the above median income debtor's proposed plan as it did not satisfy the "projected disposable income" requirement. Specifically, the trustee objected to the debtors taking a motor vehicle ownership deduction for motor vehicles that they owned outright. The court in its decision discussed the recent Fifth Circuit opinion of *Matter of Tate*, 571 F.3d 423 (5th Cir. 2009) and noted that the Fifth Circuit adopted the "plain language approach" which had been followed by the Seventh Circuit in *Ross-Tousey v. Neary*, 549 F.3d 1148 (7th Cir. 2008), as providing the best reading of §707(b)(2)(A)(ii)(I). The court held that as far as the Fifth Circuit was concerned for purposes of determining Chapter 7 eligibility, it was clear that debtors in the Fifth Circuit would be permitted to utilize the standard ownership deduction even when there was no underlying debt or lease obligation owed on the vehicle. The question then for the court was whether or not the approach adopted in *Tate* for Chapter 7 debtors also applied to the methodology that Chapter 13 above median income debtors must utilize in calculating projected disposable income. The court also pointed out that in the Fifth Circuit's Tate decision, in addition to relying on the Seventh Circuit's *Ross-Tousey* decision, the Fifth Circuit also cited with approval *Hildebrand v. Kimbro*, 389 B.R. 518 (6th Cir. BAP). In its reliance on *Kimbro*, the Fifth Circuit implied that its Tate decision should also apply to Chapter 13 proceedings. The debtors were permitted to take the two standard ownership deductions even though they had no underlying debt or lease obligations owed on their vehicles.

In re Grafton, 421 B.R. 765 (Bankr. N.D. Miss. 2009)
An objection to confirmation of the plan was filed by the debtor husband's former wife. The debtor husband and his former wife were divorced pursuant to a decree entered in the Chancery Court. In that proceeding, the debtor husband executed a bankruptcy exemption concerning the financial obligation he owed to his former wife. The debtor husband had filed a previous bankruptcy case in the Southern District ofMississippi. In that case an adversary proceeding was filed and the Bankruptcy Court for the Southern District of Mississippi determined that the obligation owed to the debtor husband's former wife resulting from the divorce was non-dischargeable pursuant to 11 U.S.C. §S23(a)(S). That decision by the Southern District Bankruptcy Court conclusively established that the indebtedness was in the nature of spousal support since it was expressly premised on §S23(a)(S) rather than §S23(a)(1S). The court held that the prior decision had collateral estoppel and/or res judicata effect on the proceeding currently before it. Because of the non-dischargeability ruling in the debtor husband's previous bankruptcy

Recent Decisions by HONORABLE DAVID W. HOUSTON, III (continued)



case, the claim enjoyed priority status pursuant to §S07(a)(1)(A). The court was of the opinion that the debt to the former wife's claim had been misclassified as an unsecured nonpriority obligation because it was a non-dischargeable debt rendered in a previous bankruptcy case which had to be given collateral estoppel effect. The court considered the totality ofthe circumstances and found that the debtor's proposal to treat the former wife's claim was unconscionable and, therefore, concluded that pursuant to §132S(a)(3) that the plan was not proposed in good faith. Confirmation was denied.

In re Burks, 421 BR 762 (Bankr. N.D. Miss. 2009)

Debtor brought an adversary proceeding for a determination ofthe validity of a first deed oftrust in favor of BAC and of a subordinate deed of trust in favor of the Department of Housing and Urban Development for a disbursement that it had made to cure an arrearage on the first deed oftrust. The court held under Mississippi law that the first deed oftrust that was given to secure a purchase money obligation, the proceeds of which were used to acquire a homestead for the debtor and his wife, was valid even without the signature of the wife. However, the debtor's use of proceeds that he received from HUD, in order to cure an arrearage on the HUD insured first deed of trust, did not make the subordinate deed of trust lien that he granted to HUD a purchase money security interest. The subordinate deed of trust was a non-purchase money security S instrument that encumbered the homestead property, and, since it was not signed by debtor's wife, it was invalid. The court cited the Mississippi Supreme Court case of Jarvis v. Armstrong, 94 Miss. 145,48 So.l (1909), which held that a deed of trust given to secure a purchase money obligation for a homestead was valid without the signature ofthe wife. See also, Miss. Code Ann. §89-1-4S.

In re Burks, 2010 WL 1462073 (Bankr. N.D. Miss. 2010)

Debtor filed a petition for relief pursuant to Chapter 13 of the Bankruptcy Code. The debtor filed the subject adversary proceeding against Countrywide, now known as BAC, and the United States Department of Housing and Urban Development. The debtor executed a promissory note and deed of trust to purchase his residence. The original beneficiary in the deed of trust was Mortgage Electronic Registration Systems, Inc. The underlying loan was currently being serviced by BAC, as the successor to Countrywide. The primary note and deed oftrust was insured by HUD. The debtor fell behind on his payments on the primary note and HUD paid Countrywide on the debtor's behalf the amount necessary to catch up the arrearage under HUD's partial claim program. As security for this indebtedness the debtor executed a subordinate note and deed of trust in favor of HUD encumbering the residence. The debtor contended in the adversary that the deeds oftrust were not valid liens against the homestead because they lack the debtor's spouse's signature. A motion for partial summary judgment was filed by BAC on the debtor's claims that BAC and its predecessor, Countrywide, charged improper and unauthorized fees in violation of ¬ß506 ofthe Bankruptcy Code and Rule 2016, Federal Rules of Bankruptcy Procedure. The debtor objected to BAC's proof of claim and additionally asserted that BAC and/or Countrywide committed violations ofthe automatic stay. The court held that the adversary proceeding was replete with material factual issues in dispute and denied the motion for partial summary judgment.

In re Belk Properties, LLC, 421 B.R. 221 (Bankr. N.D. Miss. 2009)

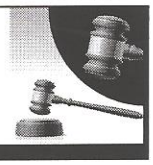
The Chapter 11 debtor moved for an order authorizing it to enter into a post-petition financing arrangement with a lender who had agreed to advance funds to allow the debtor to complete construction of the initial phase of the proposed real estate development. The court held that if the financing proposal were approved by the court, the lender would effectively become the debtor. In addition to its status as the primary secured creditor, the lender would become the chief manager of the debtor, as well as, a 51% equity owner with relatively unlimited discretion to acquire, syndicate, or otherwise control an additional 39% ownership interest. The arrangement also loosely dictated the manner in which existing creditors of the bankruptcy estate were to be treated. The court held that the financing proposal was a clever way for the lender to gain control ofthe debtor's assets without going through the process of a §363(b) sale. The court held that the post-petition financing proposal violated the holding of *In re Braniff Airways, Inc.*, 700 F.2d 935 (5th Cir. 1983) in that it had the same effect as a sub rosa Chapter 11 plan of reorganization. The court further held that the lender's proposed position as the primary secured lender and as a superpriority administrative expense creditor did not reconcile well with the statutorily contemplated role of a disinterested fiduciary for all creditors. The court denied the proposal as currently presented.

In re Hardaway, 421 B.R. 226 (Bankr. N.D. Miss. 2010)

The Chapter 13 trustees in the Northern District of Mississippi filed a class action complaint in an adversary proceeding against Homecomings Financial, LLC and GMAC Mortgage, LLC. The trustees sought recovery of overpayments allegedly made to these lenders based on proofs of claims which, in effect, sought payment of the same escrow shortages twice. The lenders moved to dismiss. The court held as follows: (1) the claim seeking the recovery of alleged overpayments was properly filed as an adversary proceeding; (2) the trustees could include their objections to the lenders' proofs of claims and their claims seeking reconsideration of the allowance of lenders' claims in adversary proceedings; (3) the trustees stated claims for sanctions; and (4) the trustees stated claims for recovery or turnover ofalleged overpayments.

The court also expressed its concerns with the structure of the trustees' complaint which sought certification of a nationwide class presumably of Chapter 13 trustees who had encountered similar experiences with the named defendants. The court noted that while the overall effect of the defendants' conduct appears to be similar, the court could not discern within a reasonable degree of certainty whether their methodologies

Recent Decisions by HONORABLE DAVID W. HOUSTON, III (continued)



were substantially the same. The court pointed out the potential administrative nightmare of proceeding as a class action with two separate defendants who mayor may not have identical common threads in practice even though the two entities were affiliated and had a common ownership. The defendants' motion to dismiss was overruled.

In re FF Acquisition Corp., 423 B.R. 502 (Bankr. N.D. Miss. 2010)

The debtor-manufacturer's employees brought an adversary proceeding seeking to hold the debtor liable under the Worker Adjustment and Retraining Notification Act (WARN Act) for failing to give the required 60 day written notice oflayoff. The debtor raised affirmatively the defenses of "unforseen business circumstances" and a "faltering company." The employees filed a motion for summary judgment. The court set out the requirements that the debtor must show to establish the "unforseen business circumstances" defense and the "faltering company" defense.

The plaintiffs argued that the debtor could not meet any of the elements required under either defense. This was obviously denied by the debtor. Because there were obviously genuine material factual issues remaining in dispute, the motion for summary judgment was overruled.

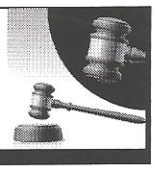
In re Physicians and Surgeons Hospital Group, 2010 WL 772360 (Bankr. N.D. Miss. 2010)

Physicians and Surgeons Hospital Group, (Physicians and Surgeons), owned a "not for profit" hospital. Batesville Hospital Management, whose president, secretary, and treasurer was Dr. Robert Corkern, managed the business operations of Physicians and Surgeons. A certificate of need for a certain number of acute care beds was held by Physicians and Surgeons. Batesville Hospital Management entered into a bed and certificate of need purchase agreement with Physicians and Surgeons, as well as, an agreement for the lease of the hospital's first floor. Physicians and Surgeons alleged that Batesville Hospital Management ceased making payments on the certificate of need promissory note and was in default under the lease agreement. As a result ofthese breaches, Physicians and Surgeons filed an adversary proceeding against Batesville Hospital Management and Dr. Corkern alleging breach of contract, misrepresentation or fraud, tortuous breach of contract, and extra contractual damages. Requests for admissions were propounded to Batesville Hospital Management and Dr. Corkern to which no responses were filed, and, as such, the requests were deemed admitted. As a result, the elements of a breach of contract claim regarding the certificate of need promissory note were conclusively established. In addition, Batesville Hospital Management acknowledged its liability to Physicians and Surgeons as a result of defaults under the lease agreement, but the amount ofdamages was not established. In their answer to the complaint, as well as, their response to the motion for summary judgment, Batesville Hospital Management and Dr. Corkern asserted affirmatively that they had setoff rights available to them even though they did not file proofs of claim in the Physicians and Surgeons bankruptcy case. The court concluded that whether there were, viable rights of setoff were issues that must be addressed subsequently. Dr. Corkern's failure to respond to the Physicians and Surgeons' request for admissions only *implied* that Dr. Corkern *might* have been guilty of fraudulent conduct during the negotiation of the agreements and failing to perform the obligations thereunder. The court held that there were no genuine issues of material fact remaining in dispute in regard to Batesville Hospital Management's liability for the breach ofthe certificate ofneed purchase agreement and the related promissory note, as well as, whether Batesville Hospital Management was liable to Physicians and Surgeons for the breach of the lease agreement. There were material factual issues remaining in dispute as to whether Batesville Hospital Management or Dr. Corkern had setoff rights against the claims of Physicians and Surgeons, and whether there were fraudulent misrepresentations by Dr. Corkern.

In re Brewer, 2010 WL 772271 (Bankr. N.D. Miss. 2010)

Debtor filed a medical malpractice action in the Circuit Court of Shelby County, Tennessee, against the defendants. Subsequently, the debtor filed a voluntary petition for relief pursuant to Chapter 7 ofthe Bankruptcy Code. The Chapter 7 trustee learned ofthe medical malpractice case which was disclosed by the debtor in her bankruptcy schedules. Special counsel was hired and approved by the court to prosecute the cause of action as attorney for the trustee. The attorney who was representing the trustee in the malpractice action agreed to the entry of an order of voluntary non-suit in state court without prejudice. The underlying reason for the non-suit was not satisfactorily explained to the bankruptcy court. The non-suit order entered by the state court judge stated that "if the plaintiff refiles this action, the court *will assess* such discretionary costs of the prior action as the court finds appropriate." This order was approved by the trustee's attorney and the attorney for the state court defendant. The Chapter 7 trustee had no knowledge of the non-suit until much later. The medical malpractice cause of action was subsequently refiled. Consistent with the language set forth in the order of voluntary non-suit, the state court judge assessed discretionary costs. Part of these costs accrued before February 13, 2008, the date of the debtor's bankruptcy petition, and part accrued thereafter. The court held that any effort to collect the discretionary costs assessment was precluded at the time by the automatic stay. The court further held the state court defendants were prohibited by the automatic stay from seeking the dismissal ofthe malpractice cause of action as a tactic to collect the discretionary costs claim which is considered an obligation ofthe bankruptcy estate. Therefore, the request of the state court defendants to lift the stay was denied. The discretionary cost assessment became a claim against the debtor's estate when it became an unliquidated, contingent right to payment. This occurred when the state court judge indicated he would assess discretionary costs if the plaintiff refiled the cause of action. Therefore, the discretionary costs became inextricably tied to the effort to collect an asset of the bankruptcy estate, and, although the assessment claim obviously arose post-petition, it still had to be considered a claim against the

Recent Decisions by HONORABLE DAVID W. HOUSTON, III (continued)



bankruptcy estate. As a result, it enjoyed an administrative expense priority as contemplated by §507(a)(2).

In re Lancaster Family Trust, 2010 WL 146307 (Bankr. N.D. Miss. 2010)
The United States Trustee for Region 5 filed a motion to dismiss the bankruptcy case on the basis that the trust was ineligible for bankruptcy relief because the debtor entity was a "family trust" and not a "business trust." The debtor acknowledged that it was unfortunate that it was legally named a family trust, but affirmatively stated that it operated as a business trust and, therefore, was eligible to file for relief pursuant to Chapter 11 of the United States Bankruptcy Code. The court began a determination ofthe debtor's eligibility by reviewing §§109(b) and 109(d) of the Bankruptcy Code. The court, in summarizing these two sections, stated that when appropriately read together an entity which is considered a "person" may be a debtor under Chapter 11. Section 101(41) states that the term "person" includes a corporation. The definition of a "corporation" under the Bankruptcy Code includes a "business trust." Therefore, the sole issue for the court was whether or not the debtor was, in fact, a "business trust." The court in examining recent authorities determined that whether an entity qualifies as a "business trust" relies on the purpose of the entity and the manner in which it is operated. This determination must be made on a "case by case basis." After an evidentiary hearing, the court was convinced, after considering the totality of the circumstances, that the debtor was indeed a business trust and consequently eligible for relief as a Chapter 11 debtor in possession. The court held that a contrary determination would place form over substance.

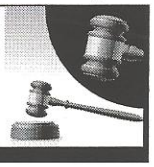
In re Canerdy, 2010 WL 1780051 (Bankr. N.D. Miss. 2010)
The plaintiff filed an adversary proceeding to seek the determination of the dischargeability of a debt pursuant to §523(a)(6) of the Bankruptcy Code. As a result of an assault perpetrated by the debtor against the plaintiff, the plaintiff received a judgment by default in state court. The total judgment awarded was $400,000.00, which represented actual damages in the sum of $200,000.00, and punitive damages in the sum of $200,000.00. Subsequent to this judgment, the debtor filed a voluntary petition for relief pursuant to Chapter 7 ofthe Bankruptcy Code. Only two witnesses testified at the trial of this proceeding concerning the factual events, and they were the plaintiff and the defendant. Each witness's version was significantly different.
The court in analyzing §523(a)(6) ofthe Bankruptcy Code, which excepts from discharge any debt resulting from a willful and malicious injury caused by the debtor, held that the debtor's conduct would be considered willful and malicious under the test enunciated in *Miller v. JD. Abrams, Inc. (In re Miller)*, 156 F.3d 598 (5th Cir. 1998).

In re Webb, 432 B.R. 234 (Bankr. N.D. Miss. 2010)
The debtor, prior to the filing of his Chapter 7 bankruptcy case, entered into a loan transaction with Quick Lend, Inc. Contemporaneously, with receipt of a cash advance, the debtor tendered to Quick Lend a check dated January 3, 2010, which was drawn on his account at First Tennessee Bank. The terms of the loan transaction allowed this check to be negotiated by Quick Lend in approximately 60 days if the loan had not otherwise been satisfied. Between the date of the loan transaction and the date that the lender negotiated the check, the debtor filed bankruptcy. The debtor testified that he notified Quick Lend of his bankruptcy two days after he filed for relief by fax transmission, and received a confirmation that the transmission had been successfully completed. The debtor indicated that he was contacted by Quick Lend on approximately four occasions demanding payment ofthe debt post-petition. Quick Lend negotiated the check on March 3, 2010, and caused the debtor's bank account to become overdrawn. The debtor was thereafter assessed with overdraft charges by the bank. The debtor contended that the negotiation of his check by Quick Lend constituted a willful and malicious violation of the automatic stay, and he sought a finding of contempt against Quick Lend and sanctions for its conduct. The court found that the post-petition negotiation of the debtor's personal check was not a violation of the automatic stay as a result of the exception found in §362(b)(11). The check was considered a negotiable instrument under the laws of both Mississippi and Tennessee. The court further held that the post-petition negotiation of the debtor's check constituted an avoidable post-petition transfer as set forth in §549(a) of the Bankruptcy Code. The court awarded the debtor a judgment against Quick Lend for the amount of the check, bearing interest at the highest rate allowed by the laws ofthe State of Mississippi.

In re Dotson, 2010 WL 2024102 (Bankr. N.D. Miss. 2010)
The debtor filed a voluntary petition for relief pursuant to Chapter 13 ofthe Bankruptcy Code, and subsequently an adversary complaint against BAC. The debtor had executed a promissory note and deed of trust that was subsequently assigned to BAC as servicer ofthe loan for Wells Fargo Bank, N.A. The debtor subsequently executed a loan modification agreement following the death of her husband. BAC filed a proof of claim and an amended proof of claim. This proof of claim reflected a substantial arrearage. The debtor asserted in the adversary proceeding that BAC had breached the loan contract by charging unauthorized fees in violation of §506 ofthe Bankruptcy Code and Rule 2016, Federal Rules of Bankruptcy Procedure. The debtor also objected to BAC's proof of claim, as well as, asserted a violation ofthe automatic stay. In deciding BAC's motion for summary judgment, the court found that there were numerous factual issues remaining in dispute and overruled the motion.

In re Supertrail Mfg. Co., Inc., 2010 WL 2342446 (Bankr. N.D. Miss. 2010)
Before the court was a motion, filed by a superpriority lienholder, to disburse $1.2 million of net proceeds, realized from the sale of property in Palm Beach County, Florida, in order to satisfy the principal due on the superpriority lien. Responses to said motion were filed by the Internal Revenue Service; the Chapter 11 debtor, Supertrail Mfg. Co., Inc.; Homer D.

Recent Decisions by HONORABLE DAVID W. HOUSTON, III (continued)

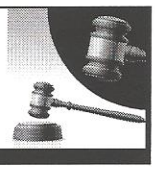


Thompson, III; and Cal-Bay International, Inc. The court was of the opinion that the motion to disburse was not well taken in that the creditor filing the motion was judicially estopped from attempting to assert his perceived superpriority lien to prematurely capture the majority offunds available in the bankruptcy estate. The court held that the motion was contrary and inconsistent with previous orders of the court approving a $1.5 million "hold-back" as a possible source of payment of a potential IRS claim, if any. The court further held that the decision did not adjudicate the validity of the IRS claim in any amount, but simply ordered that $1.5 million be retained as a possible source of payment should a claim in favor of the IRS be ultimately allowed.

In re Clinton Care Center, LLC, 2010 WL 2884706 (Bankr. N.D. Miss. 2010) The court had before it an application for the approval of an administrative expense claim filed by John W. Jamison, III. An objection to said application was filed by Trinity Therapy Services, Inc. The debtor, Clinton Care Center, as lessee, had entered into a lease agreement with Jamison for the use and occupancy of a 121 bed nursing home facility. The lease agreement was for a five year primary term. At the expiration ofthe original term of the lease, the parties agreed to continue the lease on a month to month basis. This continued subsequent to the filing ofthe debtor's Chapter 11 bankruptcy petition even though the lease agreement was never officially assumed by the debtor. The stay was subsequently lifted, and the lease agreement was terminated effective March 31, 2009. Jamison's administrative expense claim was based first on certain repair obligations that were incumbent upon the debtor under the agreement, and then as a result ofcertain Mississippi Division of Medicaid bed tax obligations that might be owed by the debtor. Jamison contended that since the lease was renewed on a month to month basis after the expiration of the primary term and, since this practice continued after the debtor filed its bankruptcy case, that all of the attendant leasehold obligations incumbent upon the debtor were renewed each 30 day period. As a result, he asserted that any unperformed obligations under the lease would be considered post-petition obligations, and, therefore, elevated to an administrative expense priority. The court concluded that the lease agreement was one continuous contract. The court then looked at the nature of the expenses claimed by Jamison in order to decide whether these expenses related to the debtor's use ofthe premises post-petition. The court devised a formula to calculate the percentage of post-petition occupancy, and utilized this formula to determine Jamison's allowed administrative expense claims.

In re Canerdy, 2010 WL 2696811 (Bankr. N.D. Miss. 2010) The debtor filed a motion for a new trial or a motion to reconsider the court's prior decision. A trial on the merits ofa complaint filed against the debtor resulted in a conclusion that a judgment rendered by the Circuit Court of Tippah County, Mississippi, against the debtor, was a nondischargeable debt. The first time that the debtor raised the affirmative defense that the actual damages were excessive or that the punitive damages violated §11-1-65, Miss. Code Ann. was in the debtor's post-trial motion. The affirmative defense was not raised in any pleadings, at the pre-trial conference, at trial, and it was not mentioned in debtor's attorney's closing argument. The court noted the two versions of the Mississippi statute in question, §11-1-65, and the dates when each version became effective. The court also noted that the state court judgment was final, and no appeal was taken to challenge its efficacy. It was the opinion of the court, which relied upon the *Rooker-Feldman* decision, that the question of whether damages were incorrectly assessed must be answered by the state court and not the bankruptcy court, particularly after the trial had been concluded. The *Rooker-Feldman* doctrine provides that lower federal courts lack jurisdictional authority to sit in appellate review of state court decisions. As a result ofthe court's *Rooker-Feldman* analysis, the debtor's motion for a new trial or for reconsideration was not well taken.

Selected Opinions by JUDGE EDWARD ELLINGTON



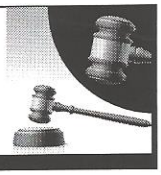
Submitted by Mimi Speyerer, Law Clerk

IN RE PURSUE ENERGY CORPORATION; Case No. 02-5339EE; Chapter 11; October 23, 2009. §§ 501 and 502(a) & (b). Fed. R. Bank. P. 3001(a)-(d), (f).

FACTS: The Debtor filed an objection to the proof of claim of the Watson Group. The Debtor alleged that the claim should be disallowed because the Watson Group had failed to produce documentation to show the validity and amount of their claim.

HOLDING: The Court held that pursuant to Fed. R. Bank. P. 3001, in order for a proof of claim to be sufficient to establish prima facie evidence of the validity and amount of the claim, the proof of claim must be in writing; must set forth the claim; must be executed by the creditor; must attach writings on which the claim is based; and must attach documents evidencing any perfection of a secured interest. The Watson Group's proof of claim was filed without any supporting documentation. Therefore, the Court found that the claim was not prima facie evidence of the validity and amount, and the burden does not shift to the Debtor. The Watson Group then failed to produce any supporting documentation to prove the validity and amount of their claim. Therefore, the Court found that the claim should be disallowed.

Selected Opinions by JUDGE EDWARD ELLINGTON (continued)



The Watson Group also alleged that documents had been lost or destroyed. However, the Court found that pursuant to Rule 3001(c), if documents are alleged to have been lost or destroyed, the Watson Group was required to file with their proof of claim a statement describing the circumstances of the loss or destruction. Since there was no such explanation attached to the proof of claim, the Court found that the Watson Group had not met its burden under Rule 3001(c).

NOTE: The Watson Group has appealed this decision.

IN RE THE CONSOLIDATED FGH LIQUIDAING TRUST f/k/a FRIEDE GOLDMAN HALTER, INC.); Case No. 01-52173EE;
Chapter 11; November 6, 2009.
§ 362(d)(1)

FACTS: OK Shipping filed a motion to lift the stay so that it could be permitted to complete prepetition arbitration to resolve disputes relating to a shipbuilding contract and to liquidate its claim.
HOLDING: The Court addressed claims of waiver of the right to arbitrate by OK Shipping and whether the Court had discretion to refuse to compel arbitration in non-core matters, the Court found that cause existed to lift the stay for the purpose of allowing arbitration to proceed and for entry of
a final and binding decision or award, but not for purposes of collection.

IN RE MYERS; Case No. 00-53489EE;
Chapter 7; March 9, 2010.
Fed. R. Bank. Pro. 9010(a)

FACTS: This involves the continuing litigation between the Debtors, Liberty Mutual Insurance Co. and the Chapter 7 Trustee. In this particular opinion, the Trustee had a settlement offer from the Debtors and a counter-offer by Liberty Mutual.

HOLDING: After analyzing the standards set by the Fifth Circuit, the Court found that both settlement offers could not be approved. The Court found that both settlement offers were contingent and not fair and equitable settlements that were in the best interest of the bankruptcy estate.

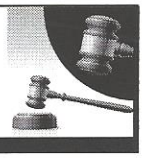
IN RE WYATT & McALISTER, PLLC; Case No. 09-4354EE; Chapter 7;
April 23, 2010. § 301(a) & (b)
Miss. Code §§ 79-29-302;
79-29-304(1) & (2); 79-29-307(3)

FACTS: Wyatt & McAlister PLLC (W&M) was a PLLC formed according to the *Mississippi Limited Liability Company Act* (MLLCA) by Derek Wyatt and Mary McAlister for the purpose of practicing law. Wyatt and McAlister were the only members and each owned a 50% interest in the Debtor. W&M did not adopt a PLLC company agreement, commonly know as an operating agreement. Various disputes arose between the two members culminating with McAlister tendering
her resignation. Wyatt contends that the resignation letter was McAlister's resignation as a member of the Debtor, whereas McAlister contends that the resignation letter was her resignation as an employee of the Debtor and not as a member of the Debtor. Wyatt initiation litigation in the Chancery Court of Madison County. Subsequently, Wyatt filed a voluntary petition under Chapter 7 for Wyatt & McAlister PLLC. McAlister filed a motion to dismiss alleging that Wyatt did not have the authority to file a petition on behalf of W&M. McAlister also sought attorney fees and sanctions against Wyatt. Responses were filed to the motion to dismiss by the Debtor and by Wyatt
individually.

HOLDING: At the trial, the Court announced that it would bifurcate the issues and would rule on the motion to dismiss but would decide the issue of attorney fees and sanctions at a later date.
The Court found that the requirements for filing a PLLC bankruptcy are be found in state law and in the governing PLLC agreement. Pursuant to the MLLCA, since W&M did not have an operating agreement, the management was vested in the two members, and since neither the *Certificate of Formation* (COF) nor an operating agreement stated to the contrary, Wyatt and McAlister each had one vote. Therefore, the Court held that if McAlister was still a member at the time the petition was filed, in order for the filing of the petition for W&M to have been authorized, both Wyatt and
McAlister must have voted in favor of the filing of the petition.
The Court then examined the MLLCA provisions for the dissolution of or dissociation from a PLLC.
The Court found that there was no evidence to show that W&M was dissolved by the occurrence of any of the three default provisions contained in MLLCA. The Court then found that pursuant to Miss. Code § 79-29-307 since W&M,Äôs COF does not contain a provision allowing a member to
withdraw, McAlister's resignation letter could not be considered a withdrawal as a member of W&M. The Court also pointed out that even if McAlister,Äôs resignation letter was an attempt to withdraw from W&M, the MLLCA contains specific provisions for the dissolution of a PLLC or for the acquisition of a member's interest in a PLLC—neither of which provide for the automatic assumption of another member's interest in a PLLC.
Consequently, the Court found that Wyatt did not have the authority to place W&M in a Chapter 7 and granted the motion to dismiss.
In another opinion (dated May 26, 2010), the Court denied the Debtor's and Wyatt's joint motion for a new trial, to alter or amend judgment and/or for relief from judgment. The Court found that the movants failed to establish the requirements for obtaining relief pursuant to Rule 59(a) or (e) or Rule 60(b).

NOTE: The Debtor and Wyatt have appealed both of these decisions.

Opinion Summaries by JUDGE NEIL P. OLACK*



**Prepared by Carole Evans, Laura Glaze, and Rachael Lenoir with the assistance of Andrew Payne, Judicial Extern, Mississippi College School of Law. These case summaries are designed to provide general educational information and should not be considered as a substitute for the actual text of the cases.*

Shavers, Koerber, Stelly & JPMorgan Chase Bank, N.A.
(In re John Shavers), 418 B.R. 589 (Bankr. S.D. Miss. 2009),
Issued: October 19, 2009
Following the sale of the Debtor's residence administered by a chapter 7 trustee, which had been transferred back and forth between the Debtor and a third party in his capacity as custodian of the property for the benefit of the Debtor's minor daughter pursuant to the Mississippi Uniform Transfers to Minors Act, Miss. Code Ann. § 91-20-1 to 91-20-49, a dispute remained as to the validity, extent, and priority of liens against the net sales proceeds, which were insufficient to satisfy all four potential claimants. The Court held that the refinancing lender's lack of actual knowledge of intervening judgment liens was the result of its culpable negligence and for that reason was not entitled to be equitably subrogated to first priority lien position of lender whose deed of trust lien the refinancing lender had satisfied.

Hyperion Foundation, Inc. v. Academy Health Center v. HP/Management Group, Inc. & Douglas K. Mittleder
(In re Hyperion Foundation, Inc. d/b/a Oxford Health & Rehabilitation Center), 2009 WL 3633878 (Bankr. S.D. Miss. Oct. 27, 2009)
Debtor and Creditor engaged in negotiations to resolve landlord-tenant dispute, at the end of which the Debtor alleged they reached binding settlement agreement. Creditor disputed that there was any "meeting of the minds" because of questions posed by Debtor's counsel while drafting paperwork necessary to effectuate settlement. The Court ruled that the parties had entered into an enforceable settlement agreement.

Ramsey v. Countrywide Homes Loans, Inc.
(In re Ramsey), 424 B.R. 217 (Bankr. N.D. Miss. 2009),
Issued: October 30, 2009
The Debtor in a chapter 7 case sought: 1) a declaratory judgment that the mortgage lien held by the Creditor was null and void; and, 2) an injunction to prohibit the enforcement of the lien. The mortgage was executed by the Debtor's wife without the knowledge or consent of the Debtor, and the Debtor's signature was forged on the note and the deed of trust. First, the Court found the deed of trust was invalid as to the Debtor and his wife pursuant to Miss. Code Ann. § 89-1-29, which requires that the deed of trust be signed by both husband and wife in order to be binding. Second, the Court declined to impose an equitable lien on the property because § 89-1-29 applied, and the Mississippi Supreme Court has never done so. Finally, the Court denied the Debtor's request to amend the complaint at the close of trial because the Debtor's request did not fall within either scenario described in Fed. R. Bankr. P. 7015(b)(1) or (2). The Court granted the declaratory judgment and enjoined the Creditor from asserting a lien based on the note and deed of trust.

BP Products North America Inc. v. Stinson Petroleum Co., Inc.
(In re Stinson Petroleum Co., Inc.), Adv. Pro. No. 09-05073-NPO, Issued: November 6, 2009
The Official Committee of Unsecured Creditors objected to the allowance of an administrative claim for fuel as an administrative expense pursuant to 11 U.S.C. § 503(b)(9). The Court concluded that the definition of "value of any goods" under that statute included charges for federal taxes because the invoices reflected those charges only to show the cost components of the fuel.

In re Stinson Petroleum Co., Inc., No. 09-51663-NPO, Issued: November 6, 2009
Creditor sought temporary restraining order and injunctive relief against the Debtor, who was violating the licensing provisions of their contract by selling and supplying non-branded gasoline at its branded service stations. Citing NLRB v. Bildisco & Bildisco, 465 U.S. 513 (1984), the Court ruled that the Creditor could not seek relief against the Debtor before the Debtor had an opportunity to assume or reject the executory contract under 11 U.S.C. § 365.

Herring v. Parish
(In re Parish), 2009 WL 4782128 (Bankr. S.D. Miss. Dec. 7, 2009)
Creditors filed an adversary complaint seeking exception from discharge for state court judgment awards against the Debtors for damages resulting from, among other things, the Debtors' failure to maintain a ditch which caused the Creditors' property to flood. After a trial on the merits, the Court found that a substantial certainty of harm existed that the Creditors would be harmed by the Debtors' failure to maintain their ditch. The Court also found that the facts of the case established a subjective motive on the part of the Debtors to harm the Creditors or their property. Accordingly, the Court found that the debt created by the state court judgments was nondischargeable under 11 U.S.C. § 523(a)(6).

In re England Motor Co, Happy Day Motors, Inc. & England Holding Co., Substantively Consolidated Cases, 426 B.R. 178 (Bankr. S.D. Miss. 2010), Issued: January 19, 2010
Following the substantive consolidation of chapter 7 cases of two automobile dealerships and their parent company, Creditor that had loaned money to parent company sought to exercise right of set off against funds in bank accounts

Opinion Summaries by JUDGE NEIL P. OLACK* (continued)

belonging to dealerships. The Court held that substantive consolidation of cases did not create mutuality for purposes of 11 U.S.C. § 553, but that by virtue of guaranty provision in deeds of trust between bank and one of the dealerships, mutuality existed under Mississippi law as to that account.

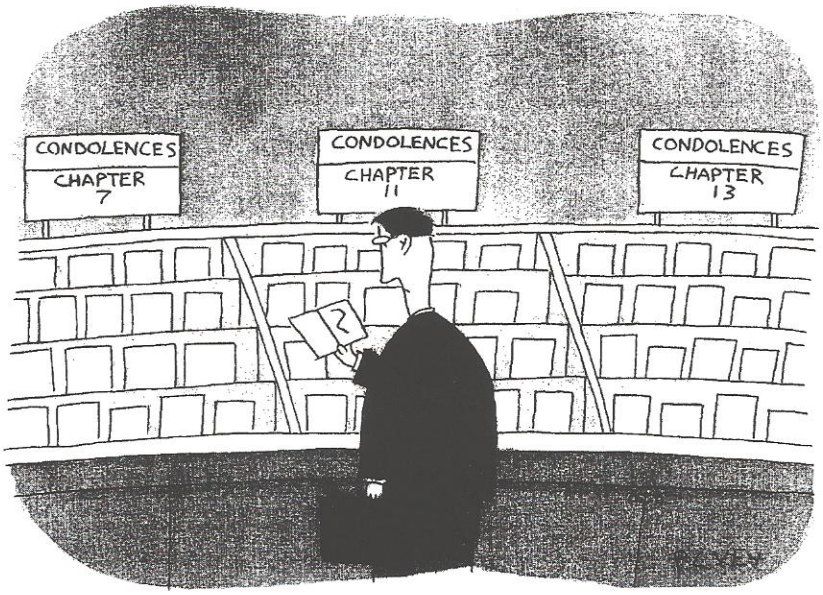
In re Charles R. Gates & Mable L. Gates, No. 09-52332-NPO, Issued: January 19, 2010
Debtor, who filed joint petition for relief with her spouse and who suffered "severe dementia," requested that the Court waive the necessity of her appearance at the first meeting of creditors under 11 U.S.C. § 341. The United States Trustee objected on the ground, inter alia, that the Court was not authorized by the Bankruptcy Code or by the Federal Rules of Bankruptcy Procedure to waive the Debtor's appearance and that only the United States Trustee had such power. The Court found that its authority in that regard was well supported by case law and by Local Rule 11, now Rule 2003-1.

Galloway v. EMC Mortgage Corp.
(In re Galloway), 2010 WL 364336 (Bankr. N.D. Miss. Jan. 29, 2010)
The chapter 13 Debtor brought an adversary action against the Creditor, alleging violations of the automatic stay and improper accounting of monies paid under the plan. The Creditor moved to dismiss the complaint, arguing that neither 11 U.S.C. §§ 105 nor 506 nor Bankruptcy Rule 2016 provide a private right of action and that the Debtor failed to state a claim for violation of the automatic stay. The Court held that its equitable powers pursuant to § 105 permit it to enforce the provisions of § 506 and Bankruptcy Rule 2016. Also, looking to authority within the Fifth Circuit, the Court held that a creditor's improper accounting of monies paid after confirmation of a chapter 13 plan may violate the automatic stay. The Creditor's motion to dismiss was denied.

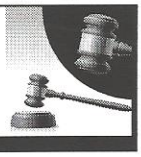
Willie A. Dixon v. Bay Financial, Inc.
(In re Dixon), 2010 WL 501547 (Bankr. S.D. Miss. Feb. 5, 2010)
Debtor filed an adversary complaint for damages against the Creditor after the Creditor filed a proof of claim that included the Debtor's personal identifiers in violation of federal statute and Bankruptcy Rule 9037. In denying the Creditor's Motion to Dismiss / Motion for Summary Judgment, the Court held that it had authority under 11 U.S.C. § 105(a) to enforce bankruptcy rules, compensate the Debtor for losses proven by credible evidence, and issue appropriate sanctions pursuant to its civil contempt power.

Hall v. Desper
(In re Desper), 2010 WL 653864 (Bankr. S.D. Miss. Feb. 9, 2010)
Having been awarded a state court jury verdict against the Debtor, Creditor filed an adversary complaint for nondischargeability under 11 U.S.C. § 523(a)(6) for willful and malicious injury. The Court denied the Creditor's Motion for Summary Judgment based on collateral estoppel, finding that the neither the jury verdict nor the final judgment specified whether the jury awarded damages to the Creditor based upon a finding of willful and malicious injury where the jury instructions would have allowed the jury to award damages for "careless" or "reckless" conduct as well as "willful and malicious" conduct.

McKenzie v. Biloxi Internal Medicine Clinic, P.A.
(In re: McKenzie), 2010 WL 917262 (Bankr. S.D. Miss., March 10, 2010)
Debtor filed an adversary complaint for damages against the Creditor after the Creditor filed a proof of claim that included Debtor's personal identifiers and medical information in violation of federal statutes and Bankruptcy Rule 9037. In ruling on Creditor's Motion to Dismiss / Motion for Summary Judgment, the Court held that: 1) the Debtor had pled sufficient facts to withstand the motion to dismiss because the Court has authority under 11 U.S.C. § 105(a) to remedy a violation of Bankruptcy Rule 9037; 2) the Creditor was entitled to a judgment as a matter of law that it did not willfully violate the automatic stay when its collection letter and the notice of bankruptcy filing passed in the mail; and 3) a genuine issue of material fact existed as to whether disclosing Debtor's personal identifiers and medical information in a proof of claim filed electronically with a bankruptcy court satisfies the "publication" element of the tort of



Opinion Summaries by JUDGE NEIL P. OLACK (continued)



invasion of privacy under Mississippi common law. The surviving issues have not yet been tried on the merits.

In re Quintez Smith, Jr., No. 09-02318-NPO, Issued: March 26, 2010
Debtor filed first chapter 13 case in 2007. The first case was dismissed in May 2009 for failure to make plan payments. On July 6, 2009, the Debtor filed the second chapter 13 case. Creditor conducted a foreclosure sale on September 25, 2009, and filed a Motion to Abandon Collateral and Annul Stay five days later. Adopting the majority view, the Court held that while the 11 U.S.C. § 362(a) automatic stay terminates on the 30th day as to actions against a debtor and a debtor's property (absent an order extending the stay), the automatic stay does not terminate on the 30th day as to actions against property of the estate. The Court found that the Debtor's claim of an equitable interest in the property was enough to categorize the property as property of the estate.

In re Starks, 2010 WL 1538848 (Bankr. N.D. Miss. April 16, 2010)
Without relying on any evidence or authority, the Debtor in a chapter 7 case objected to a proof of claim, challenging only the amount, not the validity. In response, the trustee argued that the claim itself was prima facie evidence of both validity and amount. The Court found that the claim was prima facie valid as to both amount and validity because it satisfied the requirements of Fed. R. Bankr. P. 3001 and Official Form 10. Since the Debtor failed to provide any evidence or authority to rebut the amount set forth on the claim, the objection was overruled.

In re Mojave CP, LLC & Compass Pointe Holdings, LLC, No. 10-50223-NPO & 10-50224-NPO,
Issued: April 28, 2010
Debtors in separate bankruptcy cases filed identical motions asking the Court to substantively consolidate their cases on the ground they together owned real property in which they shared in the cash flow, expenses, and management. The Court noted the absence of any uniform guidelines for conducting the substantive consolidation inquiry and found that the Debtors failed to establish a prima facie case for substantive consolidation under any of the standards proposed in other jurisdictions. As alternative relief, the Court ordered the joint administration of the cases.

McSwain, et al. v. Stennis
(In re Stennis), 2010 WL 2025511 (Bankr. S.D. Miss. May 19, 2010)
After receiving an Alabama state court judgment against the Debtor for the wrongful cutting of timber, the Creditors filed an adversary complaint against the Debtor to have that debt declared nondischargeable under § 523(a)(6) for willful and malicious injury. After a trial on the merits, the Court found that the record of the state court action was too scant to have any collateral estoppel effect, and the Debtor demonstrated a credible belief that he had permission of one of the Creditors to cut the timber.

In re Cheryl R. Bates, No. 05092-NPO, 2010 WL 2203634 (Bankr. S.D. Miss. May 24, 2010)
The Debtor's spouse forged the Debtor's name on loan documents. Creditor did not witness the Debtor's signature on the loan documents in violation of its own standard practices. The Debtor later became aware of the loan but did not immediately notify the Bank of the alleged fraud. When loan payments went into default, Bank began debiting the Debtor's account. Bank sought summary judgment against Debtor on its contract claim for nonpayment of the loan and against Debtor's spouse for conversion of its collateral. Bank also sought summary judgment on the Debtor's counterclaims. The Court denied Bank summary judgment on its contract claim against the Debtor but granted the Bank summary judgment against the Debtor's spouse on its conversion claim. The Court also denied summary judgment in favor of the Bank on the Debtor's negligence per se claim and her conversion claim.
In re Walker, 2010 WL 2744134 (Bankr. N.D. Miss. July 9, 2010)
The Debtor filed for chapter 13 relief. The Creditor objected to confirmation because of the high monthly payment on the Debtor's 18-wheeler. In order to settle the dispute, the parties submitted an agreed order drafted by the Creditor's attorney. Thirteen months later, the 18-wheeler was destroyed in an accident. The Creditor filed an amended proof of claim seeking to add interest and attorney's fees. The Debtor objected. Relying on the language in the agreed order, the Court held that the Creditor altered and limited its rights to the amount set forth in the agreed order. Furthermore, the Court held that the Creditor can be required to release its lien prior to discharge once the claim is paid in full pursuant to the agreed order.

In re Superior Boat Works, Inc., 2010 WL 3218596 (Bankr. N.D. Miss. Aug. 12, 2010)
The Debtor, an administratively dissolved Mississippi corporation, sought liquidation under chapter 11. The Creditor sought to dismiss the case since the time had passed for the Debtor to reinstate administratively as a viable corporate entity pursuant to Mississippi law. The Court determined that the Debtor's ability to reinstate was irrelevant to its ability to liquidate through a chapter 11 proceeding since Mississippi's statutes provide dissolved corporations broad discretion to wind up. The Court held that liquidation through bankruptcy is consistent with Mississippi law and a viable option for dissolved corporations.
In re Russell Raymond Necaise, Jr., No. 09-50322-NPO, 2010 WL 3294692 (Bankr. S.D. Miss. Aug. 20, 2010)
Individual chapter 11 Debtor sought early discharge (a discharge before

Opinion Summaries by JUDGE NEIL P. OLACK (continued)

completion of his plan payments) and a final decree closing his case to relieve him of his obligation to pay quarterly fees to the United States Trustee. 11 U.S.C. § 1141(d)(5). In the alternative, Debtor sought closure of his case without a discharge, subject to it being reopened after completion of all plan payments. The Court found that although the Debtor had not established sufficient grounds for an early discharge, his case had been fully administered and could be closed pursuant to 11 U.S.C. § 350, subject to it being re-opened after completion of plan payments, upon proper notice and a hearing.

In re Clemons, 2010 WL 3430828 (Bankr. N.D. Miss. Aug. 31, 2010)

Debtor filed for chapter 13 protection and claimed his motorcycle as exempt property pursuant to Miss. Code Ann § 85-3-1(a)(ii). The Trustee objected only to the proposition that a motorcycle is exempt property as a "motor vehicle" under Mississippi law. Looking to the plain language of the statute, the Court determined held that a motorcycle is a "motor vehicle" for purposes of Mississippi's exemption statute.

United States Trustee v. Skinner, *(In re Skinner)*, 2010 WL 3469993 (Bankr. S.D. Miss. Sept. 1, 2010)

The Debtor filed a chapter 7 case on February 8, 2002, and received a discharge on July 15, 2002. On February 4, 2009, the Debtor filed a chapter 13 case, which was converted to a chapter 7 case on February 17, 2010. The Court held that the Debtor was not entitled to a discharge in the second case under § 727(a)(8) because she received a discharge in her previous case which commenced within 8 years before the date of the filing of the second case.

News from the SOUTHERN DISTRICT

Danny L. Miller, Clerk of Court

The one constant that we continue to see in the Southern District of Mississippi is change. We began 2010 having recently lost Judge Edward Gaines after a courageous battle with cancer. Judge Gaines served honorably from 1986 until his death in 2009. He had a true passion for bankruptcy and the court. As many of you know, he had a real penchant for telling wonderful stories. The court family for the Southern District of Mississippi is honored to have served with and worked for Judge Gaines.

On September 30, 2010, the Southern District of Mississippi welcomed newly sworn Judge Katharine M. Samson. Judge Samson comes to the court after a very successful career in private practice mostly in the Southern District of Mississippi. Our court family is excited to have the opportunity to work with and for Judge Samson.

Another significant event for the Southern District court family is the construction of the new federal courthouse in Jackson. The new courthouse, appropriately located at 501 East Court Street, will feature state of the art technology throughout with a particular emphasis on courtroom technology. Our courtrooms will feature enhanced evidence presentation technology, built in video conferencing technology, and modern acoustical engineering. Additionally, the Bankruptcy Court and the District Court are working to implement Wi-Fi capability for members of the Bar.

Under the present schedule, the bankruptcy court will be moving during the latter part of December with full court operations in the new courthouse during the first week of January. The current plan is to continue holding hearings in the 100 East Capitol Street location through the end of December. We will update our court users as we get closer to the actual move date and the schedule becomes more firm.

Finally, we have rolled out a new web site for the Bankruptcy Court. The new web site is professionally designed for more user friendly navigation and is consistent with the design of the official United States Courts web site. More importantly, our new web site is designed with a modern software architecture that will allow us to significantly enhance web based services in the future. In particular, our court is studying the feasibility of implementing a "real time" court calendar system accessible through our web site which could be configured for mobile use (i.e. Smartphone, iPad, etc.).

As always, we sincerely appreciate user input on ways to improve the efficiency and effectiveness of Bankruptcy Court operations. If you have a suggestion, please email us at feedback@mssb.uscourt.gov.

Pepper ... And Salt

THE WALL STREET JOURNAL

"Here's one of me emerging from Chapter 11."

30th Annual Seminar

PROGRAM

Thursday - December 9. 2010

7:45 - 8:15 REGISTRATION

8:15 - 8:30 WELCOME AND OPENING REMARKS *(Salon A & B)*
Terre M. Vardaman, President
Mississippi Bankruptcy Conference

8:30 - 9:30 BUT I NEED TO GET IT IN JUDGE!
EVIDENCE FOR THE BANKRUPTCY LAWYER
Honorable Pamela Pepper
Chief U. S. Bankruptcy Judge
Eastern District of Wisconsin — *Milwaukee, WI*
and U. S. Bankruptcy Judge
Southern District of Illinois — *East St. Louis, IL*

9:30 - 10:30 RECENT DEVELOPMENTS IN CHAPTER 13
Honorable William Houston Brown
U. S. Bankruptcy Judge (Ret.) — *Western District of Tennessee*
Memphis, TN
Honorable Keith M. Lundin
U. S. Bankruptcy Judge
Middle District of Tennessee — *Nashville, TN*

10:30 - 10:45 BREAK

10:45 - 11:15 RECENT DEVELOPMENTS IN CHAPTER 13 *(continued)*

11:15 - 11:45 RECENT DEVELOPMENTS IN CHAPTER 11
James E. Bailey III
Butler, Snow, O 'Mara, Stevens & Cannada, PLLC — *Memphis, TN*

11:45 - 12:15 THE ENFORCEABILITY OF ARBITRATION CLAUSES IN BANKRUPTCY
William H. Leech
Copeland Cook Taylor & Bush — *Ridgeland, MS*

12: 15 - 1 :45 LUNCH ON YOUR OWN *(Lunch provided for speakers)*

1:45 - 2:45 ETHICS - BLACK, WHITE OR GRAY?
Louis M. Phillips
Gordon, Arata, McCollam, Duplantis & Eagan LLP — *Baton Rouge, LA*

2:45 - 3:00 BREAK

3:00 - 4:00 BANKRUPTCY APPEAL PROCEDURES 101
Edward D. Russell
Loeb & Loeb, LLP — *Nashville, TN*
Kathy C. Bryan
Chief Deputy
U. S. Bankruptcy Court
Southern District of Mississippi — *Gulfport, MS*

4:00 - 4:30 WHEN DOES A LIQUIDATING TRUST MAKE SENSE?
Greta M. Brouphy
Heller, Draper, Hayden, Patrick & Horn, LLC — *New Orleans, LA*
H. Kenneth Lefoldt, Jr., *CPA*
Lefoldt & Co, PA., CPAs — *Ridgeland, MS*

4:30 - 5:00 FEDERAL TAXES IN BANKRUPTCY PROCEEDINGS
Samuel D. Wright
Assistant U. S. Attorney — *United States Attorney's Office*
Northern District of Mississippi — *Oxford, MS*

5:00 - 6:30 COCKTAIL PARTY *(Salon C)*

Friday - December 10. 2010

8:00 - 8:30 MBC ANNUAL MEETING
Terre M. Vardaman, *President*
Mississippi Bankruptcy Conference

8:30 - 9:30 NUTS & BOLTS OF CHAPTER 11
Jeffrey R. Barber
Watkins Ludlum Winter & Stennis — *Jackson, MS*
Melanie T. Vardaman
Harris Jernigan & Geno, PLLC — *Jackson, MS*

9:30 - 10:30 BANKRUPTCY CRIMES
Samuel Lynn Murray
Assistant U. S. Attorney — *United States Attorney's Office*
Southern District of Mississippi — *Jackson, MS*
Sammye S. Tharp, *Trial Attorney*
United States Trustee's Office Region 5
Special Assistant U S. Attorney
Northern and Southern Districts of Mississippi — *Jackson, MS*

10:30 - 10:45 BREAK

10:45 -12:15 VIEWS FROM THE BENCH
Honorable David W. Houston, III — *U. S. Bankruptcy Judge*
Northern District of Mississippi — *Aberdeen, MS*
Honorable Edward Ellington — *U. S. Bankruptcy Judge*
Southern District of Mississippi — *Jackson, MS*
Honorable Neil P. Olack — *U. S. Bankruptcy Judge*
Northern and Southern Districts of Mississippi — *Jackson, MS*
Honorable Katharine M. Samson — *U. S. Bankruptcy Judge*
Southern District of Mississippi — *GulfPort, MS*

12:15 -1:30 LUNCH ON YOUR OWN *(Lunch provided for speakers)*

1:30 - 2:30 VIEW FROM THE CLERK'S OFFICE
Practical Pointers for Attorneys and Legal Assistants
David J. Puddister, *Clerk* — *U S. Bankruptcy Court*
Northern District of Mississippi — *Aberdeen, MS*
Danny L. Miller, *Clerk* — *U S. Bankruptcy Court*
Southern District of Mississippi — *Jackson, MS*

2:30 - 4:30 BREAK OUT SESSION - COMMERCIAL ISSUES (Amphitheater)
FIRST DAY ORDERS, ASSET SALES, RECENT DEVELOPMENTS IN CRAM DOWNS AND ABSOLUTE PRIORITY RULE IN HIGH NET WORTH INDIVIDUAL CHAPTER 11 CASES, AND LEGISLATIVE UPDATE
Honorable Thomas H. Fulton, *Chief Judge for Sixth Circuit Bankruptcy Appellate Panel* — *U S. Bankruptcy Judge*
Western District of Kentucky — *Louisville, KY*
James E. Bailey III
Butler. Snow, O 'Mara, Stevens & Cannada, PLLC — *Memphis, TN*
J. Walter Newman IV
Newman & Newman — *Jackson, MS*

2:30 - 4:30 BREAK OUT SESSION - CONSUMER ISSUES (Salon A & B)

2:30 - 3:00 IS YOUR PARALEGAL PRACTICING LAW WITHOUT A LICENSE?
Gwen Combs, *Deputy General Counsel*
The Mississippi Bar — *Jackson, MS*

3:00 - 4:30 OTHER THAN PAYMENTS, WHAT MAKES A CHAPTER 13 SUCCESSFUL
W. Jeffrey Collier, *Attorney,* Chapter 13 Trustee Locke D. Barkley
Northern District of Mississippi — Jackson, MS
Diana Howell, *Chapter 13 Trustee Terre M Vardaman*
Northern District of Mississippi — *Brandon, MS*
Jimmy E. McElroy
Jimmy E. McElroy & Associates — *Memphis, TN*
Terre M. Vardaman
Chapter 13 Trustee
Northern District of Mississippi — *Brandon, MS*

4:30 ADJOURN

LOCATION

Hilton-Jackson & Conference Center • 1001 E. County Line Road • Jackson, Mississippi 39211

A block of 40 rooms has been reserved at the Hilton at the rate of $119.00 per night (plus taxes). For reservations, contact the reservations department at the Hilton at (60 I) 957-2800 or (888) 263-0524. To receive the special rate, you must identify yourself as a participant in this seminar. The group code is "BANKIO." The block of rooms will be released after November 20, 2010.

(See next page for Registration Information.)

REGISTRATION

CLE Credit: This course has been approved by the Mississippi Commission on Continuing Legal Education for a maximum of 13 hours credit including one ethics hour for the commercial session and 1.5 ethics hours for the consumer session.

Materials: Written seminar materials will be distributed to all those in attendance.

Legal Assistants: On Friday, December 10, 2010, Legal Assistants are invited to attend VIEW FROM THE CLERK'S OFFICE and the CONSUMER BREAK OUT SESSION at no charge. Materials will be provided for these sessions only.

EARLY REGISTRATION

Discount: A $20.00 early registration discount may be deducted from the registration fee for any registration postmarked on or before November 24, 2010.

Cancellations: A full refund will be given for cancellations made by 5:00 p.m., December 3, 2010. After that date, no refunds will be given. To cancel, notify the Mississippi Bankruptcy Conference, Inc. at Post Office Box 2848, Ridgeland, Mississippi 39158-2848 or by telephone at (601) 956-2374.

M B C
Mississippi Bankruptcy Conference, Inc.
Post Office Box 3409, Jackson, Mississippi, 39536-3409