The Cram-Down

Tampa Bay Bankruptcy Bar Newsletter

Fall 1999

The President's Message

And Who Said Being A Bankruptcy Lawyer Was Dull?

By: Russ Blain

The millennium year for our bar association may not be all fireworks and champagne, but it's shaping up into an interesting year all the same.

Sometime this bar year, a fifth as-yet-unidentified bankruptcy judge will join the Tampa court. The decision will come from the Eleventh Circuit this fall. The best guess is that the incoming judge will be on the bench in early 2000.

A fifth judge? Didn't we read in the newspaper that Chief Judge Alexander Paskay is retiring?

Not a chance of it. This summer, the Eleventh Circuit recalled Judge Paskay for three more years on the bench. Judge Paskay will continue to handle cases in the Fort Myers and Tampa divisions. And it's just as well: many of you have commented that the bankruptcy practice without Judge Paskay just wouldn't be the same.

Our association, together with the Central Florida Bankruptcy Law Association, the Business Law Section of The Florida Bar, and the bankruptcy judges of the Middle District, will honor Judge Paskay on the evening of October 27 prior to the View from the Bench program to be held in Tampa the following day.

In September, Judge George Proctor of Jacksonville assumes the chief bankruptcy judgeship for the district. Having served as a federal bankruptcy judge for 24 years, Judge Proctor has been a strong supporter of bar association activities and has spoken at the programs and participated in the activities of our Tampa Bay association on numerous occasions. We welcome Judge Proctor to his new position.

This is also going to be the year of the long-awaited attorney resource room. Thanks to the efforts of Carl Stewart, Chuck Kilcoyne, and Craig Socolow at the court and Sara Kistler, Dan Herman, and Ed Rice of our association, we'll soon have a fully functioning facility on the 10th floor for printing out a quick order, calling a client to get settlement authority, or putting in some work time between hearings. The Business Law Section of The Florida Bar and this association will fund the setup costs, and the association will maintain the room. More bang for your membership buck!

Continued on Page 12

Inside This Issue

View From The Bench

By: Judge C. Timothy Corcoran, III

CIVIL DISCOVERY STANDARDS PROVIDE ROAD MAP FOR HANDLING DISCOVERY

No one likes discovery disputes. Both the lawyers who are caught in them and the judges who resolve them always put discovery disputes at the top of their lists of things they like to do least. I suspect that clients who pay for these disputes do not like them much either. With the recent promulgation of Civil Discovery Standards by the American Bar Association's Section of Litigation, however, all of our professional lives may be getting a little more enjoyable.

The Civil Discovery Standards are a set of practical, "how to" guidelines for lawyers and judges on how best to handle and manage pretrial matters in civil litigation. Because the discovery provisions of the Federal Rules of Civil Procedure apply to contested matters and adversary proceedings in bankruptcy court, these Standards are directly applicable to what we do in the bankruptcy court.

The Standards are not intended to be mandatory. They are instead intended as a helpful guide when lawyers are struggling with discovery issues. They address practical aspects of the discovery process that may not by covered by the rules themselves. The Standards also include comments containing citations to authority that might be helpful in resolving difficult situations.

Each Standard is intended to:

- Eliminate unnecessary effort and expense;
- Restrict the opportunities for misusing the discovery process, both offensively and defensively; and
- Where possible, encourage a cooperative rather than adversarial approach to discovery.

Not only are these Standards helpful in showing you the best way to handle an issue, you can also cite them to opposing counsel if he or she is not proceeding in the recommended manner. If you need to, you can also cite the Standards to the court in support of your position if you have to take the dispute to the court for decision. Although the Standards are not intended to be mandatory, they will certainly be persuasive to the court when one attorney is following them and the other is not.

The Standards fill an important gap. They address practical aspects of discovery that regularly recur but are not fully addressed by substantive law and procedural rules. The Standards also suggest preferred practices in cases where procedural rules or practices may set only minimum standards.

The Standards show, among other things, how to resolve discovery disputes, how to handle deposition scheduling and disputes, how to handle objections and conferences at depositions, how to assert and preserve privileges, and how to preserve and produce electronic information. If your client has billions of files stored electronically, for example, do you have to produce every one of them? The Standards tell you how to handle this situation.

The Standards cover all the issues in handling discovery, including resolving disputes. They are categorized around topical and process areas:

- Judicial Management and Party Involvement;
- The Parties' Discovery Obligations;
- Interrogatories;
- Document Production;
- Depositions;
- Experts;
- Claims of Privilege; and
- Technology.

The Standards represent the collective wisdom, formed with substantial peer review, of state and federal judges, a law professor, and plaintiffs' and defense attorneys from around the country on the preferred manner of handling and managing discovery.

The Section of Litigation's Discovery Standards Task Force prepared the Standards. The Task Force extensively circulated the Standards for comment within the Section of Litigation and revised them in light of the many comments received. The Council of the Section of Litigation approved the Standards in May. The ABA's policy-making body, the House of Delegates, will consider the Standards in August. Once approved as ABA policy, the Standards will be widely circulated to courts and lawyers throughout the country.

The Standards are available to download without cost from the ABA Section of Litigation's Website, http://abanet.org/litigation. Take a look at them and see if you do not agree that using these Standards will eliminate many discovery disputes and make all of our professional lives a little more enjoyable.

ANOTHER DISCOVERY TIP

Each year, the Trial Lawyers Section of The Florida Bar, the Conference of Circuit Court Judges, and the Conference of County Court Judges jointly publish a Handbook on Discovery Practice.

The Handbook is a quick reference to legal authorities concerning many covered, recurring discovery problems. It contains both state and federal authorities. Although the Handbook has a very different focus than the ABA Section of Litigation's Civil Discovery Standards has, it nevertheless can be a very useful introduction to the law.

The 1999 Handbook is available for downloading without cost from the Trial Lawyers Section's Website, http://www.flatls.org.

Message From The U.S. Trustee

By: Sara Kistler

RECENT DECISIONS REGARDING POST-CONFIRMATION QUARTERLY FEES

The United States District Court for the Middle District of Florida recently issued two decisions which should render moot, most questions regarding the obligation of a chapter 11 debtor to pay postconfirmation quarterly fees to the United States Trustee.

On July 13, 1999, U.S. District Court Judge Richard A. Lazzara affirmed the decision of Judge Paul M. Glenn in the case of Union Golf of Florida v. United States Trustee, Case No. 99-1002-CIV-T-26E. The issue on appeal was the proper legal interpretation of the word "disbursements" in 28 U.S.C. §1930(a) when calculating quarterly fees in a confirmed 11 case. The debtor argued that it should be obligated to pay only the minimum fee because the bankruptcy estate ceased to exist upon confirmation. Alternatively, the debtor suggested that if it was required to pay fees based on disbursements, the calculation should be limited to disbursements associated with the plan.

In adopting the reasoning of the Bankruptcy Court, Judge Lazara said,

> In this case, the bankruptcy court opted to follow what has been characterized as the "broad interpretation" of disbursements, which according to the Trustee, represents the majority view of the courts that have considered this issue.(cite omitted). In accord with that view, the bankruptcy court concluded "that the postconfirmation quarterly fees assessed pursuant to §1930(a)(6) should be calculated on the basis of all payments made by the debtor, consisting not only of payments to creditors pursuant to its confirmed plan, but also payment of the reorganized debtor's current business expenses in the ordinary course of its operations." Having thoroughly analyzed the cases espousing this view, as well as the cases adopting the other views, the Court is of the opinion that the broader interpretation approach is more consistent with the plain language of the statute, in which no limitation is placed on the meaning of "disbursements," and with the purpose of the statute which is to generate revenue to fund the office of the United States Trustee.

On August 23, 1999, Judge Henry Lee Adams, Jr. also addressed the issue of post confirmation quarterly fees in the case of United States Trustee v. Hillsborough Holdings Corporation, et al., Case No. 97 2767-CIV-T-25C. The District Court affirmed Chief Judge Alexander L. Paskay on the majority of the issues including, (1) the confirmation order does not discharge a debtor's obligation to pay postconfirmation quarterly fees, and "binds parties only with respect to claims that arise before confirmation," (2) "the payment of postconfirmation fees is not an impermissible modification to the confirmed plan," (3) *res judicata* and collateral estoppel do not apply because the quarterly fee requirement did not exist at the time of confirmation, (4) the imposition of fees applies regardless of any conflict with the language of §1129(a)(12), and (5) to require the debtor to remit postconfirmation fees does not violate the separation of powers doctrine.

The District Court reversed the court below on the sole issue of how postconfirmation fees are calculated. Like Judge Lazzara, Judge Adams also adopted the broad interpretation of the term "disbursement" and said, ". . . disbursements are to consist of all postconfirmation payments by reorganized debtors, including operating expenses, until the case is dismissed, converted, or closed."

CHAPTER 11 DEBTOR CONVICTED OF BANKRUPTCY FRAUD

On July 8, 1999, Kenneth A. Stoecklin was convicted after a jury trial on both counts of a two (2) count indictment charging embezzlement from the bankruptcy estate of Commonweal, Inc., a Chapter 11 debtor, in violation of 18 U.S.C. § 153, and obstruction of the administration of the internal revenue laws, in violation of 26 U.S.C. § 7212. The case was referred to the United States Attorney by the Tampa Office of the United States Trustee.

Kenneth A. Stoecklin was a Certified Public Accountant and the controlling corporate officer of the Chapter 11 debtor, Commonweal, Inc. In 1989, the Internal Revenue Service asserted individual income tax liability against Mr. Stoecklin in excess of $137,000 for the taxable years 1978 through 1983. In an apparent effort to avoid payment of the taxes, Mr. Stoecklin transferred substantially all of his assets, consisting of real property, mortgage notes receivable, and cash to Commonweal, Inc., a real estate development company he controlled. As a result, on October 1, 1991, the Internal Revenue Service recorded a notice of federal tax lien against Commonweal, Inc., and on March 11, 1992, issued a notice of levy naming Commonweal, Inc. as the nominee/alter ego of Kenneth A. Stoecklin. Thereafter, on May 8, 1992, Mr. Stoecklin filed a Chapter 11 petition on behalf of

Continued on Page 5

Reclamation: You can't always get what you want!

© *Steven M. Berman*
Angela Stathopoulos

I. Basis to Reclaim Goods

A. Article 2 section 702 of the Uniform Commercial Code provides

1. Where the seller discovers that the buyer has received goods
2. on credit,
3. while insolvent,
4. he may reclaim the goods,
5. upon demand made within 10 days after receipt,
6. unless the buyer misrepresented his solvency in writing within the 3 months before delivery of the goods, in which case the 10-day limitation does not apply;

NOTE: the seller's right to reclaim goods is subject to the rights of buyers in the ordinary course or other good faith purchasers.

B. Section 546(c) of the Bankruptcy Code provides that the rights and powers of a trustee are subject to a seller's reclamation rights if the seller:

1. sold goods to the Debtor,
2. in the ordinary course of the seller's business,
3. if the Debtor received the goods,
4. while insolvent, if
5. demand for reclamation is made,
6. in writing,
7. before 10 days after the Debtor's receipt of the goods, or
8. if the 10-day period expires post-petition, before 20 days after receipt of the goods.

NOTE: the Bankruptcy Court can deny reclamation to sellers if the Court grants administrative priority to or a security interest in the claim for reclamation.

II. Demand

A. Not only must the goods be specifically identifiable, but the notice must with specificity identify the goods to be reclaimed sufficient to permit their return. In re: Braniff, Inc., 113 B.R. 745, 752 (Bkrtcy. M.D. Fla. 1990).

B The date of dispatch governs the demand date, not the date of receipt. *In re: Bill's Dollar Stores, Inc.*, 164 B.R. 471 (Bkrtcy. Del. 1994).

C. The 10 or 20-day clock starts to run when the goods are received by the Debtor. *Id.*

D. The demand notice is sufficient if it indicates the seller's intent to rescind the transaction and in turn return the goods. There is no required language. In re: Graphic Productions, Corp., 176 B.R. 65, 73-74 (Bkrtcy. S.D. Fla. 1994).

E. Not only is it necessary for the seller to make a timely reclamation demand, the seller must timely assert its right to recovery using judicial means if the Debtor refuses the demand. In re: McLouth Steel Products Corporation, 213 B.R. 978, 987 (E.D. Mich. 1997); In re: Crofton & Sons, Inc., 139 B.R. 567, 569 (Bkrtcy. M.D. Fla. 1992).

F. There is not necessarily any time limit for a cash seller to demand and reclaim goods based on the Debtor's failure to pay or to honor a dishonored check. *In re: Edgerton*, 186 B.R. 143, 147 (Bkrtcy, M.D. Fla. 1995).

G. Pre-petition, a seller can make an oral demand for reclamation and in fact reclaim goods based on a notice that complies with state law but not necessarily with § 546(c) of the Code. However, if a later bankruptcy is filed, the reclamation may be subject to avoidance as a preferential transfer. *In re: M.P.G., Inc.*, 222 B.R 862, 864-65 (Bkrtcy. W.D. Ark. 1998).

III. Goods must be specifically identifiable

A. Fungible, commingled or incorporated goods may not be identifiable

B. The requirement of specific identifiability is implicit in § 546 of the Code. In re: Charter Co., 54 B.R. 91, 92 (Bkrtcy. M.D. Fla. 1985); In re: Wheeling-Pittsburgh Steel Corp., 74 B.R. 656 (Bankr. W.D. Pa. 1987).

C. It is possible to identify the quantity of fungible goods in stock prior to the delivery sought to be reclaimed and to account for all additions to stock subsequent to the subject delivery in order to identify the subject goods. The seller needs to trace the goods from its possession into an identifiable mass and then needs to prove that all of the other goods commingled are of like kind and grade. The seller has to then establish the quantity of goods in the pool prior to the subject delivery, how much in goods all of the suppliers delivered during the period and the quantity on hand at the end of the relevant period. A first-in / first-out theory of accounting would be used to assess whose goods remained on hand at the time of reclamation demand. *Braniff* at 752.

IV. Debtor must have been insolvent

A. The Debtor must have been insolvent at the time of the delivery of the goods.

B. The mere fact of filing a bankruptcy is not enough to prove insolvency.

C. Even insolvency at filing of the bankruptcy alone is insufficient to infer insolvency at the time of delivery, without some proof that the financial conditions hav

Continued on Page 6

Commonweal, Inc., in the Tampa Division of the Middle District of Florida.

Over the next two years, the debtor and the United States were engaged in an adversary proceeding to determine whether the debtor, Commonweal, Inc., was, in fact, the nominee of Kenneth A. Stoecklin, and thus liable for the payment of the taxes asserted by the federal tax lien. At the inception of the adversary proceeding, the United States requested and was granted adequate protection of $1,000 per month to be deposited into a segregated account in the name of the debtor-in-possession, Commonweal, Inc. These funds were to be held pending further order of the Bankruptcy Court.

On August 12, 1994, the Bankruptcy Court granted summary judgment in favor of the United States in the adversary proceeding. The Bankruptcy Court outlined the many efforts of Mr. Stoecklin to avoid the payment of his federal income taxes, and found as a matter of law that the debtor, Commonweal, Inc., was the nominee of Kenneth A. Stoecklin. The debtor filed an appeal of that decision to the United States District Court on August 19, 1994.

The Bankruptcy Court granted the debtor's request for a stay of the bankruptcy proceedings pending appeal to the District Court, but reiterated its prior order that the debtor make deposits to the adequate protection bank account. On August 7, 1995, the United States District Court affirmed the decision of the Bankruptcy Court regarding the status of Commonweal, Inc. as nominee of Kenneth A. Stoecklin, and on September 8, 1995, the debtor appealed to the Eleventh Circuit Court of Appeals. The appeal was ultimately dismissed for lack of prosecution.

Determining that the debtor could not obtain confirmation of its plan in light of the Court's decision on the issue of the nominee status of the debtor, the United States Trustee filed a motion to dismiss the Chapter 11 case on April 18, 1996, and the case was dismissed on May 14, 1996.

On the afternoon of the same day the Court dismissed the bankruptcy case, the Internal Revenue Service served a notice of levy on the bank at which the adequate protection account had been held, only to find that the account had been closed, prior to dismissal of the bankruptcy case, on April 8, 1996. Upon further inquiry, the United States Trustee's office learned that Kenneth A. Stoecklin had personally appeared and withdrawn all funds from the account in the form of a cashier's check for $39,295.22, payable to the "Robert Shaw Family Limited Partnership." The cashier's check was ultimately negotiated by Kenneth A. Stoecklin and the proceeds deposited in a bank account in Nevis, British West Indies.

The criminal trial of Mr. Stoecklin was held over three days in Ocala, Florida, with the Honorable W. Terrell Hodges presiding. Theresa Boatner of the Tampa Office of the United States Trustee testified as an expert on behalf of the government. The jury deliberated for less than two hours before returning a guilty verdict. A sentencing date has not yet been set.

This case marks the first conviction under 18 U.S.C. § 153 in the Middle District of Florida. This statute, revised in October 1994, applies broadly to all persons who have access to property belonging to the bankruptcy estate by virtue of participation in its administration. Among other things, Section 153 specifies that the act of transfer alone, of any property of the estate, constitutes a crime. Conversely, either concealment or actual receipt of property is required to charge under 18 U.S.C. § 152(1) or (5). Since Mr. Stoecklin had a history of transfers to controlled entities and it was anticipated that he would attempt to obfuscate the fact of his embezzlement using the argument that the transfer was to an entity other than himself, Section 153 provided the more appropriate charge.

In Memory of Frances Pilaro Wolstenholme

On June 12, 1999, Frances Pilaro Wolstenholme passed away after a long and courageous battle with cancer. Frances graduated from Stetson University School of Law in 1991 and clerked for Judge Alexander Paskay for 4 years before entering private practice in Tampa and Miami, Florida. Well known to many of our members from her days as Judge Paskay's law clerk, she will be missed. Frances is survived by her husband, Brian Wolstenholme, and her parents, Dr. and Mrs. Joseph Pilaro.

Contributions in Frances' name may be made to:

Alliance For Lung Cancer Adversary, Supported and Education (ALLCASE)
1601 Lincoln Avenue
Vancouver, Washington 98660

not changed materially between such times. *Penthouse Travelers of Aripeka, Inc.*, 120 B.R. 226 (Bkrtcy. M.D. Fla. 1990).

D. There are no presumptions of insolvency, and without real and substantial evidence of insolvency at the time of delivery, reclamation will likely be denied. *In re: Video King of Illinois, Inc.*, 100 B.R.1008, 1015 (Bkrtcy. N.D. Ill. 1989).

E. Insolvency is typically determined by using the balance sheet test at fair market not book value. *In re: Mayer Pollack Steel Corp.*, 157 B.R.952, 960 (Bkrtcy. E.D. Pa. 1993).

V. Goods in Possession

A. The Debtor must be in possession of the goods to be reclaimed at the time the demand is both made and received. *In re: Pester* Refining *Co.*, 964 F.2d 842, 845 (8th Cir. 1992); *In re: Rawson Food Service, Inc.*, 846 F.2d 1343 (11th Cir. 1988); *In re: Charter Co.*, 54 B.R. 91 (Bkrtcy. M.D. Fla. 1985).

B. Possession is not solely determined by mere physical location, but by dominion and control. Video King at 1015.

C. Even if the goods are warehoused in a facility owned or operated by someone other than the Debtor, if the Debtor could direct them to be delivered, the goods are likely in the control of the Debtor for reclamation purposes. Whereas receipt by a common carrier alone is not sufficient. *Braniff* at 753; *Charter* at 91; *Mayer Pollock* at 960.

D. As is the case when determining if the Debtor has possession at the time of demand, the Debtor will be deemed to have received the goods when the seller can no longer stop delivery of the goods, i.e. when the Debtor has either actual or constructive control. *Bill's Dollar Stores* at 475 (Debtor had sufficient control when goods on trailers of common carriers unhitched in Debtor's stockyard).

E. Some courts have held that even if the goods are not in the Debtor's possession but are in possession of someone who is not a buyer in the ordinary course or a good faith purchaser, then the seller can continue his reclamation as against the holder. The recovery is only subject to the rights of a buyer in the ordinary course and a good faith purchaser. *Video King* at 1014.

F. Additionally, courts have held that once the Debtor receives the notice of intent to reclaim the goods, the Debtor became obligated to hold and not transfer those goods away in an effort avoid reclamation. *In re: Griffin Retreading Co.*, 795 F.2d 676, 679 (8th Cir.1986).

VI. Floating Liens

A. Holders of validly perfected security interests are treated as good faith purchasers and the seller's reclamation rights are subject to such security interests, both present and after-acquired. *In re: Affiliated of Florida, Inc.*, 1998 WL 1107972 (Bankr. M.D. Fla. 1998); *In re: Child World, Inc.*, 145 B.R. 5, 7 (Bkrtcy. S.D.N.Y. 1992).

B. Courts have taken varied approaches to the best way to deal with floating liens.

C. Some courts have said the seller keeps his reclamation subject to the first lien position of the secured creditor and may share in the proceeds above and beyond such amounts.

D. Other courts have said the seller's reclamation is denied. From there, some courts have held that administrative priority is denied altogether since § 546(c) of the Code does not create any substantive rights and the seller cannot gain any greater rights than exist under state law. *Video King* at

Continued on Page 12

Additional Copies of the Bankruptcy Seminar For Paralegals and Legal Assistants Notebook can be purchased.

Cost: Member $25.00 plus $5.00 shipping and postage Non-Member: $28.00 plus $5.00 shipping and postage

Contact: Curran Porto
Meininger, Fisher & Mangum, P.A.
711 N. Florida Ave., Suite 260
Tampa, FL 33602
(813) 301-1025
(813) 307-0879

People On The Go

On July 1, **The Honorable Alexander L. Paskay** celebrated his 36th year on the bench.

On August 11, **The Honorable C. Timothy Corcoran, III** celebrated his 10th year on the bench.

Effective September 13, 1999, **The Honorable George L. Proctor** was appointed Chief Bankruptcy Judge of the Middle District of Florida.

Stephenie M. Biernacki has become associated with Shackelford, Farrier, Stallings & Evans law firm.

Kass, Shuler, Solomon, Spector, Foyle & Singer announced the following additions to the firm: **Kristine L. Maliga** and **Gilbert M. Singer** have merged their practice with the firm; **Benjamin Felder** and **Temple H. Drummond** have joined the firm.

Matthew E. Thatcher has become associated with Solomon & Benedict. Thatcher received his law degree from the University of Florida.

Manjit Gill has joined the Fowler, White, Gillen, Boggs, Villareal and Banker law firm as an associate. Previously he was associated with the Zuckerman, Spaeder, Todstein, Taylor & Kolker law firm in Washington, D.C. Mr. Gill received his J.D. from Georgetown.

Monika L. Schilcher announces the opening of her offices at 3601 Swann Ave., Ste. 201, Tampa, Florida 33609, telephone (813) 873-9695.

Kim Hernandez has joined the Cohn, Cohn, Bianco & Hendrix law firm.

Kevin P. O'Brein has joined the law firm of Williams Reed Weinstein Schifino & Mangione, P.A.

Contact Donald R. Kirk at (813) 222-2022, (813) 229-8313(fax) or dkirk@fowlerwhite.com w/contributions to the column, including moves, awards or other happenings concerning TBBBA members

CALENDAR OF EVENTS

DATE	EVENT	TIME	LOCATION
September 17, 1999	ABI View from the Bench Seminar		Washington, D. C.
September 24-25, 1999	14th Annual Mid-Atlantic Institute on Bankruptcy and Reorganization Practice (800) 979-8253		Charlottesville, Va.
October 12, 1999	TBBBA's Monthly Lunch: Chapter 11 Panel Discussion	12:00 p.m.	Tampa: Downtown Hyatt
October 6-9, 1999	National Conference of Bankruptcy Judges 73rd Annual Meeting (803) 957-6225		San Francisco, CA
October 27, 1999	View from the Bench Cocktail Reception	6:30 p.m.	Tampa Bay
October 28, 1999	View from the Bench Seminar	8:30 a.m.	Tampa Bay
October 29, 1999	View from the Bench Seminar	8:30 a.m.	Miami
November 9, 1999	TBBBA's Monthly Lunch: Hot News in Consumer Bankruptcy, David Light, Managing Editor of Consumer Bankruptcy News	12:00 p.m.	Tampa - Downtown Hyatt
December 9-11, 1999	Stetson University 24th Annual Bankruptcy Seminar		Sheraton Sand Key Clearwater Beach, FL
December 14, 1999	TBBBA 2nd Annual Holiday Party	TBA	TBA
May 2000	TBBBA Second Annual Golf Tournament	TBA	TBA

Additional Practice Tips: Justice William Glenn Terrell American Inn of Court Announces Federal Bankruptcy Questionnaire.

The Justice William Glenn Terrell American Inn of Court, under the direction of the Honorable Elizabeth A. Jenkins, announced the results of its Federal Bankruptcy questionnaire. The results of this questionnaire are reproduced to assist Association members with answers to often asked questions from each of the four (4) Bankruptcy Judges in the Tampa Division.

1. Is it appropriate to telephone Chambers regarding questions of procedure on pending matters?

The Honorable Thomas E. Baynes, Jr..: *No, we provide no legal services to the Bar.*
The Honorable C. Timothy Corcoran III: *Yes.*
The Honorable Paul M. Glenn: *Yes, to the law clerk on non-substantive (procedural) matters.*
The Honorable Alexander L. Paskay: *Yes.*

2. Is it appropriate to telephone Chambers regarding the status of pending matters?

The Honorable Thomas E. Baynes, Jr..: *Yes, to law clerk or calendar clerk.*
The Honorable C. Timothy Corcoran III: *No, call case manager in clerk's office.*
The Honorable Paul M. Glenn: *Yes, to law clerk.*
The Honorable Alexander L. Paskay: *Yes.*

3. Should courtesy copies of pleadings and motions be forwarded to Chambers?

The Honorable Thomas E. Baynes, Jr..: *No. (no room).*
The Honorable C. Timothy Corcoran III: *No.*
The Honorable Paul M. Glenn: *No, except for unusual matters.*
The Honorable Alexander L. Paskay: *No.*

4. When should legal memorandum be filed in support of, or in opposition to, motions?

The Honorable Thomas E. Baynes, Jr..: *No, with 22,000 cases in the division, we do not need more pap unless asked.*
The Honorable C. Timothy Corcoran III: *Big hearings. Non-standard issues. If you file one, do so a day or two before this hearing.*
The Honorable Paul M. Glenn: *No, except for unusual matters.*
The Honorable Alexander L. Paskay: *Only if requested by the Judge.*

5a. Should copies of cases cited in motions and memoranda be forwarded to Chambers?

The Honorable Thomas E. Baynes, Jr..: *No, except in posting hearing briefs dealing with out-of-state decisions.*
The Honorable C. Timothy Corcoran III: *Yes.*
The Honorable Paul M. Glenn: *No.*
The Honorable Alexander L. Paskay: *Yes.*

5b. If so, do you object to cases printed in Westlaw of CD-Rom format, rather than copies from a reporter?

The Honorable Thomas E. Baynes, Jr..: *No.*
The Honorable C. Timothy Corcoran III: *No, but I prefer copies from the books.*
The Honorable Paul M. Glenn: *N/A*
The Honorable Alexander L. Paskay.: *No.*

5c. If copies of cases are submitted, is it appropriate to highlight portions of cases?

The Honorable Thomas E. Baynes, Jr..: *No, although it does not make much difference.*
The Honorable C. Timothy Corcoran III: *Yes.*
The Honorable Paul M. Glenn: *Yes.*
The Honorable Alexander L. Paskay: *No.*

6a. Is it appropriate to cite unpublished opinions in motions or memoranda?

The Honorable Thomas E. Baynes, Jr..: *Yes, if you give me a copy (only with post hearing briefs)*
The Honorable C. Timothy Corcoran III: *Yes.*
The Honorable Paul M. Glenn: *Yes.*
The Honorable Alexander L. Paskay: *No.*

Continued on Page 9

add hearing Notice issue

6b. If so, would they be attached to the motions or memoranda?

The Honorable Thomas E. Baynes, Jr.: Nom only with post hearing briefs.
The Honorable C. Timothy Corcoran III: Yes.
The Honorable Paul M. Glenn: Yes.
The Honorable Alexander L. Paskay: *{No answer given}*

7. Do you allow telephonic hearings?

The Honorable Thomas E. Baynes, Jr.: *No. No. No.*
The Honorable C. Timothy Corcoran III: *No, absent extraordinary circumstances.*
The Honorable Paul M. Glenn: *Yes, if there is a good reason.*
The Honorable Alexander L. Paskay: *No.*

8. What can an attorney do to call attention to a pending motion of particular importance to expedite rulings?

The Honorable Thomas E. Baynes, Jr.: *98% of all motions are pre-tried, so the process moves quick – faster equals emergency motions. As to awaiting court decisions, most are ruled on in open court. Those under advisement must await the judge having time off the bench to make a final determination.*
The Honorable C. Timothy Corcoran III: *Motions are set for hearing, so this question is inapplicable. Put your scheduling suggestions on a legend on the first page of the motion.*
The Honorable Paul M. Glenn: *Advise judge at hearing, or call law clerk.*
The Honorable Alexander L. Paskay: *Call the law clerk.*

9. What do you consider to be an "emergency matter" and how would you suggest emergency matters be handled?

The Honorable Thomas E. Baynes, Jr.: *Certificate of Emergency with Motion – then I decide to set it in due course or expedite.*
The Honorable C. Timothy Corcoran III: *Emergency matters are when life is threatened. I haven't seen one yet! See LBR 9004-2(d) and my guidelines for information required when seeking expedited or emergency treatment of motions. That, and my other guidelines memoranda are available from the clerk's intake counter and from the court's website, http://www.flmb.mscounts.gov/.*
The Honorable Paul M. Glenn: *Submit motion and certificate of emergency, and judge will review.*
The Honorable Alexander L. Paskay: *An emergency matter is one where the requested relief requires immediate action with respect to the Debtor or its property or a motion to use cash collateral or to request approval of post-petition financing.*

10a. Will you entertain motions in limine prior to trial?

The Honorable Thomas E. Baynes, Jr.: *Yes.*
The Honorable C. Timothy Corcoran III: *Yes.*
The Honorable Paul M. Glenn: *Yes.*
The Honorable Alexander L. Paskay: *Yes.*

10b. If you will consider motions in limine prior to trial, how far in advance should they be filed?

The Honorable Thomas E. Baynes, Jr.: *Before discovery cutoff.*
The Honorable C. Timothy Corcoran III: *Let's talk about it at the final pretrial conference.*
The Honorable Paul M. Glenn: *As far in advance as possible and appropriate.*
The Honorable Alexander L. Paskay: *{No answer given}*

11. Please indicate any "pet peeves" of which you would like the federal bar to be aware?

The Honorable Thomas E. Baynes, Jr.: *Be prepared – or else. It is surprising how many attorneys are unaware of the FRCP – much less, the bankruptcy rules of procedure.*
The Honorable C. Timothy Corcoran III: *The positive side of my "pet peeves" is found in my guidelines memoranda. Anyone practicing before me will wish to obtain copies.*
The Honorable Paul M. Glenn: *Do not string cite cases in motions and memoranda – only cite relevant cases. If quoting a case during a hearing, bring a copy of case so judge can put quote in context.*
The Honorable Alexander L. Paskay: *Do not submit brief unless briefs are requested.*

Miscellaneous Notes:

The Honorable Thomas E. Baynes, Jr.: *Keep in mind that the Bankruptcy Court process is to set motions or hold hearings as soon as possible. Further, most of the judges pretry any matter that has the potential for an evidentiary hearing.*
The Honorable C. Timothy Corcoran III: *{None}*
The Honorable Paul M. Glenn: *Be prepared with legal arguments and case law at hearings. Argue issues as if you are the judge and must decide the issue.*
The Honorable Alexander L. Paskay: *{None}*

THE SUPREME COURT'S LASALLE DECISION: IS THE NEW VALUE EXCEPTION TO THE ABSOLUTE PRIORITY RULE "ALIVE AND KICKING" OR MORTALLY WOUNDED?

By: John J. Lamoureux
Carlton Fields

On May 3, 1999, in the case of Bank of America National Trust and Savings Association v. 203 North LaSalle Street Partnership, ____ U.S. _____, 119 S.Ct. 1411 (1999), the United States Supreme Court handed down its long awaited decision relating to one of the most important issues effecting Chapter 11 bankruptcy practice: Whether the new value exception or corollary to the absolute priority rule is still valid and exists. Despite the issue being squarely presented to the Supreme Court for determination, the Supreme Court avoided addressing it. Instead, the issue decided by the Supreme Court in LaSalle was whether the exclusive right to propose a plan of reorganization was "property" which equity holders received or retained "on account of" such junior claim or interest and if so, whether such retention violated Code Section 1129(b)(2)(B)(ii).

The Supreme Court held that under 11 U.S.C. § 1129(b)(B)(ii), a debtor's pre-bankruptcy equity holders may not, over the objection of a senior class of impaired creditors, contribute new capital and receive ownership interests in the reorganized entity, when that opportunity is given exclusively to the old equity holders under a plan without allowing other parties to compete for that equity or propose competing plans of reorganization. Id. at 1417-1424. Thus, the LaSalle decision severely restricts the ability of a Chapter 11 debtor to cramdown confirmation of a plan of reorganization under the new value exception to the absolute priority rule. The LaSalle decision but leaves unanswered, however, the continued viability of the new value exception.

The "absolute priority rule" is a statutory requirement for distribution of assets in a bankruptcy case which requires that senior creditors be paid in full before junior creditors or equity holders "receive or retain" property or distribution in the case. See 11 U.S.C. § 726(a). Bankruptcy Code Section 1129(b)(2)(B)(ii) codifies a modified form of the absolute priority rule and permits cramdown of a plan of reorganization over dissenting impaired unsecured claims only if the unsecured creditors are paid in full, or the equity holders "will not receive or retain" any property under the plan "on account of" such junior claim or interest.

The new value exception to the absolute priority rule permits pre-bankruptcy equity holders to receive or retain property provided that the "old" equity holders contribute substantial new capital to be debtor in money or money's worth that is necessary for the success of the reorganization. In dicta, the Supreme Court had recognized the new value exception to the absolute property rule under the former Bankruptcy Act. See Case v. Los Angeles Lumber Products, Co., 308 U.S. 106, 60 S.Ct. 1, 84 L. Ed. 110 (1939). The new value exception to the absolute priority rule was not, however, expressly codified in the Bankruptcy Code.

Factual Background of LaSalle

Bank loans monies to the debtor, a real estate limited partnership, secured by 15 floors of rental property of an office building in downtown Chicago. The bank's debt is divided into a secured claim of $54.5 million and an unsecured claim of $38.5 million. Unsecured trade claims total $90,000. The debtor's plan of reorganization proposed to repay the bank's secured claim in full within 7 to 10 years pursuant to an interest bearing note. The bank's unsecured deficiency claim was to receive 16% distribution over the life of the plan. Unsecured trade debt was to be paid in full without interest within 180 days of confirmation. Under the plan, the debtor proposed to retain property and existing partners would contribute $6.125 million in new capital over the course of 5 years, with $3 million to be paid at confirmation and annual payments of $625,000. Unsecured trade debt was the only non-insider class to vote in favor of the plan. The bankruptcy court confirmed the plan over the bank's objection. The District Court and the Seventh Circuit affirmed.

The Supreme Court granted certiorari to resolve the split in the Circuit Courts. Specifically, the Seventh and Ninth Circuits had confirmed plans of reorganization in reliance upon the new value exception to the absolute priority rule. See In re Bonner Mall Partnership, 2 F.3d 899, 910-916 (9th Cir. 1993), cert. denied, 510 U.S. 1039, 114 S.Ct. 681, 126 L. Ed. 2d 648, vactur denied and appeal dism'd as moot, 513 U.S. 18, 115 S.Ct. 386, 130 L. Ed. 2d 233 (1994); In re 203 N. LaSalle Street Partnership, 126 F.3d 955, 958 (7th Cir. 1997). The Second Circuit and Fourth Circuits, without explicitly rejecting the new value exception, disapproved plans of reorganization which sought to confirm plans of reorganization under the new value exception. See In re Coltex Loop Central Three Partners, L.P., 138 F.3d 39, 44-45 (2d Cir. 1998); In re Bryson Properties, XVIII, 961 F.2d 496, 504 (4th Cir. 1992), cert. denied, 506 U.S. 866, 113 S.Ct. 191, 121 L. Ed. 2d 134 (1992).

Majority Opinion

Justice Souter delivered the majority opinion and was joined by Chief Justice Rehinquist, and Justices O'Connor, Kennedy, Ginsburg and Breyer. After a lengthy discussion of pre-Code law and drafts of comments to section 1129, the Supreme Court opined that the history of the statute was

Continued on Page 11

"equivocal", but the statute does nothing to disparage the possibility that the "on account of" language of Section 1129(b)(2)(B)(ii) may carry the new value exception. LaSalle, 119 S.Ct. at 1417-1419. Although there is no literal reference to "new value" in the phrase "on account of such junior claim," the Supreme Court stated that "the phrase could arguably carry such an implication in modifying the prohibition against receipt by junior claimants of any interest under a plan while a senior class of unconsenting creditors receive less than full payment." Id. at 1419.

Ultimately, the Court concluded that it did not need to address the question of whether the Bankruptcy Code codified the new value exception because, even assuming a new value exception existed, the debtor's plan would not meet the test to confirm a plan of reorganization under Section 1129(b)(2)(B)(ii). Id. at 1424. The Court focused its opinion on the exclusive nature of equity's participation in the plan formation process. The Court stated that the exclusive opportunity to participate in the reorganized debtor was "property" of some value that fell within the statute. Id. at 1422. Thus, the reservation of that exclusive right by equity holder, coupled with the lack of any objective market forces, (i.e., such as competing bids for the equity or competing plans) constituted a property interest extended "on account of" preexisting ownership position. Accordingly, these factors brought the debtor's plan within the prohibition of Section 1129(b)(2)(B)(ii). Id. at 1422-1423.

Concurring Opinion

In their concurring opinion, Justices Thomas and Scalia agreed with the majority's conclusion, but criticized their departure from the plain-meaning interpretation of the statute. The phrase "on account of" "obviously denotes some type of causal relationship between the junior interest and the property received or retained." Id. at 1424. The property received by the pre-petition equity holder was the "exclusive opportunity" to propose and obtain equity and was "on account of" their pre-petition equity interest. The receipt of such a property right violates Section 1129(b)(2)(B)(ii).

Dissenting Opinion

Justice Stevens issued the dissenting opinion wherein he believed the Court should have definitively resolved the question of the new value exception and "state that a holder of a junior claim or interest does not receive property 'on account of' such claim when its participation in the plan is based on adequate new value." Id. at 1427.

Significance of Opinion.

Whether the Supreme Court will ultimately and definitely determine the existence of the new value exception to the absolute priority rule remains an open question. However, the viability of the new value exception has been considerably weakened by the LaSalle decision and will make it exceedingly more difficult for closely-held corporations and single asset debtors to confirm plans of reorganization.

There should be no question that it is no longer permissible for old equity to confirm a plan of reorganization under the new value exception which does not expose equity in the debtor to "market forces." Such market forces may include allowing third parties to file competing plans of reorganization or requiring the bankruptcy court to hold an auction of the equity interest, thereby increasing equity's risk of dilution or elimination of control.

RESOURCES FOR BANKRUPTCY PRACTITIONERS: Judicial Conference Of The United States' Advisory Committee On Bankruptcy Rules Promulgates New, Revised Reaffirmation Agreement Form

The Judicial Conference of the United States' Advisory Committee on Bankruptcy Rules recently promulgated a new, revised form of reaffirmation agreement. The procedural form, Form B 240, can be used when a bankruptcy debtor has agreed to reaffirm a debt to a creditor under Section 524(c) of the Bankruptcy Code.

Although promulgated by the "official" Advisory Committee on Bankruptcy Rules, the form is a procedural form rather than an official bankruptcy form. Use of the form, therefore, is not mandatory, but it is strongly recommended. The new form incorporates requirements added to the Bankruptcy Code by the Bankruptcy Reform Act of 1994 and also adopts many suggestions made in the final report of the National Bankruptcy Review Commission.

"This is a first-rate form of reaffirmation agreement," Judge Corcoran told The Cram-Down. "It lays out all of the information a debtor needs to know to make an intelligent reaffirmation agreement decision. It should really help pro se debtors, debtors' counsel, and lawyers representing creditors. I'd like to see all reaffirmation agreements come in on this form," he said.

The text of the form, Form B 240, is printed in this issue. Copies are also available for the asking at the Intake Counter of the Bankruptcy Clerk's Office and on the bankruptcy court's Website, http://www.flmb.uscourts.gov.

1016-17; *In re: Shattuc Cable Corp.*, 138 B.R. 557, 563 (Bkrtcy. N.D. Ill. 1992).

E. Other courts have allowed an administrative claim on the theory that the reclamation right is not extinguished, merely prevented or subordinated, making denial of reclamation appropriate and paving the way to administrative claim allowance in some amount. *In re: Affiliated of Florida, Inc.*, 1998 WL 1107972 (Bankr. M.D. Fla. 1998); *Matter of Sunstate Dairy & Food Products Co.*, 145 B.R. 341 (Bankr. M.D. Fla. 1992) *In re: Pester Refining Co.*, 964 F.2d 842, 845-46 (8th Cir. 1992); *In re: Diversified Food Service Dist., Inc.*, 130 B.R. 427, 430 (Bkrtcy. S.D.N.Y. 1991); *In re: Roberts Hardware Co.*, 103 B.R. 396, 398 (Bkrtcy. N.D.N.Y. 1988); *In re: Reliable Drug Stores, Inc.* (S.D. Ind. 1995). How much can be realized given superior security rights, will be determined by whether the secured creditor liquidates its collateral or is paid in full through the plan. *Pester Refining* at 846. Once the secured creditor is paid or otherwise satisfied, the seller's reclamation rights become exercisable. *Id.* If the secured creditor is paid from its collateral, oftentimes an administrative claim is allowed in the amount of the difference in value between the secured claim and the value of the property to be reclaimed. *In re: Blinn Wholesale Drug Co.*, 164 B.R. 440 (Bkrtcy. E.D.N.Y. 1994); *In re: Leeds Building Products, Inc.*, 141 B.R. 265 (Bkrtcy. N.D. Ga. 1992).

VII. Burden of Proof on Seller

F. Critical facts upon which recovery depends are true, not merely possible, must be proven. In re: Braniff, Inc., 113 B.R. 745 (Bkrtcy. M.D. Fla. 1990) (citing Rawson at1347, 1348).

G. Testimony must be viewed in light most favorable to Debtor and if the evidence is "in equipose", the Debtor must prevail. Braniff at 751.

H. Seller has the burden of proof by a "fair preponderance of the evidence." In re: Adventist Living Center, Inc., 171 B.R. 310, 312 (Bkrtcy. N.D. Ill. 1994) (citing In re: Video King of Illinois, Inc., 100 B.R.1008 (Bkrtcy. N.D. Ill. 1989).

In opening the attorney resource room, we honor our friend and colleague, Frances Pilaro Wolstenholm. Frances worked with Dennis LeVine and clerked for Judge Paskay before going to work with Stroock & Stroock & Lavan in Miami. After months of therapy and surgeries, Frances lost her battle with lung cancer in June. We extend sympathy and warm wishes to Frances' husband, Brian, to her parents, Dr. and Mrs. Joseph Pilaro of Eastport, Maine, and to her family and friends.

We hope to have the attorney resource room up and running within a few months.

This also is likely to be the year that we see the farthest-reaching bankruptcy legislation since the Bankruptcy Reform Act of 1978 that repealed the Bankruptcy Act of 1898 and created the Bankruptcy Code. Most observers think that some form of reform law will be passed after House and Senate conferees reach a compromise.

Almost certain to be a part of the new law is a means test for Chapter 7 eligibility. There may be an effort to limit the amount of the homestead exemption in states like Florida and Texas, which currently have homestead exemptions unlimited in dollar amount. Thus, the struggle between the financial services industry and consumer groups continues. A presidential veto of new legislation is a possibility.

On the Florida legislative front, a state bar committee, chaired by Judge Karen Jennemann of Orlando, is studying issues related to ownership of property by husbands and wives as tenants by the entireties. The focus is on a possible statutory fix of some of the problems resulting from conflicting judicial decisions.

With all that's going on, it's your turn to get involved. The work of the committees of this association is well underway, and all that is missing is you. If you want to help plan programs and seminars - with the CLE credit hours that come with them - call Allyson Hughes or Cathy McEwen.

Do you want to help set up or attorney resource room in the Sam M. Gibbons Federal Courthouse or work on videoconferencing issues? Ed Rice is the person to call. If community service is the direction for you, call Pat Smith. His committee is working on public outreach and information, a lawyer referral program for Chapter 13 cases, and *pro bono* work.

Like to write and edit, and want to contribute to *The Cram-Down* that you're reading? John Lamoureux needs your help. Or do you want to work on liaison issues between the bench and the bar? Rod Anderson and John Olson are heading up that committee. Do you want to work on expanding services to members, including our annual director? Steve Berman is the one to call.

For many of us, bankruptcy law is all or a significant part of our livelihood. This association was created to bring us together to solve mutual problems, to provide service to the community, and to serve as a bridge between the bend and the bar. The Association is here for you.

At the same time, we need you. To get involved, or to get help from the association, call on any of your officers or directors. There's a full listing with phone numbers in this issue of *The Cram-Down.*

End of the Year Dinner Cruise

Incoming President Russ Blain addresses the Association

"Passengers that sailed that day on a 3 Hour Tour"

Annual Golf Tournament

Judges Corcoran and Glenn -- Winners of the "Challenging" Judges division

The Winning Foursome

Participants in the Annual Golf Tournament

THE TAMPA BAY BANKRUPTCY BAR ASSOCIATION

1999-2000

Officers

Chair: Dennis J. LeVine
Dennis LeVine & Associates
P.O. Box 707
Tampa, FL 33601-0707
Phone: (813) 253-0777
Fax: (813) 253-0975

President: Russell M. Blain
Stichter, Riedel, Blain & Prosser, P.A.
110 Madison St.
Suite 200
Tampa, FL 33602
Phone: (813) 229-0144
Fax: (813) 229-1811

Vice-President: John D. Emmanuel
Fowler, White, et al.
501 E. Kennedy Blvd.
Suite 1700
Tampa, FL 33602
Phone: (813) 228-7411
Fax: (813) 229-8813

Secretary: Sara L. Kistler
Office of the United States Trustee
Timberlake Annex
501 E. Polk St.
Tampa, Florida 33602
Phone: (813) 228-2000
Fax: (813) 228-2303

Treasurer: Zola L. Forizs
James, Hoyer, Newcomer,
Forizs & Smiljanich, P.A.
P.O. Box 1259
St. Petersburg, FL 33731
Phone: (727) 823-3837
Fax: (727) 822-2969

Directors

Rodney Anderson
Holland & Knight LLP
400 North Ashley Drive, Suite 2300
P.O. Box 1288
Tampa, FL 33601-1288
Phone: (813) 227-6721
Fax: (813) 229-0134

Steven Berman
Morse, Berman & Gomez, P.A.
400 N. Tampa Street, Suite 1160
Tampa, FL 33602
Phone: (813) 301-1000
Fax: (813) 301-1001

Allyson Hughes
7604 Massachusetts Avenue
New Port Richey, FL 34653
Phone: (727) 842-8227
Fax: (727) 842-8151

John J. Lamoureux
Carlton Fields
One Harbour Place
P.O. Box 3239
Tampa, FL 33601-3239
Phone: (813) 223-7000
Fax: (813) 229-4133

Catherine Peek McEwen
Akerman, Senterfitt, et al.
P.O. Box 3273
Tampa, FL 33601-3273
Phone: (813) 223-7333
Fax: (813) 223-2837

John K. Olson
Stearns, Weaver, et al.
P.O. Box 3299
Tampa, Florida 33601
Phone: (813) 222-5048
Fax: (813) 222-5089

Edwin G. Rice
Glenn, Rasmussen & Fogarty, P.A.
P.O. Box 3333
Tampa, FL 33601
Phone: (813) 229-3333
Fax: (813) 229-5946

Patrick R. Smith
Debt Relief Legal Center
324 N. Dale Mabry Highway, Suite 100
Tampa, FL 33609
Phone: (813) 871-3319
Fax: (813) 871-3616

The Tampa Bay Bankruptcy Bar Association
Committee Chairs 1998 – 1999

The Association is looking for volunteers to assist us this coming year. If you are interested in getting more involved with the Association or one of the Standing Committees, please contact anyone of the Association officers or the Chairperson(s) listed below.

Committee	Chair(s)	Telephone	Facsimile
Membership and Election	Steven Berman	(813) 301-1000	(813) 301-1001
Meetings, Programs and Continuing Legal Education	Allyson Hughes Catherine Peek McEwen	(727) 842-8227 (813) 223-7333	(727) 842-8151 (813) 223-2837
Publications and Newsletter	John J. Lamoureux	(813) 223-7000	(813) 229-4133
Court, United States Trustee, and Clerk Liaisons	Rodney Anderson John K. Olson	(813) 227-6721 (813) 222-5048	(813) 229-0134 (813) 222-5089
Long-Range Planning	Dennis J. LeVine	(813) 253-0777	(813) 253-0973
Computer Access Users	Edwin G. Rice	(813) 229-3333	(813) 229-5946
Community Service	Patrick R. Smith	(813) 871-3319	(813) 871-3616

AMERICA'S MOST TRUSTED LEGAL DOCUMENT PRODUCTION SERVICE

IKON Office Solutions℠

Document Services

PARTIAL LIST OF LEGAL DOCUMENT SERVICES

Service available 24 hours a day, 7 days a week, including holidays

Turn-key bankruptcy mailing service

Capacity to handle huge mailings

Exceptional deadline compliance

Strict page-for-page quality control measures

Security and confidentiality guaranteed

Litigation photocopying and binding

Kevin Flynn (813) 263-7648

The Cram Down
P.O. Box 2405
Tampa, FL 33601-2405

RECEIVED
SEP 23 1999
AS&EPA

Catherine Peek McEwen
AKERMAN, SENTERFITT, ET AL.
P.O. Box 3273
Tampa, FL 33601-3273