The Cram-Down

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INTERVIEWS

Judge Corcoran

Judge C. Timothy Corcoran, III has served four and one-half years as a Bankruptcy Judge in the Middle District of Florida, first in the Orlando Division, now in the Tampa Division. He received his undergraduate degree from the University of North Carolina and his law degree from the University of Virginia in 1973. Judge Corcoran practiced with Carlton Fields in Tampa prior to his appointment to the bench.

QUESTION:

What were the factors that led you to seek a position on the Bankruptcy Bench?

ANSWER:

It's really a two-step question. First, do you want to be a judge? Second, what kind of judge do you want to be? As for the "do you want to be a judge" part, I think that most lawyers aspire to be a judge at some point in their careers. At some point I fell in love with the position and aspired to do it. As to "what kind of judge" that's a question of timing; it's kind of like being struck by lightning. My first real involvement with bankruptcy was when Carlton Fields filed a bankruptcy for Eli Witt on September 29, 1979, just two days before the Bankruptcy Code was effective. John Olson was the bankruptcy attorney in the case and I was basically the litigator. Having the opportunity to view the job from that perspective, seeing the interesting commercial issues, the opportunities for creative lawyering, all revealed to me what a great job it would be. So I talked about being a bankruptcy judge for ten to fifteen years, even though my last few years at Carlton Fields were enormously exciting for me.

QUESTION:

What aspects of the position do you most appreciate?

ANSWER:

The freedom. A lawyer has severe constraints; judges, opposing counsel, and clients control a lawyer's calendar. A judge may have a case load that is limiting; nevertheless, I have much more freedom to control my own calendar. I don't have to ask for an extension. I can decide how much time should be allotted to each matter. A lawyer may be constrained by time, and even the economics of the case. I have case load concerns. I need to keep the paperwork flowing, but I get to make decisions based on the degree of importance of the matter. That is probably the most satisfying part of the job on a personal level. On a higher plain, I have immense pleasure from performing a public service. I can't describe to you how satisfying that is. You get the higher plain satisfaction with the personal satisfaction, and sometimes I say that I should be paying the government for this job rather than the other way around.

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Judge Glenn

Judge Paul M. Glenn graduated from Florida State University where he was both Phi Beta Kappa and most valuable player on the 1966-67 basketball team. He obtained his law degree from Duke University in 1970 and settled in Jacksonville. Judge Glenn engaged in the private practice of law and also served as an executive at two insurance companies. He had returned to private practice before his appointment to the bench.

QUESTION:

What were the factors that led you to seek a position on the bankruptcy bench?

ANSWER:

I have a business and legal background. At Mahoney Hadlow I had a business law practice — corporate, commercial and securities. As a young partner, I went on the board of a company that I helped take public, Mobile America Corporation. In 1981 that company, an insurance holding company, was in a down cycle. From 1981 to 1985 I served as President and CEO. It was a wonderful experience. We automated, found a market niche, and increased revenues and profits. We worked extremely hard; it was an excellent business experience.

In the late 1980's I practiced commercial litigation; much of that work ended up in bankruptcy court. I represented developers, owners of apartments, office buildings and shopping centers, and creditors who were foreclosing and taking back projects. I ended up doing a lot of work in the bankruptcy courts. When these (judicial) positions were announced, I thought it was a good opportunity to combine my business experience and legal background; and I was at a stage when a lawyer thinks of taking this step. It's a good fit. I like it even more than I thought I would.

QUESTION:

What aspects of the position do you most appreciate?

ANSWER:

Most appreciate or most enjoy? I find it all very interesting. I enjoy different aspects for different reasons. I find the business aspects interesting and my business experience is helpful. I like the personal aspects as well in the individual cases. Some parts are new to me. I am used to evaluating apartment projects, not '81 Buicks; but I find it interesting.

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INSIDE

PRESIDENT'S MESSAGE

On January 13, as your president, I had the privilege of attending the investiture of Judge Glenn in Jacksonville. With Judge Corcoran's move to Tampa from Orlando and Judge Glenn's swearing in, we have double the number of bankruptcy judges in Tampa. After six years, Judge Paskay and Judge Baynes finally have some relief. Even so, the case load per judge is still well over the national average for bankruptcy judges. Efficient disposition of cases will continue to require the cooperation of the bar.

Fortunately, our bankruptcy bar is a collegial group. For the most part, disputes are resolved in a professional manner without the rancor which too often is found in other courts in our state and federal system and even in bankruptcy courts in other locations. It behooves all of us to insist that this spirit of civility and professionalism continues to be a hallmark of our bar. To this end, the board of directors of our bar association is considering the promulgation of a code of professionalism not unlike that which has been adopted by the Hillsborough County Bar Association. If any of you has comments or suggestions that may be helpful to the board in this endeavor, please contact Lynn Ramey at 223-4253 or me at 222-1137.

Besides this project, your board has been very active this year. Cathy McEwen and Sharyn Zuch are doing an outstanding job in supervising the production of our monthly CLE programs. Dennis LeVine's Liaison Committee has worked with our judges and their law clerks, with the Clerk's Office, and the U.S. Trustee's Office to make sure the bar is doing what we can to assist them in the performance of their responsibilities. Also, Dennis' committee deserves the credit for the success of our recent panel program featuring our four bankruptcy judges.

Roberta Colton, our treasurer, developed our budget this year and has kept us in the black so that our bar association was able to present Judge Glenn with a new robe, help sponsor the cocktail party at Judge Paskay's seminar, print and mail our newsletters, and otherwise provide service to the bench and the bar. Steve Meininger has acted as secretary this year and has dutifully recorded and prepared minutes of our board meetings.

Jay Passer and Harley Riedel have chaired our Community Service Committee, which is developing a volunteer program for our members to be able to perform pro bono service in various ways. John Anthony and Lynn Ramey have served as chairs of our membership committee and have been responsible for soliciting and collecting membership dues and publishing our directory.

Lynne England has been responsible for one of our largest and most successful projects, that is, our computer hookup with the bankruptcy court. Unfortunately, due to circumstances beyond our control, this project is coming to an end as the government is taking over access to the Clerk's Office. Mike Horan continues to serve as editor of The Cram-Down and he promises at least one more issue this year.

Finally, Tom Mimms, our immediate past president, chairs our Long-Range Planning Committee. Tom has overseen the creation of the Alexander L. Paskay Scholarship at Stetson and continues to monitor the funding of the scholarship. In addition, Tom chairs our Nominating Committee this year and he would certainly like to hear from you if you are interested in serving on the board next year or in subsequent years. Also, please let us know of any suggestions you may have as to other projects you would like our bar association to develop or any comments you may have as to how the association can better serve the membership.

- Edward M. Waller, Jr.

ROBERT KING
(1930 - 1993)

Bob King was one of those unique individuals who was always looking for that next adventure. I knew Bob primarily as an adversary in bankruptcy court, and while I found him to be obstinate and unyielding at times, he was always competent and fair. He travelled extensively, and sometimes shared with me details of his many excursions. He flew his own aircraft, often to places that you or I would deem dangerous or politically unstable, like the West Bank (where he enlisted in the Israeli army and lived for several months) and Bosnia. He related to me that earlier in his legal career, he had been involved in the repossession of large freighters and oceanic vessels in South America and other parts of the world. Perhaps some will remember his classic collection of "slip-on ties" which he routinely put on in the hallways outside the courtroom.

Bob stated a fitting epitaph himself when he referred to his terminal illness as his next great adventure. He is survived by a wife, three daughters and a son.

- Jay Passer

SEMINAR ON PRACTICE, PROCEDURE AND LOGISTICS IN THE NEWLY EXPANDED BANKRUPTCY COURT

The February 17 TBBBA program included a panel discussion by Judges Paskay, Baynes, Corcoran and Glenn. A wide variety of topics of interest to local practitioners were covered. Ed Waller served as the moderator for the panel discussion. Highlights of the discussion follow:

A. Newly Enacted Federal Rules of Civil Procedure.

Judges Paskay, Glenn and Corcoran have opted out of the new discovery rules; the rules will not be effective in their courtrooms unless a separate order is entered. On the other hand, the rules will be effective in Judges Baynes' courtroom; counsel will be expected to comply with the requirements of the newly enacted rules.

B. Schedule Conflicts

Judge Glenn indicated that, as a general rule, hearings which have been noticed first have priority. However, in the case of a scheduling conflict, priorities should be given to the more significant hearing. For instance, a two hour evidentiary hearing should take priority over a routine pretrial conference. Moreover, upon discovering the conflict, counsel should immediately file a motion for continuance, and in accordance with Local Rule 2.08, the motion should recite whether or not opposing counsel supports the motion for continuance.

In the event of a conflict, Judge Paskay believes that it is problematic for one attorney to cover for another attorney. Essentially, the attorney that is covering does not have authority to bind the party since that attorney is not the attorney of record. Judge Baynes will allow counsel to cover for each other only on routine matters.

C. Emergency Hearing and Requests for Continuances.

Judge Baynes indicated that requests for emergency hearing generally deal with an issue of credibility. The statement requesting the emergency hearing should be clear as to why the emergency is requested and the need for the emergency hearing. As a practical matter, Judge Baynes pointed out that there should not be emergencies in Chapter 7's or Chapter 13's. Judge Baynes went on to add that cash collateral hearings are always emergencies in his courtroom and will be given priority with respect to hearing time whether counsel asks for an expedited hearing or not. Judge Paskay agreed with Judge Baynes that requests for emergency hearings or expedited hearings ultimately boil down to an issue of credibility. As Judge Paskay pointed out, counsel does not want to "cry wolf" without an appropriate basis.

D. Rule 2004 Examinations.

Judge Paskay noted that the scope of the 2004 examination is spelled out and limited by the rules. Specifically, the scope of the 2004 examination is limited to matters relative to the administration of the estate or to the Debtor's right to a discharge. Judge Baynes reiterated that the scope of 2004 examination is limited, and it should not be a fishing expedition. Judge Baynes added that it is unnecessary to have the trustee join in the motion requesting a 2004 examination. Judges Corcoran, Glenn, Baynes and Paskay each agreed that a motion for 2004 examination may be considered on a ex parte basis.

E. Chapter 11 Practice and the Submission of First Day Orders.

Judge Baynes indicated that typical first day orders are granted in due course. However, any unusual requests will be set for hearing. Judge Baynes noted that, with respect to cash collateral hearings, he will first hold a preliminary hearing and set out the basic requirements for the use of the cash collateral. Judge Baynes requires service on creditors and landlords. Creditors are then provided with fifteen (15) days to object to the preliminary order on cash collateral. In the event of objection, a hearing will be held. Judge Glenn concurred with Judge Baynes and indicated that, the same procedure would be followed in his courtroom.

With respect to the setting of a bar date in a Chapter 11 case, Judges Paskay, Baynes and Glenn will set the bar date in one of two ways. First, when the disclosure statement is approved, the order approving disclosure statement sets the bar date; secondly, upon a properly filed motion by counsel, the bar date may be set. In Judge Corcoran's courtroom, the bar date is set and determined at the outset in the 341 notice.

F. Chapter 13 Cases

Judge Paskay indicated that, pursuant to the Court's January 3, 1994 order, all cases are assigned on a blind draw, Judge Paskay will only receive chapter 13 cases filed in the Fort Myers Division. In the event a Chapter 7 or 11 is converted to a Chapter 13, then those cases will be reassigned on a blind draw basis and equally distributed among Judges Baynes, Glenn and Corcoran.

G. Memoranda of Law

Judge Paskay stated that parties should not file memoranda of law unless requested by the Court. Judge Glenn concurred with Judge Paskay but commented that he encourages parties to cite cases in support of legal propositions stated in their motions. On the other hand, Judge Baynes stated he would accept memoranda of law and added that practitioners should be aware of opinions written and followed by each judge. Similarly, Judge Corcoran expressed his preference to rule from the bench, and he will accept memoranda of law if there are sophisticated or novel issues of law raised by the issues presented.

H. Proposed Orders

The panel then addressed their respective procedures regarding the submission of proposed orders. Judge Paskay commented that proposed orders need not be served on other parties prior to submission to the Court. On the other hand, Judge Corcoran referred to his January 5 memorandum regarding the preparation of proposed orders and stated that he will require evidence that opposing counsel has been served with the proposed order. Both Judge Baynes and Judge Glenn stated that while there is no express requirement that proposed orders be circulated among the parties, they expect that this will be done as a matter of professional courtesy and ethics; but, if the order is sufficiently technical in nature, they will require the proposed order to be circulated prior to submission.

During the panel's closing remarks, Judge Baynes indicated that the arrival of Judges Corcoran and Glenn will precipitate a faster moving docket for all judges and that counsel should adjust accordingly. It is also important to note that Judge Corcoran has provided attorneys with the following memorandums dated January 5, 1994: a) Guidelines for Compensation and Expense Reimbursement of Professionals; b) Memorandum Regarding Information Required When Seeking Expedited or Emergency Treatment of Motions; c) Memorandum Regarding Determining the Secured Status of Claims and Redeeming Collateral; d) Memorandum Regarding Guidelines for Preparing Orders; and e) Sample orders Used in Judge Corcoran's Courtroom.

- Al Gomez
- Ed Whitson

PASKAY ARTICLE FOCUSES ON STREAMLINING CHAPTER 11 "CASH COW"

The Bankruptcy Reform Act of 1978, which included the present Chapter 11, reflected a Congressional intent to permit reorganizing debtors substantially more freedom and control than they had previously enjoyed under the Bankruptcy Act of 1898 (the "Act"). In response to concerns that the Chapter 11 process is unnecessarily complex, inefficient, and inflexible, Chief Bankruptcy Judge Alexander L. Paskay and his Senior Law Clerk, Frances Pilaro Wolstenholme, have referred back to the Act for guidance in remedying the Chapter 11 reorganization scheme. They recently published their analysis and recommendations in an article discussing bankruptcy reform. Paskay and Wolstenholme, Chapter 11: A Growing Cash Cow - Some Thoughts on How to Rein in the System, 1 Am. Bankr. Inst. L. Rev. 331 (Winter 1993).

Based upon their years of bankruptcy experience, the authors (a) recall the Act's statutory reorganization framework, (b) recap the primary difficulties of reorganization under the Code, (c) discuss some ad hoc Chapter 11 remedies being implemented in various bankruptcy jurisdictions, and (d) convincingly advance a sound strategy for legislative bankruptcy reform. At the outset, the authors point out that Chapter 11 reflects a fusion of Chapter X, Chapter XI, and Chapter XII of the Act. These Act chapters were respectively designed to govern the reorganizations of public corporations, non-public small businesses (including closely held corporations, partnerships, and individuals), and mortgage modification, proceedings primarily involving single-asset entities. Congress' enactment of Chapter 11 combined various aspects of these chapters to produce a single "one size fits all" reorganization chapter.

Chapter 11 applies to the "mega-cases," small business reorganizations, and single-asset filings. The authors identify the problems that have resulted from this fact. Most significantly, the authors identify the problems associated with professional compensation and reimbursement. In many reorganizations, the debtor, the creditors' committee, the bondholders' committee, and secured creditors all retain bankruptcy counsel. These constituencies may also retain accountants, investment bankers, and other professionals. To the amazement of creditors, bankruptcy professionals often seek reimbursement from the estate for luxury items and overhead expenses. The authors further intimate that some professionals deliberately delay the reorganization process in order to enhance their own compensation. The authors recognize that some mega-debtors might be able to support huge administrative burdens, and may clearly require the services rendered. However, small businesses often find Chapter 11's procedural administrative requirements to be financially disastrous.

The authors also urge that certain aspects of the Chapter 11 process lend themselves to costly protracted litigation. The authors identify "bad faith" litigation as a common unnecessary source expense in the "single-asset" case. Even when the debtor has a palpable ability to reorganize, creditors often seek stay relief, dismissal, or conversion of single-asset cases. Stay relief motions under Code § 362 (d) (2) are also identified as costly and counterproductive in both single-asset cases and small business cases. Cash collateral and adequate protection litigation also unnecessarily frustrates the reorganization process. Further on in the reorganization, disclosure statement litigation seems irrelevant in small reorganizations. In identifying these problems the authors emphasize the need for the case to move forward if reorganization is to be achieved. They do not categorically impugn either the creditor bar or the debtor bar for the resultant problems, but focus instead on the defects of the statutory Chapter 11 framework.

As a possible prototype for reform, the authors discuss the so-called "Chapter 11 (a)" devised and implemented by United States Bankruptcy Judge Thomas Small. This "fast track" reorganization process is discretionarily applied by Judge Small in particular cases pending in the Eastern District of North Carolina. The process affords the debtor significant tactical advantages, but requires the debtor to move the case along very rapidly. The "Chapter 11 (a)" process has been implemented in other jurisdictions with great success. The results of the streamlined reorganization process have generally included cheaper, shorter, and more successful reorganizations.

Unfortunately, Congress has not legislatively enacted "Chapter 11 (a)." The ad hoc innovations of Judge Small and others modify significant rights in a manner contrary to the provisions of Chapter 11. For example, the "Chapter 11 (a)" process operates to (a) reduce the statutory exclusivity period, (b) subvert or eliminate statutory disclosure and solicitation requirements, and (c) undermine the significance of having a code of law. Based upon these observations, the authors concluded that "Chapter 11 (a)" reflects a "the end justifies the means" mentality.

The authors recommend a legislative response to the existing problems inherent in Chapter 11. Although they agree with some of Judge Small's ideas for administering small organizations, they conclude that our system of government requires fundamental legislative reform. They favorably identify the proposed "Chapter 10" that appeared in Senate Bill 540, 130d Cong., 1st Sess. (1993). This proposed legislation was designed to respond to the obvious shortcomings of Chapter 11. Chapter 10 eligibility would be limited to debtors whose aggregate secured and unsecured debts do not exceed $2,500,000. Chapter 10 cases would be administered by a trustee, with debtors remaining in possession. Strict time limitations would apply for plan filing deadlines, confirmation hearings, and for plan duration. In all these respects, Chapter 10 would fill a gap between Chapter 11 and Chapter 13.

Yet, the authors go further in their analysis. Harkening back to the remedies afforded pursuant to the Act, the authors allude to the possibility of enacting multiple reorganization chapters to supplement Chapter 11:

> It takes no elaborate empirical study to justify the conclusion that the problems facing a publicly held corporation facing a mass-tort problem, are quite removed from a "mom-pop" corporation running a shoe repair shop, a single-asset real estate case, albeit income producing, an individual with an IRS problem, or a straight liquidation case. . . . Thus, it is submitted that the solution lies in legislative reform, through tailoring the (Code) for specific prob-

(Continued on page 5)

(Judge Glenn continued from page 1)

One thing I have found is that it pays for me to prepare for hearings to be sure I know the applicable law as best I can. I can then evaluate the facts at the hearing to reach a good result. I think it is important that I rule at hearings whenever possible. Lawyers and their clients need results. I look forward to writing some opinions, but right now, I look for the Paskay, Baynes, and Corcoran cases. I sit here with three bright judges.

QUESTION:

What has surprised you from a judge's perspective?

ANSWER:

One thing judges say consistently, and I now realize, is that I appreciate the lawyers who come prepared, who get right to the issue with the relevant facts and the relevant law. I now see as a judge how you appreciate the lawyers who focus on the real facts and argue the law.

QUESTION:

What can lawyers do to make your job easier?

ANSWER:

Focus. Know what the issues are. Know what the law is on those issues. Know what facts you have to prove. I understand the impact of economics on the high volume practitioner. I know that not everyone can spend hours preparing for a 20 minute hearing, but most do a pretty good job.

QUESTION:

Can you draw any comparisions between the Tampa Bankruptcy Bar and the Jacksonville Bankruptcy Bar?

ANSWER:

They are much the same. Both are solid Bars. There are some very good lawyers here, and in Jacksonville too. I've found what I expected to find.

QUESTION:

Generally speaking, do you prefer that attorneys cite legal authority in most motions filed with the Court, or should legal authority be provided only on the request of the Court?

ANSWER:

I would appreciate legal authority in motions, if it is on point. I try to prepare for hearings; so far, I have been able to. If people think there are cases that support their position, and if the cases are relevant and on an important issue, I would like to read them before the hearing. The better prepared I am, the better able I am to rule at a hearing. So, I would appreciate case cites; but string cites are often not beneficial. Find the key cases and I'll read them. Judge Paskay, on the other hand, has written all the cases so he doesn't need what I need.

QUESTION:

Again, generally speaking, should counsel bring witnesses to initial hearings on contested hearings or will such a hearing be treated like a pre-trial conference if there are factual disputes?

ANSWER:

I have seen it done both ways. I think having a preliminary hearing works well. The high volume items, such as stay hearings, can usually be resolved at preliminary hearings. I intend to follow the practice of Judge Paskay and Judge Baynes. There are a couple of exceptions to this general rule; emergency hearings, for example, usually need some evidence for the record.

QUESTION:

How has the move to Tampa affected you?

ANSWER:

My family is still in Jacksonville; so I go back every weekend. Since they are not here, I can work as long as I want to during the week.

- Mike Horan

(Paskay continued from page 4)

lems of the different types of debtors. Without this type of reform, the Chapter 11 cash cow will continue to grow.

1 AM. Bankr. Inst. L. Rev. at 346. Perhaps, then, the reform efforts of past years will soon bring this aspect of American bankruptcy law full circle.

Even the return to multiple reorganization chapters would not eliminate all of the problems presented by Chapter 11. Formal reorganization will probably continue to be more complex, time consuming, and costly than out-of-court work-outs in many small and medium insolvency contexts. Parties unable or unwilling to explore work-outs may continue to risk some degree of disappointment and frustration. However, American small businesses will probably experience financial stress in the coming years. Against this backdrop, the authors have made an excellent case for legislatively streamlining the Chapter 11 "Cash Cow."

- John A. Anthony

VOLUNTEERS NEEDED

The Community Service Committee of the Tampa Bay Bankruptcy Bar Association has been requested by the Center for Economic Education at the University of South Florida to provide a list of attorneys who would be available to consult with high school teachers and to speak to high school students (on a one-time basis) on bankruptcy and related topics. The Center for Economic Education is developing a personal finance curriculum which would be taught in high schools in sixteen school districts encompassing counties from Collier to Hernando to Polk and is interested in being able to call on attorneys from as many of these counties as possible. The Center is also interested in having members of the Tampa Bay Bankruptcy Bar Association review portions of the personal finance curriculum, which is in draft form, and providing their comments.

If you are interested in either volunteering to consult and/or to speak, or are interested in reviewing the draft curriculum, please contact Jay Passer (281-1103) or Vicki Critchlow (228-7411).

- Jay Passer

(Judge Corcoran, continued from page 1)

QUESTION:

What has surprised you from a judge's perspective?

ANSWER:

The biggest surprise is how lonely the job is. I knew that from an intellectual position, I was warned about it before I took the job, but until you feel it you don't totally understand it. People just see me in a formal environment, not in a causal, friendly environment.

QUESTION:

What can lawyers do to make your job easier?

ANSWER:

Lawyers need to be prepared. That means some or all of the following: knowing the facts, knowing the law, knowing the rules, and knowing the other party's position. When both lawyers come to court prepared in that fashion, they know what the issues are and can tell me what dispute I need to decide. If the lawyers don't come prepared in that fashion or even if one lawyer doesn't come prepared, then I must extract from them what all of those elements are to figure out what the issue is. I would be foolish if I did not take into account the economics of the practice of law; in a small case it is not always realistic to expect thorough preparation, but that still makes my job harder.

QUESTION:

Can you draw any comparisons between the Tampa Bankruptcy Bar and the Orlando Bankruptcy Bar?

ANSWER:

Coming from Orlando, I have noticed differences in the two locales. I am not saying that one is better and that one is worse; I am saying that the two are different. First, there is a substantially higher degree of contention in Tampa; lawyers argue about things in Tampa that they don't argue about in Orlando. Similarly, there are a substantially higher number of appeals in the Tampa Division than in the Jacksonville or Orlando Divisions. That is not a reflection on the quality of the judges; there are no better judges in the Middle District than Judge Paskay and Judge Baynes. But statistically there are more appeals, and I don't have a clue as to why that is. A second difference is that Tampa Division lawyers have a tendency to argue after I rule. I try to rule from the bench to expedite the process, dictating findings of fact and conclusions of law. In Orlando, that (extended argument) happened at first, but doesn't happen much anymore.

QUESTION:

Generally speaking, do you prefer that attorneys cite legal authority in most motions filed with the Court, or should legal authority be provided only on the request of the Court?

ANSWER:

In probably 95% of the matters that come before me I know the law. It's only in the 5% of cases that authority is needed. There can really be no general rules; its a judgement call. As a general rule, filing a brief ahead of time is not productive unless it is clearly an intense legal argument. But if the legal issues are complex, I do want authority presented so that I can rule at the hearing. If I take matters under advisement, I am playing catch-up. If I can make a decision at the hearing, then the process moves faster and everyone is more satisfied.

QUESTION:

Again, generally speaking, should counsel bring witnesses to initial hearings on contested matters or will such a hearing be treated like a pre-trial conference if there are factual disputes?

ANSWER:

What I have tried to do is replicate Judge Paskay's practice; so generally, witnesses are not needed at an initial hearing. Most times in our practice, the parties can agree on the key facts.

I do think it is important for lawyers to bring their clients to court hearings. It demonstrates to the court the client's interest, it allows the client to understand the process, and it allows the client to hear the ruling from the horse's mouth. I fully realize that this requires an individual debtor to take off from work and perhaps lose income. However, this underscores the commitment a debtor must make in a case in money, time, and effort. It's very beneficial. Dress is also important. Its a non-verbal statement on the importance of the Court. It enhances respect for the institution and what we're doing.

QUESTION:

How has the move to Tampa affected you?

ANSWER:

It's been disruptive professionally; for example, my accommodations are spartan. But I'm not complaining, this will be fixed. Personally, its been wonderful. I've come back home. I see people I know in the grocery store. Its great.

- Mike Horan

MOVERS & SHAKERS

Movers:

Lynne L. England, formerly of Stearns, Weaver, Miller, Alhadeff & Sitterson, has left that firm to start her own firm.

Elisabeth G. Rice formerly of Hill, Ward & Henderson will join the firm of Stearns, Weaver, Miller, Alhadeff & Sitterson.

Shakers:

A Hillsborough Holdings hearing to consider approval of disclosure statements will be held at the Stetson College of Law on May 19 & 20. Four competing disclosure statements and plans have been filed to date.

ANNOUNCEMENT

For those interested in practicing before the U.S. Bankruptcy Court for the Southern District of Florida, our bar association is making arrangements to have a special video tape presentation in Tampa of the Bankruptcy Skills Workshop being presented by the University of Miami School of Law and the Bankruptcy Bar Association of the Southern District of Florida. This workshop has been approved by the U.S. Bankruptcy Court for the Southern District to meet its requirements for all practitioners wishing to appear before that court. The live presentation of the workshop will be in Miami on March 18. The video tape presentation in Tampa will be held during the month following the Miami presentation. For further information, please contact Sharyn Zuch at 273-5120.

From the CLE Committee

At the time of our January luncheon and seminar program on the Mock Trial of Selected Confirmation Issues, we had not received The Florida Bar's final decision on our application for CLER credit. We are pleased to announce that The Florida Bar had approved the program for two hours of CLER credit. Those of you who attended and turned in computer attendance cards will receive the credit. **You may take the credit as two hours of general credit, a maximum of two hours of bankruptcy or general practice designation credit, a maximum of 1.5 hours of appellate practice certification credit, or a maximum of one hour of civil practice certification credit.** (Not a bad deal: up to two hours of credit and a meal all for the low price of $25!)

From time to time we receive calls from our membership asking why a particular program's CLER credit does not appear on the member's Florida Bar CLER report. We have been informed by The Florida Bar that the report reflects credits up to the mandatory minimum during a given reporting period. Credits beyond the mandatory minimum are not logged. If CLER credits beyond the mandatory minimum are important to you for other reasons, such as obtaining certification by another bar or professional organization, you must keep track of the excess credits yourself.

- Cathy McEwen

HUNGARIAN BANKRUPTCY SYMPOSIUM

A Bankruptcy Symposium in Budapest, Hungary in conjunction with the Hungarian Ministry of Finance is being planned for September 19, 20, and 21, 1994. The plans are to establish an American panel of four members; the Hungarian Ministry will organize the same number of Hungarian bankruptcy experts. The purpose of the Symposium is to exchange ideas, especially directed to the reorganization process of privatized businesses. It is expected that members of the Tampa Bay Bankruptcy Bar Association and the Central Florida Bankruptcy Bar Association will participate in the Symposium. Travel arrangements will be finalized by:

Travel Services Unlimited
726 S. Dale Mabry
Tampa, Florida 33609
(813) 877-4040

Tentative plans call for the group to leave the United States on September 17. It is contemplated that the program will commence at 9:00 a.m. each morning and will conclude at 2:00 p.m., leaving each afternoon free. Attendees will have the option of extending the trip three or four additional days.

- Chief Judge Alexander L. Paskay

UPDATE — PASKAY SCHOLARSHIP

Stetson University College of Law announced at the June, 1993 dinner meeting of the Association the establishment of the Alexander L. Paskay Endowed Scholarship Fund to honor Judge Paskay on his 30 years service as a bankruptcy judge and his many years of service to the college of law.

Stetson reports that it has received total cash and pledges in the amount of $62,325.00 from 57 donors, of which $48,493.00 has already been received. The selection process to determine the recipient of the scholarship is underway. Stetson plans to introduce the recipient to the Association at our September luncheon meeting.

- Thomas B. Mimms, Jr.

TBBBA DOCKET: FUTURE PROGRAMS

DATE	TITLE	SPEAKERS	LOCATION
March 31, 1994 (Thursday)	Chapter 13 Workshop & Luncheon	Terry Smith	Hyatt Regency Downtown Tampa (Seeking CLE Credit)
April 1994 (TBA)	State & Federal Legislation Update	Judge Paskay Member of Hills. County Legis. Delegation	To Be Announced (Seeking 1 hr. CLE Credit)
May 1994 (TBA)	Bankruptcy Law Update	David Epstein	TBA (Seeking CLE Credit)
June 17, 1994 (Friday)	Annual Dinner		University Club (tentative)
June 16, 1994	Support Staff Seminar	Chuck Kilcoyne	Westshore Marriott CLE Credit N/A

AND FINALLY . . .

A Matching Quiz Complied by Carsten Ahrens
(via Judge Thomas E. Baynes, Jr.)

____ A. "The first thing we do, let's kill all the lawyers."

____ B. "Every peasant has a lawyer inside of him, just as every lawyer, no matter how urbane he may be, carries a peasant inside himself."

____ C. "A lawyer without history or literature is a mechanic, a mere working mason; if he possesses some knowledge of these, he may venture to call himself an architect."

____ D. "All thieves who could my fees afford
Relied on my orations,
And many a burglar I've restored
To his friends and his relations."

____ E. "Wait for that wisest of counselors, Time."

____ F. "A bronzed, lank man! His suit of ancient black,
A famous high top hat and plain worn shawl,
Make him the quaint great figure that men love,
The prairie-lawyer, master of us all."

____ G. "Deceive not thy physician, confessor, nor lawyer."

____ H. "Draw up the papers, lawyer, and make 'em good and stout,
For things at home are crossways, and Betsey and I are out."

____ I. "Always remember that when you go into an attorney's office door, you will have to pay for it, first or last."

____ J. "The charge is prepar'd; the lawyers are met;
The judges are ranged (a terrible show)."

____ K. "They have no lawyers among them, for they consider them as a sort of people whose profession it is to disguise matters."

____ L. "Hocus was an old cunning attorney."

____ M. "Go not for every grief to a physician, nor for every quarrel to a lawyer, nor for every thirst to the pot."

____ N. "It is not what lawyers tell me what I may do; but what humanity, reason, and justice, tell me what I ought to do."

1. **Pericles** (c. 495-429 B.C.)
2. **Thomas More** (1478-1535)
3. **Shakespeare** (1564-1616)
4. **G. Herbert** (1593-1633)
5. **J. Arburthnot** (1667-1735)
6. **John Gay** (1688-1732)
7. **E. Burke** (1729-1797)
8. **Walter Scott** (1771-1832)
9. **A. Trollope** (1815-1891)
10. **W. S. Gilber** (1836-1911)
11. **W. Carleton** (1845-1912)
12. **M. deUnamuno** (1864-1936)
13. **V. Lindsey** (1879-1931)

(Answers appear below)

ANSWERS TO MATCHING QUIZ AND FINALLY . . .

A - 3: *Henry VI, Part II*
B - 12: *Civilization is Civilism*
C - 8: *Guy Mannering*
D - 10: *Trial by Jury*
E - 1: *Plutarch's Lives*
F - 13: *Abraham Lincoln Walks at Midnight*
G - 4: *The Temple*
H - 11: *Betsey and I Are Out*
I - 9: *The Last Chronicle of Barset*
J - 6: *The Beggar's Opera*
K - 2: *Utopia*
L - 5: *Low is a Bottomless Pit*
M - 4: *Jacula Prudentum*
N - 7: *March 22, 1775 Speech on Reconciliation with America*

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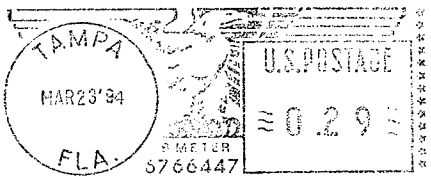

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