Volume 10, Issue 26: September 2018

cdcbaa

Central District Consumer Bankruptcy Attorney Association

cdcbaa Editor's Note

by Todd Turoci

On behalf of the *cdcbaa* board, I would like to express our gratitude to those of you who contributed to this issue as these contributions are essential to the newsletter's success.

As members of the *cdcbaa* community, we all share in, and benefit from, achievements of our members. On November 15, 2018, we will be hosting our annual Calvin Ashland Awards Dinner honoring Attorney Henry Sommer. The Calvin Ashland Award was created by the *cdcbaa* in honor of the Honorable Calvin K. Ashland, former chief federal bankruptcy judge of the Central District of California. Judge Ashland was known for his fairness in resolving disputes, and efficiency by introducing automated systems that improved case management. The Calvin Ashland Award honors judges, trustees, and attorneys who have made or continue to make a difference in bankruptcy and consumer law, policies, and practice.

The 2018 *cdcbaa*'s Calvin Ashland Attorney of the Year Award recipient is Henry J. Sommer. Mr. Sommer is a Supervising Attorney at the pro bono Consumer Bankruptcy Assistance Project in Philadelphia. He has been the head of the Consumer Law Project at Community Legal Services in Philadelphia for over 21 years. Mr. Sommer has litigated numerous cases involving bankruptcy, consumer law, civil rights, and other issues. He has testified before the House and Senate Judiciary

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Straight & Narrow

When (if Ever) Can an Attorney Advise a Client to Incur Debt?

By Stephen W. Sather

Attorneys advise their clients on a variety of matters. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) regulates one specific type of advice: When an attorney may advise a client intending to file for bankruptcy to incur debt.[1] So, when can an attorney recommend that a client contemplating bankruptcy incur new debt? While the U.S. Supreme Court has recognized that attorneys should be permitted to give their clients sound advice, a recent decision from the Eleventh Circuit illustrates that there is one type of advice to incur debt that is never permissible. The starting point is the text of § 526(a)(4), which states that a debt relief agency should not advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer a fee or charge for services performed as part of preparing for or representing the debtor in a case of under this title.

Supreme Court Allows Attorney to Advise to Incur Debt for a Proper Purpose

After BAPCPA was passed, attorneys and professional groups challenged the constitutionality of § 526(a)(4) under the First Amendment. The attorneys argued that there could be many situations in which an attorney could ethically advise a client contemplating bankruptcy to incur new debt. The Supreme Court found that the statute was constitutional by taking a narrow view of its prohibitions.[2]

The Supreme Court focused on the first part of the statute, which refers to advising a client to "incur more debt in contemplation of such person filing a case under this title." The Court noted that the statute could be read broadly or narrowly. The broad view was that "an attorney is prohibited from providing all manner of 'beneficial advice - even if the advice could help the assisted person avoid filing for bankruptcy altogether."[3] The narrow view was that "advice to incur more debt 'in contemplation of' bankruptcy is most naturally read to forbid only advice to undertake actions to abuse the bankruptcy system."[4]

The Court adopted the statute's narrow reading.

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1 11 U.S.C. §526(a)(4).
2 *Milavetz Gallop & Milavetz PA v. United States,* 559 U.S. 229, 243 (2010)
3 *Id.* at 240

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One reason given was that the inhibiting frank discussion between attorneys and clients would serve "no conceivable purpose within the statutory scheme." Thus, one takeaway from *Milavetz* was that an attorney would not be prohibited from exercising his/her traditional role in counseling clients about possible courses of action.

Eleventh Circuit Applies Per Se Prohibition on Advice to Incur Debt to Pay Fees

A recent decision from the Eleventh Circuit[6] focused on the second part of the statute, which states that a debt-relief agency may not advise an assisted person to "incur more debt ... to pay an attorney or bankruptcy petition preparer a fee or charge for services performed as part of preparing for or representing a debtor in case under this title."[7] In the case, a debtor agreed to pay a law firm $1,700 to file his chapter 7 petition. The fee was to be paid in six installments, and the agreement required that the payments be made on a credit card.[8]

After the debtor terminated his initial lawyer, he filed suit in district court for a violation of 11 U.S.C. § 526(a)(4). The court granted a motion to dismiss for failure to state a cause of action. Relying on *Milavetz*, the district court found that the mere advice to pay attorneys' fees using credit cards did not violate § 526(a)(4).

The Eleventh Circuit reversed and found that it was always in violation of § 526(a)(4) to advise a client to incur debt in order to pay attorneys' fees. It distinguished the general rule regarding advice to incur debt in contemplation of bankruptcy from the more specific admonition not to advise a client to incur debt to pay attorneys' fees.

The court of appeals posited three possible readings of the statute. Under the first reading, an attorney could never advise a client to pay attorneys' fees. Under the second reading, an attorney could never advise a client to incur debt to pay attorneys' fees for an improper purpose. Under the third reading, an attorney could not advise a client to incur more debt for the purpose of paying attorneys' fees. The court of appeals found the third option the most persuasive:

Properly interpreted, then Section 526(a)(4)'s second prohibition forbids lawyers from advising their clients "to incur more debt to pay an attorney a fee or charge for services performed as part of preparing for or representing a debtor in a case under this title." 11 U.S.C. § 526(a)(4). Importantly, this second prohibition - unlike the first, which is modified by the "in contemplation of" phrase of art that drove the result in *Milavetz* - entails no invalid purpose requirement. And that makes perfect sense, because the two prohibitions address different subjects. The first is framed in general terms: It forbids advice "to incur more debt in contemplation of" a bankruptcy filing. That prohibition could cover both abusive advice (e.g., advice to "load up" on debt just to get it discharged) and salutary advice that would likely inure to the benefit of both debtor and creditor (say, to refinance a mortgage to a better interest rate).

As the Supreme Court recognized in *Milavetz*, the "in contemplation of" clause acts as a divining rod of sorts to separate the abusive advice from the salutary. The second prohibition, by contrast, is aimed at one specific kind of misconduct - in essence, a bankruptcy lawyer saying to his client, "You should take on additional debt to pay me!" That sort of advice is inherently abusive in at least two respects. First, it puts the attorney's financial interest - getting paid in full - ahead of the debtor/client's. If a creditor discovers the timing and reason for the fee-related debt, it could challenge the debt's dischargeablility, thereby compromising the debtor's fresh start. Second, it puts the lawyer's own interests ahead of the creditor's in that, while ensuring the lawyer's full payment, it leaves a diminished estate

Continued on Page 3

4 *Id.*
5 *Id.* at 246
6 *Cadwell v. Kaufman*, 2018 U.S. App. LEXIS (11th Circ. March 30, 2018).
7 11 U.S.C. § 526(a)(4).
8 *Cadwell* at *3.

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on which creditors can draw. Section 526(a)'s second prohibition, then, has no need for any further invalid purpose gloss, because the advice it targets is, in effect, suspect per se.[9]

Thus *Cadwell* interpreted § 526(a)(4) as having two distinct parts: a general restriction on advising a client to incur debt in contemplation of bankruptcy, and a specific restriction on advising a client to incur debt to pay the attorneys' fees. As shown by *Milavetz*, the general prohibition is qualified by an improper-purpose requirement. However, the specific prohibition is, as the opinion states "suspect *per se.*"[10]

What Advice to Incur Debt is Permissible?

Milavetz and *Cadwell* provide two examples of when it is not permissible for an attorney to advise a client to incur debt. *Milavetz* gives the example of "loading up": incurring debt prior to bankruptcy with the intent of discharging it. *Cadwell* dealt with incurring debt to pay an attorney's fee. Beyond these examples, there is very little guidance on what is a permissible vs. impermissible reason for an attorney to give advice to incur debt.

Hypothetically, a debtor owns a car with 200,000 miles on it, which breaks down on a regular basis, and requires the debtor to spend an average of $500 per month in repair costs. The debtor can purchase a car that gets good mileage with just 50,000 miles on it for a payment of $400 per month. In this case, replacing the current vehicle with a more reliable vehicle would make sense regardless of whether the person intended to file for bankruptcy. Thus, this advice is permissible.

However, what if a debtor wants to file for chapter 7 but is advised by his attorney that he has too much disposable income to satisfy the means test?[11] The attorney advises the debtor that if he were to increase his secured debts, he would meet the means test and be able to file for chapter 7. Based on the attorney's advice, the debtor replaces his reliable Nissan Sentra with a 2017 BMW convertible with a payment of $800 per month.

In this hypothetical, there is not a nonbankruptcy reason to buy the new vehicle. On the other hand, there is a bankrupcy-related reason to do so, namely to game the means test. There is at least one case that suggests that incurring debt to manipulate the means test is impermissible.[12] Since the advice in this hypothetical is purely designed to manipulate the means test, it is almost certainly impermissible.

It is a closer call when there are both bankruptcy and nonbankruptcy-related reasons for incurring a debt. Combining the first two hypotheticals, assume that the debtor has a vehicle with no payment. However, the debtor drives a lot for work in a car that gets poor gas mileage. It also has repair expenses such that the cost of operating the vehicle exceeds the amount allowed by the means test. The debtor's proposed means test shows that there is $250 per month in disposable income. The debtor is concerned that once he files for chapter 13, he will not be able to purchase a new vehicle at a good interest rate. He has the ability to purchase a Toyota Prius for $300 per month, and when this is brought to the attorney's attention, the attorney advises him that not only is this a good business decision, it will allow him to pass the means test and file for chapter 7 as well.

The way this hypothetical is constructed, the means test is misleading because the debtor's operating expenses exceed the allowance. By purchasing a more reliable vehicle, the debtor can reduce operating expenses and pass the means test. In this case, even though the attorney advised the debtor to incur more debt for the express purpose of satisfying the means test, the attorney is still giving good counsel. The means test does not reflect the debtor's ability to pay because he has unusually high operating expenses. Reducing the operating expenses by purchasing a more reliable vehicle is good advice, even if it also has the effect of influencing the means test. Since there is a legitimate nonbankruptcy purpose for this advice, it would be permissible.

The general rule is that attorneys should give their clients sound advice with regard to incurring debt before bankruptcy. If a debtor can do something that makes financial sense and advantages him/her in the bankruptcy, it is advice that is both permissible and ethical. On the other hand, advising the debtor to incur debt for an improper purpose is never good advice.

Finally, advising a client to incur debt to pay the attorney's fee or filing fee is never permissible. When a debtor offers to pay with a credit card, the attorney should just say "no."

Contribute to the Newsletter

Don't be shy! Get involved with the *cdcbaa* newsletter by having your article or advertisement published in an upcoming issue.

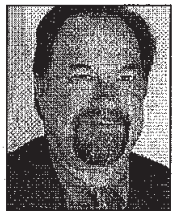
Contact Newsletter Editor Todd Turoci at (951) 784-1678 or Todd@theturocifirm.com for more information.

9 *Id.* at *13-14

10 *Id.*

11 Under 11 U.S.C. § 707(b)(1), the court may dismiss a consumer debtor's case or require that the debtor convert his/her case to one under chapter 13 if granting relief would be "an abuse of the provisions" of chapter 7. The primary determinant of whether a case constitutes an abuse is what is known as the "means," test which is an elaborate formula that compares the debtor's income over the previous six months with a set of standard allowances as well as actual expenses. For more information, *see* David W. Allard and Katherine R. Catanese, "The means Test, Part II: Deductions," XXVI ABI Journal 2, 14, 62-63, March 2007, available at abi org/abi-journal.

12 In re Hayes, 2015, LEXIS 161. n.4 (Bankr. S.D. Tex. 2015)



Stephen Sather is a shareholder with Barron & Newburger, PC in Austin, Texas. He is board certified in business bankruptcy law by the American Board of Certification and Texas Board of Legal Specialization. He is also the author of A Texas Bankruptcy Lawyer Blog.

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Committees and the National Bankruptcy Review Commission on bankruptcy and consumer law related issues. Mr. Sommer is a former member of the Federal Judicial Conference Advisory Committee on Bankruptcy Rules (appointed by the Chief Justice of the Supreme Court) and a member of the National Bankruptcy Conference, for whom he served as Reporter for the Bankruptcy Code Review Project's Working Group on Individual Debtors. He is a Fellow of the American College of Bankruptcy, a member of the American Law Institute, and a former member of the Federal Reserve Board Consumer Advisory Counsel. He was the President of the National Association of Consumer Bankruptcy Attorneys (NACBA), a former Chairman of the Eastern District of Pennsylvania Bankruptcy Conference, and Nice President of the Coalition for Consumer Bankruptcy Debtor Education. He has served as a Lecturer-in-Law at the University of Pennsylvania Law School and on faculty of numerous continuing legal education programs, including those presented by the Federal Judicial Center, NYU Law School, the National Conference of Bankruptcy Judges, the Southeastern Bankruptcy Law Institute, the Executive Office of U.S. Trustee, the ABA Family Law Section, NACBA, ALI-ABA and the Pennsylvania Bar Institute. Mr. Sommer is the Editor in Chief of Collier on Bankruptcy and the entire Collier line of bankruptcy publications. Please join us the evening of November 15, we hope to see you there!

Todd Turoci
Newsletter Committee Chair

cdcbaa Upcoming Calendar

October 13, 2018
New Ch. 13 Plan, RARA and Fee Applications
Judge Houle, Aki Koyama, Nicholas Gebelt

November 15, 2018
Calvin Ashland Awards Dinner.
Honoring Henry Sommer

Mark Your Calendar for Future Programs

1/12/2019
2/23/2019
3/16/2019
4/06/2019
6/08/2019

*Meetings to be held at Southwestern Law School, Westmoreland Building - 3rd Floor.
3050 Wilshire Boulevard, Los Angeles, CA 90010

Registration: 10:00 a.m. - 11:00 a.m.
cdcbaa Membership Meeting: 10:30 a.m. - 11:00 a.m.
Program: 11:00 a.m. - 1:00 p.m.
2 Hours of MCLE Credit to be Provided

On Site Parking: $10
Please check www.bklawyers.org for up to date MCLE meeting information.

Program Summaries

By Gary R. Wallace

On June 9, 2018, the *cdcbaa* held it's fifth meeting of the year. The MCLE presentation topic was "Automatic Stay and Discharge Violations." The panel presenters were Raymond H. Aver of the Law Offices of Raymond H. Aver, former *cdcbaa* president M. Jonathan Hayes of Resnik Hayes Moradi LLP, and special guest Christopher P. Burke, Esq. of Reno, Nevada. Among Mr. Burke's many career accomplishments is his appearance and oral argument at the United States Supreme Court in 2011 in the case *Ransom v. FIA Card Services, N. A*. Mr. Burke has also represented many debtors in numerous trials and appeals involving violations of the stay and discharge injunction. Mr. Burke presented many useful evidence strategies for maximizing the value of a debtor's damages case at trial. The panel also discussed many of the more significant recent decisions in this area, such as *Dingley v. Yellow Logistics, LLC* (civil contempt proceedings exempt from the automatic stay under the government regulatory exemption when they are intended to effectuate the court's public policy interest in deterring litigation misconduct) and *Sundquist v. Bank of America* (actual damages of more than $1 million and punitive damages of $45 million awarded against the bank). The recently decided opinion of the *Ninth Circuit in Lorenzen v. Taggart* (a creditor's good faith belief that the discharge injunction does not apply to the creditor's claim precludes a finding of contempt even if the creditor's belief is unreasonable) was also discussed.

As is customary at *cdcbaa* programs, an extensive and useful handout was provided to all attendees.

July 21, 2018 was a busy day for the Central District Consumer Bar Attorneys Association (*cdcbaa*).

On that day, *cdcbaa* hosted its very popular Fifth Annual Jim King Symposium at Southwestern Law School. Immediately prior to the symposium, *cdcbaa* also hosted its annual Pro Bono Volunteer Honor Roll Breakfast Reception. Many of our Central District judges attended the breakfast and also participated in the symposium as well. The symposium's topic was "Ethics and Getting Paid." The symposium panel consisted of the Honorable Erithe Smith, United States Bankruptcy Judge for the Central District, and Professor Nancy Rapoport of the University of Nevada Las Vegas School of Law. Past *cdcbaa* president and Professor M. Jonathan Hayes moderated. The symposium focused on important new developments in ethics requirements for California attorneys. For example, the newly enacted California Rules of Professional Conduct pertaining to, inter alia, conflicts, retainers and client trust accounts, which become effective later this year, were discussed. Local bankruptcy rules on these subjects were discussed as well. Rights and Responsibilities Agreement (RARA) fees and supplemental (or additional) fee applications were also discussed, and several of the judges in attendance in

PRO BONO HONOREES

addition to panelist Hon. Smith offered thoughts and valuable insight to those with questions. Professor Rapoport also offered unique insight into her role and experience as a court-appointed fee examiner in several large cases. Professor Hayes discussed a recent California Court of Appeal decision, now on review before the California Supreme Court, regarding a somewhat stunning ruling on fee disgorgement as a reminder of how serious the courts view breaches of the disciplinary rules.

Nancy Rapoport, Jon Hayes, Judge Erithe Smith

The symposium and breakfast were well-attended, and a useful symposium handout was provided to all those present. The symposium also qualified for two hours of valuable ethics MCLE credits.

The *cdcbaa* will host its next MCLE seminar on September 29, 2018. We hope you will attend

Lawyers are People Too

An Interview with Dennis McGoldrick

By M. Jonathan Hayes

Jon: Dennis, tell me about your family and your upbringing.

Dennis: I was born in Darby, Pennsylvania, a small town just west of Philly. I have an older brother, and a younger brother and sister. My dad was a car mechanic and my mom was a homemaker. Dad owned a garage which he lost in 1958.

Jon: How did you wind up in Los Angeles?

Dennis: We moved to LA in 1958 when I was six years old, the same year the Dodgers moved here. Since Dad had a high school education and previously owned a garage, he got a job as a mechanic at Pacific Semiconductors, Inc., which was later bought by TRW. My parents bought a home in North Redondo in 1960. I attended and graduated from Bishop Montgomery High School in 1970. While at Bishop, I was Student Body President my senior year and played on the baseball team. That year, I actually tried out for the Dodgers!

Jon: You're kidding! How did that go?

Dennis: It's kind of funny. There were three different levels of try outs and I made it to the last one at Dodger stadium. On the first day of tryouts, I was hitting 400-foot homers, you know, since the pitching wasn't that challenging at the first level. The third day of tryouts was held at the Dodgers stadium, where we played an 11-inning game. There were players from all over the county and some were throwing two seam fastballs and 96 mile an hour sliders (laughing). You think you're so good because of your high school experience until you get to this level. I didn't get a call back but playing at Dodger Stadium was a special experience.

Jon: After that it was straight into college?

Dennis: Well, I actually got a Congressional Appointment to the Air Force Academy, where I had planned to go. I really wanted to be a "Top Gun," a "Jet Jockey," and maybe even an astronaut. But after the Kent State shootings in May 1970, I decided I didn't want to go to the Academy. Besides, I learned that I was too tall by then to pilot the combat jets. I would have been limited to flying bombers and I wasn't too interested in that. So, I went to El Camino College for two years and then on to Long Beach State. The tuition at El Camino was five bucks a semester, so I got my first 60 units for $20. At Long Beach State I made the baseball team as a walk-on.

Jon: Then on to law school?

Dennis: No, I studied sociology at Long Beach State for two more years after I graduated. During that time, I worked at Western Airlines. I travelled a lot during that time because I got passes as part of the job. I went to Hawaii a bunch of times. I love Hawaii; the sun is always out; the water is perfect. Anyway, I decided to go to law school because a professor of mine at the Long Beach State graduate program recommended it. I got accepted to Loyola Law School and entered the night program in 1977.

Jon: How was your law school experience?

Dennis: Looking back, I think the teachers there made it more difficult that it should have been. There was a lot of "hide the ball," and few straight answers. But I met my wife, Ellen, at Loyola so it wasn't all bad. I took tax courses, business courses and a Chapter 11 Reorganization course from Bob Greenfield and Herman Glatt of Stutman, Triester & Glatt. That was fun!

Jon: What do you do after law school?

Dennis: Well, Ellen and I passed the bar in 1981 and I just hung out my own shingle. I got an office in a Fegen Suite near LAX and started working on chapter 11s. Ellen took a real job at a law firm. We managed to do fairly well and have five kids in nine years.

Jon: Are any of your kids attorneys?

Dennis: No. My advice to them was to be an entrepreneur. So, no lawyers.

Jon: At some point you became a chapter 7 trustee?

Dennis: Yes, from 1986 to 1991 I was a chapter 7 trustee. I knew the first time I had to sell someone's home that it was something I didn't want to do. I was getting about 170 cases per month. The 341s were a special pain because cases were all set at 9 a.m., not spread out over the morning, so I would get 30 lawyers asking for priority which made it very disruptive at the outset. I was happy to be done with the whole thing.

Jon: What do you think about representing debtors?

Dennis: I enjoy it as you might imagine. Debtors are debtors because they don't get things done. But bankruptcy works. I am able to help a lot of people. It is nice to have them smile and say, “Thank you.”

Jon: You are one of the founders of the Central District Consumer Bankruptcy Attorneys Association (“*cdcbaa*”), is that right?

Dennis: Yes, I had been President of the South Bay Bar Association and of the Irish American Bar Association which provided me with some experience

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Lawyers Are People Too: Continued from Page 6

running that type of organization. When Dave Tilem asked if I wanted to get involved in the cdcbaa I thought it was a good idea. Since I was really the only person there who had any bar organization experience, it was decided that I would be the first President. The cdcbaa is an exceptional organization which fills a gap that was glaring, as the other bars did not teach chapters 7 and 13.

Jon: And you are a California Certified Specialist?

Dennis: Yes. I took the exam and became a specialist in 1996. After that, I was invited to join the state bar Bankruptcy Law Advisory Commission and was the Chairman my last year there. I recommend that every Specialist serve on that commission. The commission writes the specialist exam, and the discussions about the questions are often spirited and very educational.

Jon: When did you start flying?

Dennis: I always wanted to fly but I put it off for 20 years. I learned to fly in a Zlin 242, an aerobatic airplane, which allowed me to learn how to spin a plane, do loops, hammer heads, lots of fun stuff. I got my pilot's license in 1997 and bought an airplane the same year, a 1967 Musketeer. I bought it for $13,000, north of Philadelphia, and flew it back to LA.

Jon: How long did that take?

Dennis: Three days (laughing). Small single engine planes don't really go much above 12,000 feet, so like the wagon trains of old, crossing the Rockies is done over the Oregon Trail or the Santa Fe Trail. I've flown to the big airshow in Oshkosh three times so I have gone both ways to get across the Rockies, trying to avoid thunderstorms.

Jon: Looking back on it all, is there anything you would do differently?

Dennis: I coached my kids little league and basketball teams but I guess I wish I would have closed my office a little earlier each day and spent more time surfing with my kids.

Jon: Do you still surf every day?

Dennis: I have stopped surfing because of some skin cancer issues. I, also, stopped running as much as I used to. I used to run six miles a day, now I do about two miles a day when I can. I even stopped running 10ks but I still do 5ks.

Jon: Do you have any advice for young lawyers?

Dennis: I'm reminded of what Earle Hagen used to say, "Don't make someone else clean up your crap." Do your job, take care of your client. I like being a

NCBRC and NACBA at work in the Ninth Circuit!

The Ninth Circuit Court of Appeals is the largest and busiest federal circuit in the nation. That is true in general and with respect to bankruptcy appeals. In 2017, 213 bankruptcy cases were appealed to the Ninth Circuit. As part of its effort to identify systemically important cases, NCBRC reviews many of these cases for amicus participation or other assistance. In some cases, especially were there is a potential for a circuits split, NCBRC has helped find pro bono appellate counsel to represent the debtor.

During the period Aug. 2017-July 2018, NCBRC filed seven amicus briefs, identified pro bono appellate counsel in two cases, and participated in two oral arguments. We are also tracking more than twenty cases on appeal at the BAP and district courts in the Ninth Circuit. Here's a brief summary of the cases that we've been working on during the past year.

*Vitalich v. Bank of New York Mello*n, No. 16-16584 (9th Cir.): Whether the automatic stay terminates in its entirety after 30 days under 362(c)(3)(A) or whether it terminates only with respect to the debtor.

Hunsaker v. Internal Revenue Service, No. 16-35991 (9th Cir.): Whether sovereign immunity precludes emotional distress damages against the I.R.S.

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NCBRC and NACBA, Continued on Page 7

Brace v. Speier, No. 17-60032 (9th Cir.): Whether California's community property presumption rather than record title presumption applies when property owned by debtor and non-debtor spouse was part of the bankruptcy estate.

Nebel v. Warfield, No. 17-16350 (9th Cir.): Determining the value of nontransferable property for purposes of trustee's turnover motion.

Wilson v. Rigby, No. 17-35716 (9th Cir.): Whether the debtor has a right to an exemption of more than the equity on the day of filing when there is room to capture increased value in the exception.

Lorenzen v. Taggart, No. 16-35402 (9th Cir.) (en banc): Whether creditor's unreasonable belief that conduct did not violate discharge injunction precludes a finding of contempt.

Bobka v. Toyota Motor Credit Corp., No. 18-55688 (9th Cir.): Whether assumption of a personal property lease under section 365 constitutes a reaffirmation of the debt in the absence of compliance with section 524(k).

All briefs are available on NCBRC's website: www.ncbrc.org

There are a number of different ways that you can support the efforts of NCBRC and NACBA in the Ninth Circuit. First, let us know about any important cases decided in the Bankruptcy Courts for the Central District of California, and any appeals that you think we should review. Second, join or continue your membership in NACBA, which supports the work of NCBRC. www.nacba.org. And, finally, consider making a direct donation to NCBRC, a 501(c)(3) organization, at www.ncbrc.org.

Support the *cdcbaa*

The cdcbaa strives to provide quality continuing legal education and events. The following sponsorship opportunities are available:

MCLE Program Sponsorship

Table at MCLE annual case review and symposium and 5 minutes to present to membership at start of meeting $500

Table at MCLE events other than annual case review and symposium and 5 minutes to present to membership at start of meeting $250

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Newsletter 1/2 Page Ad $500/issue (1 issue); $300/issue (3 issues)

*Discounts available for multiple issues.

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Honorable Mention $500 - in addition to at least one table sign, sponsor sign, or winner's table

Contact Jeffrey Hagen at (818) 305-6452 or jeff@hagenhagenlaw.com for more information.

THE CENTRAL DISTRICT CONSUMER BANKRUPTCY ATTORNEYS ASSOCIATION

2018 Calvin Ashland Awards Dinner

PLEASE JOIN US FOR A NIGHT OF CELEBRATION TO HONOR

Henry J. Sommer

This Year's Calvin Ashland **Attorney of the Year**
on

Thursday, November 15, 2018

In the Pacific Ballroom of the
The L.A. Grand Hotel Downtown
333 South Figueroa Street, Los Angeles, CA 90071

Reception and no-host bar at 6:00 p.m.
followed by dinner and awards
presentation at 7:00 p.m.

Please RSVP by November 1, 2018
by fully completing the enclosed
reservation form.

SAVE THE DATE

THE CENTRAL DISTRICT
CONSUMER BANKRUPTCY ATTORNEYS ASSOCIATION
"cdcbaa"

2018 Calvin Ashland Awards Dinner

on

November 15, 2018

at

The L.A. Grand Hotel Downtown Pacific Ballroom

333 South Figueroa Street
Los Angeles, CA 90071

Reception and no-host bar at 6:00 p.m.
followed by dinner and awards presentation at 7:00 p.m.

cdcbaa MEMBERS:
2018 *cdcbaa* annual membership fee includes one free ticket to this dinner.
Please complete the form and indicate your meal preference.
Members must RSVP prior to November 1, 2018 to attend the dinne

NON MEMBERS AND GUESTS:
$95 for on-time non members and guests with RSVP and payment received by 11/1/18
$125 non members and guests RSVP and payment received after 11/1/18
$150 at the door*

$750 for a table and 10 guest admissions. Members may purchase a sign on the table for $150.00

$75.00 Judicial Officers/ Government Employees
Please contact *cdcbaa's* administrator **Linda Righi, at cdcbaa@aol.com**, for more information.
*To RSVP online: Visit our website at **www.bklawyers.org** and complete the form.
If payment is required, please use your credit card and pay on-line.
*To RSVP via mail: Complete the form and send payment, if required, to Linda Righi at the address below.

***cdcbaa* Member Name:**

_____
members are entitled to one free (non-transferable) admission.

Non Member or Guest Name:

Name: _____
If you have more than one non-member/guest, please attach a list of names as you wish them to appear on the name badges and include their choice of entrée.
Enclosed is $ _____.00 for _____ tickets.

Firm Name: _____

Phone: (____)____-_____

Email: _____

Entrée Preference:

- ☐ Chicken
- ☐ Steak
- ☐ Salmon
- ☐ Vegetarian

Please mail this to:

Linda Righi
2720 E. Tahquitz Canyon Way
#245
Palm Springs, CA 92262