



**Boston Bar**  
ASSOCIATION

2008

SUMMER

# Bankruptcy Law Section

## Newsletter

Summer 2008

A PUBLICATION OF THE BOSTON BAR ASSOCIATION BANKRUPTCY LAW SECTION

SUMMER

2008

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# Section Co-Chairs' Corner

Dear friends and colleagues:

As our fiscal year draws to a close, I want to take this time to thank all of our committee co-chairs and members of the Steering Committee. Their dedication and hard work benefited many people in our professional community and the community at large. This year we faced a number of challenges and the Section rose to the occasion with new legal service and educational programs. Highlights included:

- CLE Programs on Cross-Border Financing, Predatory Lending, VLP pro bono training, BAPCPA Consumer Law Update, Young Lawyers Meet Bench and our 18th Annual Bench Meets Bar Conference;
- Brown Bag Lunches covering topics such as lessons from days yonder for today's bankruptcy practice, mortgage foreclosures and the Attorney General's response to the subprime crisis, Article 9 anti-assignment provisions, intercreditor agreements, BAPCPA business update, current issues in chapter 13, forensic accounting, complex debt vehicles, gambling debtors and consumer law update;
- Development of a new pro se pop-up on the Court's website and reinvigoration of the BBA lawyer referral service to assist pro se filers;
- Expansion of our Financial Literacy Program with a record 9 schools participating and 100 volunteer instructors from our Section;
- Creation of a Strategic Planning Task Force to improve the way our Section serves you;

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## Murphy's Laws

"Interchangeable parts – won't"

"Self starters – will not"

"All warranties expire upon  
payment of invoice"

"A meeting is an event at which  
the minutes are kept and  
the hours are lost"

"The shortest distance between two points is  
usually under construction"

- Formation of a multi-Section working group to study ways to protect consumers from a repeat of the subprime fallout;
- Creation of an informal working group of large firm chapter 11 practitioners to explore ways to improve the level and quality of our practice;
- Launch of the Large Firm Split Representation Project; and
- Of course, the Section's popular and informative Newsletter.

None of these programs would have been possible without the hard work of our committee co-chairs and your participation.

I would also like to congratulate Don Lassman and the BBA staff for a successful and well-attended 18th Annual Bench Meets Bar Conference. For those in attendance, I think you will agree that the topics were timely, the discussion lively and the reception enjoyable. And a special thanks to the judges, panelists and Boston College Law School students for the time and effort they invested to make the conference such a success.

My term as Section Co-Chair is coming to an end. I am honored to have been given the opportunity to lead the Section and hope that I met your expectations. At the very least, Don and I kept the boat afloat. We achieved many of our goals this year, but not all. I am confident that next year's Section Co-Chairs, Don Lassman and Adrienne Walker, and our incoming committee co-chairs will complete anything left undone and continue to strengthen our Section's role and influence in the bankruptcy community.

I cannot end my term without asking you to get involved in one of the Section's many activities. Whether it be helping to organize a panel for

a brown bag lunch or CLE program, taking on a pro bono matter or volunteering a couple of hours to teach one of the high school financial literacy classes - our Section cannot achieve its mission without your participation. Take a moment out of your day and give something back to your professional community.

Enjoy the summer.

Doug Rosner

## CONTRIBUTORS

Chief Judge Henry J. Boroff

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Guy B. Moss

John T. Morrier

## Board of Editors

The Editors are now accepting applications for appointment to the **Board of Editors of the Bankruptcy Section Newsletter for 2008-2009**. Members of the section with an interest in getting more involved with the Section, writing on practice and procedure or substantive developments, or sharing a obsession with where the comma goes should contact the 2008 - 2009 editors:

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## 2008 – 2009 Calendar Dates:

The Bankruptcy Section meets the 3rd Tuesday of every month at 12:15 pm.

The Steering Committee meets the 2nd Friday of every month at 8:30 am

Meetings are held at the BBA, 16 Beacon Street, Boston

### Pack Those Brown Bag Lunches And Come On Down

The popular “Brown Bag Lunch” series is off to a strong start with programs which appeal to both consumer and business practitioners. Mark your calendar for the upcoming dates and watch for full details and program descriptions. If you have a suggestion for a topic for any of the remaining dates please contact the chairpersons of the CLE Committee Nina Parker at [NParker@Ninaparker.com](mailto:NParker@Ninaparker.com) or Jeanne Darcey at [JDarcey@eapdlaw.com](mailto:JDarcey@eapdlaw.com).

#### Brown Bag Lunch Meetings:

##### Tuesday, September 16, 2008

Update on plan confirmation issues

##### Tuesday, October 21, 2008

Post-BAPCPA Strategies for Trade Creditors

##### Tuesday, November 18, 2008

Foreclosure rescue schemes

##### Tuesday, December 16, 2008

Using ADR in Consumer Bankruptcy Matters

##### Tuesday, January 20, 2009

##### Tuesday, February 17, 2009

Chatting with the Chapter 13 Trustee

##### Tuesday, March 17, 2009

The “new” homestead law

##### Tuesday, April 21, 2009

##### Tuesday, June 16, 2009

#### Steering Committee Meetings:

Friday, September 12, 2008

Friday, October 10, 2008

Friday, November 14, 2008

Friday, December 12, 2008

Friday, January 09, 2009

Friday, February 13, 2009

Friday, March 13, 2009

Friday, April 10, 2009

Friday, May 08, 2009

Friday, June 12, 2009

#### 2009 Bench Bar Conference:

Thursday, May 14, 2009

### Members on the Move

**Chad Dale** has joined K&L Gates as a partner, and **Mackenzie L. Shea** has joined the firm as an associate, both in the Boston office.

**Lauren Darcy** had joined the Bankruptcy, Restructuring and Commercial Law practice at Mintz Levin Cohn Ferris Glovsky and Popeo in Boston.

**Rafael Klotz** has joined Gordon Brothers Group as a Managing Director.

Most recently a law clerk to Chief Judge Boroff, **Vanessa Peck** has joined Goulston & Storrs in Boston.

**Jesse Redlener** has joined the Boston office of Proskauer Rose.

**Mark Rossi** has established Rossi Law Offices, on Franklin Street in Boston.

**Macken Toussant** has joined the Banking & Finance practice at Riemer & Braunstein in Boston.

Any section member with news to share with the section should feel free to contact the editors.

# A State of the District

A report from Chief Judge Henry J. Boroff

**Editors' note:** The following is from the remarks delivered by Hon. Henry J. Boroff, Chief Judge of the U.S. Bankruptcy Court for the District of Massachusetts, at the May 15, 2008 Boston Bar Association Bankruptcy Bench Bar Conference. The Editors thank Judge Boroff for sharing these comments with readers.

Thank you for inviting the bankruptcy judges of this district to this wonderful program once again. We are delighted to have the opportunity to spend an afternoon with all of you.

As for recent filing statistics, a comparison of the 12 months ended March 31, 2008 to the 12 months ended March 31, 2007 reveals increases in every category:

Chapter 7 case filings	51% increase
Chapter 13 case filings	34% increase
Chapter 11 case filings	25% increase
Pro se case filings	32% increase

As I indicated to you last year, the number of pro se cases in Chapter 13 are particularly problematic, as very few debtors can navigate the complexities of that chapter, particularly as impacted by the BAPCPA. To that end, with the gracious assistance of Gary Wente, our Circuit Executive and Susan Goldberg, our Deputy Circuit Executive, we were able to secure the funding necessary to hire a law clerk whose job is specifically devoted to assisting those debtors. We were then very fortunate to have Leslie Storm, an attorney with substantial bankruptcy experience, join the Court in that role.

January 7, 2008, marked the commencement of the pro se bankruptcy program for the District of Massachusetts with the benefit of our full-time pro se clerk. The program's original mission was two-fold: first, to steer pro

se filers toward legal assistance and second, to help unrepresented filers commence their cases with technical accuracy. However, as the foreclosure crisis deepens, so too have the needs of the pro se community.

Over the last 90 days, our fledgling pro se program has reached over 200 debtors in large and small ways. "Coaching" is the term which best describes the program's process of alerting, educating, or otherwise informing debtors of procedural hazards and substantive challenges. The program's success turns on the growing support and collaboration from the legal community – those individuals and organizations who "heed the call", both literally and figuratively. Without a compassionate and responsive professional voice on the other end, there could be no referrals. The BBA Volunteer Lawyers Project, under the leadership of Joanna Allison, continues to stand out as a pillar in the arena of legal assistance for low income individuals and continues to do what it does so well: respond to consumer cases quickly. BBA's Lawyer Referral Service functions as a strong referral resource as well.

There is also a new category of individuals and entities who should be recognized for recently changing the referral landscape for debtors in crisis. Those individuals, in Boston, include Bill McLeod and Susan Grossberg, who have evaluated emergency cases within 24 hours and referred them to a developing panel of attorneys in Worcester, Boston and Springfield

willing to respond immediately. In the western part of the state, the May 5, 2008 launching of the Mortgage Foreclosure Hotline is cause for celebration. This hotline is the result of the collaboration of the Massachusetts Justice Project, the Fair Housing Center, the Hampden County Bar Association, and notably, Gene Berman. Callers with “time to spare” are directed to non-attorney services; callers who have a foreclosure within 90 days are directed to an attorney in Hampden County with bankruptcy experience. Some debtors have the ability to pay for legal services in full; some in a reduced amount; some of this work must be taken pro bono.

From time to time we attempt to measure program success in numbers. But numbers don’t tell the whole story. Success must also be measured anecdotally – by the pro se elderly man victimized by predatory lending and linked to an attorney on the eve of foreclosure; by the pro se single mother of young children who avoids eviction by an extension of the automatic stay. These are meaningful victories. Not for the Court. Rather, these are victories for the bar and testament to the ongoing and historical generosity of the bankruptcy bar throughout this district. Still, more needs to be done and, when you are called upon by your colleagues for a contribution of your time and energy, we urge each and every one of you to respond to the extent of your ability to do so.

There are other ways in which attorneys have made a contribution to their colleagues over the past year. The Bench/Bar Local Rules Committee has succeeded in again improving the local rules, and the best evidence is our newest edition which became effective only two weeks ago. The committee composed of a diverse membership, diverse in gender, geography and law firm size, meets at least four times a year in different parts of the district. The attorney members include:

## Do You Know Your Accreditations?

[Answers on page 7]

ATA

ECS

CM&AA

CrFA

CFE

CQA

CFA

CPFO

CISA

CFD

CFM

CPP

Colleen Murphy, Chris Panos, Dave Nickless, Bob Seder, Kevin McGee, Jonathan Goldsmith, Steven Weiss, Tom Raftery, Sanjit Korde, John Rao, Denise Pappalardo, Carolyn Bankowski, Nina Parker, Denise Sheer, Jeff Sternklar and Anna Sankaran - from the UST, John Fitzgerald - and from the Court, Judge Feeney and me, Jim Lynch, Jude Crossen, Ed Perkins, Marnie Crouch, and Steve Reynolds. The Committee says good-bye with great thanks to Rafael Klotz and Molly Sharon, both of whom claim to have gone on to better things. We want to extend our heartiest congratulations to Molly Sharon, the new Clerk of the Bankruptcy Appellate Panel for the First Circuit.

And still other contributions have been made by the bar. The M. Ellen Carpenter Financial Literacy Project, a partnership between the BBA and the Massachusetts bankruptcy court continues to thrive under the leadership of Janet Bostwick and Judge Feeney, the invaluable assistance of Paul Dullea and Rebecca Rantz of the BBA and the great efforts of Richard Page, its Executive Director and Bonnie Sashim, its Communications Director. Dozens of attorneys from Boston, Worcester and western Massachusetts have sacrificed their valuable time, but derived great enjoyment from teaching high school students about the risks of credit. Nine schools participated during the past year. More are expected to be added next year. Those who have participated uniformly report that it is great fun. We urge you to participate as well in your segments of the district.

For the Court's part, we continue to strive to do our work and to make your day-jobs more efficient where possible. Soon, you will see the effect of a substantial enhancement of the CM/ECF system. Its goal is to eliminate some of the few glitches and frustrations associated with the current system - and, as typically occurs, I trust that the enhancements will create new glitches and frustrations. A summary of the

changes are now listed on our website. Please communicate your experiences, particular those that are negative, to the members of our Systems Department. Their phone numbers are on the website. We take your concerns very seriously and, when we are not able to fully address them, we do communicate them to Washington for further repairs and enhancements.

Speaking of enhancements, we are now at the point of my yearly construction update. The courthouse in Springfield is almost complete. We expect to move into that building in late June or early July. It is a beautiful building, soon to be the center of a revitalized City of Springfield. It will enjoy cutting edge courtroom technology and, for the first time in the district's history, there will be a bankruptcy clerk's office in western Massachusetts. Of course, when we move, we will have to do some renaming. The geographical area served by the Springfield courthouse will remain the Western Division; but the geographical area served by the Worcester courthouse will be renamed the Central Division.

Not so far behind is the McCormack building in Boston. The date of our return to that building remains uncertain. It is still in the mid-stages of renovation, but many of the walls to the courtrooms, chambers and clerk's office are up, and it is obvious that great care is being taken to ensure not only that it too includes the most modern of technology but also that it retains the magnificence of that historical structure. We believe that it will be a place in which you are delighted to practice and to which you will be proud to bring your clients.

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## Remember the Carpenter Fund and the Normandin Fund

Please be sure to remember the **M. Ellen Carpenter Fund** and the **Charles P. Normandin Fund** of the Boston Bar Foundation, when considering charitable contributions. Contributions to these funds are a wonderful way to honor the memory of our colleagues, Ellen Carpenter and Charlie Normandin, while supporting the efforts of the Bankruptcy Section and the Boston Bar Association.

The **M. Ellen Carpenter Fund** was established in memory of M. Ellen Carpenter, who was an active member of the section and the first bankruptcy lawyer to serve as President of the BBA. The Fund supports the public service programs of the BBA that focus on mentoring young people and creating opportunities for their personal and professional enrichment. This year, for example, the Fund provided a stipend for a Boston high school student to intern at the Bankruptcy Court. Contributions to the Carpenter Fund may be sent to the Boston Bar Foundation, Attn: M. Ellen Carpenter Fund, P.O. Box 845680, Boston, MA 02284-5680.

The **Charles P. Normandin Fund** was established in honor of Charlie Normandin, an active member of the section and considered by many to be the “dean” of the bankruptcy bar. The Fund supports the pro bono, public service and civic programs founded or supported by the section. This year the Normandin Fund provided funding for the financial literacy and volunteer training programs of the Bankruptcy Section. Contributions to the Normandin Fund may be sent to the Boston Bar Foundation, Attn: Normandin Fund, P.O. Box 845680, Boston, MA 02284-5680.

For more information on either fund or the Boston Bar Foundation, please feel free to contact the BBF Executive Director Richard M. Page, Jr. at (617) 778-1916 or [rpage@bostonbar.org](mailto:rpage@bostonbar.org).

### Answers: Do You Know Your Accreditations?

ATA – Accredited Tax Advisor

ECS – Elder Care Specialist

CM&AA – Certified Merger and  
Acquisition Advisor

CrFA – Certified Forensic  
Accountant

CFE – Certified Fraud Examiner

CQA – Certified Quality Auditor

CFA – Certified Financial Analyst

CPFO – Certified Public Finance  
Officer

CISA – Certified Information  
Systems Analyst

CFD – Certified in Fraud  
Deterrence

CFM – Certified Financial  
Manager

CPP – Certified Payroll  
Professional

# Section Leadership

The Bankruptcy Law Section Steering Committee consists of Section and Committee Co-Chairs and all Members-At-Large. For the 2007-2008 fiscal year, the Section's leadership is as follows:

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## Quotations

“The thing I hate about an argument is that it always interrupts a discussion.”

– G.K. Chesterton

“The true test of a first-rate mind is the ability to hold two contradictory ideas at the same time.”

– F. Scott Fitzgerald

“I didn't attend the funeral, but I sent a nice letter saying I approved of it.”

– M. Twain

“I've had a perfectly wonderful evening, but this wasn't it.”

– G. Marx

“He has Van Gogh's ear for music.”

– B. Wilder

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