

DANIEL AARON AUSTIN

Northeastern University School of Law
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Education

Columbia Law School, New York, NY.

J.D., 1986

- ◆ **Harlan Fiske Stone Scholar Award**
- ◆ **Certificate of Achievement with Merit**, Parker School of Foreign and Comparative Law

University of Pennsylvania, Philadelphia, PA

Ph.D. Political Science, 1994; M.A. Political Science, 1993

Brigham Young University, Provo, UT

B.A. Mandarin Chinese and Russian Languages, 1983 (dual major)

- ◆ **Slavic Language Honor Society**, Brigham Young University
- ◆ **President, Society for Asian Studies**, Brigham Young University

Publications

BOOKS, LAW REVIEW ARTICLES, AND ACADEMIC JOURNALS

- Reaffirmation of Secured Debt in Consumer Chapter 7 Bankruptcy (with Donald Lasswell) American Bankruptcy Institute, 2009.
This book was published by ABI as the standard reference on reaffirmation of secured debt in consumer bankruptcy.
 - “The Bankruptcy Clause and the Eleventh Amendment: An Uncertain Boundary Between Federalism and State Sovereignty.” San Francisco Law Review, 4.2. (Fall 2007).
The Bankruptcy Clause of Article I of the Constitution allows Congress to establish laws on the subject of bankruptcy. However, the Eleventh Amendment forbids individual lawsuits against states. Under the Bankruptcy Code, states and state agencies are subject to litigation. This article examines the conflict between the powers of Congress to authorize private suits against states in furtherance of its bankruptcy powers, and the doctrine of state sovereignty.
 - “For Debtor or Worse: Discharge of Marital Debt Obligations Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.” Wayne Law Review, 51.4 (Winter 2005): 1369-1416.
This article examines significant differences among federal circuits regarding discharge of marital obligations in bankruptcy, analyzes due process defects in the
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various approaches, and discusses the effect of the 2005 bankruptcy amendments on marital obligation discharge litigation. This article was used by a Penn State law professor as part of his course on family law and was cited on Family Law Blog.

- §§141:31 – 141:59 “Digital Electronic Data,” (with Jack Seward) in Norton’s Bankruptcy Law and Practice, Thompson West.

This chapter deals with the use of electronic data discovery and computer forensics in bankruptcy litigation.

- “Realism, Institutions, and Neutrality: Constraining Conflict Through the Force of Norms.” Commonwealth: A Journal of Political Science, 9 (1998): 37-56.

This article examines the institution of neutrality during and how neutrality challenges standard realist theories of power and force.

- Contributing Author, Newberg on Class Actions (3rd ed.), Shepard's/McGraw-Hill, 1993.

AMERICAN BANKRUPTCY INSTITUTE JOURNAL ARTICLES

- “Zero Tolerance for Commercial Fraud: Bankruptcy Metrics Dictate That Forewarned is Forearmed.” American Bankruptcy Institute Journal 24.10 (December 2005): 1, 46-49 (with Robert J. Musso, Bruce Weiner, and Jack Seward).

This article examines Bankruptcy Code Section 1104(e), which allows for appointment of a trustee in chapter 11 cases upon a showing of criminal or fraudulent activity by chapter 11 managers or directors. Top article featured on “Regional Developments” on <http://www.globalinsolvency.com>, a website for a joint project between the American Bankruptcy Institute and Insol International.

- “Drop Down? Drop Dead! Excess Insurers Are Not Required To Provide Primary Coverage In Lieu of an Insolvent Insurer.” American Bankruptcy Institute Journal 24.9 (November 2005): 24, 56.

This article analyzes efforts by debtors and creditors to require excess and umbrella insurance carriers to provide coverage below their retention limits in the event of insolvency by the primary insurer. The article was cited as “*required reading*” by a popular bankruptcy law blog, The Bankruptcy Litigation Blog.

- “E-Sleuthing and the Art of Electronic Data Discovery: Uncovering Hidden Assets in the Digital Age,” (with Jack Seward) American Bankruptcy Institute Journal 23 (February, March, April 2004).

This three-part series deals with the legal and technical aspects of the discovery and use of digital evidence in bankruptcy litigation. The article was widely cited on blogs, such as E-Everything for Bankruptcy Lawyers (<http://e-everything4bk.blogspot.com>) and E-Evidence Info (<http://www.e-evidence.info/>) and bar association web sites.

- “Eat My Dirt! Dirt for Debt Swaps Under 11 U.S.C. Section 1129(b)(2)(A),” American Bankruptcy Institute Journal 23.5 (June 2003):12, 48.

This article explores the legal and practical aspects of compelled “swaps” of real property by debtors in exchange for satisfaction of debt by secured lenders.

- “Employee Severance and Retention Rights in Bankruptcy,” *American Bankruptcy Institute Journal* 23:4, 5 (April, May 2003) [Part I—April 2003, p.1, 44-45; Part II—May 2003, p.14, 32].

This article examined pre-BAPCPA Key Employee Retention agreements.

PROCEEDINGS AND EDITORIAL POSITIONS

- Contributing Editor, *Norton’s Bankruptcy Law and Practice* (E-Data Technology)
- “Neutrality and the Third World.” March 20, 1997. Proceedings of the 23rd Annual Third World Conference, Chicago, IL.

Legal Experience

Thomas H. Ayoob III & Associates, Pittsburgh, PA, 2006-2009

Boutique 4-attorney business firm where I handled bankruptcy and commercial law

McguireWoods LLP, Pittsburgh, PA, 2002-2005

Major international firm where I worked on large debtor and creditor matters.

Keating, Muething, and Klekamp, PLL, Cincinnati, OH, 2001-2002

Large regional firm of over 100 attorneys where I worked on commercial matters for a national bank.

Culbertson, Weiss, Schetroma, and Schug, P.C., Meadville, PA, 1998-2001

Regional firm where I worked on bankruptcy and commercial law matters.

Birndorf & Birndorf, Chicago, IL, 1989-1991

Litigation firm where I focused on bankruptcy and commercial litigation.

Thompson Hine, LLP, Cleveland, OH, 1986-1988

Large international firm where I handled creditors’ rights matters for commercial lenders.

Examples of some of my legal work:

<p style="text-align: center;"><i>Creditor’s counsel</i></p> <p style="text-align: center;"><i>Foreclosure and predatory litigation</i></p>	<p>Represent a regional bank in all foreclosure and predatory lending litigation.</p>
<p style="text-align: center;"><i>Creditor’s Counsel</i></p> <p style="text-align: center;"><i>Asset Recovery</i></p>	<p>Represented a “Fortune 100” company as a major creditor in the largest energy company bankruptcy ever filed in the U.S. The client owned coal reserves estimated at 200 billion tons, in addition to vast</p>

	<p>quantities of coal bed methane gas (CBM), the majority of which was leased to the debtor. We participated as an active creditor throughout the bankruptcy. I recovered control of the reserves, negotiated settlements with the bankruptcy estate and creditors, and dealt with environmental, commercial, and resource extraction issues.</p>
<p><i>Debtor's Counsel Corporate Reorganization Pension And Healthcare in Bankruptcy</i></p>	<p>Debtor's counsel for an international nickel-alloy manufacturer with assets in excess of \$1 billion and operations on three continents. This complex bankruptcy included litigation, work with creditors, employee committees and other constituencies, reclamation, asset sales, relief from stay proceedings, debtor-in-possession financing, post-confirmation financing, claims processing, and retiree pension and healthcare matters.</p>
<p><i>Bankruptcy and Insurance</i></p>	<p>Represented a leading European-based insurance company in numerous insolvency cases, including insurer indemnity, allocation of insurance proceeds, and limitation of liability. My work included representing the insurer in the largest construction industry bankruptcy in the U.S.</p>
<p><i>Leases and Real Estate Preference Litigation</i></p>	<p>Counsel for a regional grocery store chain in the major wholesale grocery company bankruptcy. Issues included negotiation of franchise and wholesale supply agreements, preference litigation, contract litigation, and trademark.</p>
<p><i>Debtor's Counsel Corporate Reorganization</i></p>	<p>Debtor's counsel for regional tool and die manufacturing company. In addition to financial restructuring, this case also included significant environmental issues, vendor and customer contracts, and sale of assets.</p>
<p><i>Municipal Creditors</i></p>	<p>Extensive representation of municipalities in bankruptcy and real estate litigation. Counsel for a municipal creditor and private creditors in the bankruptcy of one of the nation's oldest amusement parks.</p>

<p><i>Debtor's Counsel</i> <i>Creditor's Counsel</i> <i>Commercial law and workouts</i></p>	<p>Debtor and creditor counsel for various small- and mid-sized business insolvencies, including light manufacturing, retail, service firms, EMT, and family farms.</p>
<p><i>Leases and Real Estate Bankruptcy</i></p>	<p>Counsel for real property owner in a major retail store bankruptcy.</p>
<p><i>Debtor's Counsel</i> <i>Reorganization</i></p>	<p>Debtor's counsel for real estate investment limited and general partnerships, using provisions of the Bankruptcy Code to sell assets and restructure debt in order to retain liquidity and maintain control of key assets.</p>
<p><i>Secured Asset Lender</i></p>	<p>Represented a large regional bank as a secured asset lender in the trucking sector.</p>
<p><i>Consumer Bankruptcy</i></p>	<p>Represented debtors and creditors in numerous individual chapter 7, 11, and 13 bankruptcies.</p>
<p><i>Commercial law</i></p>	<p>Extensive experience in negotiating, drafting, and litigating commercial contracts including loans, real estate sales agreements, commercial leases, and contracts for goods and services.</p>
<p><i>Real Estate</i></p>	<p>Counsel for real estate developers and property managers on litigation and bankruptcy matters.</p>
<p><i>Homeowners Associations</i></p>	<p>Represent numerous homeowners associations in commercial law and bankruptcy litigation.</p>

Selected Presentations

- “Zero Tolerance for Commercial Bankruptcy Fraud,” Panelist for American Bankruptcy Institute 2005 Winter Leadership Conference, Indian Wells, California.
Panel on stricter measures for preventing and punishing bankruptcy fraud under the 2005 bankruptcy amendments.
- “Risks for Foreign Investors Under U.S. Bankruptcy Law.” Speaker for international conference, Centre for International Legal Studies, Kitzbühel, Austria, January 15, 2004.
Addressed a distinguished group of European lawyers at a conference on international insolvency.
- “Secured Creditors’ Remedies Upon Default” and “Priorities Among Creditors,” CLE Presentation. Lorman Educational Services, Pittsburgh, PA, June 25, 2003.
- “Bankruptcy in Ohio: A Creditor’s Perspective,” CLE Presentation. Cincinnati, OH, April 10, 2002.
- “Legitimate Government in the Next Century.” Presented at the Northeastern Political Science Association 29th Annual Meeting, November 13-15, 1997, Philadelphia, PA.

Academic Experience

Northeastern University School of Law, Boston, MA

Associate Professor of Law

Courses

Consumer Bankruptcy

Business Bankruptcy

Sales and Payments

Edinboro University of Pennsylvania, Edinboro, PA

Assistant Professor of Political Science, 1994-1998.

Courses Taught

American Government

American Foreign Policy

International Law

Politics of Defense and National Security

Canadian Politics & Government

International Relations

Grants Awarded

International Commercial Arbitration. \$2500 Grant in 1997 from Pennsylvania State System of Higher Education, Faculty Professional Development Fund.

I created a 100-page teaching module for undergraduate students dealing with commercial arbitration.
