2023 Rocky Mountain Bankruptcy Conference

Ethics Jeopardy

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U.S. Bankruptcy Court (D. Wyo.) | Cheyenne

Ethics Jeopardy

With Hon. Casey D. Parker, Lacey Bryan, Brenton Gragg, and Ellen Ostrow

Moderated by Rachel Sternlieb

Whoops! That's Not What I Meant to Do!

A Chapter 7 trustee sold certain of Debtor's real estate, but later the sales were determined to be void when the real estate identified in the two Trustee's Deeds were found not to be identified in the sale motion or authorized by the bankruptcy court to be sold.

Whoops! That's Not What I Meant to Do!

What is Model Rule of Professional Conduct 1.1: Competency of Counsel?

What is Model Rule of Professional Conduct 1.3: Diligence?

Whoops! That's Not What I Meant to Do!

Model Rule of Professional Conduct 1.1: Competency of Counsel

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Whoops! That's Not What I Meant to Do!

Model Rule of Professional Conduct 1.3: Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Whoops! That's Not What I Meant to Do!

Hill v. Portillo (In re Kenneth C. Casey, Inc.), 2022 Bankr. LEXIS 1716 (Bankr. D. Colo. June 17, 2022)

A chapter 7 bankruptcy trustee sold certain of the debtor's real estate through an auction, but later, the real estate sale to a certain buyer were deemed to be void because the pieces of real estate in the two trustee's deeds were not specifically identified in the Trustee's Section 363 sale motion or authorized to be sold by the bankruptcy court.

The buyer sued the trustee for grossly negligent breach of fiduciary duty, but his claim ultimately failed. The only remedy for the improper real estate sale was a refund of the funds he paid to purchase the property.

Whoops! That's Not What I Meant to Do!

Counsel filed a complaint **sixteen minutes** after the midnight deadline due to his own errors in using the ECF filing system.

Whoops! That's Not What I Meant to Do!

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State Bank of S. Utah v. Beal (In re Beal), 2022 U.S. App. LEXIS 34418 (10th Cir. Dec. 14, 2022)

The bankruptcy court did not clearly err in finding that appellant's filing defect with respect to the complaint that was filed sixteen minutes after the midnight deadline, was due to the appellant's counsel's errors, rather than by any defects in the court's electronic case filing system, as demonstrated by evidence from court personnel considered by the bankruptcy court regarding how the ECF system functioned. In addition, the court found that the attorney was slowed down in part by his mistaken belief that he needed to pay the fee before the complaint could be filed, which made him keep using the "back" button.

Conflicts About Conflicts

Law Firm represented Debtor in failed Chapter 11 where creditors confirmed a plan creating a liquidating trust. After the Debtor's assets were transferred to the Trust, Law Firm represented County Government in contested matter against the Trust.

Conflicts About Conflicts

What is Model Rule of Professional Conduct 1.9: Duties to Former Clients?

Conflicts About Conflicts

Model Rule of Professional Conduct 1.9: Duties to Former Clients

(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

(b) A lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client

(1) whose interests are materially adverse to that person; and

(2) about whom the lawyer had acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter; unless the former client gives informed consent, confirmed in writing.

(c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:

(1) use information relating to the representation to the disadvantage of the former client except as these Rules would permit or require with respect to a client, or when the information has become generally known; or

(2) reveal information relating to the representation except as these Rules would permit or require with respect to a client.

Conflicts About Conflicts

In re Las Uvas Valley Diaries, 2022 Bankr. LEXIS 3407 (Bankr. D.N.M. Dec. 2, 2022)

The court in *Las Uvas* declined to disqualify the Debtor's former counsel when the firm entered an appearance on behalf of the County Government, which was adverse to the Trust liquidating the Debtor's assets. The court reasoned that NMRA 16-109(A), which is substantially similar to Model Rule 1.9, applied to former clients, but the firm's former client was the Debtor, not the Trust. In addition, the County's dispute with the Trust was not "substantially related" to the Debtor's reorganization because the reorganization terminated when the liquidating plan was confirmed. Finally, the Debtor did not oppose the County's position against the Trust, so there was no material adversity between the firm and its former client.

Conflicts About Conflicts

A lawyer for Parent Company married a lawyer for subsidiary/debtor's liquidating trust in a Chapter 11. Parent Company's lawyer then joined the firm representing subsidiary/debtor's liquidating trust. In an adversary proceeding brought by the liquidating trust against Parent Company, Parent Company moved to disqualify liquidating trust's law firm, claiming it had a conflict of interest.

Conflicts About Conflicts

What is Model Rule of Professional Conduct 1.10: Imputation of Conflicts of Interest?

Conflicts About Conflicts

Model Rule of Professional Conduct 1.10: Imputation of Conflicts of Interest

(a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9, unless

(1) the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm; or

(2) the prohibition is based upon Rule 1.9(a) or (b) and arises out of the disqualified lawyer's association with a prior firm, and

(i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom;

(ii) written notice is promptly given to any affected former client to enable the former client to ascertain compliance with the provisions of this Rule, which shall include a description of the screening procedures employed; a statement of the firm's and of the screened lawyer's compliance with these Rules; a statement that review may be available before a tribunal; and an agreement by the firm to respond promptly to any written inquiries or objections by the former client about the screening procedures; and

(iii) certifications of compliance with these Rules and with the screening procedures are provided to the former client by the screened lawyer and by a partner of the firm, at reasonable intervals upon the former client's written request and upon termination of the screening procedures.

(b) When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm, unless:

(1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and

(2) any lawyer remaining in the firm has information protected by Rules 1.6 and 1.9(c) that is material to the matter.

(c) A disqualification prescribed by this rule may be waived by the affected client under the conditions stated in Rule 1.7.

(d) The disqualification of lawyers associated in a firm with former or current government lawyers is governed by Rule 1.11.

Conflicts About Conflicts

Maxus Liquidating Trust v. YPF S.A. (In re Maxus Energy Corp.), 49 F.4th 223 (3d. Cir. Sept. 9, 2022)

When Parent Company's counsel married opposing counsel and switched firms, Model Rule 1.10(a) imputed the lawyer's conflict to the new firm, which represented the liquidating trust. However, the court in *Maxus* found that the liquidating trust's law firm complied with Model Rule 1.10(a)(2), preventing conflict imputation. No conflicts were imputed because the firm (1) timely screened the Parent Company's former counsel and did not apportion any part of the trust's fee to former counsel; (2) provided written notice concerning former counsel to Parent Company, assured compliance with the Rule, agreed to respond to inquiries concerning the screen, and notified parent company of the availability of court review; and (3) provided periodic certifications of compliance by the former counsel and a partner at the new firm. The Third Circuit affirmed.

Big Whoops! Really Didn't Mean to!

Debtor's counsel (1) failed to obtain a written engagement agreement, (2) forged the debtors' signatures on the petition, (3) tried to dismiss the case through false representations to the court and the Chapter 7 trustee, and (4) advised the debtors to expose the trustee to "COVID or some highly infectious disease."

Big Whoops! Really Didn't Mean to!

What is Model Rule of Professional Conduct 8.4: Misconduct?

What is Model Rule of Professional Conduct 3.3: Candor toward the Tribunal?

What is Model Rule of Professional Conduct 1.4: Communication with Clients?

What is 11 U.S.C. § 528: Requirements of Debt Relief Agencies?

Big Whoops! Really Didn't Mean to!

Model Rule of Professional Conduct 8.4: Misconduct

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law[.]

Big Whoops! Really Didn't Mean to!

Model Rule of Professional Conduct 3.3: Candor Toward the Tribunal

- (a) A lawyer shall not knowingly:
  - (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
- [. . .]
  - (3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

Big Whoops! Really Didn't Mean to!

***Layng v. Barclay et al. (In re: Mennona),* Case No. 21-1139-TBM (Bankr. D. Colo. January 10, 2023)**

Debtor's counsel never provided the debtors with a written engagement agreement, in violation of Section 528(a), and falsified and forged documents he filed on the debtors' behalf. When the Chapter 7 Trustee began to investigate, debtors' counsel fabricated reasons to dismiss the case, ignored discovery requests (causing the debtors to be sanctioned), and lied to the Trustee. Debtors' counsel also failed to communicate with the debtors or provide competent legal services and advised the debtors to "infect the Chapter 7 Trustee with COVID or some highly infectious disease."

The United States Trustee brought an adversary proceeding against debtors' counsel with claims for, among other things, violations of Section 528 and violations of professional duties. When debtors' counsel defaulted, the allegations were deemed admitted, and debtors' counsel was suspended from the practice of law in the United States Bankruptcy Court for the District of Colorado for three years.

Conflicts About Conflicts

While Law Firm represented two Insurers in separate litigation, Partner at Law Firm consulted Talc Manufacturer about serving as a Section 524 Future Claim Representative ("FCR") in Manufacturer's Chapter 11 case. After Manufacturer filed its Chapter 11 Petition, Manufacturer nominated Partner to represent future claimants. Insurers, who insured Talc Manufacturer for future claims, objected, claiming Law Firm's representation in separate litigation was a concurrent conflict of interest.

Conflicts About Conflicts

What is Model Rule of Professional Conduct 1.7: Conflict of Interest: Current Clients?

Conflicts About Conflicts

Model Rule of Professional Conduct 1.7: Conflict of Interest: Current Clients

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent, confirmed in writing.

Conflicts About Conflicts

In re Imerys Talc America, Inc. v. Cyprus Historical Excess Insurers, 38 F.4th 361 (3d Cir. June 30, 2022)

▶ In *In Re: Imerys Talc America, Inc.*, a lawyer nominated to represent future personal injury claimants under Section 524 did not have a concurrent conflict with its Insurer clients that would violate Model Rule 1.7 because (1) his firm erected a ethics screen to separate insurance matters and future personal injury claimant representation, (2) the firm procured a broad and sufficiently detailed prospective waiver from its insurer clients before representation, and (3) the insurer clients did not allege sufficient facts to show that the future claimant representation was the same or substantially related to representing the insurer clients in separate litigation. On appeal, the Third Circuit affirmed.

Don't Mess With the Judge

Debtor's counsel intentionally failed to disclose unauthorized receipt of attorney fee payments because it didn't want the monthly operating reports to show a negative net income

Don’t Mess With the Judge

What is Model Rule of Professional Conduct 3.3: Candor Toward the Tribunal?

Don’t Mess With the Judge

Model Rule of Professional Conduct 3.3: Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer’s client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

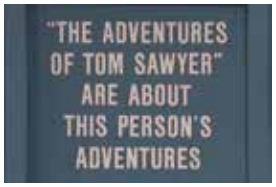
Don’t Mess With the Judge

In re 38-36 Greenville Ave LLC, 2022 U.S. App. LEXIS 10468 (3d Cir. April 14, 2022)

The debtor’s initial application to employ counsel disclosed $3,000, but after conversion of the case from Chapter 11 to Chapter 7, counsel disclosed almost $20,000 it had received without court approval. Counsel admitted the debtor intentionally omitted the undisclosed payments to prevent the monthly operating reports from showing a negative net income.

The bankruptcy court denied the fee application, required disgorgement of payments the firm had previously received, and referred the case for possible disciplinary action. The district court affirmed, and then the Third Circuit affirmed. Not surprisingly, the Third Circuit found there was no abuse of discretion in ordering disgorgement and denying the fee application; counsel’s “repeated violations of the bankruptcy Rules and Code, along with counsel’s lack of candor, more than justified entry of the Fee Order.”

Don’t Mess With the Judge



Collection attorney fails to withdraw a post-filing garnishment for nearly three weeks after learning of garnishee’s bankruptcy filing, but tells court it did so “promptly,” and selectively miscites the law to the court

Don’t Mess With the Judge

What is Model Rule of Professional Conduct 3.3: Candor Toward the Tribunal?

Don't Mess With the Judge

Model Rule of Professional Conduct 3.3: Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

Don't Mess With the Judge

In re LeGrand, 638 B.R. 151 (Bankr. E.D. Cal. March 29, 2022)

A collection law firm and its creditor client had previously been ordered to pay $25,000 in punitive damages and $9,900 in actual damages for violations of the automatic stay and discharge injunction. The court later ordered the creditor and its counsel show cause why they shouldn't be found to have violated Rule 9011. Specifically, creditor's counsel argued it had acted "promptly" to withdraw a garnishment after receiving a letter from debtor's counsel, but failed to admit there was a 19-day delay. Creditor's counsel also cited a general provision in state law which appeared to exonerate them from liability for failure to lift the garnishment, but selectively failed to cite an applicable exception which would obligate the firm to vacate the garnishment.

The court found there was a violation of Rule 9011, but that the attorneys were more at fault than their creditor client. The attorney failed to follow the client's written guidelines (which included vacating the garnishment when first learning of the bankruptcy), and the client wasn't aware of the stay and discharge violations until it was served with the motion for sanctions. The court declined to impose additional sanctions, noting the attorneys were already responsible for paying the damages award, and the creditor client had proper guidelines in place that it actually enforced.

Category is…

But Judge, I've Got My Own Bills to Pay!

But Judge, I've Got My Own Bills to Pay!

Trustee's counsel assisted in the recovery of $38,000 for the estate and filed a fee application for $37,000

But Judge, I've Got My Own Bills to Pay!

What is Model Rule of Professional Conduct 1.5: Fees?

But Judge, I've Got My Own Bills to Pay!

Model Rule of Professional Conduct 1.5: Fees

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.

But Judge, I've Got My Own Bills to Pay!

Model Rule of Professional Conduct 1.5: Fees

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(d) A lawyer shall not enter into an arrangement for, charge, or collect:

(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof; or

(2) a contingent fee for representing a defendant in a criminal case.

(e) A division of a fee between lawyers who are not in the same firm may be made only if:

(1) the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;

(2) the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and

(3) the total fee is reasonable.

But Judge, I've Got My Own Bills to Pay!

In re Village Apothecary, Inc., 45 F.4th 940 (6th Cir. Aug. 16, 2022)

The chapter 7 trustee retained special counsel to investigate causes of actions which they estimated could result in the recovery of $1.6 million. Counsel spent a year investigating and drafting a complaint asserting various claims against the owner of the debtor, but ultimately the trustee and his counsel reached a settlement in the amount of $38,000 with the owner. Counsel for the trustee then filed an application for fees of $37,000. There were no objections to the application, but the bankruptcy court held a hearing to determine if the fees should be reduced "given the amount of the benefit to the estate," and ultimately cut the fees in half.

The Sixth Circuit agreed, finding no abuse of discretion. According to the Sixth Circuit, Section 330 instructs court to consider "all relevant factors," including any and all factors whether or not enumerated in statute itself.

Category is…

Judges Have Ethics Too

Judges Have Ethics Too

Gene, child of Bankruptcy Judge Parent, is graduating first in their law school class, was on the bankruptcy moot court team, and was editor-in-chief of the school's law review.

Bankruptcy Judge Meanwell, whose chambers are right down the hall from Judge Parent, hires Gene as Judge Meanwell's new one-year term law clerk.

Judges Have Ethics Too

What is Committee on Codes of Conduct Advisory Opinion No. 64?

Judges Have Ethics Too

"Conclusions" of Advisory Opinion No. 64

A. The Committee concludes that to avoid the fact or appearance of nepotism or favoritism in hiring, **a judge should not hire as a law clerk a son or daughter of a judge serving on the same court.**

B. The Committee finds **no impropriety** in hiring a son or daughter of a judge sitting on a different court that has no jurisdictional connection with the court of the employing judge.

C. The Committee concludes that a judge **may** hire as a law clerk the son or daughter of a judge of another court that has a jurisdictional connection with the court of the hiring judge, with the exercise of care and discretion. If the hiring decision will not be influenced by the applicant's family connections, or reasonably appear to be so influenced, if impartiality can be preserved with efficiency by excluding the clerk from any connection with the cases decided by his or her parent, and if disruption and undue disqualification can be minimized in the chambers of both the hiring and the parent judges, then the hiring presents no conflict with the objectives of Canons 2 and 3.

Category is…

Judges Have Ethics Too

Judges Have Ethics Too

Bankruptcy Judge Cautious presides over a contested matter in which SugarSupply Co. seeks to dismiss EmptyCal Bakery, LLC's Chapter 11 case. SugarSupply Co. is the only client of Judge Cautious's husband and his wholly-owned sugar importing firm.

Judges Have Ethics Too

What is Committee on Codes of Conduct Advisory Opinion No. 107: Disqualification Based on Spouse's Business Relationships?

Judges Have Ethics Too

Committee on Codes of Conduct Advisory Opinion No. 107: Disqualification Based on Spouse's Business Relationships

"A spouse's business relationships with a party, law firm, or attorney appearing before a judge may result in the judge's disqualification under Canon 3C(1) of the Code of Conduct for United States Judges . . .[However,] [r]ecusal is not mandatory in other situations involving spousal business relationships that are less direct or consequential. Recusal in these situations will depend on a number of facts and circumstances that must be evaluated on a case-by-case basis to determine, in accordance with Canon 3C(1), whether 'the judge's impartiality might reasonably be questioned.'"

Relevant factors to evaluate include the following: "**(1)** the spouse's personal role or lack of personal role in providing services to the client, **(2)** whether the services provided to the client are substantial and ongoing, **(3)** the nature of the client's relationship to the spouse or the spouse's business, and **(4)** the financial connection between the client, the business, and the judge's spouse (including the percentage of business revenue the client provides and the amount of compensation the spouse earns from the client). **[5]** Additionally, judges should consider recusal whenever they become aware of circumstances suggesting that the hiring of the spouse or the spouse's business may have been influenced by the judge's position."

THANKS FOR PLAYING AND STAY ETHICAL!

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ards of Nonprofit Organizations

Faculty

Lacey S. Bryan is an attorney with Markus Williams Young & Hunsicker LLC in Denver, where her practice is focused on complex bankruptcy litigation. She represents clients in all phases of insolvency and restructuring, including debtors, creditors, and trustees in chapter 7 and 11 bankruptcies. Ms. Bryan previously clerked for Hon. Michael E. Romero of the U.S. Bankruptcy Court for the District of Colorado and was the staff attorney for the Chapter 13 Trustee for the Northern District of Oklahoma. She is a member of ABI and the International Women's Insolvency and Restructuring Confederation, Faculty of Federal Advocates, and the Colorado and Oklahoma Bar Associations. Ms. Bryan received her B.A. in 2009 from the University of North Texas and her J.D. with highest honors in 2013 from the University of Tulsa, where she served on the executive board of the *Tulsa Law Review*.

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Ellen E. Ostrow is a senior counsel and litigation attorney with Foley & Lardner LLP in Salt Lake City, where she focuses her practice on restructuring and bankruptcy. She has represented multiple unsecured creditors' committees in the bankruptcies of manufacturers, event operators and health food suppliers; chapter 11 debtors in bankruptcies in the entertainment, mining and housing industries; purchasers of distressed assets; and various creditors, including major power purchase agreement creditors in energy industry bankruptcies and suppliers in large retail bankruptcies. In addition, Ms. Ostrow has experience successfully representing clients in complex litigation in state and federal courts, including fraudulent transfer, voidable transaction, receivership and Uniform Commercial Code disputes. Prior to joining the firm, she clerked for Hon. William T. Thurman of the U.S. Bankruptcy Court for the District of Utah. Ms. Ostrow was honored in 2020 as one of ABI's "40 Under 40" and was named a "40 Under 40" in 2022 by *Utah Business*. She also was named a Utah Legal Elite, Up and Coming in *Utah Business* in 2018 and 2021, and the Utah State Bar's Bankruptcy Pro Bono Project named her Attorney of the Year in 2018 and 2021. Ms. Ostrow is a member of ABI and Women Lawyers of Utah, trustee and secretary of the Utah Bankruptcy Lawyers Forum, a Barr Examiner Committee member of the Utah Bar Association, and a member of the Utah State Bar's Litigation Section. She received her B.A. *magna cum laude* in 2007 from the University of Mary Washington

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Hon. Cathleen D. Parker is Chief U.S. Bankruptcy Judge for the District of Wyoming in Cheyenne, appointed on June 2, 2015. Prior to her appointment, she was an attorney with the Wyoming Attorney General's Office for 16 years, where she primarily represented the Wyoming Departments of Revenue and Audit in front of administrative tribunals, the Wyoming State Courts and the Wyoming Supreme Court. At the time of her appointment, she was the supervisor of the Revenue Section of the Civil Division and was the head of the Attorney General's Bankruptcy Unit. Prior to joining the Office of the Attorney General, Judge Parker worked as an attorney in private practice in Colorado, handling both civil and criminal matters. She also sits on the Tenth Circuit Bankruptcy Appellate Panel. Judge Parker received her J.D. with honors from the University of Wyoming College of Law in 1998.

Rachel A. Sternlieb is Of Counsel at Nelson Mullins Riley & Scarborough, LLP in Denver, where she represents businesses of all sizes and individuals in complex commercial, bankruptcy and civil litigation in both state and federal courts, as well as administrative forums and arbitration proceedings. Her practice includes matters ranging from business and contract disputes, including franchise and distribution litigation, to complex fraud and Ponzi scheme cases. Ms. Sternlieb represents businesses of all sizes and individuals, as well as receivers, chapter 7 bankruptcy trustees and creditors in chapter 7 and 11 bankruptcy cases. She has represented clients in a variety of industries, including automotive, financial services, oil and gas, oilfield support services, farming, construction and real estate. Before relocating to Denver in 2016, Ms. Sternlieb practiced in New Orleans, where she represented individuals in medical malpractice, products liability and mass tort litigation. She currently serves on the board of directors of the International Women's Insolvency & Restructuring Confederation and has been named a Rising Star in Business Litigation by *Super Lawyers* for the past two years. Ms. Sternlieb received her undergraduate degree from the University of Georgia in 2010 and her J.D. from Loyola University New Orleans College of Law in 2013.