



AMERICAN  
BANKRUPTCY  
INSTITUTE

# 2020 Mid-Atlantic Virtual Bankruptcy Workshop

## ABI Talks

**Hon. Stacey L. Meisel, Moderator**

*U.S. Bankruptcy Court (D. N.J.) | Newark, N.J.*

### Retail Shutdowns

**G. David Dean**

*Cole Schotz P.C. | Wilmington, Del.*

### Intersection of Bankruptcy and Social Issues

**Kathryn L. Harrison**

*Campbell & Levine, LLC | Pittsburgh*

### Insolvency Throughout History

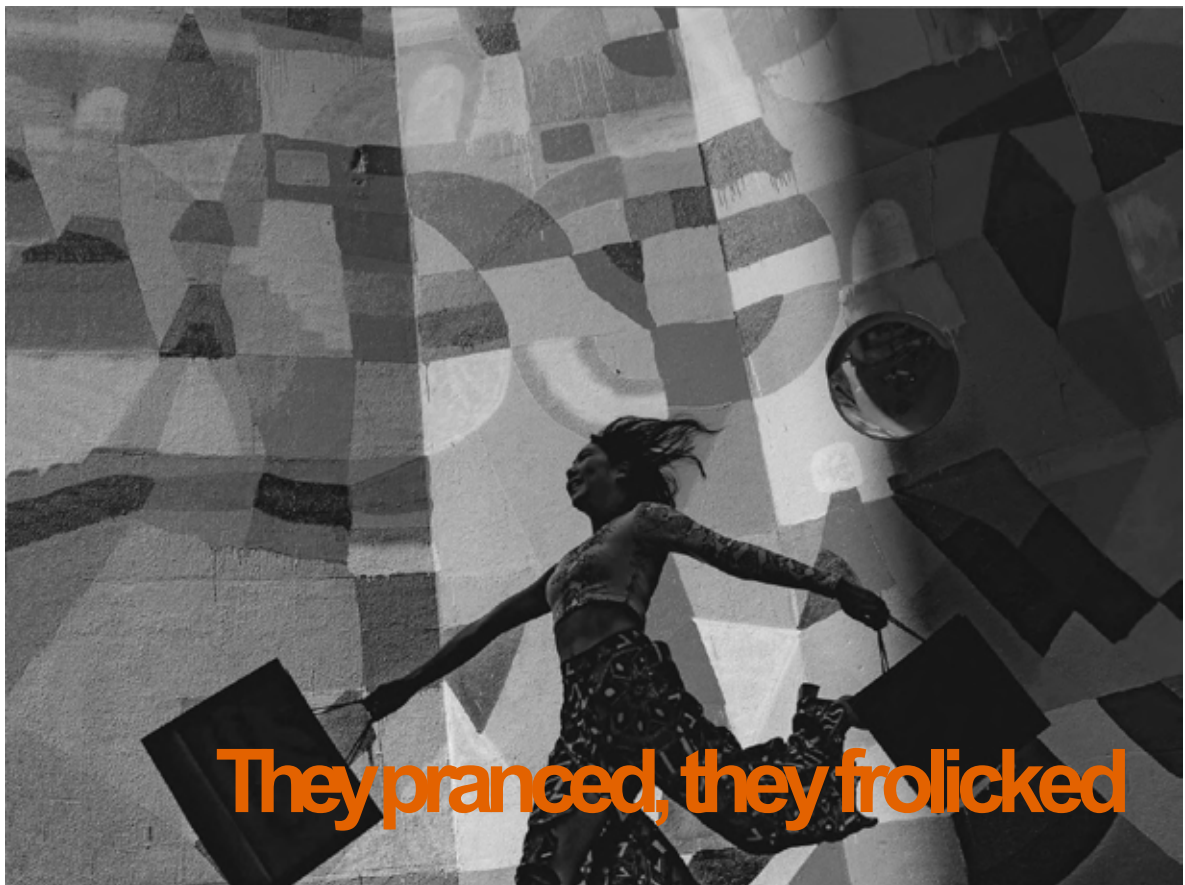
**Thomas M. Horan**

*Fox Rothschild LLP | Wilmington, Del.*













**All the worries in the world  
were so far out of sight**



**Stores were open  
every day of the week**





Even on a holiday  
you could buy what you seek



This brought much glee to  
retailers and landlords alike







The world as they knew it  
said goodbye

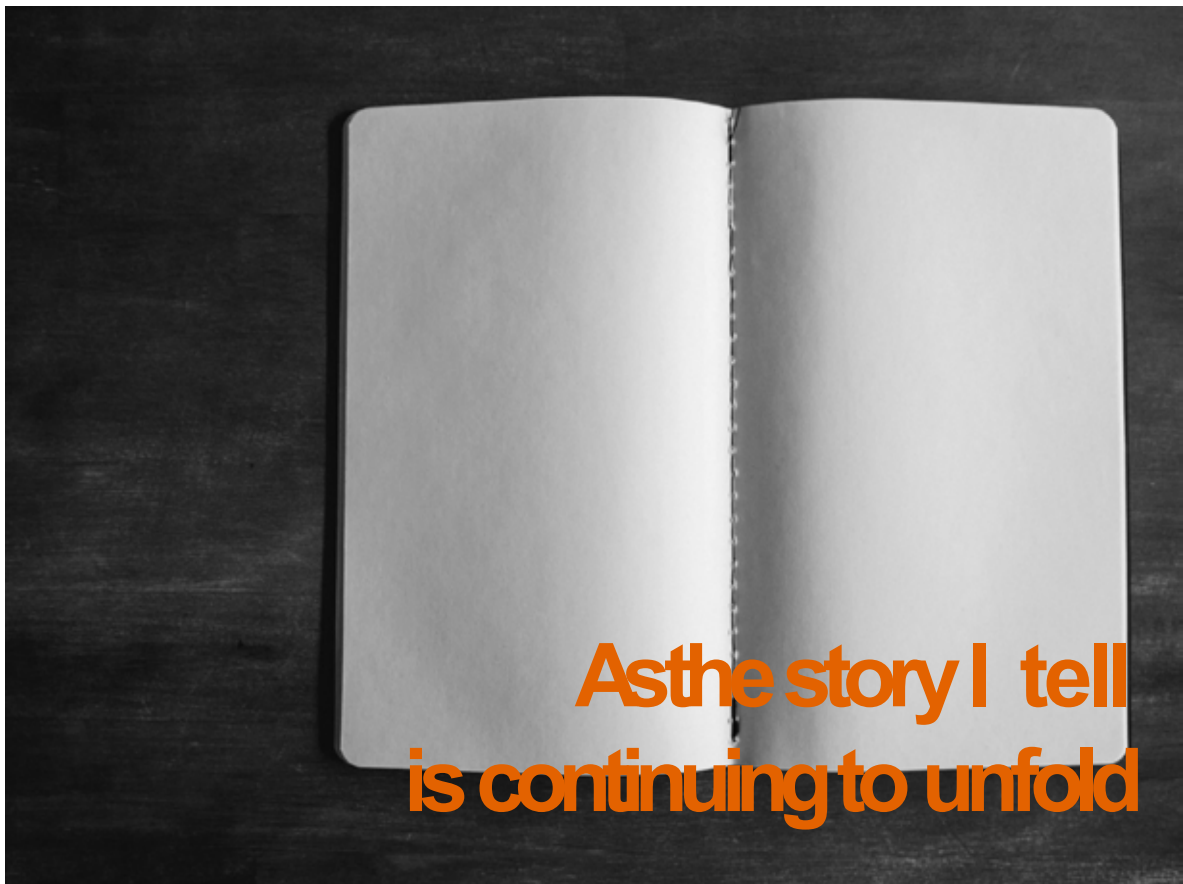


The virus had come  
and they shuttered their doors

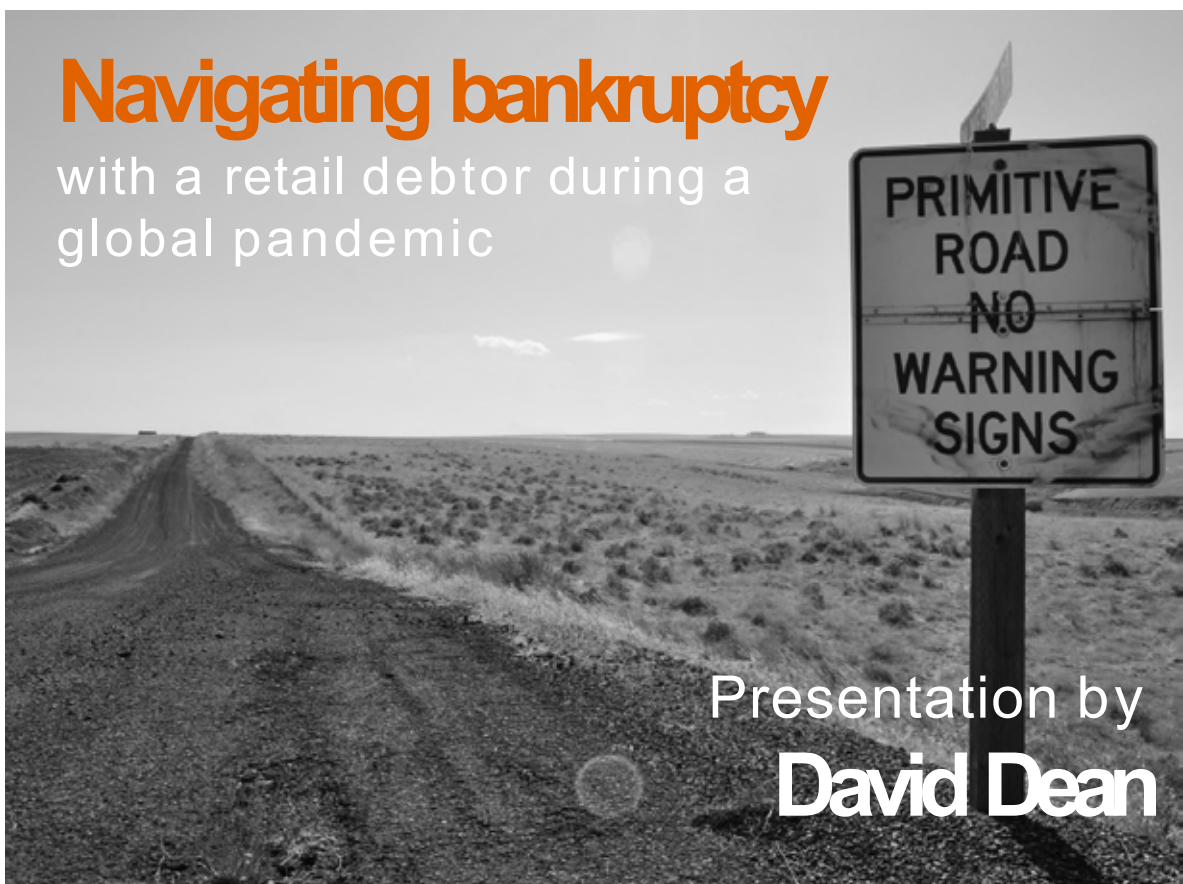








**As the story I tell  
is continuing to unfold**



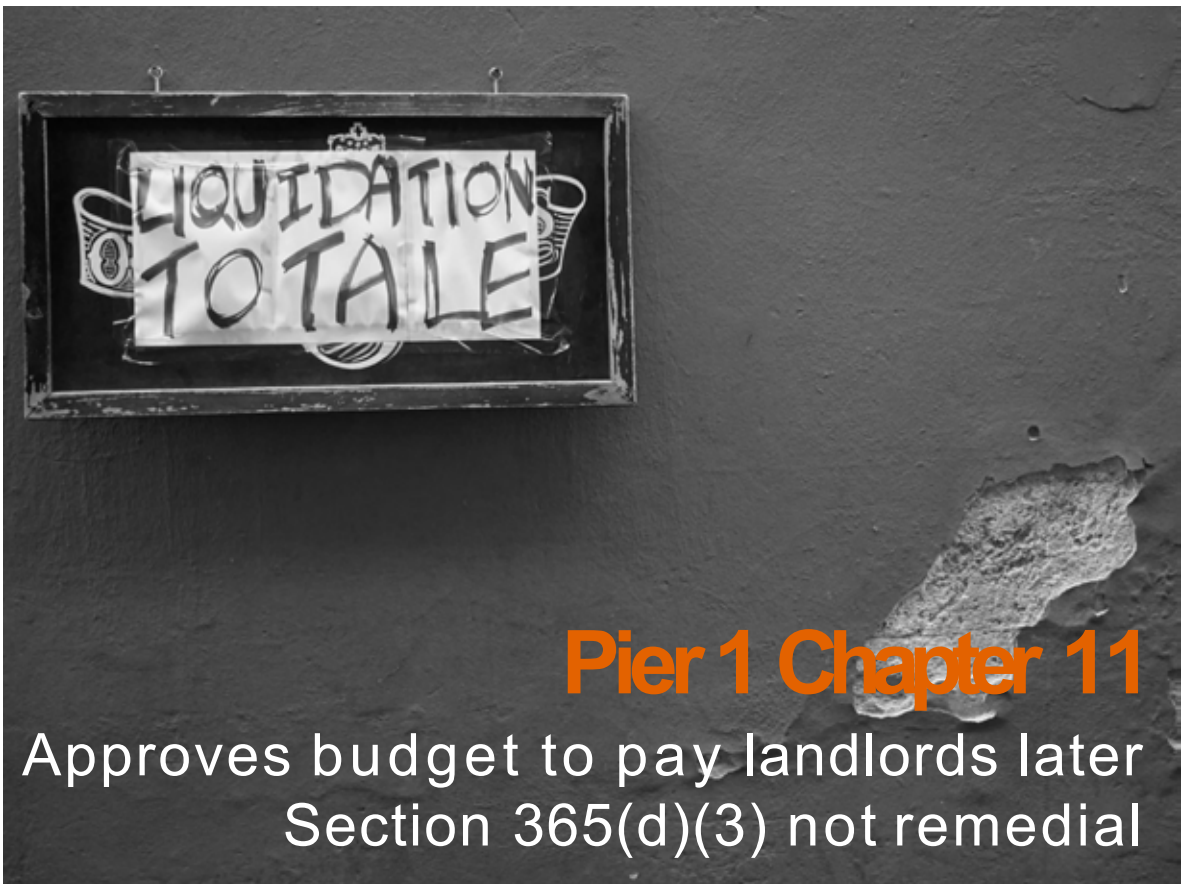
## **Navigating bankruptcy**

with a retail debtor during a  
global pandemic

Presentation by

**David Dean**













John Lewis   
@repjohnlewis

Do not get lost in a sea of despair. Do not become bitter or hostile. Be hopeful, be optimistic. Never, ever be afraid to make some noise and get in good trouble, necessary trouble. We will find a way to make a way out of no way. [#goodtrouble](#)

11:44 AM · Jul 16, 2019 · [Twitter Web Client](#)

51.9K Retweets and comments 129.9K Likes





Photograph by Joshua Franzos for the Heinz Endowments



"I believe that lawyers have a special opportunity and duty to demonstrate leadership in bringing about the reforms in legislation and law enforcement practices that are needed to address the abusive practices perpetrated by some police."

-Michael Reed, Esq.

# MID-ATLANTIC VIRTUAL BANKRUPTCY WORKSHOP



The Guardian

## Activists see Purdue bankruptcy case as last chance to call Sacklers to account

... in Paris last year against the museum's ties with the Sackler family. ... By April, the seventh mor  
3 weeks ago



Bloomberg Law

## Weinstein Accusers Seek Forced Liquidation of Bankrupt

...

Two actresses who accused disgraced film mogul Harvey Weinstein of sexual assault asked a judge to force his bankrupt entertainment ...



USA TODAY

## Tensions rise over local councils' role in Boy Scouts bankruptcy proceedings

The role of local Boy Scout councils in the 11 bankruptcy, and the sexual abuse crisis  
May 6, 2020



York Daily Record/Sunday News

## Are your church offerings used to settle sex abuse claims in bankrupt Harrisburg diocese?

Who pays when a Catholic Church diocese files for bankruptcy? A good



# MID-ATLANTIC VIRTUAL BANKRUPTCY WORKSHOP









## MID-ATLANTIC VIRTUAL BANKRUPTCY WORKSHOP



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# MID-ATLANTIC VIRTUAL BANKRUPTCY WORKSHOP



# MID-ATLANTIC VIRTUAL BANKRUPTCY WORKSHOP





AMERICAN BANKRUPTCY INSTITUTE  
BANKRUPTCY TALKS

*Social Issues in Bankruptcy*

Resources-Kathryn L. Harrison, Esq.

**I. Black Lives Matter: Housing Fairness, Environmental Justice, and Bankruptcy**

“A Black Father’s Letter to His Black Son: My Mission is to Keep you Safe” A. Michael Pratt (June 16, 2020) <https://www.law.com/americanlawyer/2020/06/18/a-black-fathers-letter-to-his-black-son-my-mission-is-to-keep-you-safe/>

“A World of Water Woes: One Water Meter for 425 Clairton Homes, Plus Three Bankruptcies,” Joyce Gannon, Kate Giammarise, PITTSBURGH POST GAZETTE (June 10, 2018).

“Clairton Homeowners Association Seeks Property Auction to Pay Creditors,” Joyce Gannon, Kate Giammarise, PITTSBURGH POST GAZETTE (July 2, 2020).

**II. “Me too.”: Funding Payments to Victims in Bankruptcy**

In re: Archdiocese of St. Paul and Minneapolis, 578 B.R. 821 (Bankr.D.Minn. 2017).

In re: The Weinstein Company Holdings, LLC, Bankr. No. 10601-MFW (Bankr. D. Del.) at Docket Nos. 2856, 2884.

“

**NewsRoom**

6/10/18 Pitt. Post-Gazette A1  
2018 WLNR 17825980

Pittsburgh Post-Gazette (PA)  
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June 10, 2018

Section: LOCAL

A WORLD OF WATER WOES: ONE WATER METER FOR  
425 CLAIRTON HOMES, PLUS THREE BANKRUPTCIES

Kate Giammarise and Joyce Gannon, Pittsburgh Post-Gazette

Water still flows from the faucets at Century Townhomes, a 425-unit apartment complex in Clairton.

But an ongoing legal battle in bankruptcy court over hundreds of thousands of dollars in unpaid water bills could shape the site's future and have lasting impact on residents there.

When Pennsylvania American Water shut off the taps at the complex for about six hours last month, it was the latest twist in a years-long utilities saga for the properties.

For residents, the problem has meant unexpected water shutoffs and ongoing uncertainty.

"You never know from day to the next if you're going to wake up with water," said Lu Ann McLachlan, who has lived in her apartment on Lincoln Avenue for about six years.

The issue is on the minds of residents.

"They always ask, 'Is the water going to be shut off again?' " said Polly Dale, known to residents as "Grandma Polly."

The water was shut off May 10 with no warning to residents at the Desiderio Boulevard complex.

Legally, the case is a complex tangle - multiple bankruptcies, numerous owners of hundreds of both owner-occupied and rental townhomes, and perhaps most problematically, only one water meter. A substantial debt

At a hearing in federal bankruptcy court Tuesday, attorneys for the water utility and the Century Townhomes homeowners' association agreed to continue working toward a long-term resolution to getting the bills paid - without any surprise shutoffs - and finding a way to provide individual water meters for each of the 400-plus units in the complex.

The homeowners association owes Pennsylvania American Water \$353,040.33 as of May 21, according to court documents filed by the utility.

Much of that debt, however, accumulated under a previous owner.

Century Arms Townhomes LLC, which owned 165 of the 425 units, filed for bankruptcy protection in 2014.

At the time of the filing, its principal, David Geisler, was delinquent in water and sewage charges of about \$275,000, according to a court filing.

Like other owners in the complex, he was supposed to pay the homeowners association for water and sewage because the association handles the monthly bills from Pennsylvania American Water and the Clairton Municipal Authority.

Because the meters weren't separated, collecting payments from residents and paying the water bill has been an ongoing challenge at the community.

Homeowners and renters throughout the complex for years have been charged a standard fee - it's now \$150 per month to cover water and sewage - no matter how much they use.

"There's no way that me and the cat use \$150 of water," said Ms. McLachlan, who lives alone with her pet.

When some don't pay, the association has been forced to cover their share.

Sister Mary Parks is the volunteer secretary of the association and also runs nonprofit Sisters Place, which aids single parents who would otherwise be homeless.

The nonprofit owns 16 units and rents another 16 in the complex. It also rents a couple units for its programs.

After Mr. Geisler invested in the site, his debts piled up and the properties deteriorated, so Sister Mary stepped up to try to reorganize the homeowners association.

But the back bills, fees and penalties were so steep that the association also filed for Chapter 11 protection May 10 after the water was shut off. A single water meter

At a 2015 hearing, an attorney for Mr. Geisler told a bankruptcy judge the cost to separately meter all the units would be in excess of \$300,000.

"At this point, the cost is prohibitive," the attorney said, according to a transcript of the court hearing.

An attorney for the Clairton Municipal Authority, which provides sewage service, emphasized to U.S. Bankruptcy Judge Gregory Taddonio how problematic it was that the units were not individually metered.

"Your Honor, we have begged them to separately meter," she said at the same 2015 hearing.

As part of a settlement reached in 2015 in Mr. Geisler's bankruptcy case, individual water meters were supposed be installed "immediately," according to court documents that spelled out a detailed plan for the properties.

It's unclear why, years later, the homes are all still operating with one water meter.

The settlement plan called for Mr. Geisler's California-based mortgage lenders to take over 165 units he owned, renovate many that were in disrepair, install individual water meters and re-sell them.



Other property owners would also pay for meters for their units.

As part of the bankruptcy settlement, local taxing authorities that were owed more than \$800,000 in taxes and fees - including the Clairton Municipal Authority, the school district and Allegheny County - agreed to forgo the full amount of their claims against Mr. Geisler in order to get the homes upgraded and eventually sold.

However, Pennsylvania American Water did not participate in those settlement talks because its delinquent bills were owed by the homeowners association, not Mr. Geisler.

"They never accepted that the old debt from Mr. Geisler had to go away," said Chaim Davidson, broker-owner of Aishel Real Estate, which manages the 165 units owned by WJA Secure Real Estate Fund of Laguna Hills, Calif.

"They stayed out of the discussion in 2015 and now they are coming back for their money."

A spokesman for the utility said Pennsylvania American has not been an obstacle to the units being individually metered.

"Pennsylvania American Water does not own the water facilities such as the water mains in the street and the owners' pipes located on property and within the units," he wrote in an email.

After Aishel started managing the site for WJA, Mr. Davidson said he met with representatives of Pennsylvania American Water about installing water meters for each home.

WJA paid engineering and legal fees "to have it drawn the way Pennsylvania American wanted it," he said.

Mr. Davidson estimated individual metering would run about \$3,500 per unit. He proposed that if Pennsylvania American would not cover the cost, they could assess tenants a monthly fee of roughly \$30 over 10 years to pay for the work.

But discussions stalled in 2017. Since then, WJA also filed for Chapter 11 bankruptcy.

"I don't know why the ball dropped," said Mr. Davidson, who believes many units in the complex are empty because of the water meter issue.

The utility, he said, "is big enough to do this for everybody's benefit, especially their own."

A spokesman for the utility said it attended meetings with some of the property owners and an engineering consultant; however, the property owners did not provide a plan to separate the property owners' pipes.

When Pennsylvania American persisted in trying to collect all that was owed from the homeowners association, the association last year hired an attorney to try to negotiate a settlement with the utility.

Pennsylvania American Water Co. sent the Century Townhomes homeowners association a notice in April that it planned to shut off water to the Clairton apartment complex because of unpaid bills. An attorney for the homeowners association said it did not expect a shutoff while it was negotiating with the utility over the bills.

Despite those talks, the water was shut off without warning May 10.

Kathryn Harrison, an attorney for the homeowners association, said the most recently proposed settlement did not include a plan to install separate meters for the units.

"Without re-metering, we're just kicking the can down the road," she said.

At Tuesday's hearing, U.S. Bankruptcy Judge Jeffery Deller also inquired about the status of separating the meters, saying that move could "certainly reduce the headaches" for homeowners and residents.

Options for getting the meters separated, according to Ms. Harrison, include obtaining federal grants or the sale of the complex to "the right developer . someone willing to invest in the Mon Valley and invest in metering."

State Rep. Austin Davis, D-McKeesport, who represents the area, said he's hoping to introduce legislation in Harrisburg to address the issue.

"In my view, Pennsylvania American Water needs to invest in putting in individual meters for every unit in that complex ... that's the only way we're going to solve this problem," he said.

Having hundreds of units with various owners and only one meter is very unusual.

"How it is currently configured, it's very difficult to [make it] work," said Mark Haak, a local landlord and attorney who considered buying 165 of the units after Mr. Geisler filed for bankruptcy, but ultimately didn't purchase any.

"I have never seen that anywhere else. I've been doing this 30 years. I've never seen a complex like that," said Larry Graham, maintenance supervisor for Aishel Real Estate. Hurting the children

When he filed for Chapter 11 bankruptcy, Mr. Geisler said he couldn't make payments on high-interest mortgage loans and had not expected a spike in municipal sewage rates that occurred after he invested in the properties.

The Allegheny County District Attorney's office investigated Mr. Geisler because of his exorbitant debts and neglect of the properties, but never charged him. The DA "is still keeping an eye on the situation," a spokesman said.

Meanwhile, the situation continues to take a toll on residents.

In March, Ginny Hunt, superintendent of the Clairton City School District, wrote a letter to Pennsylvania American's president, Jeffrey McIntyre, asking the utility to resolve its issue with the townhomes and to avoid shutting off the water again.

"It will have a negative impact on children already struggling in their daily lives," Ms. Hunt wrote.

Kate Giammarise: [kgiammarise@post-gazette.com](mailto:kgiammarise@post-gazette.com) or 412-263-3909. Joyce Gannon: [jgannon@post-gazette.com](mailto:jgannon@post-gazette.com) or 412-263-1580.

The following CORRECTION/CLARIFICATION appeared on June 13, 2018.

Pennsylvania American Water Co. sent the Century Townhomes homeowners association a notice in April that it planned to shut off water to the Clairton apartment complex because of unpaid bills. An attorney for the homeowners association said it did not expect a shutoff while it was negotiating with the utility over the bills. A story Sunday on longstanding water problems in the complex did not include that information.

--- Index References ---

Company: PENNSYLVANIA AMERICAN WATER CO

**A WORLD OF WATER WOES: ONE WATER METER FOR..., 2018 WLNR 17825980**

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News Subject: (Bankruptcies (1BA08); Business Management (1BU42); Corporate Events (1CR05))

Industry: (Energy & Fuel (1EN13); Power Meters & Building Energy Management (1PO37); Utilities (1UT12); Utilities Technology (1UT40); Water Utilities (1WA58))

Region: (Americas (1AM92); North America (1NO39); Pennsylvania (1PE71); U.S. Mid-Atlantic Region (1MI18); USA (1US73))

Language: EN

Other Indexing: (WJA Secure Real Estate Fund) (David Geisler; Austin Davis; Mark Haak; Jeffrey McIntyre; Polly Dale; Mary Parks; Jeffery Deller; Craig Lawrence Graham; Craig Graham; Chaim Davidson; Joyce Gannon; Kate Giammarise; Kathryn Harrison; Lu Ann McLachlan; Ginny Hunt; Ann McLachlan; Gregory Taddonio)

Edition: FIVE STAR

Word Count: 1646

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**NewsRoom**



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7/2/20 Pitt. Post-Gazette WEB  
2020 WLNR 18797932

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July 2, 2020

Section: LOCAL

CLAIRTON HOMEOWNERS ASSOCIATION SEEKS PROPERTY AUCTION TO PAY CREDITORS

KATE GIAMMARISE AND JOYCE GANNON, Pittsburgh Post-Gazette

The homeowners association for a 425-unit complex in Clairton has submitted a plan to bankruptcy court calling for foreclosing on some properties in the complex on which the association has liens and then paying off creditors with the proceeds of the sale.

The Century Townhomes complex on Desiderio Boulevard has struggled in recent years with some large property owners declaring bankruptcy, as well as issues related to all of its housing units being tied to the same water meter.

The World War II-era complex also has a mix of owners for its hundreds of townhomes, which has made improvements a challenge. About 33 units are owner-occupied, about 150 units are owned by small landlords, 16 are owned by nonprofit Sisters Place, and 149 units are owned by an out-of-state company that is involved in a separate bankruptcy case.

The plan, filed Wednesday in U.S. Bankruptcy Court for the Western District of Pennsylvania, calls for the foreclosure of approximately 75 unoccupied properties that have not paid their homeowners' assessments. If a buyer can be found, Pennsylvania American Water and the Clairton Municipal Authority ? which provides sewage service ? would receive proceeds from the sale.

As bankruptcy case winds down, investors have yet to emerge for troubled Clairton community

According to court documents, the association believes the aggregate fair market value of the properties is \$375,000.

Residents and homeowners' association officials have been hoping for a buyer who will invest in the community and make improvements.

Gary Lobaugh, a spokesman for Pennsylvania American Water, said the company has not yet reviewed the plan and could not comment.

An attorney for the Clairton Municipal Authority could not be reached for comment.

First Published July 2, 2020, 7:53pm Kate Giammarise: kgiammarise@post-gazette.com or 412-263-3909. Joyce Gannon: jgannon@post-gazette.com or 412-263-1580.

CLAIRTON HOMEOWNERS ASSOCIATION SEEKS..., 2020 WLNR 18797932

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**---- Index References ----**

Company: PENNSYLVANIA AMERICAN WATER CO

News Subject: (Bankruptcies (1BA08); Business Management (1BU42); Corporate Events (1CR05))

Industry: (Energy & Fuel (1EN13); Housing (1HO38); Real Estate (1RE57); Residential Real Estate (1RE67); Utilities (1UT12); Water Utilities (1WA58))

Region: (Americas (1AM92); North America (1NO39); Pennsylvania (1PE71); U.S. Mid-Atlantic Region (1MI18); USA (1US73))

Language: EN

Other Indexing: (Joyce Gannon; Gary Lobaugh; Kate Giammarise)

Edition: WEB ONLY

Word Count: 295

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**NewsRoom**

578 B.R. 821

United States Bankruptcy Court, D. Minnesota.

IN RE: The ARCHDIOCESE OF SAINT  
PAUL AND MINNEAPOLIS, Debtor.

BKY 15-30125

Signed December 28, 2017

### Synopsis

**Background:** Hearing was held on confirmation of Chapter 11 plan proposed by creditors' committee and by bankrupt archdiocese against which proofs of claim had been filed by individuals allegedly injured by sexual abuse committed by priests and other employees of archdiocese.

**[Holding:]** The Bankruptcy Court, [Robert J. Kressel, J.](#), held that court could not confirm plan as proposed, but would require all constituencies to return to mediation to attempt to negotiate a consensual plan providing appropriate and timely compensation to those who had suffered sexual abuse.

Confirmation denied.

West Headnotes (1)

### [1] [Bankruptcy](#) ➡ [Confirmation; Objections](#)

Bankruptcy court would not confirm joint Chapter 11 plan filed by both by creditors' committee and by bankrupt archdiocese against which proofs of claim had been filed by individuals allegedly injured by sexual abuse committed by priests and other employees of archdiocese; rather, in recognition of serious harm suffered by claimants, of fact that burden of paying these claims under plan would fall, not on wrongdoers, but on completely different group of people, and of size of contingent fee claims asserted by claimants' attorneys simply for filing proofs of claim, would require all constituencies to return to mediation to attempt to negotiate a consensual plan providing appropriate and

timely compensation to those who had suffered sexual abuse.

### Attorneys and Law Firms

\*822 [Richard D. Anderson](#), [Benjamin Gurstelle](#), [Bryce D. Jasper](#), [John R. McDonald](#), [Charles B. Rogers](#), [Aaron G. Thomas](#), Briggs and Morgan PA, Minneapolis, MN, [Charles E. Nelson](#), Lindquist & Vennum LLP, Minneapolis, MN, for Debtor.

### JOINT MEMORANDUM TO ORDERS DENYING CONFIRMATION OF PLANS FILED BY THE DEBTOR AND THE CREDITORS COMMITTEE

ROBERT J. KRESSEL, UNITED STATES BANKRUPTCY JUDGE

Poor Nancy Joan Galatowitsch! On July 28, 2015, she filed her proof of claim. In her proof of claim, she described the sexual abuse that she suffered at the hands of a priest. In her own words she describes the horrors that she endured. She then goes on to describe, without the generalities found in most claims prepared by lawyers, the lifelong damage that she suffered as a result of her abuse. While the confidentiality promised to claimants prevents me from sharing any of the details of her story, it is a moving and compelling narrative.

Now she is dead. In the three years since this case was filed, Nancy Galatowitsch and at least seven other people who have filed proofs of claim have died, essentially depriving them of any meaningful compensation for the pain that they have endured. During that three year period, attorneys for the Archdiocese, the parishes, insurance companies, and the committee appointed to represent her interests have battled for victory.

Every chapter 11 case affects people. However, none has more to do with people than this one. 342 men and 111 women have filed proofs of claim. Most of those claims describe sexual abuse by priests. However, brothers, deacons, nuns, bishops, and lay teachers and coaches are among those described in proofs of claim. Eight claimants speak of sexual abuse during the 1940s; 66 describe abuse in the 1950s; 145 describe abuse in the 1960s; 161 claims describe abuse in the 1970s; 52 describe abuse in the 1980s; 9 people describe abuse in the



1990s; 8 people describe abuse in the in the 2000s; and 3 people describe abuse in the 2010s. Approximately ten of the claimants are now in their 80s, while there are about 60 who are in their 70s, and 50 who are in their 60s. It seems inevitable that as this case drags on and the battle among the parties endures, more people will die.

On the other side of the human equation are the individuals who committed the abuse and the individuals at the Archdiocese who exacerbated the problem by reassigning abusive members of the clergy and minimizing or suppressing the complaints of the victims. While the creditors committee seeks retribution for the wrongs suffered by victims, none of the people who committed the abuse in the first place or exacerbated it in the second place will suffer. The financial cost of compensation falls not on any of these people, but a completely different group of people. It falls on current employees, including priests, teachers, coaches, and on retired school librarians and others who have worked for the Archdiocese and the parishes and earned a modest retirement. The cost may fall on students at Catholic schools and their parents. It will fall on thousands of parishioners. And the cost \*823 will be born by beneficiaries of the charity and other good works by the Archdiocese and the parishes. So for all of the discussion about “the Archdiocese,” “the creditors committee,” “the parishes,” “the insurance companies,” this is really a case about people.

[1] As I hope the orders denying confirmation have demonstrated, a resolution of this case will require an agreement among the Archdiocese, the victims, the parishes, and the insurance companies. It means that those parties and their lawyers must put aside their desire to win, and decide to put together a resolution that is fair to all of the *people* involved. The committee must put aside its desire for retribution. After all, whatever else the Archdiocese is, it is a corporation. Corporations do not suffer; only people suffer. The Archdiocese must put aside its desire to minimize pain, realizing that the personal pain its employees inflicted upon

victims is inevitably going to result in financial pain being suffered by a new generation of parishioners and employees. The parishes who have been quick to blame the Archdiocese for the mess in which they find themselves, must consider the possibility of contributing something to compensate the victims of sexual abuse. The fact that the abuse may not be the legal responsibility of the parishes, which they vociferously argue, is hardly the point, anymore than their work to help the hungry and homeless are motivated by legal responsibilities. Even though the insurance companies have reached settlements, they too will have to return to the mediation process, in particular, those that reached settlements with the debtor without the agreement of the creditors committee. While there is nothing nefarious about what they did, those settlements have certainly contributed to the creditors committee's animosity.

Another source of funds for sexual abuse victims could be their own lawyers. All but 39 of the claimants hired lawyers to complete their proofs of claim for them. In exchange, virtually all of them agreed to pay their lawyers 1/3 or so of their recovery. Because of the complex formula for compensating victims, it is difficult to determine with precision what the total attorneys fees for victims' lawyers could be. Even under the debtor's current plan, attorneys fees for the victims individual lawyers could easily run between \$30 million and \$40 million, which is pretty hefty sum for completing proofs of claim. It could be even more under a future plan.

Therefore, I expect all of the parties to return to mediation. I expect them to mediate in good faith and I expect them to reach a resolution which will result in a consensual plan providing appropriate and timely compensation to those who have suffered sexual abuse at the hands of those employed by or affiliated with the Archdiocese.

#### All Citations

578 B.R. 821, 65 Bankr.Ct.Dec. 17



“Owe No Man Anything”:  
Evolving Views of Debt



## Ancient Religion and Debt: Judaism

- Deuteronomy 15:1 – 3 (the Year of Jubilee): At the end of every seven years you must cancel debts. This is how it is to be done: Every creditor shall cancel any loan they have made to a fellow Israelite. They shall not require payment from anyone among their own people, because the Lord's time for canceling debts has been proclaimed. You may require payment from a foreigner, but you must cancel any debt your fellow Israelite owes you.
- Deuteronomy 23:20–23:21: On loans to a foreigner you may charge interest, but on loans to another Israelite you may not charge interest, so that the Lord your God may bless you in all your undertakings in the land that you are about to enter and possess.
- Exodus 22:25: If you lend money to my people, to the poor among you, you shall not deal with them as a creditor; you shall not exact interest from them.
- Leviticus 25:36–25:37: You shall not lend them your money at interest taken in advance, or provide them food at a profit.
- Deuteronomy 24:10 – 11: Exempting Clothing from Collection



## Ancient Religion and Debt: Christianity

- Luke 6:35 – Love your enemies, and do good, and lend, and expect nothing in return, and your reward will be great
- Romans 13:8: Owe no man anything save to love one another

## MID-ATLANTIC VIRTUAL BANKRUPTCY WORKSHOP



### Ancient Religion and Debt: Islam

- ▶ The Quran 2:280: And if someone is in hardship, then [let there be] postponement until [a time of] ease. But if you give [from your right as] charity, then it is better for you, if you only knew.

## MID-ATLANTIC VIRTUAL BANKRUPTCY WORKSHOP



### Ancient Rome and Debt

- ▶ “On the third market day, let them cut the parts. If they cut more or less, the law will not take account of it”
- ▶ (“*Tertiis nundinis partis secanto: Si plus minusve secuerunt, se fraude e*”) - Twelve Tables





## Stigmatization of Debtors Outside of the United States



## English Bankruptcy Laws

- Statute of Bankruptcy 1542
  - Addressed "crafty debtors"
- Bankruptcy Act of England 1705
  - "bankruptcy was caused not so much by reasons of losses and unavoidable misfortunes, but rather by an intent to defraud and hinder [creditors] of their just debts . . . ."
  - Lord Chancellor had power to grant discharge
  - Death penalty for fraudulent debtors

## MID-ATLANTIC VIRTUAL BANKRUPTCY WORKSHOP



### Stigmatization of Debtors within the United States

- Bankruptcy Act of 1800 (Repealed in 1803)
  - Only permitted involuntary bankruptcies of merchant debtors
- Bankruptcy Act of 1841 (Repealed in 1843)
  - Establishment of voluntary bankruptcy
  - Included new federal exemptions

## MID-ATLANTIC VIRTUAL BANKRUPTCY WORKSHOP



- Bankruptcy Act of 1867 (Repealed in 1878)
  - Voluntary and involuntary cases
  - Individuals and corporations
  - Included "composition arrangements"
  - State law exemptions permitted
- Bankruptcy Act of 1898
  - Election of trustees and appointment of creditors committee
  - Avoidance power
  - More generous discharge provisions



## External Factors for Decreasing Stigmatization in the 20<sup>th</sup> Century

- ▶ Debtors prisons were completely abolished by 1920s.
  - ▶ Significant increase in bankruptcy filings
- ▶ Retail industry placed an emphasis on fulfilling desires rather than fulfilling needs.
- ▶ Common literature towards debtors shifted placing blame from moral depravity onto external factors out of one's control
- ▶ Middle class and working families became more reliant on high installment credit payments for household goods



## Bankruptcy Reform in the Late 20<sup>th</sup> Century: 1978 Bankruptcy Act

- ▶ Prohibition of Employment Discrimination
- ▶ Change in nomenclature from “bankrupts” to “debtors”



- ▶ Bankruptcy Abuse Prevention and Consumer Protection Act of 2005
  - ▶ Credit counseling for consumer debtors
  - ▶ Financial management training to get a discharge
  - ▶ Limited discharge of student loan and some credit card debts



## Modern Perceptions of Debt







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