



AMERICAN  
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# Midwest Regional Bankruptcy Seminar

## Bill Rochelle and Guests

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American Bankruptcy Institute | Alexandria, Va.

### **Hon. Beth A. Buchanan**

U.S. Bankruptcy Court (S.D. Ohio) | Cincinnati

### **Paul R. Hage**

Taft Stettinius & Hollister LLP | Southfield, Mich.

### **Hon. Douglas L. Lutz**

U.S. Bankruptcy Court (E.D. Ky.) | Lexington

### **Hon. Mina Nami Khorrami**

U.S. Bankruptcy Court (S.D. Ohio) | Columbus

### **Hon. Gregory R. Schaaf**

U.S. Bankruptcy Court (E.D. Ky.) | Lexington

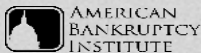
# Circuit Splits & Hot Topics on Commercial & Consumer Law

Cincinnati, Ohio

August 20, 2024



**Hon. Beth A. Buchanan**  
**Hon. Mina Nami Khorrami**  
**Hon. Douglas Lutz**  
**Hon. Gregory R. Schaaf**  
**Paul R. Hage**  
**Bill Rochelle, Moderator**



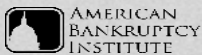
# This Term in the Supreme Court



## Supreme Court ‘Capaciously’ Describes ‘Bankruptcy’ Standing

*Truck Insurance Exchange v. Kaiser Gypsum  
Co. Inc.*, 144 S. Ct. 1414, 219 L. Ed. 2d  
41 (Sup. Ct. June 6, 2024).

Materials page 11.



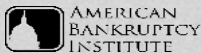
## Chapter 11



## Will the Other Circuits Require ‘Financial Distress’?

*In re LTL Management LLC*, 64 F.4th 84 (3d Cir. Jan. 30, 2023); *cf. In re Aldrich Pump LLC*, 20-30608, 2023 BL 470280, 2023 Bankr Lexis 3043 (Bankr. W.D.N.C. Dec. 28, 2023) (direct appeal certified); *In re Bestwall LLC*, 17-31795 (Bankr. W.D.N.C. Feb. 21, 2024).

Materials pages 33 & 35.





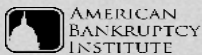
## Subchapter V



### Are Nonvoting Classes Counted in Confirming Sub V Plans?

*In re M.V.J. Auto World Inc.*, 23-16612, 2024 BL 214719, 2024 Bankr Lexis 1487 (Bankr. S.D. Fla. June 21, 2024); *In re Hot'z Power Wash Inc.*, 655 B.R. 107 (Bankr. S.D. Tex. Nov. 7, 2023); *In re Franco's Paving LLC*, 654 B.R. 107 (Bankr. S.D. Tex. Oct. 4, 2023).

Materials pages 149 – 156.



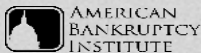
## Is Nondischargeability a 'Thing' in Sub V?

*Avion Funding LLC v. GFS Industries LLC (In re GFS Industries LLC)*, 25-50237 (5th Cir. April 17, 2024); *Chicago & Vicinity Laborers' District Council Pension Plan v. R&W Clark Construction Inc. (In re R&W Clark Construction Inc.)*, 23-00127 (Bankr. N.D. Ill. Feb. 8, 2024).

Materials pages 160 - 170.



## Chapter 11 Again



## Is It Ok to Represent the Debtor and Its Largest Creditor Simultaneously?

*In re Invitae Corp.*, 24-11362, 2024 BL 169486 (Bankr. D.N.J. May 16, 2024); and *In re Enviva Inc.*, 24-10453, 2024 BL 185223 (Bankr. E.D. Va., May 30, 2024).

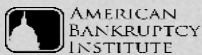
Materials page 105 & Rochelle's Daily Wire, July 10, 2024.



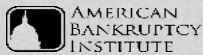
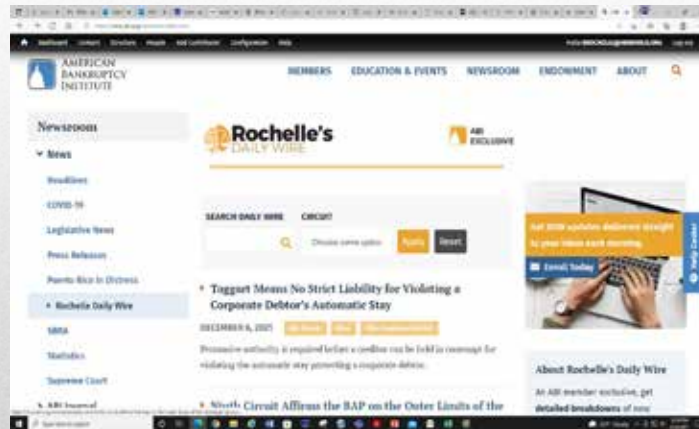
## Can Advertising Violate the Automatic Stay?

*Windstream Holdings Inc. v. Charter Communications Inc. (In re Windstream Holdings Inc.)*, 105 F.4th 488 (2d Cir. June 24, 2024).

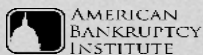
Materials page 89.



## Enroll & Receive the Daily Wire Automatically



## Subchapter V Again





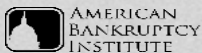
## Can Avoidance Actions Be Sold?

*Pitman Farms v. ARKK Food Co. (In re Simply Essentials LLC)*, 78 F.4th 1006 (8th Cir. Aug. 21, 2023); *Briar Capital Working Fund Capital LLC v. Remmert (In re South Coast Supply Co.)*, 91 F.4th 376 (5th Cir. Jan. 22, 2024).

Materials page 133.



## The Biggest Issue in Chapter 13



## Selling a Home Is Perilous for a '13' Debtor

*Goetz v. Weber (In re Goetz)*, 651 B.R. 292 (8<sup>th</sup> Cir. March 8, 2024) (*cert. pending*); *Castleman v. Burman (In re Castleman)*, 75 F.4th 1052 (9<sup>th</sup> Cir. July 28, 2023) (*cert. den.* Feb 20, 2024); and *Muding v. Masingale v. Mudung (In re Masingale)*, 22-60053 (9<sup>th</sup> Cir.) (argued Feb. 5, 2024).

Materials pages 243 & 246.

# Faculty

**Hon. Beth A. Buchanan** is a U.S. Bankruptcy Judge for the Southern District of Ohio in Cincinnati, appointed on May 10, 2011. Prior to her appointment, she was a member of Frost Brown Todd LLC in its Bankruptcy and Restructuring Practice Group, where she practiced exclusively in the areas of bankruptcy and insolvency law, representing debtors, creditors' committees, secured lenders and unsecured creditors in numerous complex chapter 7, 11 and 15 bankruptcy proceedings. Before attending law school, Judge Buchanan worked in banking for more than eight years with two major financial institutions. She is a member of ABI, the Cincinnati Bar Association, the Federal Bar Association's Cincinnati/Northern Kentucky Chapter, the National Conference of Bankruptcy Judges and the Thomas F. Waldron American Bankruptcy Law Forum, and she is the chairperson of the Local Bankruptcy Rules Standing Committee for the Southern District of Ohio. She also served on the Sixth Circuit Bankruptcy Appellate Panel from 2018-20. Judge Buchanan received her B.S.B.A. in 1986 from The Ohio State University and her J.D. *summa cum laude* in 1997 from the University of Dayton School of Law.

**Paul R. Hage** is co-chair of the Business Restructuring, Bankruptcy and Creditors' Rights Group at Taft, Stettinius & Hollister, LLP in Southfield, Mich. He also is a member of the firm's Diversity, Equity and Inclusion Committee. Mr. Hage is ABI's Secretary on its Board of Directors and is an Executive Editor of the *ABI Journal*. He is a Fellow in the American College of Bankruptcy and serves as co-director of the Conrad B. Duberstein National Bankruptcy Moot Court Competition, the largest single-site moot court competition in the country. In 2017, Mr. Hage was selected as a member of ABI's inaugural "40 Under 40" class. He received his bachelor's degree from James Madison College at Michigan State University, his J.D. from Loyola University Chicago School of Law and his LL.M. in bankruptcy from St. John's University School of Law.

**Hon. Douglas L. Lutz** is a U.S. Bankruptcy Judge for the Eastern District of Kentucky in Lexington, appointed on April 15, 2024. Prior to his appointment, his legal practice included all aspects of bankruptcy, reorganizations and insolvency. Judge Lutz represented debtors, creditors' committees, trustees, individual creditors, boards of directors and purchasers in court proceedings and out-of-court proceedings. He also acted as a SIPC Trustee, mediator and general outside counsel to several privately held corporations. Judge Lutz is a Fellow of the American College of Bankruptcy (Class Thirty-Two 2021), and he served as ABI's Vice President-Education from 2017-21. He is listed in the 2007-18 editions of *The Best Lawyers in America*, *Chambers USA: America's Leading Lawyers for Business* and *Ohio Super Lawyers*. Mr. Lutz received his B.S. in 1987 from Miami University of Ohio and his J.D. in 1991 from the University of Toledo College of Law, where he served as managing editor of its law review.

**Hon. Mina Nami Khorrami** is a U.S. Bankruptcy Judge for the Southern District of Ohio in Columbus and was appointed on Sept. 10, 2021, by the U.S. Court of Appeals for the Sixth Circuit. She began her career in St. Louis, Mo., where she practiced bankruptcy law and litigation as an associate with the firms of Vogler & Associates and then with Compton, Wells & Hamburg. While she practiced in St. Louis, she successfully argued a case before the U.S. Court of Appeals for the Eighth

Circuit. In 1991, Judge Nami Khorrami relocated to Columbus to open her own firm. Her practice focused on more complex chapter 7 and 13 bankruptcies, including arguing before the Bankruptcy Appellate Panel of the U.S. Court of Appeals for the Sixth Circuit. She also handled general civil litigation, foreclosure defense, and issues relevant to small businesses. Prior to her appointment to the bench, she also served as a chapter 7 panel trustee. Judge Nami Khorrami has served on numerous committees of the Columbus Bankruptcy Bar and was a frequent speaker at CLE programs. She has long been committed to bankruptcy *pro bono* service in the Columbus community, and in 2013 she received the Columbus Bar Association and Foundation Award for her involvement in the implementation of the chapter 7 bankruptcy *pro bono* project in Columbus. Judge Nami Khorrami also served as vice-chair of the court's Attorney Advisory Committee and as co-chair of its Consumer/Small Business subcommittee. She is a past co-chair of the Columbus chapter of the International Women's Insolvency & Restructuring Confederation (IWIRC) and a past co-chair of the Bankruptcy Law Institute's (BLI's) Planning Committee. She also served on the board of trustees for the Credit Education Coalition (CEC) and was a member of the Chapter 13 Liaison Committee. Judge Nami Khorrami received her B.S. in business administration from the University of Missouri-St. Louis and her J.D. from Valparaiso University School of Law.

**Bill Rochelle** is ABI's editor-at-large, based in New York. He joined ABI in 2015 and writes every day on developments in consumer and reorganization law. For the prior nine years, Mr. Rochelle was the bankruptcy columnist for Bloomberg News. Before turning to journalism, he practiced bankruptcy law for 35 years, including 17 years as a partner in the New York office of Fulbright & Jaworski LLP. In addition to writing, Mr. Rochelle travels the country for ABI, speaking to bar groups and professional organizations on hot topics in the turnaround community and trends in consumer bankruptcies. He earned his undergraduate and law degrees from Columbia University, where he was a Harlan Fiske Stone Scholar.

**Hon. Gregory R. Schaaf** is Chief U.S. Bankruptcy Judge for the Eastern District of Kentucky in Lexington, initially appointed on Oct. 1, 2012, and named Chief Judge on Oct. 1, 2019. Prior to his appointment, he practiced in the areas of commercial reorganizations, including bankruptcies and workouts, and commercial transactions, including energy-related matters. He represented debtors, creditors' committees, trustees and individual creditors. Judge Schaaf is a CPA and worked as a solicitor in London from 1997-99, handling corporate matters and real estate transactions for English, Russian and American clients. He is a Fellow of the American College of Bankruptcy and is Board Certified in Business and Consumer Bankruptcy Law by the American Board of Certification. Judge Schaaf received his B.B. in accounting and his B.S. in law enforcement administration from Western Illinois University in 1984 with high honors, and his J.D. in 1991 from the University of Kentucky College of Law, where he was admitted to the Order of the Coif and participated in its national moot court team and on its moot court board, as well as on the school's *Journal of Mineral Law and Policy*.