



Federal Bar Association

Monday, October 29, 2018
4- 5 pm
Marriott Rivercenter Salon C - D

The Litigation Trust and Theories of Recovery Regarding D&O / Insurance Policy Claims

The panel will discuss theories of liability such as breach of fiduciary duty and lender control within the insurance or D&O policy area. The discussion will include an analysis of the "insured v. insured" exception as it relates to a litigation trustee's ability to pursue director and officer claims against D&O policies. The panel will discuss how a confirmed plan's retention of jurisdiction and a bankruptcy court's subject matter jurisdiction affect the court's ability to adjudicate these claims.

PANELISTS:

Hon. Craig Gargotta
U. S. Bankruptcy Court
Western District of Texas
San Antonio, TX

Hon. Harlan Hale
U.S. Bankruptcy Court
Northern District of Texas
Dallas, TX

Elizabeth Gunn
Virginia Office
of the Attorney General, Virginia

Christopher D. Sullivan
Diamond McCarthy LLP
San Francisco, CA



HON. CRAIG A. GARGOTTA

Judge Craig A. Gargotta is a bankruptcy judge in the Western District of Texas, San Antonio Division. Judge Gargotta was sworn as a bankruptcy judge on October 1, 2007. Prior to taking the bench, Judge Gargotta was an Asst. U.S. Attorney in San Antonio from 1990-2007. Judge Gargotta has a B.A. and M.A. from Texas A&M University. He received his law degree from St. Mary's School of Law in 1989. Judge Gargotta was a law clerk to Judge Ronald B. King from 1989-1990. Judge Gargotta teaches Legal Research and Writing at St. Mary's School of Law. He is a master in the Larry E. Kelly Inns of Court. Judge Gargotta serves as the chair of the Bankruptcy Section of the FBA and is a member of the Law Review Advisory Board for the *ABI Law Review*. He is also a member of the Texas Aggie Bar Association. Judge Gargotta has been married to his wife Susan for 33 blissful years, and they have two sons, Randy and Colin. Judge Gargotta had been active in Boy Scouts of America for many years.



ELIZABETH L. GUNN

Elizabeth L. Gunn is an Assistant Attorney General and serves as the bankruptcy specialist for the Virginia Office of the Attorney General, Division of Child Support Enforcement, where she represents the Division in bankruptcy matters throughout the Commonwealth of Virginia and the country. She also represents the Division in juvenile and domestic-relations courts throughout the state, and advises and prepares proposed policies for Division matters related to bankruptcy. Prior to joining the Attorney General's office, Ms. Gunn practiced with several law firms, representing creditors, lenders, asset-purchasers, official committees and other parties in interest in cases under all chapters of the Bankruptcy Code, including small and mid-size corporate debtors in all stages of chapter 7 and chapter 11 cases, as well as chapter 7 trustees in all aspects of estate administration. She is an At Large Director of the Bankruptcy Section of the Federal Bar Association and a member of the board of the Richmond, Virginia Chapter. Ms. Gunn serves as co-chair of American Bankruptcy Institute's Legislation Committee, is in leadership for the International Women's Insolvency and Restructuring Confederation, and is chair-elect of the Richmond Bar Association Bankruptcy Session, vice chair of the Virginia Bar Association Bankruptcy Section, and on the board of the State's Association of Bankruptcy Attorneys. She received her B.A. *cum laude* from Willamette University and her J.D. *cum laude* from Boston College Law School.



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HON. HARLIN DEWAYNE "COOTER" HALE

Biographical Information:

Born in Natchez, Mississippi.

B.S., 1979, Louisiana State University.

J.D., 1982, Paul M. Hebert School of Law, LSU,
Order of the Coif.

1982-1983, Law Clerk to the Honorable James L. Dennis, Associate Justice, Louisiana Supreme Court, now Judge on United States Fifth Circuit Court of Appeals.

1983-2002, Private practice of law in Dallas, Texas at Strasburger & Price; Hale, Spencer; McGuire, Craddock & Strother; and Baker & McKenzie.

November 1, 2002, appointed United States Bankruptcy Judge, Northern District of Texas - Dallas Division (reappointed November 1, 2016)

Membership: American Bar Association; American Law Institute; American Bankruptcy Institute; Dallas Bar Association and DBA Bankruptcy Section; Federal Bar Association; Louisiana State Bar Association; State Bar of Texas; National Conference of Bankruptcy Judges; John C. Ford American Inn of Court; Fellow of the American College of Bankruptcy.



CHRISTOPHER D. SULLIVAN

Christopher D. Sullivan is a Partner with Diamond McCarthy LLP and heads the firm's San Francisco office. He has more than 25 years of experience in complex, high-stakes business litigation, with an emphasis on litigating in bankruptcy court and on behalf of bankruptcy estates and trustees. He has frequently litigated claims against directors & officers on behalf of

debtor's trustees and in the Tri Valley Growers bankruptcy recovered more \$17.5 million through a settlement of a D&O claim against several insurance companies after settling with the directors and officers for a \$62.5 million judgment with a covenant not to sue and an assignment of their claims against the insurers. Chris also specializes in third party and professional liability litigation, fraudulent transfer and avoidance litigation, and Intellectual property cases. He has successfully represented a wide variety of clients in major litigation, including both plaintiffs in business litigation and large corporate defendants. Chris is the Chair-Elect of the Bankruptcy Law Section of the Federal Bar Association, a Lawyer Representative to the Ninth Circuit from the Northern District of California, Past President and member of the Executive Committee of the Northern District of California chapter of the Federal Bar Association, and is frequently a panelist and speaker on current topics in the law. He is an experienced mediator and a member of the ADR Panel for the Northern District of California and a Bankruptcy Dispute Resolution Panelist. Chris obtained his law degree *magna cum laude* from the University of California, Hastings College of Law, where he was also Editor-in-Chief of the *Hastings Law Journal*. He served as Law Clerk to the Honorable Melvin T. Brunetti of the Ninth Circuit Court of Appeals. Chris also was as a Teaching Fellow at Stanford Law School, teaching Legal Writing and Research as well as an undergraduate class at Stanford titled Law and Literature in Society.