

Our Mission is to be the organization of choice for in-house lawyers in the greater Charlotte region for their educational, career development, networking, advocacy, pro bono, and community service needs.



Quarterly NEWSLETTER

4TH QUARTER, 2019

PRESIDENT'S MESSAGE

Hello, ACC Charlotte members! It's hard to believe that we're wrapping up 2019, and I've enjoyed serving as the Chapter's President this year. So many of you have volunteered on our Board of Directors or an ACC committee, and we really appreciate your efforts. Every time I get together with chapter leaders from other cities, I realize that we have something special in Charlotte. Our group has strong attendance at events, works hard to make both new members and sponsors feel welcome, and just enjoys spending time together. While some chapters struggle with attendance, quality of programming and achieving variety in their offerings, we often have sellout crowds, dynamic sponsors and interesting, unique events. I feel fortunate to be part of it. To all of you who attend, thank you for helping to make our Chapter so strong!



One of the benefits of being involved in the Chapter is developing professional and personal relationships with your fellow members. About seven years ago, I decided that I would get more out of my membership if I joined a committee, so I joined the Sponsorship & Programming Committee. After just a few months, I had met more of our members than I previously had through attending events. I found that almost overnight, ACC events were even more enjoyable, and my network was broader and more robust. If you have time that you'd like to devote to an organization, I encourage you to deepen your involvement with ACC. You won't regret it!

This has been a great year for our Chapter. We will soon surpass 800 members and had a whopping 50 events, many of which were at capacity with a waiting list. As our chapter grows, we are expanding our offerings to make sure that there are plenty of opportunities for our members to get involved. For 2020, we are planning almost 65 events, including more women's events, social events planned by our sponsors, a New to In-House Affinity Group, and three half-day CLEs. We're excited about our calendar

for next year and hope that it will allow more of you to attend.

As the year closes, I wish everyone happy holidays with family and friends and a safe and prosperous new year. Again, thank you for letting me serve as your chapter President. I look forward to seeing you at the next event!

PLATINUM SPONSOR: Shumaker Loop & Kendrick

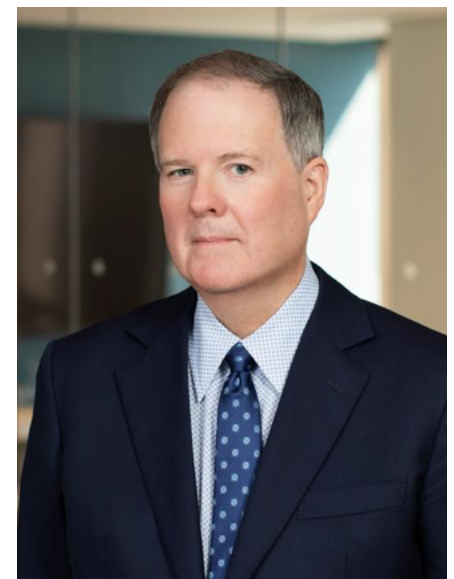
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Platinum Sponsor Feature Article

Score Two Touchdowns for Chapter 11 Preference Defendants

*David H. Conaway, Esq. - Partner
Shumaker, Loop and Kendrick, LLP
Charlotte, North Carolina*

The "Small Business Reorganization Act of 2019" (SBRA) signed into law on August 23, 2019 contains two amendments to Chapter 11 preference laws, which are NOT limited to small business reorganizations.



1. Debtors' Burden of Proof.

- As creditors who have been on the wrong end of preference claims under Section 547 of the Bankruptcy Code know all too well, debtors' burden to assert preference claims is minimal, a lay-up. The burden quickly shifts to the creditor to establish its defenses under Section 547(c) of the Bankruptcy Code.
- With SBRA, debtors now have an additional hurdle before asserting preference claims. A debtor/trustee may avoid a preference payment "based on reasonable due diligence in the circumstances of the case and taking into account a party's known or reasonably knowable affirmative defenses"
 - * Debtors now should analyze a preference defendant's defenses of: "subsequent new value", "ordinary course of business", and "contemporaneous exchange for value".
 - * This should effectively eliminate the normal "shotgun" approach by debtors to file preference complaints based on all payments made to creditors within 90 days prior to the Chapter 11 filing, without regard to potential defenses. Otherwise, debtors' claims may be subject to dismissal, and possibly claims for bad faith filing.
 - * No doubt, debtors will challenge the meaning of "reasonable due diligence".
 - * Over the years, many Bankruptcy Courts have issued creditor-friendly rulings in

preference cases, within the bounds of the current statute. This indicates a judicial dislike of the cottage industry of attacking suppliers who supported a debtor prior to the Chapter 11 filing, particularly when preference recoveries do not serve the stated purpose of materially increasing the value of the estate, for the benefit of creditors (not the under-secured lender).

We hope this will translate to creditor-friendly rulings on the debtors' new "due diligence" requirement.

* The impact of this amendment will be a reduction in the value of preference claims, which should alter debtors' incentive for pursuing claims.

2. Venue of Small Preference Claims.

- Any preference claims for \$25,000 or less must be filed in the venue where the defendant is located.
- Given the impracticability of filing small claims in multiple jurisdictions, this change may effectively eliminate claims under \$25,000.
- Given the trustee's new burden of evaluating preferential defenses, preference defendants should consider a motion to dismiss or transfer venue of preference claims that are under \$25,000, after application of the preference defenses.

The effective date for these changes is February 19, 2020.

We hope you found this useful and informative. Please contact us if you have any questions about this or any other matter.

David H. Conaway, Shumaker 2019©

MEMBERSHIP NEWS

Welcome New ACC Charlotte Members! (Sept 2019 - December 2019)

Alex Abramovich, Senior Counsel of Wells Fargo Bank, N.A.

Ryan Arens, Associate General Counsel of MedCost LLC

Fred Bauer, Corporate Counsel of Window World, Inc.

Kimberly Cochran, Counsel of Wells Fargo Law Department

Jennifer Englander, Counsel of TIAA

Randall Gregory, Deputy General Counsel of BWX Technologies, Inc.

Kimberly Harper-Hunter, Senior Counsel of Wells Fargo Bank, N.A.

Caleb Holloway, Staff Attorney of Atrium Health

Amanda Jarman, Counsel for Contract Management of CaroMont, Health, Inc.

Jonathan Kinny, Sr. Associate Counsel of Compass Group USA, Inc.

Kimberly Lehman, Assistant General Counsel, Employment of Collins Aerospace

J. Christopher Lemons

Zach Luffman, Director of Franchising of Window World, Inc.

Lee Mayberry, Director of Barings

Andrew McGlothlin, Counsel of Bank of America Corporation

Anna Mills, Counsel of Wells Fargo Law Department

Heather Novitsky, Attorney for Bank of America Merchant Services

James Ortega, General Counsel of Pine Gate Renewables, LLC

Nirav Patel, Assistant General Counsel of TE Connectivity

Will Purnell, Assistant General Counsel of SPX Corporation

Luis Alberto Rodriguez Pozos, Associate Counsel of Compass Group USA, Inc.

Sarah Summit, Assistant Division Counsel of Corning Cable Systems

Crystal Trotter, Counsel of Lowe's Companies, Inc.

DO YOU HAVE MEMBER NEWS?

Help us feature our members each quarter! If you or someone you know has been in the news recently, let us know so that we can share their successes in our next newsletter!

Email Kathleen at CharlotteAED@accglobal.com

SPECIAL SEASONAL EDITORIAL

MEDITATE, DON'T MEDIATE

Oh! The holidays. Ready or not, here they come. While some start singing along to Christmas music as soon as the last trick-or-treater leaves their door step (you know who you are), there are many others who hope just to make it to Spring alive and in one piece.

Over the holidays many people experience seasonal depression, burnout, substance abuse, and being exposed to highly dramatic family members (which can cause all three).

All lightheartedness aside, this is a very VERY serious issue. This is real. While some of us are networking at holiday parties, others are questioning whether they should get out of bed. It's heartbreaking, but as lawyers, we live in facts, so here are a few:

- * The legal industry has the 11th highest suicide rate out of all professions. (American Bar Association)
- * Lawyers are 3.6 times more likely to suffer from depression than non-lawyers. (American Psychological Association)
- * Out of 13,000 lawyers who participated in a 2016 study sponsored by the ABA, 28% struggle with depression, and 21-36% of lawyers are "problem drinkers". (Forbes.com)

These are very real statistics. In other words, there is a reason why our bar associations require us to take a wellness or substance abuse CLE.

For those of you who prefer a "bottom line" approach to this topic: Healthy lawyers are good for business. Period. Healthy lawyers are also good for ethics and your community. Let's own this problem.

My hope in writing this brief article is that it raises awareness in our Chapter and maybe helps even just one person. Entire books and websites dedicate their space to explore and share resources that can combat these issues. Check them out. **What do you have to lose?**

Resources:

- [Lawyer Wellbeing Task Force Report, American Bar Association](#)
- [Meetup.com - Health & Wellness Groups in Charlotte](#)
 - Note: Search keywords like "depression" or "meditation" in the search bar to find free groups all over town
- [Lawyer Assistance Program \(LAP\) Directory](#)
- [Well-Being Template for Legal Employers](#)
- NAMI Article - "[I Have Depression, and Its Okay](#)"
- [Lawyers with Depression Blog](#)

RECENT CHAPTER EVENTS

DECEMBER ANNUAL MEETING & MEMBER APPRECIATION EVENT: Byron's South End - 12/4/19



Over 100 members gathered on December 4th to elect our 2020 Chapter Officers and Board Members. Our new Chapter Officers for 2020 are as follows:

President:

Nicole Brunson, Associate General Counsel, Litigation, Ingersoll-Rand

President-Elect:

Stacy Gray, General Counsel, Belk Inc.

Secretary:

Mary-Karen Bierman, Director-Senior Counsel, Wastequip

Treasurer:

Bob Fleischacker, Corporate Counsel, Passport

Vice President of Sponsorship/Programming (2-year term):

Jennifer Sadoff, Deputy General Counsel, AvidXchange, Inc.

Past President:

Taryn Mecia, VP Legal Compliance, Harris Teeter

New At-Large Directors (3-year terms):

John Seymour, General Counsel and Compliance Director, MSS Solutions, LLC
John Grupp, Associate General Counsel - Americas, Husqvarna Group
Antoinette Walters, VP & Asst. General Counsel at Bank of America Merchant Services

Remaining At-Large Directors (Serving 2nd year of 3-year terms):

Kevin Chapman, Associate General Counsel, CIRCOR International, Inc.
Ginger Daly, General Counsel, Polypore International
Tim Nohr, Associate General Counsel, Rack Room Shoes

Departing Officers/Directors:

John Buckley, General Counsel, Toshiba America ES, Finishing officer term as Past President
Lynn Huonker, Managing Counsel, Oracle America, Finishing officer term as Secretary
Julie Szeker, General Counsel, US Radiology Specialists, Finishing officer term as VP of Sponsorship and Programming

At this meeting we also called for volunteers to join our committees. If you were unable to attend this meeting and are interested in joining a committee please let us know. Great prizes were given away to member attendees at the December Annual Meeting including Apple Air Pods, Echo Dots, a Fit Bit, wine, and lots of gift cards! Thank you to all those who joined us - we look forward to a very exciting and fun 2020!

**Sponsorship Appreciation Reception
Legion Brewing - 11/21/19**



On November 25, 2019, ACC Charlotte hosted our firm sponsors for a wonderful evening of appreciation at Legion Brewing. Vice President of Sponsorship and Programming, Julie Szeker, welcomed attendees and gave a special thank you to our firm sponsors for their support in 2019. Our sponsors are critical to our chapter's success and we are so grateful for them! As a reminder, our sponsors for 2019 were as follows...

PLATINUM	GOLD	SILVER	BRONZE	INTRODUCTORY
Fox Rothschild	Ogletree Deakins	Bradley	Kilpatrick Townsend	Cadwalader
Nelson Mullins	Robinson Bradshaw	Littler	Poyner Spruill	Hedrick Gardner
Parker Poe	Shumaker	McGuireWoods	Winstead	Troutman Sanders
		Moore&VanAllen		Winston Strawn
		Womble		

SOUTH CHARLOTTE NETWORKING EVENT:

Amor Artis Brewing - 11/12/19



Tuesday, September 12th, was the second "satellite" networking event for members, but this time on the South side of town. The storms cleared in time for a dozen members from all over the Charlotte area to meet for drinks at Amor Artis, a family-owned, community brewery in Rock Hill. Megan Miller and Carla Poirier hosted the group. It was a great opportunity to network with members working in and around Rock Hill who aren't always able to get into Charlotte for daytime events.

/ Megan Miller - Assistant General Counsel, Electrolux

NOVEMBER CHAPTER MEETING: Byron's South End - Sponsored by McGuireWoods

Robert A. Muckenfuss and Brian A. Kahn, Partners at McGuireWoods, presented an interactive program using hypotheticals to explore lawyers' confidentiality and disclosure duties in the context of hiring for the law department, preserving confidences, work product and attorney client privilege issues related to in-house counsel. There was live voting on the hypotheticals discussed and almost 150 members in attendance at this CLE!

Thank you to [McGuireWoods](#) for sponsoring this very interesting topic and presentation.

OCTOBER CHAPTER MEETING: Byron's South End - Sponsored by Fox Rothschild



Jeff MacHarg and John Reis of Fox Rothschild presented "**Don't Get Blown Up: The Perils of the Rule 30(b)(6) Deposition.**" This CLE discussed the perils and pitfalls of the Rule 30(b)(6) deposition, including the rule, selecting the right witness, preparation, and most importantly, how to avoid getting your witness' answers 'blown up' for the judge and jury.

Thank you to [Fox Rothschild](#) for sponsoring this very interesting topic and presentation.

MANUFACTURING AFFINITY GROUP EVENT: Broken Spoke Distillery - Sponsored by Shumaker Loop



The Manufacturing Affinity Group met at the Broken Spoke distillery on September 12, 2019 for the program "One Bourbon, One Scotch, No Beer: What John Lee Hooker Didn't Know about North Carolina's ABC Laws!". The owner, Ollie Mulligan, spoke to a crowd of over 25 members on the making of high-quality Irish whiskey, the complex regulatory framework required of a distillery desiring to make any type of liquor in North Carolina and his business plan for growing distribution to a regional and potentially national level. Ollie then surprised the group by taking them on an impromptu tour of the distillery.

Thank you to [Shumaker Loop](#) for sponsoring this interesting discussion and tour.

/ Kevin Chapman - Chief Counsel (Industrial Group), Circor

NORTH CHARLOTTE NETWORKING EVENT: Red Rocks Birkdale Village - 9/6/19





On Friday, September 6th, ACC Charlotte hosted its first "satellite" networking event for members on the North side of town. Seventeen ACC members from companies including Lowe's, TIAA, and others met for lunch at Red Rocks Café at Birkdale Village in Huntersville. Although it was an informal gathering, Social Committee members Antoinette Walters and Alysja Carlisle served as unofficial hosts, greeting members and getting conversations going. Members had a great time letting loose over good food and talking about non-legal issues. Topics of discussion ranged from the I-77 Express toll lanes to a secret bakery warehouse in Mooresville! Several attendees expressed a desire to continue having informal networking events regularly and even suggested possible venues. Hopefully this will be the first of more to come!

/ Antoinette Walters - VP, Assistant General Counsel, Bank of America Merchant Services

Did you miss an event? Past presentation materials are available on the ACC Charlotte home page to members only. Please log in as a member at this [LINK](#).

View Our Upcoming Events

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STAY CONNECTED:

Check out our recent and upcoming events and CLE opportunities at:

