



- [HOME](#)
- [ABOUT NACBA](#)
- [LEGISLATION](#)
- [MEMBERSHIP](#)
- [NEWS & EVENTS](#)
- [NEWS MEDIA](#)
- [MEMBERS ONLY](#)

MEMBER LOGIN

[Forget Password?](#)

National Association of Consumer Bankruptcy Attorneys

NACBA is the only national organization dedicated to serving the needs of consumer bankruptcy attorneys and protecting the rights of consumer debtors in bankruptcy. Formed in 1992, NACBA now has more than 2500 members located in all 50 states and Puerto Rico.

NACBA has also played a critical role in many important court cases affecting the rights of consumer bankruptcy debtors by filing amicus briefs in U.S. Courts of Appeal and the Supreme Court, with many of those case decisions influenced by NACBA's participation. In addition, NACBA provides the most comprehensive educational programs in the country for consumer bankruptcy attorneys with its annual convention seminars.

- [ATTORNEY FINDER](#)
- [MEMBERSHIP INFORMATION](#)
- [CONSUMER TIPS](#)
- [TOOLS FOR THE TRADE: BK PRACTICE PRODUCTS](#)
- [NACBA'S AMICUS BRIEFS](#)
- [NACBA LISTSERV](#)

MEMBER OF THE MONTH



Irwin Trauss
 Philadelphia, Pennsylvania
[Profile](#)
[Attorney Finder Bio](#)
 February 2007

BANKRUPTCY NEWS

- [3/26/2007 - Consumers hit their limits in 'Maxed Out'.](#)
 - [3/25/2007 - Could the next chapter in your life be 13?](#)
 - [3/25/2007 - Book review: 'Scary stuff' of debt, credit cards resonates in 'Maxed Out'.](#)
 - [3/25/2007 - Self-filing for bankruptcy can cost you.](#)
 - [3/22/2007 - Time To Abolish Debt Slavery.](#)
- [>> More Bankruptcy News](#)

LEGISLATIVE NEWS

- [8/04/2006 - Bankruptcy may soon be unaffordable.](#)
 - [7/24/2006 - Bankruptcy could grow less affordable.](#)
 - [7/19/2006 - 4th boost sought for bankruptcy filing fee.](#)
 - [7/14/2006 - Costly relief.](#)
 - [7/14/2006 - The price of going broke may be going up.](#)
- [>> More Legislative News](#)

NACBA'S LATEST NEWS

NACBA's Fifteenth Annual Convention, Philadelphia Marriott, April 19-22, 2007

Description:
 Join NACBA as we celebrate the spirit that brought not only the birth of our nation, but the concept of fighting for the underdog, as embodied in the message of "Rocky". You too can run up the stairs of the Philadelphia Art Museum and dance triumphantly at the top.

NACBA continues the fight against the creditors' bankruptcy bill in the courts and in our newly elected Congress to protect the underdogs – debtors and consumer bankruptcy attorneys struggling against the banks and credit card companies. We may have been down but we are not out; not by a long shot.

Our program for 2007 has new topics and the latest information on case law making its way through the courts. Please join us at NACBA's 2007 Annual Convention.

[Register Now!](#)

Files:

- [NACBA Convention Brochure](#)

NACBA IN THE MEDIA

NACBA Connecticut State Chair Gene Melchionne Featured in New PBS Report.

NACBA member and Connecticut State Chair [Gene Melchionne](#) has been featured in a PBS series on bankruptcy. The PBS Now Program segment featuring Gene, [Digging Out of Debt](#), focuses on the effects of the new bankruptcy law.

[^ Top ^](#)

Details on NACBA Capitol Hill Meeting Now Available!

Join fellow NACBA members on Capitol Hill, February 12 – 13, 2007, as we educate members of the new Congress on the many flaws of BAPCPA. You can make a real difference by speaking out for those we represent. Join Us!

To make discounted hotel reservations, review the brochure and make your hotel reservations [immediately](#) as room availability is limited.

- [NACBA Capitol Hill Meeting Brochure](#)

[^ Top ^](#)

Senate Bankruptcy "Hearing" Is Last-Ditch Effort By Credit Card

NACBA AMICUS PROJECT

NACBA Files Amicus Challenging Local Rule

NACBA filed an amicus brief in *In re Suggs*, No. 06-6077 in the 8th Cir. BAP. The brief argues that the local bankruptcy rule from the Western District of Missouri, which permits a creditor to seize a debtor's car without first seeking relief from stay where the debtor fails to provide proof of insurance, is contrary to both the Code and Federal Rules of Bankruptcy Procedure, and therefore invalid.

[Click here for a copy of the brief.](#)

[^ Top ^](#)

Full Surrender Battleground Moves to the 6th Court of Appeals.

NACBA has filed an amicus brief in *In re Long* which argues that 1) 910 creditors do not have "allowed secured claims" entitled to treatment under 1325(a)(5), and 2) if those creditors do have "allowed secured claims" in the full amount of the debt, then 1325(a)(5)(C) permits debtors to surrender in full satisfaction of that debt.

[Click here for a copy of the brief.](#)

[^ Top ^](#)

Recent Decisions of Interest

Industry To "Slap Some Lipstick On The Pig" Of Failed Law Changes

Republican witnesses either blindly support failed bankruptcy law changes or are industry shills; Senate hearing is typical of industry-dominated process that led to anti-consumer law.

Files:



- [Read the 12/06/06 Press Release](#)

[^ Top ^](#)

National Association Of Consumer Bankruptcy Attorneys Names Barbara Andelman Executive Director

The National Association of Consumer Bankruptcy Attorneys (NACBA) announced that Barbara Andelman will serve as its new Executive Director.

Files:



- [Read the 12/04/06 Press Release](#)

[^ Top ^](#)

NACBA Survey: Bankruptcy Filings On The Rise Again, Likely To Return To Pre-2005 Law Levels During Next Year

NACBA Surveys 700 U.S. Bankruptcy Attorneys on Eve of October 17, 2006 Anniversary of Controversial Law Change; Over Nine Out of 10 Say Law Has "Simply Increased the Costs of Bankruptcy," With No Benefits.

To view the full survey results, [click here](#).

Files:



- [Read the 10/04/06 Press Release](#)



- [Listen to the 10/04/06 News Conference](#)

Press coverage:

- [Bankruptcy Law Says Thou Shalt Not Tithe](#)
- [Reform law has cut bankruptcy rate](#)
- [Lawyers group knocks bankruptcy law](#)
- [Bankruptcy reforms called a failure](#)
- [Consumer bankruptcies on the rise](#)
- [New bankruptcy law criticized](#)
- [Bankruptcy Returns](#)

[^ Top ^](#)

Marrama v. Citizens Bank of Massachusetts, et al., 05-No. 05-996, 549 U.S. -- (Feb. 21, 2007). Holding that a chapter 7 debtor does not have an absolute right to convert his case to chapter 13. The 5-4 majority concluded that a chapter 7 debtor whose case could be converted or dismissed for cause under 11 U.S.C. § 1307(c) had forfeited the right to proceed under chapter 13.

[Click here for a copy of the decision.](#)

In re Kibbe, -- B.R. --, 2007 WL 512753 (BAP 1st Cir. Feb. 20, 2007). Affirming denial of confirmation and holding that the starting point for projecting disposable income was not current monthly income, as defined by the Code, but rather current income, as reflected on Schedule I, less amounts specifically excluded from the statutory definition of current monthly income, such as social security.

[Click here for a copy of the decision.](#)

In re Osborn, No. 06-6061 (BAP 8th Cir. Feb. 23, 2007). The first appellate court to consider whether debtors may surrender 910-vehicles in full satisfaction of the creditor's claim rules in the debtor's favor.

[Click here for a copy of the decision.](#)

[^ Top ^](#)

Does the UST Get a Second Bite at the Apple Under 707(b)(3)?

NACBA member Scott Waterman, along with Tara Twomey and Henry Sommer, argue that the UST should not be able to use 707(b)(3) to find abuse based solely on the debtor's ability to pay in this new brief filed in *In re Lenton* (on appeal to the District Court for the Eastern District of Pennsylvania). The bankruptcy court below held that the debtor's 401(k) loan deductions were not mandatory payroll deductions that could be deducted on the means test, but the court did find that the 401(k) loan repayments constituted a special circumstances sufficient to rebut the presumption of abuse. The court then went on to find the debtor's filing abusive under 707(b)(3) based solely on the ability to pay.

[Click here for a copy of the brief.](#)

[^ Top ^](#)

NACBA Files First Amicus Brief in The Eighth Circuit

In *Brown v. Pyatt* (*In re Pyatt*) several checks, written by debtor pre-petition, were cashed by creditors post-petition. Rather, than seek to avoid the transfers under section 549, the trustee filed a turnover action against the debtor seeking reimbursement for the funds. In the first amicus brief NACBA has submitted to the Eight Circuit Court of Appeals, we argue that the creditors, not the debtors, should be help responsible for reimbursing the estate.

[Click here for a copy of the brief.](#)

[^ Top ^](#)

Visit the Amicus Page to see NACBA's brief on this issue and others.