

Hon. JUDITH KLASWICK FITZGERALD (RET.)
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**PROFILE - CHAPTER 11 BANKRUPTCY EXPERIENCE (INCLUDING
COMPLEX COMMERCIAL MATTERS AND MASS TORT)**

As a sitting U.S. Bankruptcy Judge for over 26 years, I presided over and confirmed hundreds of chapter 11 plans of reorganization. Those cases included more asbestos and mass tort chapter 11 plans, most that utilized § 524 and § 105 injunctions, than any other sitting judge. I presided over a broad range of bankruptcies that encompassed both large and small companies and hundreds of their affiliates. Among them were substantially sized companies with mass tort legacy liabilities including Federal Mogul, Owens Corning, W.R. Grace, United States Minerals, USG, Armstrong World Industries, Kaiser Aluminum, AC&S, Combustion Engineering, AB Lummus Global, MidValley, Dresser Industries, Pittsburgh Corning, Swan Transportation, North American Refractories, Global Industrial Technologies, Specialty Products Holding Co., Flintkote and others. I have addressed legal, business, insurance and financial issues and business practices confronting companies facing legacy asbestos claims. In Chapter 11 and 7 cases I also addressed issues pertinent to reorganizing and liquidating debtors, including financing issues, contract issues, indemnity issues, insurance claims, settlement issues and fee allowances and disallowances.

Since returning to private practice, I have served as an expert witness and as an advisor regarding the postconfirmation impact of certain plan or trust provisions on various matters as diverse as contract or indemnity damages, settlement negotiation practices, malpractice claims, allocation of fees, restructuring, and insurance/reinsurance disputes. I have testified as an expert in the United States District Court for the Western District of PA, in the Court of Common Pleas of Allegheny County, PA, and in an arbitration conducted in Dallas, TX as well as in depositions in New York, Arizona, Texas and Pennsylvania. In one case, my expert report was accepted, without testimony, by the United States Bankruptcy Court for the Southern District of NY.

PROFESSIONAL EXPERIENCE

Member of the Board and Shareholder

Tucker Arensberg, P.C.

(previously Of Counsel from December 1, 2013 – August 31, 2015)

Representative Engagements:

- Representing Debtor-in-Possession in chapter 11 reorganization with over 11,500 potential creditors and notice parties
- Representing not-for-profit Debtors-in-Possession in chapter 11 reorganizations
- Representing secured creditor in federal receivership and foreclosure of four hotel properties
- Representing administrative claimant in settlement negotiations with debtor

Expert witness in bankruptcy and bankruptcy-related matters

- Testifying in a breach of contract/bad faith insurance dispute regarding reasonableness of fees
- Testifying in arbitration regarding the effect of bankruptcy on a contractual indemnity obligations
- Testifying in a legal malpractice action and professional responsibility dispute
- Testifying regarding customary mediation procedures in a dispute regarding good faith insurance negotiations
- Serving as a court-appointed expert in a 16 million dollar fee dispute
- Serving as court-appointed expert in asbestos trust budget and discovery disputes
- Serving as a judge in a moot oral argument involving a billion dollar ISDA dispute
- Advising a large asbestos trust regarding administration and claims matters
- Assisting counsel to the board of a public company on restructuring proposals
- Serving as mediator in several disputes regarding provisions of asbestos trust agreements, trust distribution procedures and personal injury claims

Consultant

- Consulting regarding reasonableness of RMBS settlements in multi-billion dollar dispute
- Consulting regarding reasonableness of Indenture Trustee fees
- Consulting in a quarter-billion dollar insurance/re-insurance litigation
- Consulting regarding various contract interpretation disputes
- Consulting regarding lien perfection and priority dispute
- Consulting regarding various bankruptcy confirmation, post-confirmation and claims matters: PBGC and collective bargaining issues; disclosure and confirmation requirements; professional responsibility; domestic support obligations and other disputes

Court-appointed Receiver

- Liquidating receiver for a not-for-profit cultural organization

Mediator and Arbitrator in numerous bankruptcy, civil and criminal cases and post-confirmation trust matters

- Hold a Certificate of Completion of Bankruptcy Mediation Training (40 hours) from St. John's University and the American Bankruptcy Institute
- Complete mediation training with other organizations on an on-going basis

Other Professional Qualifications:

- Panel Mediator, U.S. Bankruptcy Court, District of Delaware
- Alternative Dispute Resolution, Neutral Evaluation, Mediation Panel Member, U. S. District Court, Western District of PA
- Panel Mediator, U.S. Bankruptcy Court, Western District of PA
Member of FedArb (Federal Arbitration, Inc.), an association of former federal judges

who now serve as arbitrators and mediators in complex commercial cases

- Mediation Council of Western Pennsylvania
- PA Council of Mediators

May 18, 2015 - Present

Professor of Practice

University of Pittsburgh School of Law
3900 Forbes Avenue
Pittsburgh, PA 15260

- Teaching Bankruptcy and Advanced Bankruptcy; other courses to be determined

July 8, 2013 - July 5, 2015

Tenured, Full Professor of Law

Indiana Tech Law School
1600 East Washington Blvd.
Fort Wayne, IN 46803

- Teaching Contracts, Commercial Transactions and Bankruptcy
- Faculty responsibilities included Faculty Secretary; Promotion and Tenure Committee; Dean's Search Committee; Long Range Planning Committee; Admissions Committee (chair); Library Advisory Committee (chair); Faculty Senate (law school representative); Graduate Council (law school representative); Mentoring Committee; Experiential Learning Task Force (chair of cross-curricular hypothetical development for Fall 2014-15 1L class and Spring 2L class); various other task forces established by the Dean to address particular needs; student mentor; junior faculty mentor; advisor to assigned students at risk; CLE presentations to bench and bar

October 30, 1987 - May 31, 2013

Judge, United States Bankruptcy Court Western District of Pennsylvania
5490 U.S. Steel Tower, 600 Grant Street Pittsburgh, PA 15219
(Chief Judge Jan. 8, 2000 through Dec. 31, 2004)

October 1, 1991 - June 30, 1996 and January 1, 1998 - May 31, 2013

Judge, sitting by special designation in the United States Bankruptcy Court District of Delaware

Marine Midland Plaza
824 Market Street
Wilmington, DE 19801

May 13, 1993 - June 30, 2001

Judge, sitting by special designation in the United States Bankruptcy Court Eastern District of Pennsylvania
900 Market Street, Suite 400

Philadelphia, PA 19107

July 1, 2004 - December 31, 2008 (and completing assigned cases until retirement on May 31, 2013)

Judge, sitting by special designation in the District Court of the Virgin Islands

Bankruptcy Division, District of St. Thomas and St. John

5500 Veterans Drive, Room 310

St. Thomas, Virgin Islands 00802

2004 - 2014

Adjunct Professor of Law

Bankruptcy since 2004 and Advanced Bankruptcy since 2008

Secured Transactions (Fall Term, 1997)

University of Pittsburgh School of Law

3900 Forbes Avenue

Pittsburgh, PA 15260

January 1976 - October 1987

Assistant United States Attorney

633 U.S. Post Office & Courthouse Seventh & Grant Street

Pittsburgh, PA 15219

- Supervisor of the Erie branch office
- Responsible for all civil and criminal litigation in the seven counties of northwestern Pennsylvania
- Grand jury investigations and prosecution of complex criminal matters, including tax fraud, RICO, narcotics, and major white collar crimes
- Prosecution and defense of civil matters, including torts, medical malpractice, admiralty, immigration and environmental claims, bankruptcies, injunctions, Social Security appeals
- Appellate brief writing and oral argument of cases before the U.S. Court of Appeals for the Third Circuit
- Lecturer for and participant in various seminars conducted by the U.S. Department of Justice and various universities

March 1974 - December 1975

Law Clerk to Judge Gwilym A. Price, Jr.

Superior Court of Pennsylvania

Pittsburgh, PA 15219

July 1973 - February 1974

Law Clerk to President Judge John N. Sawyer

Beaver County Court of Common Pleas

Beaver, PA 15009

COURT ADMISSIONS

Pennsylvania Supreme Court, October 4, 1973
United States District Court, Western District of Pennsylvania, October 4, 1973
United States Court of Appeals for the Third Circuit, February 11, 1976
United States Tax Court, December 14, 1983
United States Supreme Court, July 1, 1985
Eastern District of Pennsylvania, March 14, 2018
Pro hac vice admissions in Norther and Southern Districts of West Virginia and Eastern District of Virginia

EDUCATION

University of Pittsburgh School of Law
1973 - Juris Doctor (University Scholarship and Pitman Fellowship recipient)

University of Pittsburgh
1970, 1971 - Political Science Graduate Courses on Fellowship

University of Pittsburgh
1970 - B.S. Psychology, B.A. English Writing

GRADUATE AWARDS AND ACTIVITIES (Available Upon Request)

PROFESSIONAL RECOGNITIONS AND AWARDS

- Recognition in *The Best Lawyers in America*, Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law
- Advisory Member to UPSOLVE, 2017 - present
- Law 360 Honorable Mention as one of the Top Ten Bankruptcy Judges in History
- Western Pennsylvania Trial Lawyers Recognition for Dedicated Judicial Service, 2014
- The Judith K. Fitzgerald Bankruptcy American Inn of Court named in my honor, 2013
- Debtors' Bar Association of Western Pennsylvania Recognition for Dedicated Judicial Service, 2013
- Lawrence P. King Award for Excellence in the Field of Bankruptcy, 2011
- NCBJ Eagle Award, 2011
- Elected to Membership in the American Law Institute, 2008
- Association of Insolvency & Restructuring Advisors, 2007
- Conrad B. Duberstein "Mensch" Award, Presented by NCBJ, 2006
- Elected as a Fellow of the American College of Bankruptcy, 2004
- Turnarounds & Workouts - Top Ten Bankruptcy Judges (3 years)
- Who's Who of American Women, 1991 - present
- Oxford's Who's Who, 1992 – present
- Barron's Who's Who of Distinguished Professionals, 2015 - present

- United States Department of Justice Special Achievement Awards
- Federal Criminal Investigators Special Service Award, 1988
- United States Department of Commerce Operation Exodus Outstanding Performance Award, 1986
- Pittsburgh Magazine Special Recognition Award, 1980

PROFESSIONAL ACTIVITIES (GOVERNMENT RELATED)

- 1992 - 1998 Advisory Committee of Bankruptcy Judges
Administrative Office of the United States Courts, Chair, 1994 - 1996
- 1993 - 1997 Chambers and Courtroom Umbrella Group
Administrative Office of the United States Courts
(Dealt with automation and technology matters in the federal courts)
- 1994 - 1998 Chambers Case Management User Group, Chair, 1995 - 1998
(Monitored automation and technology projects under the auspices of the Chambers and Courtroom Umbrella Group)
- 1994 - 2002 Executive Sponsor, BK CHASER Automation Project
Bankruptcy CHASER Ad Hoc Working Group
(A project that enhanced the utility of information in the court's databases for purposes of judicial case management and ended upon implementation.)
- 1994 - 1998 Education Committee
United States Court of Appeals for the Third Circuit
- 1995 - 1996 Bankruptcy Case Management & Statistics Umbrella Group
Administrative Office of the United States Courts
(Dealt with automation and technology matters in the bankruptcy courts, particularly regarding the clerk's offices)
- 1997 Bankruptcy Statistics and Data Collection Project
Administrative Office of the United States Courts
(Evaluated bankruptcy data needs of various constituencies as part of a technology modernization project)
- 1998 - 2002 Program Planner, Bankruptcy and Commercial Law Presentations
Third Circuit Judicial Conferences
- 2001 - 2005 Nonvoting Bankruptcy Judge Representative
Third Circuit Judicial Council
- 2002 - 2005 Member, Judicial Council
Bankruptcy and Magistrate Judges Committee of the United States Court of Appeals for the Third Circuit

2006 - Present Founding Member and Program Planner, Third Circuit Bankruptcy Education Committee

Various Program Planner, PA Bar Institute; Commercial Law League of America, ABI, Inns of Court

PROFESSIONAL ACTIVITIES (NON-GOVERNMENT RELATED)

1973 - present Allegheny County Bar Association
Member of Audit and Technology Utilization Committees
Member, Federal Court, Bankruptcy and Commercial Litigation, and Women and the Law Sections
Formerly Chair, Audit Committee
Member, Finance Committee, Continuing Legal Education, Speakers' Bureau and Public Relations Committees; Trustee, Criminal Trial Lawyers of Allegheny County; Editor of Newsletter of Criminal Trial Lawyers Association Nominating Committee

1987 - present National Conference of Bankruptcy Judges
2010 - 2012, Associate Editor, American Bankruptcy Law Journal
2008 - 2015, Founder and Inaugural Chair, NCBJ Next Generation Program
2002 - 2003, Immediate Past President
2001 - 2002, President
2000 - 2001, Vice President/President Elect; Chair of Elections and Site Selection
1995 - 1998, Treasurer
1999 - 2000, Chair, Endowment for Education
1987 - present - various committees and task forces

1988 - present American Bankruptcy Institute
2002 - 2007 - Director
Various - Co-chair, Committee on Mass Torts; Member, Nominations Committee
Originator of Law Student Writing Competition for Bankruptcy Litigation Committee, now a competition of the ABI itself
Originator of Mid-Atlantic Regional Program and First Judicial Chair Judicial Liaison
Planner, Caribbean Conference
Member, Education and Membership Committees
Member, Bankruptcy Litigation Committee and Chair of Project Subcommittee Liaison with Commercial Law League of America
Member, Mediation Committee

1988 - 1993 Federal Investigators Association

various American Bar Association
Member, National Conference of Federal Trial Judges, Public Education Committee, Business Litigation Section

1991 - present Commercial Law League of America
2002 - present Member of Bankruptcy Section Executive Council
2004 - 2006 Member of National Ethics Committee

1992 - 2014 National Conference of Bankruptcy Clerks

1992 - present Women's Bar Association of Western PA
Founding Member

1992 - 2014 American Inns of Court, Honorable Amy Reynolds Hay Chapter
Founding Member and Master (Since 1995, Honorary Master)

1995 - present International Women's Insolvency and Restructuring Confederation (IWIRC)
Charter Member, Pittsburgh Chapter

2000 - present Federal Bar Association
Awarded Lifetime Honorary Membership, 2001

2001 - 2006 Association of Trial Lawyers of America
Judicial Fellow - Position discontinued by the Association

2001 – 2010, 2013 – present Turnaround Management Association, Pittsburgh Chapter

2002 - 2006 International Bar Association

2004 - present American College of Bankruptcy
Chair, Liaisons Committee
Program Developer for Law School Liaison Subcommittee
Program Developer for Third Circuit Education Program (October 12, 2012)
Member, Judicial Outreach Committee
Member, Third Circuit Education Committee

2008 - present American Law Institute
Elected Member
Currently Consultative Group Member for Consumer Contracts

2010 - present The Judith K. Fitzgerald Western Pennsylvania Bankruptcy American Inn of Court
Founding Member and Counselor

Chair at various times of Program, Membership and Business Planning Committees

- 2013 - present The Pennsylvania Bar Association
- 2013 - 2015 The Allen County [Indiana] Bar Association
- 2013 - 2015 The Benjamin Harrison American Inn of Court
- 2015 - present FedArb (Federal Arbitration, Inc.)
An organization of former federal judges who serve as arbitrators and mediators in complex civil cases
- 2015 - present Mediation Council of Western Pennsylvania
- 2016 - present Bar Association of the Third Federal Circuit
- 2018 – present PA Council of Mediators

MISCELLANEOUS

Various Interviews in TV, radio and print news media regarding bankruptcy and insolvency matters

Various podcasts and debates on bankruptcy topics including commentary on U.S. Supreme Court cases and matters of current interest to insolvency practitioners

Participant in various symposia on insolvency matters, including The DePaul Institute Symposium; the View from the Bench in Washington, D.C.; colloquium on international issues regarding chapter 11 reorganization in Washington, D.C. at the French Embassy; judicial roundtable on international insolvency issues in Dublin, Ireland and cross-border mass tort judicial perspectives in London, United Kingdom

Judge, Moot Court Trial and Appellate Competitions for University of Pittsburgh School of Law

Judge, Tax Moot Court Competition at Duquesne University School of Law

Former Lecturer substituting for the Adjunct Professor, Trial Tactics Duquesne University Law School

Guest Lecturer in Bankruptcy, University of Miami School of Law

Instructor and Lecturer for professional groups including:

The Federal Judicial Center; U.S. Attorney General's Advocacy Institute; University of Pittsburgh School of Law Intensive Trial Advocacy Course; Third Circuit Court of Appeals

Judicial Conference; National Conference of Bankruptcy Judges; The American Inns of Court; The Commercial Law League of America; IWIRC; Law Education Institute; American Bankruptcy Institute; The Pennsylvania Bar Association; Allegheny County Bar Association; Pennsylvania Bar Institute; Professional Education Systems, Inc.; Pennsylvania Institute of Certified Public Accountants; The Association of Insolvency & Restructuring Advisors; The Bar Association of the U.S. Virgin Islands; The Internal Revenue Service; The Bankruptcy Bar Association of the Southern District of Florida; The State Bar Association of Nevada (Family Law Practitioners); The Kentucky Bar Association; National Association of Chapter 13 Trustees; Georgetown University Law Center; The Advanced E-Discovery Institute and Views from the Bench; LexisNexis Mealey Conference Groups; DePaul University Business and Commercial Law Symposium; Southern Illinois University School of Law; The Association of Insolvency & Restructuring Advisors; Turnaround Management Association; Commercial Finance Association; Perrin Conferences; Emory Bankruptcy Developments Journal Symposium; The National Association of Attorneys General; The Indiana Tech Law School Lunch and Learn; The Judith K. Fitzgerald Bankruptcy American Inn of Court; American College of Bankruptcy; Equipment Leasing and Finance Agency; The American Bar Association; Allen County Bar Association; Energy and Mineral Law Foundation

SELECTED CIVIC ACTIVITIES including service on not-for-profit boards (Available on Request)

SELECTED PUBLICATIONS

American Bankruptcy Institute Mediation Committee Newsletter: “Perspectives On Mediation: Which Do You Endorse?” (July, 2018)

Commercial Law League and Tucker Arensberg Blogposts: “Creating a Circuit Split Regarding the Fair Debt Collection Practices Act: *Rotkiske v. Klemm*, --- F.3d ----, 2018 WL 2209120 (3d Cir. May 15, 2018)” (May 2018)

Commercial Law League and Tucker Arensberg Blogposts: “Pre-Petition ‘New Value’ Counts Toward The Preference Defense; Post-Petition ‘New Value’ Does Not” (May 2018)

Commercial Law League and Tucker Arensberg Blogposts: “No Monkeying Around With This Opinion - *Naruto v. Slater*, No. 16-15469, 2018 WL 1902414 (9th Cir. Apr. 23, 2018)” (Apr. 2018)

Commercial Law League and Tucker Arensberg Blogposts: “Something Amazing – A Unanimous Opinion by the United States Supreme Court in a Bankruptcy Case, Affirming and Remanding to the Seventh Circuit Regarding the Safe harbor of 11 U.S.C. § 546(e): *Merit Management Group, LP v. FTI Consulting, Inc.*” (Mar. 2018)

Tucker Arensberg Blogpost: Secured Lenders, Take Note! *In Re Sunnyslope* Is Something You Want To Know About (Oct. 2017)

Oh Dear! What Can The Matter Be? What Will Become Of My Oil And Gas Lease In Bankruptcy?, 37 Energy & Min.L.Instit.237 (2017) (co-author with James W. Kane)

The Powers of The U.S. Congress: Where Its Constitutional Authority Begins and Ends, in progress with Brien Hallett as primary author, to be published by ABC-CLIO (co-author of Chapter 5, "The Power to Regulate Bankruptcies" with Professor Nancy Marcus)

Commercial League and Tucker Arensberg Blogposts: "Third Circuit Rules that A Homeowner's Mortgage Insurance Obligation Is Not Modified By A Mortgage Modification" (Mar. 2017)

Commercial Law League and Tucker Arensberg Blogposts: "Alternative Dispute Resolution (ADR): Is it Right for You?" (Jan. 2016)

Commercial Law League Blogpost: "The Last Screen: A Cautionary Tale" (Nov. 2015)

Commercial Law League Blogpost: "Growing Medical Marijuana, Problematic In Bankruptcy, and Out" (Aug. 2015)

The National Edition, Rutter Group, Practice Guide, Bankruptcy (2010 - present) (co-editor with U.S. Bankruptcy Judge Mary Walrath and Retired U.S. Bankruptcy Judge and Law Professor Arthur Gonzalez)

Planning for the Time of Trouble: *Cabrera v. Collazo*, A Case in Point (Commercial Law World Magazine, Summer 2014)

Bankruptcy and Divorce: Support and Property Division, Second Edition, Aspen Law Business (1994) (co-author) (with annual supplements through 2003)

"When Worlds Collide: Bankruptcy and Its Impact on Domestic Relations and Family Law, Second Edition, American Bankruptcy Institute (2003) (co-author)

Bankruptcy Issues for State Trial Court Judges: A Publication of the American Bankruptcy Institute supported by a grant from the National Conference of Bankruptcy Judges Endowment Fund for Education (c.1995) (co-author)

"Wrestling With Bankruptcy and Divorce Laws in Property Division and Support Issues," 6 JOURNAL OF THE AMERICAN ACADEMY OF MATRIMONIAL LAWYERS 1 (1990) (co-author)

"Wrestling With Bankruptcy and Divorce Laws in Property Division and Support Issues," 6 AMERICAN JOURNAL OF FAMILY LAW, No. 2, 109 (1992) (co-author)

Closing Bankruptcy Cases (a manual for the Federal Judicial Center) (1991) (author)

"Litigating Property Settlement and Support Issues -- A Perspective From the Bankruptcy Bench" Published as a chapter in BANKRUPTCY ISSUES IN MATRIMONIAL CASES: A PRACTICAL GUIDE, Prentice Hall Law & Business (1992) (co-author)

"The Appraiser In Bankruptcy Court: Getting Appointed, Getting Paid and Testifying as Experts," Vol. 5 AMEA APPRAISER, No. 2 (Summer 1992) (author)

"The Judge's Role in Insolvency Proceedings: The View From the Bench; The View From the Bar," Symposium in conjunction with St. John's University School of Law, published at Vol. 10, No.2 Am. Bankr. Inst. L. Rev.511 (Winter 2002)

"Forum Shopping, First Day Order and Case Management Issues in Bankruptcy," (Symposium at DePaul University Law School), published at Vol. 1, No. 4 DePaul Business and Commercial Law Journal 515 (Summer 2003)

"We All Live in a Yellow Submarine: BAPCPA's Impact on Family Law Matters," (Symposium at Southern Illinois School of Law) (author), published at 31 Southern Illinois University Law Journal 563 (Spring 2007)

"Chapter 11 Reorganization Processes in Mass Tort Cases: Success or Failure?" (Mealey's) (author)

"Caswell and Leser, Polar Approaches to Support Arrearages in Chapter 13," 10 Norton Bankruptcy Law Adviser, Clark Boardman Callaghan (Oct. 1992) (co-author)

Chapter 5, "Abstention," Chapter 11 Theory and Practice - A Guide to Reorganization, Queenan, Hendel and Hillinger, eds. (1994)

"Evaluating Involuntary Bankruptcies," Commercial Law League of America (1996)

"Snippets," a column in The Conference News, a quarterly publication of and for the National Conference of Bankruptcy Judges (1998 - 2013) (author)

A Local Rules Guide for Pennsylvania Western District Bankruptcy Court, Pennsylvania Education Systems, Inc., 1989 (collection of forms) (author)

Pennsylvania Law of Juvenile Delinquency & Deprivation, Bisel, 1976 (editor and senior researcher, annual supplement preparer)

U.S. Attorney's Office Forms Manual, 1979-1985 (contributor)

Ideas and Figures, University of Pittsburgh Literary Magazine, 1968 (contributor)

November, 2018