Receivership News

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The Receiver's Oath of Neutrality What It Means, Why It Matters, and What Happens When It Is Broken

By Richard P. Ormond*

A receiver is not a client's agent. Not the bank's agent. Not the broker's partner, the servicer's cost-saving tool, nor the borrower's adversary. The receiver answers to the court, and to the court alone. That is not a technicality. It is the underlying premise of the receivership remedy.

California law says so directly, dating back to early common law. Yet, across virtually every receivership proceeding – whether real estate, business, commercial, or agricultural – practitioners often mistakenly consider the neutrality requirement as an informality, to be acknowledged and then set aside when it becomes inconvenient. But, departures from neutrality have serious consequences for the receiver, for the parties that sought or facilitated the appointment, and for the integrity of the receivership proceeding itself.

This article is a reminder of what the law requires, what the courts say, and what is at stake when the obligation of neutrality is ignored.

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How Receivers Can Defeat Bad-Faith Bankruptcies

By Jackson Wyche*

A bankruptcy petition is one of the very few ways hostile litigants can reliably disrupt a state court receivership. A receivership court's exclusive, *in rem* jurisdiction over the estate assets gives it broad power to thwart interference, including by compelling non-parties to turn over receivership property and preventing (state court) litigation involving the assets from proceeding outside of the receivership action. But that power largely evaporates when a bankruptcy petition is filed. A receiver appointed over a business that files a bankruptcy petition must obtain relief from the bankruptcy court, otherwise the receivership appointment is effectively paused, if not terminated altogether pending a final accounting. Although the receiver can (in theory) remain in possession of the assets while seeking relief from turnover, if that relief is denied, the receiver must release the assets to either the bankruptcy trustee or

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PO Box 10
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714-632-6800 • Receivers.org

Publisher's Comments

By Dominic LoBuglio*

Dominic LoBuglio

***Dominic LoBuglio** *is a CPA and has provided forensic accounting and taxation services to receivers for 40 years. He has served CRF since its inception as a board member and officer for LA/OC and the State.*

I am happy to report great progress for the mission of the California Receiver's Forum to facilitate communication and education concerning all legal, procedural and administrative aspects of judicially appointed receivers. We have recently produced several education programs in Los Angeles and San Diego. These programs included **The Interaction of Bankruptcy and Receivership, Health & Safety Receiverships**, and **Probate Fiduciary vs. Receiver Roles in Estate Administration**. In August we will host **Issues in Receivership: From the Preliminary Report to Closing the Sale** in San Francisco. Thanks to Ervin Cohen & Jessup, Fennemore, and Buchalter for hosting these programs.

In May, as in prior years, we produced several programs at the California Bankruptcy Forum Annual Insolvency Conference. I want to thank **Michele Vives** and **Nicholas Wilson** for writing an article for this issue to tell us about the event. Based on the photos in their article, everyone had a good time.

Our members possess a wealth of experience and expertise. Please consider sharing your knowledge by writing an article for this newsletter and by participating in an education program. Alternatively, if there is a topic you would like to see addressed in an article or education program, let us know and we will try to find someone with the relevant expertise.

Thank you to our advertisers who make this publication possible. I encourage our members to reach out to our advertisers to acknowledge their contributions and support them.

Remember that downloads for most back issues of *Receivership News* are available on CRF's website: crf.memberclicks.net/receivership-news-articles. Readers are encouraged to cite, copy, and use *Ask The Receiver* and *Receivership News* articles and information.

Please enjoy this issue, which includes a discussion about the receiver's oath of neutrality by **Richard Ormond**, ways for receivers to defeat bad-faith bankruptcies by **Jackson Wyche**, a professional profile of **Michael Gomez**, and informative contributions from our columnists **Peter Davidson** and **Ryan Baker**.

Co-Editors' Comments

By Michael Muse-Fisher* and Blake Alsbrook*

Michael Muse-Fisher

*__Michael Muse-Fisher__ is a Shareholder at Buchalter, a Professional Corporation. He regularly represents receivers across all receivership types.

Blake Alsbrook

***Blake Alsbrook** is a Partner of Ervin Cohen & Jessup, LLP. He is a receiver and counsel for prominent receivers.*

As summer winds down and students across the country prepare for a new school year, the receivership community is doing much the same. This edition of *Receivership News* offers lessons, new faces, and practical guidance to help us all avoid the legal equivalent of detention.

Every school year begins with introductions. In *Dirty Deeds Done Dirt Cheap*, **Michael J. Gomez** reflects on a career he describes simply as "I solve people's problems." From bankruptcy clerkships and insolvency work to commercial litigation, receiverships, and raising three children, Gomez shares the experiences that led him to a profession focused on navigating financial distress. Readers will see how careers often develop through a blend of hard work, opportunity, and adaptability.

In *Heard in the Halls*, **Ryan Baker** reports on developments in California courts, including new judges, courthouse updates, department renumbering, and expanded informal discovery procedures. For practitioners, these are important changes worth noting.

Jackson Wyche's *How Receivers Can Defeat Bad-Faith Bankruptcies* serves as a practical guide for addressing bankruptcy filings designed to disrupt state court proceedings, covering dismissal strategies, turnover issues, and appointment-order provisions that can strengthen a receiver's position.

Richard Ormond's *The Receiver's Oath of Neutrality* examines the principle that receivers serve the court, not the appointing party, explaining why neutrality matters and the consequences when it is compromised.

Finally, *Ask the Receiver* explores *Semaan v. Mosier* and its recognition of quasi-judicial immunity for court-appointed receivers, while addressing the practical distinction between discretionary and ministerial acts.

Whether you are a seasoned professional or new to receiverships, we hope this issue provides useful additions to your toolkit.

Receiver's Oath...

Continued from cover page.

I. The Rule Is Clear

California Rules of Court, rule 3.1179 ("CRC 3.1179") states the neutrality requirement in plain terms. Under subdivision (a), the receiver is the agent of the court—not of any party—and as such: (1) is neutral; (2) acts for the benefit of all who may have an interest in the receivership property; and (3) holds assets for the court and not for the plaintiff or the defendant.[1]

There is little room for ambiguity. There are no exceptions for "practical arrangements." No carve-out appears for side understandings that may have been discussed before the appointment order is entered. The receiver is neutral because the receiver's authority comes from the court.

Subdivision (b) goes further. The party seeking appointment may not, directly or indirectly, require any contract, agreement, arrangement, or understanding with the proposed receiver concerning: (1) the receiver's role after a trustee's sale or termination of the receivership, without specific court permission; (2) how the receiver will administer the estate, what the receiver will charge, or what the receiver will pay approved third parties; (3) who the receiver will hire or seek approval to hire; or (4) what capital expenditures will be made on the property.[2]

Read that list again. It covers nearly every substantive decision a receiver makes. That is not an accident. The rule is designed to ensure that the receiver's judgment from nomination through discharge is exercised for the benefit of the court—not to whomever sought the appointment.

CRC 3.1179 was adopted as rule 1903 effective January 1, 2002 and renumbered as rule 3.1179 effective January 1, 2007. The Judicial Branch's 2026 California Rules of

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Court publication continues to publish the same operative neutrality language.[3]

II. The Case Law Says the Same Thing

The receivership remedy is older than California itself. Receivers trace to the Chancery Courts that emerged in England after the Norman Conquest of 1066, which functioned as courts of equity and appointed officers to manage the assets of debtors and landowners so that debts could be satisfied in an orderly way.

The term "receiver" entered common use in England in the mid-16th century. In the United States, equitable jurisdiction—the jurisprudential home of the receivership remedy—is grounded in Article III, Section 2 of the Constitution. The neutrality principle that CRC 3.1179 codifies is not a modern procedural innovation. It is woven into the equitable origins of the remedy. Courts have been saying the same thing, in different words, for centuries.

CRC 3.1179 is not an isolated rule. It codifies a principle California courts have recognized for well over a century.

In *Pacific Railway Co. v. Wade*, the California Supreme Court explained that receivership property is in *custodia legis* and that "[t]he receiver is indifferent between the parties." The court continued: "His possession is the possession of the court, for the benefit of all persons interested, whether named as parties in the action or not," and no sale, debt payment, or contract may be made without court sanction.[4] The important word is "indifferent." Not sympathetic to the lender, not hostile to the borrower, not aligned with anyone. Indifferent between the parties—because the receiver's duty runs to the court.

In *Pacific Indemnity Co. v. Workmen's Comp. Appeals Bd.*, the Court of Appeal described a receiver as an officer of the court whose possession is the court's possession for the benefit of all persons who may show themselves entitled to the property.[5] And in *Security Pacific National Bank v. Geernaert*, the Court of Appeal rejected the phrase "the bank's receiver" as legally inaccurate. A receiver, the court explained, is an officer or representative of the court, is not an agent of either party, represents all persons interested in the property, and acts as a fiduciary on behalf of both parties as a representative and officer of the court.[6]

These authorities span nearly a century and underscore the same thing: the receiver is the court's officer, not the nominating party's agent. The appointing party may nominate. The court appoints. Once the court appoints, the receiver's obligations run to the court and to all persons interested in the receivership property.

III. What Neutrality Actually Demands

Neutrality is not passivity. A neutral receiver does not merely avoid open hostility toward one side. Neutrality is an affirmative obligation. It means the receiver acts on independent judgment—judgment guided by the receivership estate and by all persons with interests in the property, not by what is convenient for the lender, advantageous to the borrower, or profitable for the receiver or an affiliated professional.

In practice, this means several things:

1. **The receiver does not take instructions from the appointing party.** The lender does not direct how the receiver manages the property, which vendors it hires, or how it prices assets for sale. Once appointed, the receiver answers to the court. Attempts to direct the receiver outside proper court proceedings—even through informal conversations—risk compromising neutrality and creating grounds for later objection.

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2. **The receiver discloses material information to the court.** A neutral receiver does not manage information to favor any party. Prior arrangements, economic relationships, compensation structures, and conflicts of interest should be disclosed before or at the time of appointment, or promptly when discovered.

3. **The receiver exercises independent professional judgment on material decisions.** This includes hiring decisions, capital expenditures, asset-disposition strategies, and fee arrangements with third parties. A receiver whose judgment on any of these points is pre-committed—expressly or by economic incentive—invites challenge.

4. **The receiver does not acquire interests adverse to the estate.** Serving as receiver while simultaneously holding an undisclosed economic interest in transactions involving receivership assets is a paradigmatic conflict. It is also the kind of arrangement most likely to be defended as a cost-saving measure until it is scrutinized by the court.

The common misperception—that the appointing party "hires" the receiver, as it would hire any other professional—gets the remedy backward. The receiver is not hired. The receiver is appointed by a court, on behalf of the court and for the benefit of those with interests in the property. The appointing party nominates; the court decides. And once the court decides, the receiver's obligations run to the court.

IV. The Consequences of Getting It Wrong

The neutrality requirement is not merely aspirational. Courts enforce receiver duties, and the consequences for receivers, appointing parties, and participants in a conflicted arrangement can be significant. The better formulation is not that every violation automatically produces every remedy, but that compromised neutrality creates a record on which parties may seek surcharge, fee reduction, removal, sale relief, or other equitable remedies.

Surcharge

The primary remedy for a receiver's breach of duty is often a surcharge. In Shannon v. Superior Court, the Court of Appeal observed that a receiver is obliged to act in the best interests of all parties involved in the action and may be exposed to a surcharge to the extent it can be shown the receiver acted contrary to those responsibilities.[7]

People v. Riverside University likewise recognizes surcharge as the proper procedure where a loss has been sustained through a receiver's misconduct in connection with a sale and it is impracticable to set aside the sale.[8] *Stewart v. State of California* provides another example: the Court of Appeal directed the trial court to surcharge the receiver for unpaid priority tax obligations that the receiver had reported as payable.[9]

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Receiver's Oath...
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A surcharge is a monetary remedy imposed against a receiver or the receiver's bond when the receiver fails to properly discharge receivership duties. It is not merely theoretical. A receiver who enters a receivership already committed—formally or informally—to a particular outcome materially increases the risk of surcharge litigation.

Fee Reduction, Disgorgement, and Compensation Risk

A conflicted receivership also creates compensation risk. Interim fees are ordinarily subject to final court review, and a receiver's right to compensation depends on the court's equitable supervision of the receivership. Where the receiver's compensation was earned while operating under an undisclosed conflict, parties may seek fee reduction, disgorgement, or denial of compensation. The safer publication formulation is that these remedies may be sought and may be available depending on the facts, the appointment order, the benefit conferred, and the court's equitable assessment.

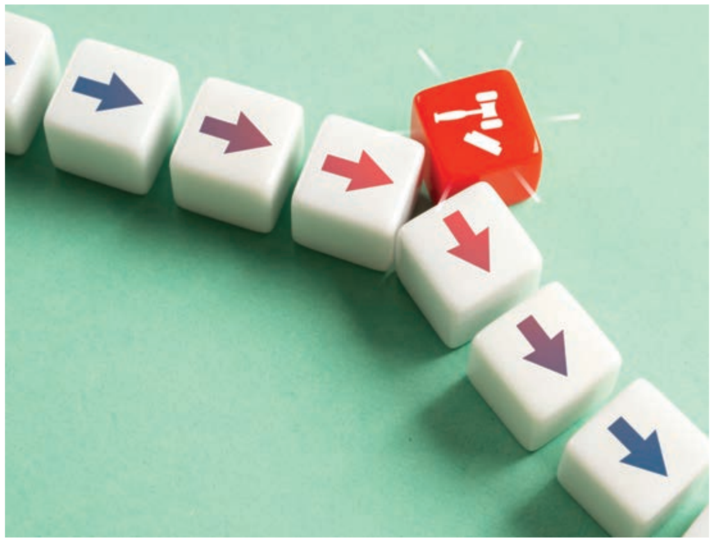
Sale Relief and Transaction Challenges

A sale or other transaction completed through a compromised receivership process may also be vulnerable to challenge. *Geernaert* holds that a receiver's sale and final accounting are disposed of by court order and that a court abuses its discretion in confirming a fraudulent, unfair, or oppressive sale.[10] *Cal-American Income Property Fund VII v. Brown Development Corp.* is a direct receiver-sale example in which the Court of Appeal reversed an order authorizing and confirming a private receiver sale.[11]

The remedy is fact specific. Where assets have already been transferred to third parties, courts may consider reliance interests, finality, notice, purchaser status, and the availability of surcharge or monetary relief. But the risk is real: a conflicted process can undermine the finality and value of the very transaction the receivership was intended to protect.

Liability for the Appointing Party

Lenders, special servicers, and other parties that sought an appointment in violation of CRC 3.1179—or



that facilitated or failed to disclose a prohibited arrangement—should not assume the receiver's separate appointment insulates them from consequences. The rule binds the party seeking appointment as well as the proposed receiver.[12] At minimum, a prohibited side arrangement can supply the factual predicate for objection, removal, fee challenge, surcharge motion, sale challenge, or other equitable relief. Punitive damages should be discussed more cautiously and only where an independent tort claim and the statutory requirements for exemplary damages can be shown.

The short-term savings from a "free" or below-market receiver can evaporate quickly when opposing counsel files a surcharge motion, seeks fee relief, or challenges the integrity of the receiver's transactions.

V. A Note on Disclosure

Many of the problems described in this article share a common feature: nondisclosure. The prohibited arrangement is not disclosed to the court. The receiver's economic relationship with the appointing party is not revealed. The *quid pro quo*—nominal receiver fees in exchange for a sales listing, a management contract, or some other economic benefit—is kept off the record because the participants know it may not survive judicial scrutiny.

Disclosure matters because it changes the court's ability to evaluate the arrangement. CRC 3.1179 does not prohibit every prior relationship between a proposed

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receiver and an appointing party. It prohibits the appointing party, directly or indirectly, from requiring the specified contracts, agreements, arrangements, or understandings, and it prohibits the proposed receiver from entering into them. An exception appears in subdivision (b)(1), which permits a post-trustee's—sale or post-termination role with specific court permission.

If the issue is disclosed to, and approved by, the court, then it is not in violation of the Rule 3.1179. Also. Thus, practitioners navigating any arrangement that touches the prohibited categories should seek court approval, on the record, before proceeding. If the arrangement cannot survive disclosure, that is an answer—and it is the right answer.

VI. The Takeaway for Practitioners

1. **The receiver is the court's officer.** Not the lender's agent, not the borrower's adversary, not the brokerage's employee. The receiver's loyalty and accountability run to the court.

2. **Pre-appointment arrangements on CRC 3.1179(b) subjects are dangerous.** The rule prohibits the appointing party from requiring, and the proposed receiver from entering into, the specified arrangements. At minimum, any related issue should be disclosed and addressed by court order.

3. **Neutrality is an affirmative, ongoing obligation.** It does not end at appointment. A receiver who drifts into alignment with the appointing party over the course of a receivership creates a record for later challenge.

4. **Disclosure is essential.** Potential conflicts and economic relationships should be disclosed to the court. If you cannot disclose it to the court, it probably should not be done.

5. **Ignorance is not a defense.** Receivers, lenders, and counsel are expected to know the rules governing the remedy they invoke.

6. **The consequences can be real.** Surcharge, fee reduction, removal, sale challenge, and other equitable remedies are not hypothetical, but the availability of any particular remedy will depend on the record and governing law.

The receivership remedy exists because courts need a mechanism to preserve assets and protect interested parties pending resolution of a dispute. A neutral receiver is not a constraint on that mechanism—it is what makes the mechanism work. The moment the receiver is aligned with one party, the remedy is compromised, and everything the receiver does becomes contested.

That is expensive. It is time-consuming. And it is avoidable.

Citation Notes

1. Cal. Rules of Court, rule 3.1179(a).
2. Cal. Rules of Court, rule 3.1179(b)(1)–(4).
3. Cal. Rules of Court, rule 3.1179; rule 3.1179 renumbered effective Jan. 1, 2007; adopted as rule 1903 effective Jan. 1, 2002.
4. Pacific Ry. Co. v. Wade, 91 Cal. 449, 458 (1891).
5. Pacific Indem. Co. v. Workmen's Comp. App. Bd., 258 Cal. App. 2d 35, 40–41, 65 Cal. Rptr. 429 (1968).
6. Security Pacific Nat. Bank v. Geernaert, 199 Cal. App. 3d 1425, 1431–32, 245 Cal. Rptr. 712 (1988).
7. Shannon v. Superior Court, 217 Cal. App. 3d 986, 994–95, 266 Cal. Rptr. 242 (1990).
8. People v. Riverside University, 35 Cal. App. 3d 572, 582 n.6, 111 Cal. Rptr. 68 (1973).
9. Stewart v. State of California, 272 Cal. App. 2d 345, 350–51, 77 Cal. Rptr. 369 (1969).
10. Security Pacific Nat. Bank v. Geernaert, 199 Cal. App. 3d at 1432.
11. Cal-American Income Property Fund VII v. Brown Development Corp., 138 Cal. App. 3d 268, 274–75, 187 Cal. Rptr. 703 (1982).
12. Cal. Rules of Court, rule 3.1179(b).

**Richard Ormond is a partner at Buchalter LLP and he is the principal and founder of Stone Blossom Capital LLC. His expertise is in receivers, ABCs, provisional directors, and other equitable remedies.*

Richard Ormond

the debtor in possession, which would effectively scuttle the receivership—and could impact (or potentially eliminate) the super-priority status of the receiver's fees and expenses. Receivers facing bad-faith bankruptcies are on stronger footing than they may realize, however, particularly if their appointment orders are crafted to mitigate this risk.

Typically, a litigant files a chapter 11 petition on behalf of the entity in receivership, delivers notice to the receiver, and then demands immediate turnover of the Receivership Estate assets, claiming to be a debtor in possession, and argues that the receiver must immediately release the assets or run afoul of federal law and potentially face personal liability.

After the bankruptcy petition is filed, the Receiver cannot obtain dismissal or equivalent relief from the appointing (state or federal) court, but may seek relief in the bankruptcy court, usually by filing a motion for relief from turnover obligations, a motion for relief from the automatic stay, and/or a motion to dismiss the bankruptcy entirely. These motions may either be filed by the party who obtained the receiver's appointment, or by the receiver, provided the receivership court has issued an order authorizing such action.

Critically, absent a court order to the contrary, the receiver can temporarily remain in possession of the assets while the motion is pending. Because the bankruptcy stay is intended to maintain the status quo, a receiver in possession can argue that its possession of the Receivership Estate assets is the status quo, and that requiring immediate turnover would be contrary to the stay's purpose and could put the debtor's assets at risk.

Regardless of who seeks relief from the bankruptcy court, any motion should be filed quickly, as the receiver can only properly remain in possession post-petition for a brief period of time before the motion is filed. There is no explicit time limit established by statute or case law, but Judicial Counsel form RC-310 (the form receivership appointment order), at paragraph 25, directs the receiver to turn over property if a motion for relief from the stay/turnover obligation is not filed within 10 days of notice of the bankruptcy. Non-form orders may allow greater flexibility, but a receiver who waits around to file a motion is increasingly vulnerable to accusations of violating the automatic stay as time passes. Where a receiver's appointment order is silent regarding a bankruptcy, the receiver should immediately seek instructions ex parte from the receivership court upon receiving notice of the bankruptcy.

A bankruptcy filed to disrupt a receivership is especially vulnerable to a motion to dismiss based on abstention under 11 U.S.C. § 305(a)(1), which provides that the bankruptcy court can dismiss a bankruptcy petition "if the interests of creditors and the debtor would be better served by such dismissal." (Marciano v. Fahs (In re Marciano), 459 B.R. 27, 49 – 50 (B.A.P. 9th Cir. 2011).) In re Marciano identifies seven factors for courts to consider when evaluating such a dismissal request. These factors are: (1) the economy and efficiency of administration; (2) whether another forum is available to protect the interests of both parties or there is already a pending proceeding in state court; (3) whether federal proceedings are necessary to reach a just and equitable solution; (4) whether there is an alternative means of achieving an equitable distribution of assets; (5) whether the debtor and the creditors are able to work out a less expensive out-of-court arrangement which better serves all interests in the case; (6) whether a non-federal insolvency has proceeded so far in those proceedings that it would be costly and time consuming to start afresh with the federal bankruptcy process; and (7) the purpose for which bankruptcy jurisdiction has been sought.

A bankruptcy filed specifically to disrupt a state court receivership would likely run afoul of factors (1), (2), (3), (4), (6), and (7), and could also implicate factor (5) to the extent that the receiver stands in the shoes of the debtor and can negotiate a resolution with creditors. The further the receivership has progressed before the bankruptcy is filed, the stronger the argument. A debtor who files a bankruptcy petition immediately after the receiver is appointed and before the receiver takes possession of the assets is more likely to defeat a motion to dismiss based on abstention than a debtor who files on the eve of a receiver's proposed asset sale.

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Fortunately, there is a simple way to protect a receiver's appointment order against bad-faith bankruptcy filings and obtain near-immediate dismissal, subject to the bankruptcy court's discretion. While a state court cannot bar the filing of a bankruptcy, state law controls who is an "authorized person" for purposes of filing a bankruptcy. "A person filing a voluntary petition for bankruptcy on behalf of a business entity must be duly authorized to do so…State law generally determines who has authority to file a bankruptcy petition." (*In re Lake Cnty. Grapevine Nursery Operations*, 441 B.R. 653, 654 (Bankr. N.D. Cal. 2010) [*citing Price v. Gurney*, 324 U.S. 100, 106-07 (1945)]; see also *Sino Clean Energy, Inc. v. Seiden (In re Sino Clean Energy, Inc.,)*, 901 F.3d 1139, 1141 (9th Cir. 2018); see also *In re 3P Hightstown, LLC*, 631 B.R. 205, 210 (Bankr. D.N.J. 2021) [*citing Price*, 324 U.S. at 106) ("[i]t is well settled that applicable state law determines whether a bankruptcy proceeding was authorized")]; see also *In re Lake Cnty.*, 441 B.R. at 654 ("[i]f the person lacks authority, the court has no alternative but to dismiss the petition,")[citing Price, 324 U.S. at 106].)

Accordingly, so long as the appointment order vests the receiver with exclusive authority to file a bankruptcy petition on behalf of the entity or entities in receivership, a petition filed by anyone other than the receiver will likely be deemed improper and should be dismissed.

Even if the appointment order does not include such language, the receiver can argue that the mere fact of the appointment inherently divested pre-receivership management of its authority to file a bankruptcy petition. "Once a court appoints a receiver, the management loses the power to run the corporation's affairs. The receiver obtains all the corporation's power and assets," and a bankruptcy petition on behalf of a company in receivership is filed in "bad faith." (*Commodity Futures Trading Comm'n v. FITC, Inc.*, 52 B.R. 935, 937 (N.D. Cal. 1985).) However, the receiver is on stronger footing if the appointment order is explicit, and some bankruptcy courts will *sua sponte* dismiss bankruptcy petitions upon receiving notice of the appointment order and the receiver's disapproval of the petition.

A receivership court cannot divest an individual of the right to file an individual bankruptcy petition, so an individual bankruptcy petition filed to disrupt a receivership must still be challenged via the usual motion practice. But so long as the debtor is an entity and the receivership court has jurisdiction over that entity when it issues the appointment order, it can vest exclusive authority to file a bankruptcy petition in its receiver. This language may even be effective in rents and profits cases where the receiver is only appointed over the asset, and not its ownership entity.

Finally, the simplest solution of all is to simply instruct the attorney who filed the bankruptcy petition on behalf of the Receivership Estate entity to stop filing pleadings and turn over all client communications and fee advances. After all, an attorney retained to represent a debtor entity that is in receivership answers to the receiver, not the rogue litigant who hired the attorney without authorization, and the receiver is effectively the attorney's client. If the debtor files a petition but then fails to file schedules, the petition will be dismissed, and the receivership can continue uninterrupted. Of course, this solution depends on the attorney acknowledging the receiver's authority, which is far from guaranteed.

There is no magic bullet that will instantly and unavoidably defeat a bad-faith bankruptcy—the bankruptcy court has the final say—but receivers have significant tools at their disposal to overcome an otherwise-frustrating obstacle. A sound appointment order should ensure that the receiver can remain in possession pending resolution of a bankruptcy court motion and vest exclusive authority in the receiver to file a bankruptcy petition.

**Jackson Wyche is a Partner at Receivership Specialists, where he specializes in state and federal court receiverships, referee appointments, and trustee appointments. Mr. Wyche is a licensed attorney with a master's degree in mathematical finance from the University of Southern California, where he also attended the Gould School of Law. He is a member of CRF's Board, its 2026 Program Chair, and leads education programs on various topics in the receivership industry.*

Jackson Wyche

Receivers et al: Bankruptcy, ABCs and More
A reflection on the California Bankruptcy Forum Annual Insolvency Conference

BY MICHELE VIVES AND NICHOLAS WILSON*

As a niche profession, the bankruptcy and receivership communities flock each year to get together, share wisdom and best practices, and get all the information available on new ways to resolve problems for our clients. Whether we are working on a real estate matter, an operating company liquidation, a partnership dispute or any other number of issues that lead our clients into a receivership scenario, that knowledge sharing as fiduciaries helps us develop creative and timely resolutions.

On the state, national and local levels, these opportunities allow us to develop relationships, reinforce our position as problem-solvers, and often most importantly, educate other professionals about the critical role a receiver can play.

Among the meetings we look forward to each year is the California Bankruptcy Forum Annual Insolvency Conference; this year's meeting took place in May in Santa Rosa, in the heart of wine country.

While receivership is often positioned as an alternative to bankruptcy, a big takeaway of this year's conference was the intersection of bankruptcy and receivership — along with some of the other out-of-court resolutions that may be available as options for troubled assets and entities in distress.

Receivership may be a primary area of expertise for many of us, but interfacing with professionals in other areas of workouts — like bankruptcy attorneys and trustees — can net some new and creative ideas that we can apply to achieve the best outcomes for our clients.

Here are our top three takeaways from this year's CBF conference.

Receiverships and bankruptcy: There is a necessary crossroads

While much of the CBF conference focused on bankruptcy best practices and principles, interestingly there were several sessions that addressed the issues that come into play between bankruptcy and receiverships and how they overlap. One panel discussion, featuring five speakers from fiduciary and legal practices, raised a number of questions designed to educate the bankruptcy community on how to engage and work with receivers. This spanned areas such as how receivers are compensated in bankruptcy, how to document receiver fees and how they are prioritized in the chain of command during a bankruptcy.

The discussion also addressed why a receivership might be a better option than a bankruptcy and how bankruptcy

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When industry leaders share their expertise, the audience leans in.

Receivers et al...
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professionals can work together with receivers to achieve the desired resolution.

By providing answers to questions like ""What's the best practice to get the receiver discharged and bond exonerated without prejudicing estate administration?" and "If a bankruptcy is filed post-receivership and a Trustee is appointed, do you have the Trustee looking into acts of the Receiver?" we continue to equip bankruptcy professionals with the information they need to work within and around the receivership framework.

As a very well attended session, the panel underscored the trend we see around receiverships continuing to grow in today's operating environment and the bankruptcy world's interest in what we do. As receivers, it's important for us to remember that it's a small receivership world and the more we educate other workout stakeholders, the better positioned they will be to work with us and collaborate.

CBF Women in the insolvency and restructuring community. (From left to right) Sunny Han-Jeon,Stella Havkin, Sofi Daar and Tamar Terzian.

ABCs are holding a place in the spotlight

In another panel discussion, this one featuring Douglas Wilson Companies' Chief Opearting Officer Nich Wilson, the conversation centered around a rising out-of-court resolution mechanism: The Assignment for the Benefit of Creditors — or "ABC."

Having recently served as Assignee in an ABC that worked to complete the wind down of former online retail giant Zulily, at DWC we have seen the benefits of this arrangement firsthand, and we've shared best practices previously with the receivership community in this publication and others.

Eager to relay some of the advantages of an ABC with CBF attendees, the panel pointed to ABC pros and cons, with attention to many of the reasons why an ABC may be a less costly and more efficient process versus a traditional bankruptcy proceeding.

Among the benefits of ABCs shared with bankruptcy professionals:

- One significant advantage is a specific assignee who can be selected to oversee the liquidation, versus a bankruptcy trustee who is appointed by the United States Trustee. The selection of the assignee allows for specific industry expertise to apply to the workout, such as expertise in cannabis operating company liquidation, cryptocurrency, real estate or retail.
- ABCs can also provide the opportunity for an entity in distress to avoid public scrutiny, given its out-of-court nature and the fact that its proceedings are not public as they would be in the bankruptcy court.
- Also due to the out-of-court nature of an ABC, the process often is less costly and less time-consuming than a bankruptcy or receivership — leading to a more efficient workout.
- An ABC often features a special purpose entity to hold assets and reduce personal liability. It may be based in one state while the assets of the trust may be located in multiple states. For complex scenarios and multi-state organizations, this can serve as a streamlining effect.

Stressing the need for upfront education on ABCs, the panel highlighted the importance of acting early and completing due diligence in any ABC scenario, including laying the groundwork for elements like managing employee regulatory compliance, documentation,

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obtaining needed consents and working closely with creditors to expedite the process. This due diligence is directly in line with DWC's due diligence best practices outlined in a previous article:

- Assess corporate structure and identify key leaders
- Assess assets
- Build a team
- Address tax issues
- Identify key service providers

Also relevant to the crossroads of bankruptcy professionals and ABCs, we shared key questions to ask at the onset of an ABC:

1. Is there working capital available?
2. What are the asset types? Where are they located?
3. What is the value of the assets?
4. Who controls movement of funds within the distressed entity?

Finally, with more attention to ABCs, more states continue to consider the Uniform Assignment for the Benefit of Creditors Act. The act was approved by the Uniform Law Commission (ULC) in 2025, and for Nebraska and Utah, which have adopted it, it displaces state common law to give a uniform approach to ABCs. While California does not have the UABCA under consideration, several states such as Alabama, Arizona, Colorado, Iowa, Oklahoma, West Virginia and Delaware have introduced it.

The rising need for out-of-court options

Bankruptcy filings are on the rise, having ticked up more than 13% in 2025 over 2024 for the year ending March 31, 2025. This is still lower than the rate of bankruptcies following the Great Recession, but with filings of more than 500,000 nationally last year according to the Administrative Office of the U.S. Courts, we expect distress scenarios to continue rising as a result of pre- and post-pandemic factors playing out for ownership and operating entities. From forbearance coming to an end to specific markets experiencing longstanding real estate distress in sectors like hospitality, office or retail, workout services are and will continue to be needed.

In many cases, bankruptcy is simply the best path forward with Chapter 11 allowing for restructuring under the court's order. But in many cases, there may be other options, such as receivership, hiring a Chief Restructuring Officer, working within the ABC structure or any number of other workout mechanisms.

Because bankruptcy is not a one-size-fits-all solution, the need for out-of-court options continues to rise in line with bankruptcy filings, and so does the need for those in our profession to educate those around us. That may be sharing experience on how an assignee overseeing an ABC ensures they are protected, and how the process is different from a receivership appointed by a court; or where specific workout professionals may be able to provide longtime expertise to an assignment to reduce time and expense in reaching a resolution.

Often out-of-court workouts are more negotiable and flexible and can be faster than bankruptcy proceedings, particular in cases where asset preservation is the key goal.

As receivers and fiduciaries, we all know the value of creativity and collaboration when it comes to a challenging workout. Particularly as we observe new challenges and problems bubbling to the surface in the months and years ahead, it is encouraging and enlightening to see our industry in productive dialogue and education alongside our bankruptcy industry counterparts.

****Michele Vives** is President of Douglas Wilson Companies based in San Diego, CA. The company provides specialized business and problem resolution services, including receivership and other fiduciary services.*

Michele Vives

****Nicholas Wilson** is Chief Operating Officer of Douglas Wilson Companies based in San Diego, CA. The company provides specialized business and problem resolution services, including receivership and other fiduciary services.*

Nicholas Wilson

CBF and CRF in Santa Rosa: Collegial Sessions & Socials

Conference attendees enjoy a safari tour.

Gathering for wine tasting the Paradise Ridge winery.

Douglas Wilson Companies' President Michele Vives takes part in a memorable magic show during the conference networking event.

Douglas Wilson and his wife Kathleen engage in conversation during the conference networking hour.

CRF leaders from around the state participated at the CBF conference. Left to Right: Steve Donell, Mia Blackler, Kyle Everett, Sunny Han-Jeon, Dennis Gemberling, Gerard Keena, and Scott Sackett.

After a full docket of sessions on everything from AI in bankruptcy to squeezing value out of merchant cash advances, the CBF attendees traded conference rooms for a 155-acre view of Sonoma County at the Paradise Ridge winery.

Professional Profile:

Michael J. Gomez
Dirty Deeds Done Dirt Cheap

When people ask what I do for a living, I usually answer with as little information as possible.

"I solve people's problems."

Then I stop talking.

Silence is an underrated conversational tool. It gives people room to fill in the blanks, and they almost always do. Some decide I must be involved in organized crime or operate a discreet murder-for-hire business. They nod politely, excuse themselves, and suddenly remember they promised to refresh a drink or that they're late for their root canal. Others lean in either intrigued by curiosity or driven to satiate darker delights, flitting their eyes from one side to the other to see who is watching before leaning in and lowering their voice as though they're about to learn a closely guarded secret.

Those are my favorite.

"So…what kind of problems?"

That's when I reel them in with never-failing, sweet talking, pick-up lines like: receivership, bankruptcy, commercial litigation, and workouts.

Whatever sparkle of intrigue that may have remained quickly vanishes from their eyes.

The people who remain after hearing those terms are usually already members of the same exclusive club. They've survived litigation, navigated a bankruptcy, or spent enough time around financial distress to know exactly what those words mean. The rest stare at me with the same dull expression most people reserve for tax forms written in Greek.

Eventually, I clarify that I help people solve financial problems. Unfortunately, that explanation opens an entirely different floodgate.

Questions fire out in machine-gun succession.

"How do I fix my credit?"

"How long before they repossess my truck?"

"Asking for a friend…strictly hypothetical…if someone filed bankruptcy and happened to own a 1952 Topps Mickey Mantle rookie card they forgot to disclose, would anyone really find out?"

Apparently, everyone has a friend with remarkably specific legal problems.

By this point the conversation has become less "cocktail party" and more "free legal clinic." That's usually when I pivot to lighter subjects like politics or religion—anything to calm down the room, but keep them riveted.

Ironically, I often make a better first impression on the people who walk away after hearing only, "I solve people's problems." They leave believing I'm some mysterious fixer. The people who stay discover I'm just a lawyer who gets unusually excited about magic incantations like in custodia legis.

The truth is that I've been incredibly fortunate to practice law for nearly two decades without anyone exposing me as a fraud.

Like most successful impostors, I came from simple beginnings.

I grew up in California's San Fernando Valley. Our home sat next to a field that remained vacant for years because it was a Superfund site.

I went through the Los Angeles Unified School District. Against all odds, both the district and I survived the experience. My high school eventually became a charter school, which I choose to interpret as an attempt to quietly distance itself from my graduating class.

Things could have been worse.

Early employment involved work at a rectory that, years later, likely became collateral for a massive Southland settlement involving sexual abuse claims. Even then my résumé seemed destined for businesses and institutions in incredibly bad situations. I've never decided whether that's terrible luck or an oddly specific superpower.

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Myself in artwork – self-portrait

So how does someone with these roots become a lawyer?

The honest answer is sheer dumb luck splashed with a heavy dose of poor career planning. Fresh out of college with a liberal arts degree, I possessed all the confidence of someone who knows absolutely nothing. What could business school teach me anyways? Law school at least sounded intellectually interesting and at a six-figure loan cost, what other bad decision available for a twentysomething that was considerably more expensive could there be to make? It had all the makings of a perfect ending.

The problem was that I had no real understanding of what lawyers actually did.

Like many people, my mental image of an attorney came from television commercials featuring smiling personal injury lawyers with cheap veneers and magnificent mustaches, oversized billboards, and phone numbers with catchy jingles.

That didn't seem like my calling. Or I didn't think it was.

So before committing to three more years of slavish education and enough student debt to finance a small nation, I decided I should probably find out what lawyers actually spent their days doing.

I volunteered to help review claims submitted by Holocaust survivors and their heirs seeking compensation from a settlement fund. It was difficult, but I took to it.

Not long afterwards, during an early meeting with a law school career counselor, I described the kind of work I enjoyed.

Without missing a beat, she suggested bankruptcy. There may have been a gentler way to tell an errant law student, "You seem uniquely qualified to spend your career around financial disaster," but she wasn't wrong.

My first real introduction came through a summer externship with Judge Alan M. Ahart at 255 E. Temple Street. To say I knew very little would be charitable. I barely understood the vocabulary. The automatic stay sounded like a hotel policy. Trustees were mysterious figures who showed up mid-script to take charge of smoldering craters.

The judge and his law clerks must have thought I was a dope. Fortunately for me, they were patient. We even had an exciting field trip: visit inside the local prison and, if you were the lucky one, sit in the chair that examined body crevices for concealed contraband. It was a great summer and I got to develop my slowly-kindling interest in insolvency law. Somewhere along the way I also developed an enthusiasm for judgment enforcement, which is probably the legal equivalent of discovering your favorite hobby is alphabetizing dental records.

The next stop was the Legal Aid Foundation of Los Angeles. As an intern, I screened prospective Chapter 7 clients, prepared bankruptcy petitions, and attended my first meeting of creditors.

I was genuinely excited.

Most people remember their first concert or first professional sporting event.

I remember my first Section 341 meeting.

I had no idea what to expect, which probably made me the second most confused person in the room, after the debtors.

Following Legal Aid came an internship with the Office of the United States Trustee.

By then there was no turning back.

Some people discover a passion for medicine, architecture, or gardening, but I settled on financial catastrophe.

There was no escaping the itch. I signed up for every opportunity I could find to learn more, which, depending on your perspective, was either admirable dedication or compelling evidence of psychosis.

I took a bankruptcy course taught by Joel Weinberg, whose enthusiasm for assignments for the benefit of creditors I could never figure out. Around the same time, I completed a second externship at 255 E. Roybal with another bankruptcy judge. As if that weren't enough, I also

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enrolled in a bankruptcy tax course taught by Mark Wallace. Nothing says "I've found my niche" quite like voluntarily taking a tax course.

All of those experiences culminated in what became one of the most formative chapters of my career: clerking for Judge Meredith A. Jury.

The timing could not have been better.

The economy collapsed.

For just about everyone else, that was terrible news. For the insolvency world, it meant an avalanche of cases. Petitions piled higher, calendars grew longer, and there was no shortage of issues demanding immediate attention. It was fun because there simply wasn't time to be bored.

I also had opportunities to work with the Bankruptcy Appellate Panel, collaborate with Judge Peter H. Carroll down the hall, and even assist with a small project involving a Delaware bankruptcy judge.

When my clerkship concluded, I had the opportunity to join Frandzel Robins Bloom & Csato, L.C., where I quickly discovered that practicing law and studying law are only distant relatives. As one of the partners told me, now I could become a "real lawyer."

I vividly remember drafting my first application for a writ of attachment. I must have spent two weeks on it, convinced every sentence would determine the fate of Western Civilization.

Eventually I turned it in.

No one framed it.

No one gave me a gold star for it.

The case simply moved on to the next issue, and so did I.

The learning curve became much steeper after that. The financial crisis unleashed an enormous volume of commercial litigation, receiverships, foreclosures, and bankruptcy matters. There was little opportunity to ease into practice because the tsunami kept coming.

Early on the firm entrusted me with significant responsibility. I'd like to think it reflected remarkable confidence in my judgment and abilities. A more realistic explanation is that everyone was exceptionally busy, and they just needed more bodies to pail the water to put out the fires.

Either way, I wasn't complaining.

Many days began in state court before 8:30 in the morning arguing ex parte applications for some receivership, or a writ of attachment. By afternoon I would be in bankruptcy court contesting cash collateral use or seeking relief from stay. Evenings often ended back at the office drafting the pleadings that would start the process all over again the next day.

It was taxing, but exhilarating.

Down the road, another fortunate break arrived when a client referred me my first independent matter. At roughly the same time, my wife, Elena, and I decided to begin the next chapter of our lives together in Central California. I joined a local law firm in Fresno named Lang, Richert & Patch. Initially my practice involved more loan documentation and transactional work than litigation. Before long, however, commercial litigation and insolvency gradually reclaimed center stage.

Several years later I had the opportunity to return to Frandzel without relocating. Elena and I had two children before the switch, a girl and a boy, and a third after the switch, a girl (Alicia Grey, Mikey, and Eleni).

Kids on a bridge – Bungee jumping now open for business; rope extra

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THE LIST

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AREA		PHONE	E-MAIL
BAY AREA			
⊗●	David Bradlow	415-206-0635	bradlow@davidbradlow.com
⊗≠▲⌘❖❂▼✤	Dennis Gemberling	800-580-3950	DPG@perrygroup.com
⊗●▲⌘◗❂✛▼✤	Michael Kasolas	415-992-5806	mike@kasolas.com
▲❖◗❂▼✤	Michele Vives	619-641-1141	mvives@douglaswilson.com
●▲◗	Douglas Wilson	619-641-1141	dwilson@douglaswilson.com
SACRAMENTO VALLEY			
⊗●▲❂▼	Michael C. Brumbaugh	916-417-8737	mike@mbi-re.com
⊗●▲⌘◗❂✛▼	Michael Kasolas	415-992-5806	mike@kasolas.com
	Peter Martin	209-470-6221	petermartin@receiver.us.com
●⊗▲❖◗❂✛▼✤	Scott Sackett	916-930-9900	scott.sackett@efmt.com
●⊗▲	Kenneth Weaver	916-812-8090	ken@classicrealtyconsultants.com
SANTA BARBARA/VENTURA			
	Marcelo Bermudez	213-453-9418	mb@marcelobermudezinc.com
SAN DIEGO AREA			
❂	Joe Corcoran	619-641-1141	jcorcoran@douglaswilson.com
≠●▲◗❂✛	Michael Essary	619-886-4116	calsur@aol.com
❂▼	Jon Fleming	858-793-6000	jon.fleming@legacyreceiver.com
⊗≠▲⌘❖❂▼✤	Dennis Gemberling	800-580-3950	DPG@perrygroup.com
●▲◗❂✛▼✤	Richardson "Red" Griswold	858-481-1300	rgriswold@griswoldlawsandiego.com
❂	Kristin Howell	858-373-1240	kristinh@meissnercres.com
⊗≠●♦▲⌘❖❂▼✤	Richard Munro	949-910-6600	richard@invenz.com
▼	Nikki V. Rodriguez	619-877-5084	nikki@pacificcoastcommercial.com
▲❖◗▼✤	Michele Vives	619-641-1141	mvives@douglaswilson.com
⊗≠▲⌘❖	Joel B. Weinberg	310-385-0006	jweinberg@usisg.com
●▲◗	Douglas Wilson	619-641-1141	dwilson@douglaswilson.com
LOS ANGELES/ORANGE COUNTY/INLAND EMPIRE			
⊗●▲⌘❖❂✛▼✤	Blake Alsbrook	310-273-6333	balsbrook@ecjlaw.com
⊗●▲	Albert Altro	310-809-5064	albertaltro@traversellc.com
●▲◗✛▼✤	Ryan Baker	949-439-3971	rbaker@veraxinc.com
⊗≠	Eric Beatty	909-243-7944	epb@epblegal.com
●▲⌘❂▼✤	Marc Brooks	818-519-5588	marcbrooks2021@outlook.com
❂	Joe Corcoran	619-641-1141	jcorcoran@douglaswilson.com
	James F Davidson	949-417-5708	jdavidson@avantadvisory.com
⊗≠●♦❂✛▼✤	Peter A. Davidson	310-273-6333	pdavidson@ecjlaw.com
✛▼✤	Jake Diiorio	213-235-0609	jake.diiorio@jsheld.com
⊗≠●♦▲⌘❂✛▼✤	Stephen Donell	310-689-2175	steve.donell@fedreceiver.com
⊗≠▲⌘❖❂▼✤	Dennis Gemberling	800-580-3950	DPG@perrygroup.com
	Jeffery Golden	714-966-1000	jgolden@wgllp.com
❂▼	David Goodrich	714-966-1000	dgoodrich@wgllp.com
	Brett Hitchman	949-200-9712	leeann@hitchmanfiduciaries.com
⊗≠●♦▲⌘❖❂▼✤	Byron Z. Moldo	310-281-6354	bmoldo@ecjlaw.com
⊗≠●♦▲⌘❖❂▼✤	Richard Munro	949-910-6600	richard@invenz.com
❂▼	Carl Petta	626-966-4049	cgpetta@earthlink.net
	Kevin Randolph	909-890-4499	krandolph@fennemorelaw.com
⊗≠●♦▲⌘❖❂▼	John Rey	562-500-7999	rpmqmp@aol.com
❖◗▼	Eric Sackler	310-979-4990	ericsackler@gmail.com
⊗≠●▲⌘	Thomas Seaman	949-265-8403	tom@thomasseaman.com
⊗●▲❖❂	Phil Seymour	310-612-9800	phil@swgrp.com
	Patrick Sharples	714-293-2792	psharples@kwcommercial.com
	Tony Solomon	310 909-5450	tony.solomon@marcusmillichap.com
⊗♦	David Stapleton	213-235-0601	david@stapletoninc.com
▲❖◗❂▼✤	Michele Vives	619-641-1141	mvives@douglaswilson.com
❖❂▼✤	Michael Wachtell	213-891-5460	mwachtell@buchalter.com
⊗≠▲❂	David D. Wald	310-230-3400	dwald@waldrealtyadvisors.com
🌢⊗❂▼	Robert C. Warren	714-863-1694	robert.warren@investorshq.com
▲⌘❖❂▼	David Weinberger	818-970-0915	david@swgrp.com
⊗≠▲⌘❖❂	Joel B. Weinberg	310-385-0006	jweinberg@usisg.com
●▲◗	Douglas Wilson	619-641-1141	dwilson@douglaswilson.com
OUT OF STATE			
	Cherubim "Lizzie" Hurdle	980-330-1705	traffic.connect@outlook.com

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Hobbies? I have three kids. Work/life balance is more of an aspirational concept. My grossly undercompensated side hustles these days include:

- Professional chauffeur
- Project coordinator
- Equipment manager
- Locater of shin guards that were "literally just here"
- Occasional assistant coach

Carrier of jackets, sweaters, water bottles, sports bags, snacks, and assorted objects that somehow become my responsibility five minutes after leaving the house.

On particularly ambitious days, I also pretend to be reasonably competent at assembling the latest fad in novelty sports equipment, pumping up bicycle tires, and helping with elementary school math—I can't imagine why I avoided business school.

Kids with money – Eat your heart out, Scrooge McDuck

My children's social calendars are considerably more impressive than mine. The days are jampacked with birthday parties, practices, games, school performances, field trips, playdates, tournaments, and events I don't remember agreeing to attend but somehow mysteriously appear on the family calendar anyway. Perhaps in another decade I will get to reconnect with my spouse and figure out what interests we share.

Moving to Central California also opened professional doors I never expected. I became involved with the Insolvency Law Committee of the Business Law Section of the State Bar of California, joined the Ag Lenders Society of California, and had opportunities to serve alongside exceptionally talented attorneys, accountants, and professionals.

Those experiences broadened my practice in ways that likely would not have happened had I remained in Southern California.

Had you asked my twentysomething self where life was headed, I probably wouldn't have guessed here. Instead, a series of auspicious accidents, generous mentors, and more than an undeserved yet helpful serving of good fortune led me to where I am. MJG

Tiger in photo – What's for lunch?

Ask The Receiver

By Peter A. Davidson*

Q In previous columns you have stated that state court receivers in California have quasi-judicial immunity. However, the cases cited were either unreported cases or cases where the party being sued was not a receiver, but a different functionary. Are there any reported California cases that explicitly hold that a state court receiver has quasi-judicial immunity?

A You are correct that California cases, up to now, that said state court receivers have quasi-judicial immunity were either unreported [*Haider v. Speiser*, 2012 WL 4101944 (2012), where the defendant was actually a referee, but the court said he took acts as a receiver, which the court approved, and *Gruntz v. Wiley*, 2009 WL 4264343 (2009), where the defendant was a special master, but the plaintiffs contended he was acting as a receiver], or were cases where the courts listed the types of functionaries who have quasi-judicial immunity, including receivers, but the cases themselves did not involve a receiver [*Holt v. Brock*, 85 Cal. App. 5th 611 (2022) [partition referee] and *Howard v. Drapkin*, 222 Cal. App. 3d 843 (1990) [court appointed psychologist]. The broad language used in those cases, however, clearly covered receivers: "Thus we believe it appropriate that these 'nonjudicial persons who fulfill quasi-judicial functions intimately related to the judicial process' should be given absolute quasi-judicial immunity for damage claims arising from their performance of duties in connection with the judicial process." *Holt, supra*, at 901 (citations omitted).

A new case, involving a receiver, has now declared: "We hold that a court-appointed receiver is protected by quasi-judicial immunity for the receiver's discretionary acts and decisions." *Semaan v. Mosier*, 118 Cal. App. 5th 460, 465 (2026) ("*Semaan*"). The *Semaan* receivership arose out of a criminal case involving insurance fraud. A receiver was appointed under California's aggravated white collar crime enhancement law, Penal Code §186.11. The court subsequently ordered the receiver to liquidate into cash all stock that had been seized "as soon as practicable" after the signing of the order. Six weeks later, the receiver had not sold the stock. Instead, he filed a petition for instructions stating TDAmeritrade had imposed unreasonable requirements on his selling the stock. He also explained he was reluctant to start the liquidation process because he was advised the defendant's brother was selling a building to pay all the defendant's financial liability. In response, the court replaced the receiver with a different receiver.

The receiver filed his final report. The defendant objected to it and sought permission to sue the receiver for not selling the stock as ordered. The court ruled it would not maintain jurisdiction over a civil lawsuit (likely because it was a criminal department) and was not making any ruling or finding on whether the receiver was liable for not selling the stock. [It is not clear from the opinion whether the court granted permission allowing the defendant to sue the receiver elsewhere or whether the court approved the receiver's final report and discharged him, which could act as *res judicata* to bar defendant's claims.]

The defendant then sued the receiver for approximately $1.18 million, the reduction in the stock's value from the date of the court's liquidation order to the date the receiver was replaced. In response, the receiver filed an anti-SLAPP motion (Code of Civil Procedure §425.16). The motion was granted, because the trial court found the claims arose out of protected activity, as they fell within the course of the receiver's appointment, and plaintiff had not shown its claims had the requisite minimum merit, because the receiver was protected by quasi-judicial immunity and the litigation privilege. Plaintiff then appealed.

The appellate opinion starts by explaining anti-SLAPP motions are resolved through a two-step analysis. First, the defendant bears the burden of showing the challenged conduct arises out of protected activity. If the defendant meets that burden, then the second step shifts the burden to the plaintiff to demonstrate the claims have at least "minimal merit". The court ruled plaintiff had forfeited any argument about the first step because it did not directly

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address the issue in its brief. California Rules of Court, rule 8.204(a)(1)(B) requires that every appellate brief: "[s]tate each point under a separate heading or subheading summarizing the point and support each point by argument." The headings in plaintiff's brief only addressed the second step of the analysis. Nevertheless, the court found that the claims arose out of the receiver's conduct, that was a protected activity, because it was conduct in furtherance of the constitutional right of petition or free speech in connection with a public issue. In this case, the criminal prosecution.

The court then addressed the second step, finding the claims did not have minimal merit because the receiver had quasi-judicial immunity. In so finding, the court relied on and cited the *Holt* and *Howard* decisions *supra*, as well as numerous federal cases that also hold receivers have quasi-judicial immunity. "Absent broad immunity, receivers would be 'a lightning rod for harassing litigation aimed at judicial orders.'" *New Alaska Dev. Corp. v. Guetschow* 869 F.2d 1289,1303 (9th Cir. 1989). It adopted the arguments and holdings in those cases that: "Without immunity, receivers would be less likely to accept court appointments and the implied threat of liability could affect their decision-making process." *Semaan, surpa.* at 473 (citations omitted).

Having found receivers have immunity, the court then addressed the extent of the immunity. It ruled because one reason for granting immunity is to promote uninhibited and independent decision-making, the immunity "is limited to discretionary (nonministeral) acts and decisions, that is 'when they use their judgment or discretion in performing their jobs'." *Id.* (citations omitted). It also held immunity would not extend to intentional misconduct. *Id.*

Under the facts of the case, the receiver was immune because the court had ordered him to sell the stock "as soon as practicable". Hence, the receiver had to make a decision when it was practicable to sell. The court notes: "Quasi-judicial immunity protects both right and wrong decisions." *Id.* at 474.

It is unfortunate the court focused on only one of the stated reasons for granting receivers immunity: to promote uninhibited and independent decision making, and ignored the other reason: without broad immunity receivers would be less likely to accept appointments. In doing so it tries to parse when immunity applies, by distinguishing discretionary acts and decisions from ministerial acts, without defining what would constitute a ministerial act - resulting in no immunity. Some cases state: "ministerial decisions are essentially automatic based on whether certain fixed standards and objective measurements have been met." *Calvert v. County of Yuba*, 145 Cal. App. 4th 613, 623 (2006) (citations omitted). Examples could include: the renewal of a driver's license if the written exam is passed and the fee paid; the issuance of a dog license if proof of vaccination and the fee is paid; or the issuance of a typical, small-scale building permit, if all objective standards have been met. *Id.* at 622. However, the distinction between a ministerial act and a discretionary act can be quite narrow and clouded. As has been noted, it can be a "semantic thicket' and "it would be difficult to conceive of any official act, no matter how directly ministerial, that did not admit some discretion in the manner of its performance, even if it involved only the driving of a nail." *Johnson v. State*, 69 Cal. 2d 782, 788 (1968).

In a receivership it is hard to conceive of any but the most specifically ordered act that would be ministerial. Almost everything a receiver does is discretionary: managing property; deciding when, how and to whom to list or sell assets; bringing or defending lawsuits; hiring agents; bringing property up to code; collecting debts; preserving assets for the parties. All these functions and duties require evaluating risks, weighing facts and competing interests, timing, and the exercise of judgment. A ministerial act would have to be one that requires no discretion on the receiver's part. For example, if the court in *Semaan* had ordered the receiver to sell the stock immediately at the market price, instead of "as soon as practicable" or if a court ordered a receiver to transfer specific property to someone immediately. If, however, any discretion exists, as *Semaan* itself shows, the receiver would have immunity.

****Peter A. Davidson*** *is a Senior Partner of Ervin Cohen & Jessup LLP a Beverly Hills Law Firm. His practice includes representing Receivers and acting as a Receiver in State and Federal Court.*


Peter A. Davidson

Heard in the Halls: Notes, Observations, and Gossip Relayed

By Ryan Baker*

Welcome to the latest edition of Heard in the Halls. Please provide you snippets of news, questions or comments about receivership issues or the professional community by telephone, mail, fax, or email to: Ryan C. Baker at Verax Business Group, 19200 Von Karman Ave, Suite 400, Irvine, California 92612; Phone (213) 933-7577; Fax: 800-757-3668 (800-pls-don't), Email: rbaker@veraxinc.com.

Here is what we have *Heard in the Halls ...*

- **New Faces in the Los Angeles Writs and Receivers Departments.** There's been a little movement in the downtown halls. The Stanley Mosk writs and receivers department recently welcomed two new judges: **Judge Joseph M. Lipner** and **Judge Tiana J. Murillo**. The change follows two significant departures from the department. **Justice Stephen Goorvitch** was appointed and confirmed to the Second District Court of Appeal, Division Two, and **Judge James Chalfant** retired after many years in Department 85.
    - For those of us who spend an unhealthy amount of time of staring into our crystal balls trying to get inside the head of a Judge, these assignments matter. The writs and receivers departments are a strange and specialized corner of the courthouse, but they are an important gate keeper to many of our careers. Therefore, it's a good idea to get to know them, and how much they dislike (because they always dislike) ex parte appointments. It's just by how much.
    - **Judge Goorvitch** and **Judge Chalfant** each left a real mark on the department. Judge Chalfant, in particular, was a fixture in writs and receivers for years, and generations of lawyers learned quickly that if you came into his courtroom without knowing the statute, case law, and the correct citation, the hearing was going to become educational. Not always pleasantly educational, but educational.
    - **We welcome Judge Lipner** and Judge Murillo to the assignment and wish them well as they take on this important and demanding part of the civil docket. We'll be observing closely, not in a creepy way, but in the usual court-appointed, third-party neutral way. New judges always bring new practices and preferences. The good news is that the underlying job remains the same: jump however high the Court tells us, and to be their eyes and ears out in the real world.
        - o *Please share your experiences with the new judges with me!*
- **Mosk Gets New Department Numbers, Because It Previously Confused the Hell Out of Everyone.** In other **Stanley Mosk** news, the courthouse has also implemented a new department numbering system, effective May 4, 2026. The new department numbers are intended to match the courtroom numbers, with the first digit generally corresponding to the floor where the courtroom is located. In theory, this should make it easier to find the right department without wandering the halls, staring at directory signs, and pretending you aren't already late. The Court also updated department email addresses, so we'll all need to be careful when using old email address, or that one recycled ex parte notice from 2019 that somehow still lives on all out computers.
    - The Court has created an official online outline for the new department numbers and email addresses. Anyone heading downtown should check the current department number before filing. It can be found by just googling, or here: https://www.lacourt.ca.gov/pages/lp/courthouse-department-renumbering/cp/stanley-mosk-courthouse-department-renumbering. The Court also notes that users can visit the LASC help page and search "Lost at Mosk," which is hilarious.
- **Sacramento's Civil Reset Button.** Sacramento Superior Court has moved several civil operations into the new Tani G. Cantil-Sakauye Courthouse and implemented its Civil Home Court model, which assigns eligible civil cases to a single home department for case management and law and motion. For receivers and counsel, the practical advice is boring but important: check your department and hearing information before filing or appearing. Your old Sacramento civil template may now get you in trouble unless you double check it. On the positive side, the new courthouse is beautiful.

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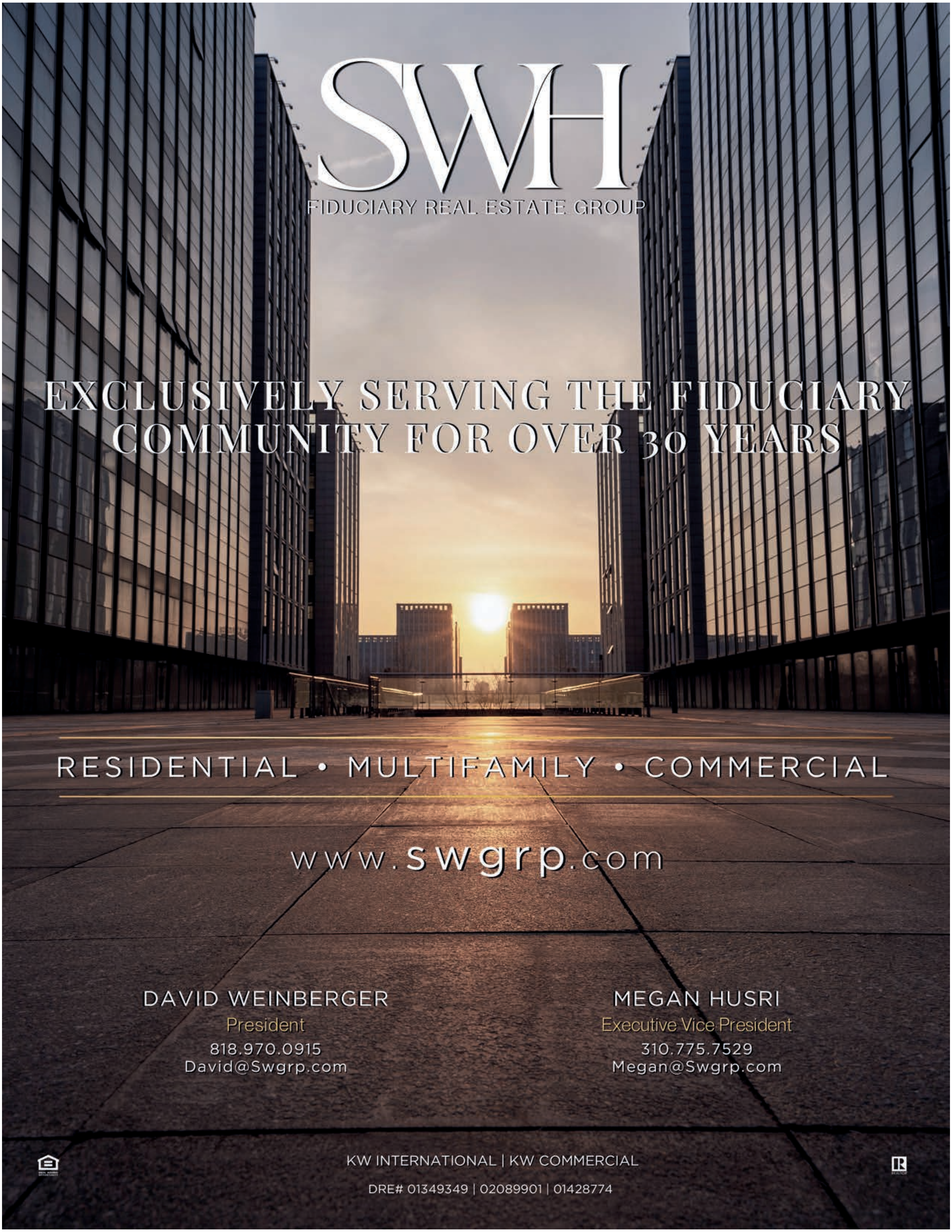
- **Orange County Tries to Civilize Discovery.** Orange County Superior Court has expanded its Civil Unlimited Informal Discovery Conference Program to 15 courtrooms, which means more discovery disputes may get routed through an expedited informal conference process before becoming full-blown law and motion. For receiverships, this likely matters most in the secondary mess after a receiver is appointed (not the initial appointment itself). Check whether your department participates before filing the motion.

Ryan Baker

***Ryan Baker** Ryan Baker has been a Receiver for nearly 20-years and is President of Verax Business Group. Mr. Baker has overseen receiverships of nearly every flavor including operating companies, rents and profits, construction, environmental contamination, regulatory, post judgement and many, many others.*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DAVID WEINBERGER
President
818.970.0915
David@Swgrp.com
MEGAN HUSRI
Executive Vice President
310.775.7529
Megan@Swgrp.com
KW INTERNATIONAL | KW COMMERCIAL
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