

HILL DAY 2018

Washington, DC

FEBRUARY 25-26, 2018

The Commercial Law League of America (CLLA) is now planning its annual Hill Day for 2018 and will be preparing to advance and lobby for the following public policy issues. Attendees should be prepared to support at least one of the following positions.

Bankruptcy Venue Reform addresses the problem of companies that seek bankruptcy protection in a venue other than its main business location. Many Chapter 11 cases end up being filed in Delaware and the Southern District of New York. Smaller trade creditors, landlords and employees, among others, become disenfranchised because it does not allow for meaningful participation in the Chapter 11 process if the case is heard in these remote and distant locations. On January 8, 2018, S. 2282 was introduced by Senators John Cornyn (R-TX) and Elizabeth Warren (D-MA) that addresses this problem by eliminating the state of incorporation for commencing a corporate Chapter 11 case and greatly restricts related-affiliate filings. The CLLA assisted in writing the Bill and are in full support of its purpose and provisions. A copy of the Bill is available at www.congress.gov.

Creditors' Rights Reform. Two important pieces of legislation are currently active before Congress that impacts creditors and Creditors' Rights attorneys.

1) H.R. 10 – the “Financial Choice Act of 2017” proposes to replace the CFPB single director with a bi-partisan, five-member commission subject to congressional oversight and appropriations. In addition, the Act proposes to establish an independent, Senate confirmed Inspector General. The CLLA believes that now is the time to adopt common sense change in the CFPB structure and proposed that the structure of the CFPB change from a single director to a commission with congressional oversight and an Inspector General.

2) On December 5, 2017 Representative Vicente Gonzalez (D-TX) introduced the “Practice of Law Technical Clarification Act of 2017” which proposes to exclude law firms and licensed attorneys from the definition of a debt collector under the FDCPA when engaged in activities related to legal proceedings and to prevent the CFPB from exercising supervisory and enforcement authority when attorneys act in relation to legal proceedings. The CLLA fully supports the removal of attorneys from CFPB supervisory and enforcement authority.

Bankruptcy Preference Reform addresses the problem creditors face when they are voluntarily paid or recover amounts owed to them during the 90-day period (one year for insiders) preceding a debtor's bankruptcy filing. To rebalance the law and practice in this area, the CLLA suggests a mechanism to ensure that preference actions are filed in good faith; allows for a safe harbor for pre-bankruptcy consensual settlements with the debtor; and also require that actions for the recovery of \$50,000 or less be commenced where the preference defendant resides.

Please feel free to contact Peter Califano (Venue) pcalifano@cwclaw.com; Jim Kozelek (Creditors' Rights) jkozelek@weltman.com; or Reuel Ash (Preferences) rash@ulmer.com for more information on these issues.