

LINDSEY D. SIMON

1301 Clifton Rd. NE • Atlanta, Georgia 30322 • (317) 439-8888

LDSimon@emory.edu

ACADEMIC APPOINTMENTS

Emory University School of Law, Atlanta, GA

Associate Professor, July 2023

Courses: Bankruptcy, Secured Transactions, Bankruptcy Practice Seminar, Current Issues in Commercial Law

University of Georgia School of Law, Athens, GA

Associate Professor, August 2022–June 2023

Assistant Professor, August 2018–August 2022

Academic Visitor, January 2018–August 2018

Courses: Bankruptcy, Secured Transactions, Bankruptcy Practice Seminar, Current Issues in Commercial Law

Clerkship Committee, 2018–2023

Faculty Advisor, Hispanic Law Students Association, 2018–2023 (Recipient, Diversity Initiative Grant, Spring 2019)

Georgia State University College of Law, Atlanta, GA

Adjunct Professor, Summer 2017

Course: Payment Systems

RESEARCH AND TEACHING INTERESTS

Bankruptcy

Secured Transactions

Contracts

Payment Systems

Sales

Civil Procedure

PUBLICATIONS AND WORKS IN PROGRESS

Articles

Voting Myths and Claimant Letters; Democracy for Mass Tort Debtors (work in progress)

This article assesses the role and process of voting in mass tort bankruptcies. Its first contribution is to correct misconceptions about how voting works in bankruptcy cases and identify elements of chapter 11 voting norms that deserve praise or refinement. By examining claimant letters in the Boy Scouts of America Bankruptcy, the article highlights the significance of voting to mass tort claimants and proposes a set of best practices to preserve limited estate assets while also protecting democratic norms.

The Committee Charade in Mass Tort Bankruptcy (work in progress)

Chapter 11 relies heavily on representative committees to advocate for absent claimants. By evaluating the presence and impact of official and ad hoc committees in mass tort cases, this article targets the misaligned incentives that undermine representation for claimants and proposes checks to curb abuse.

Bankruptcy Grifters, 131 YALE L.J. 1154 (2022), Honorable Mention, 2021 AALS Scholarly Papers Competition

This article identifies the litigation benefit that non-debtor defendant companies may receive in bankruptcy, and focuses on how such companies use channeling injunctions to appropriate the bankruptcy system's benefits without incurring many of its costs. The article concludes that bankruptcy should not be a procedural panacea for companies facing litigation exposure, and offers a number of potential solutions to deter non-debtor defendants from becoming bankruptcy grifters.

The Settlement Trap, 96 IND. L.J. 661 (2021)

This article explores the developing law surrounding treatment of mass tort settlements in consumer bankruptcies and highlights the peculiar role that trustee discretion plays in whether a debtor claimant may exempt or recover their mass tort settlement payment.

The Guardian Trustee in Bankruptcy Courts and Beyond, 98 N.C. L. REV. 1297 (2020)

Using the model of the United States Trustee in bankruptcy, this article evaluates the potential of neutral watchdog entities that are neither parties nor arbiters to remedy integrity and public trust challenges in at-risk legal systems.

Claim Preclusion and the Problem of Fictional Consent, 41 CARDOZO L. REV. 2561 (2020)

This article challenges the application of claim preclusion to unraised claims when the initial court's jurisdiction would have required consent. Because such consent was never given, the requirements for claim preclusion were not met. By exploring consent-based jurisdiction in various environments and suggesting alternative mechanisms to promote finality, this article highlights and attempts to solve the problem of fictional consent.

Chapter 11 Shapeshifters, 68 ADMIN. L. REV. 233 (2016)

This article analyzes the separation of powers issues that arise when administrative agencies modify or re-classify their actions to gain optimal treatment under the Bankruptcy Code.

Shorter Works and Opinion Pieces

Standards and Strategies for Voting and Solicitation in Mass Tort Bankruptcies, (with Daniel Simon and Travis Vandell), JOURNAL OF CORPORATE RENEWAL, Turnaround Management Association (July/August 2022)

Judge Rejects NRA's Bankruptcy Bid, Allowing New York's Lawsuit Against the Gun Group to Proceed: 5 Questions Answered, THE CONVERSATION (May 12, 2021)

How Corporate Bankruptcy Works, THE CONVERSATION (Sept. 12, 2019)

Why Companies File for Bankruptcy – and How It Protects Both Debtors and Creditors, THE CONVERSATION (Aug. 29, 2019)

EDUCATION

Northwestern University Pritzker School of Law, Chicago, IL

J.D., *magna cum laude*, May 2013

- NORTHWESTERN UNIVERSITY LAW REVIEW, Notes Editor
- Order of the Coif
- Alexander Fredrick Paul Law Scholarship; Northwestern Law Scholars Program
- Senior Research, Professor James B. Speta; Research Assistant, Professor Leonard Riskin

Vanderbilt University, Nashville, TN

Master of Education, Peabody College of Education, May 2008

- Capstone Thesis: *Understanding Cool Jazz: Developing a Comprehensive Approach to Jazz Pedagogy Through the Study of Gerry Mulligan* (Highest Pass Rating)

Bachelor of Music, *magna cum laude*, Blair School of Music, May 2007

- Chancellor's Scholarship

CLERKSHIP

The Honorable Beverly B. Martin, Atlanta, GA

August 2014–August 2015

U.S. Court of Appeals for the Eleventh Circuit
Law Clerk

LEGAL EMPLOYMENT

Mercedes-Benz USA, LLC, Sandy Springs, GA

August 2018–Present

Legal Consultant, Commercial Team. Evaluate strategic initiatives, data privacy, and other commercial matters for in-house legal department.

Kilpatrick Townsend & Stockton LLP, Atlanta, GA

October 2015–August 2018

Associate, Corporate Restructuring and Commercial Litigation. Represented corporations and individuals in state and federal litigation, both in and out of the restructuring context.

Grippo & Elden LLC, Chicago, IL

May 2013–August 2014

Associate, Commercial Litigation. Represented clients on jurisdictional issues relating to the multidistrict litigation process, environmental disaster insurance coverage litigation, and multiple breach of contract and insurance coverage disputes.

PROFESSIONAL AND COMMUNITY ACTIVITIES

Bar Admissions: Illinois, Georgia, U.S. District Court for the Northern District of Illinois, U.S. District Court for the Northern District of Georgia (Bankruptcy Bench and Bar Committee Member, 2019–2021), U.S. Court of Appeals for the Eleventh Circuit

Memberships: American Association of Law Schools, Section on Creditors' and Debtors' Rights (Executive Board 2021–present); American Bankruptcy Institute (Diversity Working Group Member

2021–present); American Bar Association (Bankruptcy Section, Reaffirmation Project Volunteer); International Women’s Insolvency & Restructuring Confederation (Georgia Network Community Service Co-Chair 2016–2018; Vice Chair 2019–2020)

Community Involvement: Georgia Latino Law Foundation (Board Member 2017–present); Culture Connect (Board Member 2016–2019); Kilpatrick Townsend & Stockton LLP Pro Bono Club (currently representing client in state habeas petition); AT&T Legal Scholars Program (Contracts, 2019–2022)

PRESENTATIONS

Bankruptcy 101: Briefing on Proposed Legislative “Reform” Relating to Mass Tort Bankruptcies, Invited Panelist, Law and Economics Center, George Mason University Antonin Scalia Law School, Sept. 14, 2022

Case Law Update, Plenary Panel, American Bankruptcy Institute Southeast Conference, July 24, 2022

Bankruptcy Grifters and the Boundaries of Chapter 11, Netherlands Association for Comparative and International Insolvency Law, June 17, 2022

The Committee Charade in Mass Tort Bankruptcy, The Clifford Symposium on Tort Law and Public Policy, DePaul University College of Law, June 2, 2022

Settlement Dynamics in Mass Torts, Invited Panelist, Mass Torts Evolve: The Intersection of Aggregate Litigation and Bankruptcy, Fordham Law School, Feb. 25, 2022

Hot/Controversial Chapter 11 Plan Provisions, Invited Panelist, Fifth Circuit Bankruptcy Bench-Bar Conference, Feb. 3, 2022

Bankruptcy Grifters, Columbus Inn of Court, Feb. 2, 2022

Bankruptcy Grifters, Corporate Insolvency and Restructuring Seminar, Mar. 12, 2021

Bankruptcy Law and the Problems of Democracy, Invited Panelist, AALS Section on Creditors’ and Debtors’ Rights, 2021 AALS Annual Meeting, Jan. 7, 2021

The Settlement Trap, Wake Forest University School of Law Faculty Development Workshop, Feb. 19, 2020

Case Law and Issues Update, Plenary Panel, State Bar of Georgia Consumer and Business Bankruptcy Institute, Dec. 12, 2020

The Settlement Trap, Plenary Panel, Civil Procedure Workshop, University of Texas School of Law, Oct. 26, 2019

Bankruptcy Grifters, National Business Law Scholars Conference, University of California Berkeley School of Law, June 20, 2019

The Settlement Trap, Mid-Atlantic Junior Faculty Forum, University of Richmond School of Law, May 22, 2019

Claim Preclusion and the Problem of Fictional Consent, Civil Procedure Workshop, Stanford University School of Law, Nov. 9, 2018

Claim Preclusion and the Problem of Fictional Consent, Southeastern Association of Law Schools (SEALS), New Law Teachers Workshop, Aug. 8, 2018

Claim Preclusion and the Problem of Fictional Consent, National Business Law Scholars Conference, University of Georgia School of Law, June 22, 2018

Embracing the Third Wheel, National Business Law Scholars Conference, University of Utah S.J. Quinney College of Law, June 8, 2017

Embracing the Third Wheel, Inaugural Mid-Atlantic Junior Faculty Forum, University of Richmond School of Law, May 10, 2017

Legislating Insolvency, 5th Annual State & Local Government Works In Progress Conference, University of Houston Law Center, Oct. 8, 2016

Article I Abstention, Northwestern University Pritzker School of Law, Legal Scholarship Workshop, Sept. 7, 2016

Are You My Counsel? Unraveling Ethical Issues in Corporate Bankruptcy Representation, Hispanic National Bar Association Annual Convention, Sept. 8, 2016

Chapter 11 Shapeshifters, Southeastern Association of Law Schools (SEALS), Prospective Law Teachers Workshop, Aug. 4, 2016

SELECTED MEDIA

Attorney Panel Scrutinizes Proposed Legislation That Would Ban Divisional Merger Bankruptcies, *Legal Newsline*, Sept. 21, 2022

J&J Tried to Block Lawsuits From 40,000 Cancer Patients. A Court Wants Answers, *NPR*, Sept. 19, 2022

Johnson & Johnson and a New War on Consumer Protection, *The New Yorker*, Sept. 12, 2022

Bankruptcy as MDL Escape Hatch? Not so Fast, Judge tells 3M in ‘Surprise’ Decision, *Reuters*, Aug.29, 2022

3M Earplug MDL Judge Adds to Bankruptcy’s Tangles With Injunction Order, *Reuters*, Aug.17, 2022

Gaming the System? Inside the ‘Texas Two-step’ Strategy Profitable Companies Use to File for Bankruptcy, *ABA Journal*, Aug./Sept. 2022

Rich Companies Are Using Quiet Tactic to Block Lawsuits: Bankruptcy, *NPR*, Apr. 2, 2022

Companies Are Using Bankruptcy Courts to Thwart Lawsuits, *NPR*, Mar. 31, 2022

Ruling Against Purdue's Sacklers Puts Controversial Bankruptcy Tactic in Spotlight, *Insurance Today*, Dec. 20, 2021

Judge Rejects Purdue Pharma's Opioid Settlement that Would Protect Sackler Family, *NPR*, Dec. 17, 2021

Analysis: Purdue Pharma Ruling Targets Controversial U.S. Bankruptcy Tactic, *Reuters*, Dec. 17, 2021

J&J is Using Bankruptcy Maneuver to Block Lawsuits Over Baby Powder Cancer Claims, *NPR*, Oct. 21, 2021

The Purdue Pharma Deal Would Deliver Billions, But Individual Payouts Will Be Small, *NPR*, Sept. 28, 2021

How Asbestos Saved the Sackler Family From Bankruptcy, *The Economist*, Sept. 11, 2021

Legal Shield for Purdue Pharma Owners is at Heart of Appeals, *Associated Press*, Sept. 4, 2021

The Purdue Bankruptcy Plan Was Approved. Will It Get Derailed by Appeals?, *STAT*, Sept. 3, 2021

Judge Approves Settlement That Shields Sacklers From Being Sued, *Forbes*, Sept. 1, 2021

Purdue Pharma Tests Limits of Liability Shields in Bankruptcy, *Bloomberg*, Aug. 30, 2021

Purdue Pharma's Opioid Deal Hinges on Divisive Legal Maneuver, *Bloomberg*, July 23, 2021

How Bankruptcy Could Help Johnson & Johnson Corral Vast Talc Litigation, *The Wall Street Journal*, July 20, 2021

Judge Clears Purdue Pharma's Restructuring Plan for Vote by Thousands of Claimants, *The New York Times*, May 27, 2021

PG&E Ties Compensation of Victims to its Future Through Stock, *Marketplace*, Apr. 1, 2021

Plaintiffs Firms Flooded Boy Scouts Bankruptcy With Unvetted, Potentially Fraudulent Civil Claims, Insurers Allege, *The New York Law Journal*, Feb. 4, 2021

Big Questions Still Loom About Purdue Pharma Opioid Settlement, *CT Insider*, Mar. 3, 2020

CT's Purdue Pharma Lawsuit Faces Long Road to Resolution, *Stamford Advocate*, Dec. 21, 2019

Judge Approves Purdue Pharma \$35M Bonus Plan, *Stamford Advocate*, Dec. 5, 2019

Your Guide To The Massive (And Massively Complex) Opioid Litigation, *NPR*, Oct. 15, 2019

Victims, Families Gain Key Role in Purdue Pharma Bankruptcy Case, *Baltimore Sun*, *Minneapolis Star Tribune*, and *Japan Times* (via *Associated Press*), Oct. 7, 2019

As Barneys Races to Find a Buyer, Vendors Fear Getting Left Behind, *Crain's New York Business*, Oct. 4, 2019

What's at Stake in the Purdue Pharma Bankruptcy Case, *Knowledge @ Wharton*, Sept. 23, 2019

'Better Than Nothing:' Experts Weigh In on Purdue Pharma Deal, *Connecticut Law Tribune*, Sept. 17, 2019

Purdue Files for Bankruptcy, Agrees to Settle Some Pending Opioids Litigation: Sacklers on Hook for Billions?, *Naked Capitalism*, Sept. 17, 2019

Georgia Officials Say Purdue Funds Should Go Toward Opioid Recovery, *The Atlanta Journal-Constitution*, Sept. 17, 2019

Can Purdue Pharma's Opioid Settlement Win Judge's Approval?, *Los Angeles Times* (via *Associated Press*), Sept. 16, 2019

Would a Purdue Bankruptcy Protect the Sacklers? Good Question., *The New York Times*, Sept. 16, 2019

Purdue Pharma Filed for Bankruptcy. What Does it Mean for Lawsuits Against the Opioid Manufacturer?, *STAT*, Sept. 16, 2019

CBS News "In Depth" (segment on Purdue Pharma), *Los Angeles' KNX-AM*, Sept. 12, 2019

\$2B Roundup Verdict Likely Won't Hold Up, Legal Pros Say, *Law360*, May 15, 2019

Opioid Trouble Weighs on Insys as Short Sellers Cash In, *The Wall Street Journal*, May 13, 2019

Is Purdue's \$270M Deal Beginning Of End For Opioid Cases?, *Law360*, Mar. 26, 2019

What Happens to 2,000 Lawsuits Against Oxycontin-Maker Purdue Pharma if the Company Files for Bankruptcy, *Vice News*, Mar. 12, 2019

If Purdue Pharma Declares Bankruptcy, What Would it Mean for Lawsuits Against the Opioid Manufacturer?, *STAT*, Mar. 4, 2019