

COURTING FAILURE



HOW COMPETITION FOR
BIG CASES IS CORRUPTING
THE BANKRUPTCY COURTS

Lynn M. LoPucki

Courting Failure How Competition For Big Cases Is Corrupting The Bankruptcy Courts

Thomas J. Salerno, Jordan A. Kroop



Courting Failure How Competition For Big Cases Is Corrupting The Bankruptcy Courts:

Courting Failure Lynn LoPucki, 2006-02-14 An eye opening account of the widespread and systematic decay of America's bankruptcy courts

Courting Failure Lynn LoPucki, 2023-06-26 LoPucki's provocative critique of Chapter 11 is required reading for everyone who cares about bankruptcy reform This empirical account of large Chapter 11 cases will trigger intense debate both inside the academy and on the floor of Congress Confronting LoPucki's controversial thesis that competition between bankruptcy judges is corrupting them is the most pressing challenge now facing any defender of the status quo Douglas Baird University of Chicago Law School This book is smart shocking and funny This story has everything professional greed wrecked companies and embarrassed judges Insiders are already buzzing Elizabeth Warren Leo Gottlieb Professor of Law Harvard Law School LoPucki provides a scathing attack on reorganization practice *Courting Failure* recounts how lawyers managers and judges have transformed Chapter 11 It uses empirical data to explore how the interests of the various participants have combined to create a system markedly different from the one envisioned by Congress LoPucki not only questions the wisdom of these changes but also the free market ideology that supports much of the general regulation of the corporate sector Robert Rasmussen University of Chicago Law School A sobering chronicle of our broken bankruptcy court system *Courting Failure* exposes yet another American institution corrupted by greed avarice and the thirst for power Lynn LoPucki's eye opening account of the widespread and systematic decay of America's bankruptcy courts is a blockbuster story that has yet to be reported in the media LoPucki reveals the profound corruption in the U S bankruptcy system and how this breakdown has directly led to the major corporate failures of the last decade including Enron MCI WorldCom and Global Crossing LoPucki one of the nation's leading experts on bankruptcy law offers a clear and compelling picture of the destructive power of forum shopping in which corporations choose courts that offer the most favorable outcome for bankruptcy litigation The courts lured by big money and prestige streamline their requirements and lower their standards to compete for these lucrative cases The result has been a series of increasingly shoddy reorganizations of major American corporations proposed by greedy corporate executives and authorized by case hungry judges

Corporate Reorganisations in China Zinian Zhang, 2018-10-11 A comprehensive empirical study of China's corporate reorganization law and its implementation

Bankruptcy Litigation and Practice Thomas J. Salerno, Jordan A. Kroop, 2007-09-01 Bankruptcy Litigation and Practice A Practitioner and s Guide Fourth Edition serves as the comprehensive reference on bankruptcy litigation topics for legal practitioners in all specialties For the generalist and commercial law practitioner it clarifies basic Bankruptcy Code issues and practical features of bankruptcy litigation including consumer bankruptcies business and corporate reorganizations liquidations and personal debt restructuring For the bankruptcy professional it serves as a sophisticated compendium of reliable forms recent case law and statutory amendments relating to all major bankruptcy topics including Automatic stay Preferences Dischargeability Executory contracts The Chapter 11 confirmation process

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Adversity and Justice Kevin M. Ball, 2016-06-01 A chronological history of the United States Bankruptcy Court for the Eastern District of Michigan the site of the city of Detroit s landmark bankruptcy case Bankruptcy law is a major part of the American legal landscape More than a million individuals and thousands of businesses sought relief in the United States ninety three bankruptcy courts in 2014 more than twenty seven thousand of them in the Eastern District of Michigan Important business of great consequence takes place in the courts yet they ordinarily draw little public attention In *Adversity and Justice* A History of the United States Bankruptcy Court for the Eastern District of Michigan Kevin Ball takes a closer look at the history and evolution of this court Using a variety of sources from newspaper accounts and interviews to personal documentation from key people throughout the court s history Ball explores not only the history of the court from its beginning in the late nineteenth century but also two major courthouse scandals and their significant and long lasting effects on the court The first in 1919 resulted in the removal of a court referee for a series of small infractions The second was far more serious and resulted in the resignation of a judge and criminal convictions of the court s chief clerk one of his deputies and one of Detroit s most prominent lawyers The book culminates with a comprehensive account of the city of Detroit s own bankruptcy case that was filed in 2013 Drawing on the author s expertise as both a longtime bankruptcy attorney and a political scientist the book examines this landmark case in its legal social historical and political contexts Anyone with an interest in bankruptcy legal history or the city of Detroit s bankruptcy case will be attracted to this thorough case study of this court

Freedom of Establishment and Private International Law for Corporations Paschalis Paschalidis, 2012-03-29 Freedom of establishment is one of the four fundamental freedoms of the European Union The principle is that natural persons who are European Union Citizens and legal entities formed in accordance with the law of a Member State and having its registered office central administration or principal place of business within the EU may take up economic activity in any Member State in a stable and continuous form regardless of nationality or mode of incorporation This book examines the way in which EU law has influenced how national courts in Europe assert jurisdiction in cross border corporate disputes

and insolvencies and the mechanism which allows them to decide which national law should apply to the substance of the dispute. The book also considers the potential for EU Member States to compete for devising national corporate and insolvency legislation that will attract incorporations or insolvencies. Central to the book is the concept of national choice of law. In considering the impact of freedom of establishment on private international law for corporations, the book uniquely analyses both corporate and insolvency law together, presenting the topic in the broadest possible sense. Importantly, the doctrine of abuse in corporate and insolvency law is covered, raising the question of forum shopping and regulatory competition, which underpins the intersection between freedom of establishment and private international law. Through examination of the most recent and leading judgments of the European Court of Justice in *Centros* and *Cadbury Schweppes*, the book derives certain conclusions as to the operation of the doctrine of abuse and the limits thereof in the context of freedom of establishment. Being the first in the field to examine the leading ECJ cases of *Inspire Art*, *Sevic* and *Cartesio* regarding the real seat doctrine, the book makes the judgment that there is no incompatibility as such between the doctrine and the freedom of establishment. Ultimately, the book analyses to what extent diversity in the corporate and insolvency laws of the Member States should be preserved so as to encourage competition between jurisdictions in Europe.

Research Handbook on Corporate Bankruptcy Law Barry E. Adler, 2020-06-26. In this Research Handbook, today's leading experts on the law and economics of corporate bankruptcy address fundamental issues such as the efficiency of bankruptcy, the role and treatment of creditors, particularly secured creditors in the bankruptcy process, the allocation of going concern surplus among claimants, the desirability of liquidation in the absence of such surplus, the role of contract in bankruptcy resolution, the role of derivatives in the bankruptcy process, the costs of the bankruptcy system, and the special case of financial institutions, among other topics.

Professional Fees in Corporate Bankruptcies Lynn M. LoPucki, Joseph W. Doherty, 2011-05-05. This title is based on a study of thousands of documents from the court files in over a hundred of the largest bankruptcy cases. It employs statistical analysis and documents its findings and provides an unprecedented window on the worlds of bankruptcy professionals, professional fees, and their scientific study.

Viability in Corporate Debt Restructuring Law Lydia Tsioli, 2025-09-10. This book offers the first holistic and comprehensive analysis of corporate debt restructuring law through the lens of viability. The notion is of pivotal importance because it determines which debtors are worth being rescued. By examining US, UK, and EU restructuring frameworks, the book uncovers, critically evaluates, and makes proposals for the optimal reflection of viability on their provisions. These proposals provide invaluable guidance for both the upcoming review of the European Directive on restructuring and insolvency in 2026 and the ongoing development of American and English restructuring law.

Research Handbook on Austrian Law and Economics Todd J. Zywicki, Peter J. Boettke, 2017-12-29. The original contributions to the Research Handbook provide an introduction to the application of Austrian economics to law. The book begins with chapters on the methodology of law and economics. Further chapters discuss

key concepts in Austrian economics dynamic competitive processes spontaneous order subjective value entrepreneurship and the limited nature of individual knowledge as they relate to topics in evolutionary law social rules self governance dispute resolution and basic law torts antitrust civil procedure business and family law *The Oxford Handbook of Empirical Legal Research* Peter Cane, Herbert Kritzer, 2012-05-17 The empirical study of law legal systems and legal institutions is widely viewed as one of the most exciting and important intellectual developments in the modern history of legal research Motivated by a conviction that legal phenomena can and should be understood not only in normative terms but also as social practices of political economic and ethical significance empirical legal researchers have used quantitative and qualitative methods to illuminate many aspects of law s meaning operation and impact In the 43 chapters of *The Oxford Handbook of Empirical Legal Research* leading scholars provide accessible and original discussions of the history aims and methods of empirical research about law as well as its achievements and potential The Handbook has three parts The first deals with the development and institutional context of empirical legal research The second and largest part consists of critical accounts of empirical research on many aspects of the legal world on criminal law civil law public law regulatory law and international law on lawyers judicial institutions legal procedures and evidence and on legal pluralism and the public understanding of law The third part introduces readers to the methods of empirical research and its place in the law school curriculum

Corporate Rescue Law--an Anglo-American Perspective Gerard McCormack, 2008-01-01 a highly readable and informative text and an excellent addition to insolvency scholarship In their entirety the chapters of *Corporate Rescue Law An Anglo American Perspective* represent one of the most incisive and relevant treatments of comparative insolvency regimes to date This book is an absolute boon it provides the reader with a mass of legal and practical insights into the workings of two ostensibly divergent systems and challenges received wisdom in a fluent and persuasive manner Not only are legal differences examined through the lens of practice but also commercial philosophical and social responses to failure are considered and highlighted as possible drivers of those real distinctions that do exist Professor McCormack has produced an exceptional work that should be required reading for academics practitioners and policy makers alike and is to be warmly congratulated Sandra Frisby *Banking and Finance Law Review* The issues are well chosen They are easily the most important aspects of any corporate rescue law The careful analysis of the technical provisions the incorporation of the extensive scholarship on the two corporate rescue regimes and the reference to practice in the real world all help to make these chapters an indispensable tool for any scholar wishing to gain a better understanding of the similarities and differences of English and American corporate rescue laws This monograph could not have come at a better time The comparative account in this book will help law reformers judges and scholars to have a better grasp of the issues and appreciate better how the two systems have dealt with them Comparative law has a critical role to play in promoting mutual understanding and respect It is hoped that this monograph will help in that respect Wee Meng Seng *Singapore Journal of Legal Studies* This book offers

an unprecedented and detailed comparative critique of Anglo American corporate bankruptcy law It challenges the standard characterisation that US law in the sphere of corporate bankruptcy is pro debtor and UK law is pro creditor and suggests that the traditional thesis is at best a potentially misleading over simplification Gerard McCormack offers the conclusion that there is functional convergence in practice while acknowledging that corporate rescue as distinct from business rescue still plays a larger role in the US The focus is on corporate restructurings with in depth scrutiny of Chapter 11 of the US Bankruptcy Code and the UK Enterprise Act and offers other comparative oversights Integrating theoretical and practical insights this book will be of great interest to academics and practitioners and also to policymakers in the DTI Insolvency Service and regulatory bodies

The Executive Guide to Corporate Bankruptcy Thomas J. Salerno,2010 A comprehensive yet easy to read guide through the intricacies of the Chapter 11 corporate bankruptcy process Ideal for executives management board members and other professionals who need to become conversant in the corporate bankruptcy process

Show Me the Money Chris Roush,2010-10-04 Show Me the Money is the definitive business journalism textbook that offers hands on advice and examples on doing the job of a business journalist Author Chris Roush draws on his experience as a business journalist and educator to explain how to cover businesses industries and the economy as well as where to find sources of information for stories He demonstrates clearly how reporters take financial information and turn it into relevant facts that explain a topic to readers This definitive business journalism text provides real world examples of business articles presents complex topics in a form easy to read and understand offers examples of where to find news stories in SEC filings gives comprehensive explanations and reviews of corporate financial balance sheet and cash flow statements provides tips on finding sources such as corporate investors and hard to find corporate documents gives a comprehensive listing of websites for business journalists to use Key updates for the second edition include tips from professional business journalists provided throughout the text new chapters on personal finance reporting and covering specific business beats expanded coverage of real estate reporting updates throughout to reflect significant changes in SEC finance and economics industries With numerous examples of documents and stories in the text Show Me the Money is an essential guide for students and practitioners doing business journalism

Corporate Financial Distress, Restructuring, and Bankruptcy Edward I. Altman,Edith Hotchkiss,Wei Wang,2019-03-26 A comprehensive look at the enormous growth and evolution of distressed debt markets corporate bankruptcy and credit risk models This Fourth Edition of the most authoritative finance book on the topic updates and expands its discussion of financial distress and bankruptcy as well as the related topics dealing with leveraged finance high yield and distressed debt markets It offers state of the art analysis and research on U S and international restructurings applications of distress prediction models in financial and managerial markets bankruptcy costs restructuring outcomes and more

Judges and Their Audiences Lawrence Baum,2009-01-10 What motivates judges as decision makers Political scientist Lawrence Baum offers a new perspective on this crucial question

a perspective based on judges interest in the approval of audiences important to them The conventional scholarly wisdom holds that judges on higher courts seek only to make good law good policy or both In these theories judges are influenced by other people only in limited ways in consequence of their legal and policy goals In contrast Baum argues that the influence of judges audiences is pervasive This influence derives from judges interest in popularity and respect a motivation central to most people Judges care about the regard of audiences because they like that regard in itself not just as a means to other ends Judges and Their Audiences uses research in social psychology to make the case that audiences shape judges choices in substantial ways Drawing on a broad range of scholarship on judicial decision making and an array of empirical evidence the book then analyzes the potential and actual impact of several audiences including the public other branches of government court colleagues the legal profession and judges social peers Engagingly written this book provides a deeper understanding of key issues concerning judicial behavior on which scholars disagree identifies aspects of judicial behavior that diverge from the assumptions of existing models and shows how those models can be strengthened

Corporate Financial Distress and Bankruptcy Edward I. Altman, Edith Hotchkiss, 2010-03-11 A comprehensive look at the enormous growth and evolution of distressed debt corporate bankruptcy and credit risk default This Third Edition of the most authoritative finance book on the topic updates and expands its discussion of corporate distress and bankruptcy as well as the related markets dealing with high yield and distressed debt and offers state of the art analysis and research on the costs of bankruptcy credit default prediction the post emergence period performance of bankrupt firms and more

Bankruptcy Reform United States. Congress. Senate. Committee on the Judiciary, 2008

Religion in Disputes F. von Benda-Beckmann, Keebet von Benda-Beckmann, M. Ramstedt, B. Turner, 2013-08-20 How are time honored tenets of faith different ritual sensibilities and newly emerging eschatological imaginaries articulated with other normative registers and moral susceptibilities in disputes This book examines such questions through cases in Europe the United States Israel Africa and South and Southeast Asia

Secured Credit and the Harmonisation of Law Gerard McCormack, 2011-01-01 This book will be of great interest to practitioners policymakers and academics as well as students particularly postgraduate students of law and business throughout the world

Unveiling the Power of Verbal Art: An Psychological Sojourn through **Courting Failure How Competition For Big Cases Is Corrupting The Bankruptcy Courts**

In a world inundated with monitors and the cacophony of quick interaction, the profound power and emotional resonance of verbal art often disappear into obscurity, eclipsed by the regular barrage of sound and distractions. However, located within the musical pages of **Courting Failure How Competition For Big Cases Is Corrupting The Bankruptcy Courts**, a captivating function of literary elegance that pulses with fresh feelings, lies an unforgettable journey waiting to be embarked upon. Written by way of a virtuoso wordsmith, that exciting opus instructions readers on a mental odyssey, gently revealing the latent possible and profound affect embedded within the complicated internet of language. Within the heart-wrenching expanse with this evocative examination, we will embark upon an introspective exploration of the book is key themes, dissect its interesting publishing type, and immerse ourselves in the indelible effect it leaves upon the depths of readers souls.

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