

# CONSUMER BANKRUPTCY JOURNAL

Official Publication of the National Association of Consumer Bankruptcy Attorneys | Winter 2018



## ***Inside This Issue:***

The President's Report

Six Secrets of the IRS Account Transcript

Court Won't Let Bank of America "Buy and Bury" Judgment Against It

Notice of Election

# The Hon. Calvin K. Ashland and his Big Book of Bankruptcy Funnies

by J. Scott Bovitz & Paul R. Shankman



**Paul R. Shankman**  
Hinds & Shankman, LLP  
Torrance, CA



**J. Scott Bovitz**  
Bovitz & Spitzer  
Los Angeles, California

## ***Prof. Bovitz Goes Back to School***

**T**he National Association of Consumer Bankruptcy Attorneys is constantly polling its members on important issues. Your input counts.

According to a recent survey, 44% of NACBA members checked the survey box for, “The Consumer Bankruptcy Journal isn’t always that funny, but the articles are usually easier to read than those heavily footnoted scholarly bankruptcy articles in other publications.”

This might be a funny article (you be the judge, so to speak), but I wasn’t always funny.

As a child, I was more serious. My parents were forced to send me to Camp Ha Ha in Ojai, California in between third and fourth grades. We learned to paddle canoes, weave plastic lanyards, and perform standup comedy routines. (“Is this microphone working? You’re killing me up here.”)

Of course, this was a long time ago. I might be confusing my this with Camp Ramah, <http://www.campramah.org>, where my law partner went. But I’m sure I remember the lanyards. I just found another one in an old box in the garage.

All this led directly to theatre arts in high school, two best acting awards, and an acting scholarship for college.

But I didn’t need my economics degree to realize that actors are always out of work. So, like most of you, I went to law school.

I was lucky. I took my bankruptcy law class in 1979. The law was brand new. No one understood how the Bankruptcy Code worked. I was the top bankruptcy student, so the professor hired me as a clerk and then an associate. (Thank you!)

Two years later, my first employer gave up his teaching duties. By then, I was

working with a new law firm. I received a call from a friend (who was working for the law school). “Do you want to teach the bankruptcy class starting next month?” I laughed. “Well,” I said, “I have read every single case decided to date.” (This task wasn’t too hard back then.) “You’re hired. As the new guy, you get the 8:00 a.m. class slot.”

So, I began my five-year gig as an Adjunct Professor at Loyola Law School in Los Angeles.

How does a new professor get law students to class at 8:00 a.m.? I wanted to provide an incentive for the timely kids. I thought about donuts or coffee. Starbucks’ gift cards were not yet available. After some thought, I came up with “Bankruptcy Joke for a Buck.”

Keep in mind, a dollar in 1982 has the buying power of \$2.57 in 2017. You can check my math at the Inflation Calculator at [HERE](#).

The rules for Bankruptcy Joke for a

Buck were simple. All candidate jokes must be on the professor's lectern by 8:00 a.m. At 8:01 a.m., I would read the best two or three bankruptcy related jokes. The top joke would win \$1.00 for the author. If all the jokes were lame, I would roll over the dollar until the next class. But all the timely students started their day by hearing a few jokes.

Paul Shankman was a student in my first bankruptcy class. Mr. Shankman was smart and prepared. But it wasn't Shankman's legal skills that caught my attention. It was his special attention to Bankruptcy Joke for a Buck. Shankman usually made several submissions to "Bankruptcy Joke for a Buck." Shankman often won the dollar. I was sure he had a secret source of bankruptcy humor.

I'm proud to report that many of my students (including Paul Shankman) found a home in the bankruptcy field. Mr. Shankman took it seriously and (like me) eventually became Board Certified in Business Bankruptcy Law by the American Board of Certification. (You, too, are welcome to become a certified specialist with the American Board of Certification. See [abcworld.com](http://abcworld.com) for the details.)

## **The Hon. Calvin K. Ashland**

As an Adjunct Professor, I was permitted to maintain a full-time bankruptcy litigation practice in Los Angeles. (I'm proud to say I lost my first trial on the day after I was sworn in as a lawyer. My career has improved since that day.)

When I began practicing in 1980, one of our leading Los Angeles judges was the Hon. Calvin K. Ashland. In 1982, when I began teaching, Judge Ashland was appointed to be one of the first judges on the Bankruptcy Appellate Panel for the Ninth Circuit. In 1991, Judge Ashland went on to become chief bankruptcy judge of the U.S. Bankruptcy Court, Central District of California. You can read all about Judge Ashland on line. See, Myrna Oliver,

"Calvin Ashland; Bankruptcy Court Judge," Los Angeles Times, April 16, 1997, available [HERE](#) ("Appointed to the Bankruptcy Court in 1976, Ashland served as chief judge administering the court from 1991 to 1996. He also served on the appellate panel for the federal court's 9th Circuit covering nine western states from 1982 until [1996]. During his tenure as chief judge, Ashland helped increase the district's number of bankruptcy judges from 19 to 21, introduced automated systems that improved case management and established offices in Santa Barbara and the San Fernando Valley.").

I remember one of my first appearances before Judge Ashland. I was representing a consumer debtor. I argued in favor of confirming the debtor's controversial "zero percent" chapter 13 plan. When I was done answering his hard questions, Judge Ashland looked down at me and said, "Mr. Bovitz. You are very convincing. I will confirm this plan." I was elated!

Many years after my first appearance before Judge Ashland, the judge saw me on the street in front of a restaurant. "Good to see you, Professor Bovitz. Did Paul Shankman ever pass along some of the jokes from my book of bankruptcy funnies?" Ah, ha! I was convinced that Judge Ashland's bankruptcy joke book was the source of so many of Paul Shankman's winning entries for Bankruptcy Joke for a Buck.

But I was wrong.

## **Paul Shankman's alibi.**

Eventually, I confronted Paul Shankman at a bar function about the Bankruptcy Joke for a Buck competitions and Judge Ashland's book. I expected a full confession. Shankman would just have to say, "You are correct. I am not funny. I was just passing along Judge Ashland's best work as my own. This is what lawyers do for a living you know."

Instead, Paul Shankman refreshed

my recollection. Mr. Shankman did not know Judge Ashland at the time and did not have access to Judge Ashland's Big Book of Bankruptcy Funnies.

Here is Paul Shankman's alibi, in his own words.

*I was "wet behind the ears" as I entered my last year of law school in 1982 at Loyola Law School in Los Angeles. I had the good fortune of enrolling in a bankruptcy law course taught by J. Scott Bovitz, Esq., a great comedian, teacher, and merciless task master. He was very artful at using humor to illustrate and teach key legal concepts. Scott and I "clicked" as fast friends on a human and humor level.*

*Scott recognized my keen interest in bankruptcy law. Scott noted an opening for a summer internship with bankruptcy judge Calvin K. Ashland in Los Angeles. I applied for the internship and was invited for an interview.*

*I had never met any judge before. So, at the ripe old age of 24, I was ready to be intimidated when I appeared for the first interview.*

*I was invited into Judge Ashland's chambers at the iconic and imposing art deco federal courthouse at 312 North Spring Street in downtown Los Angeles. I sat down in a leather-bound chair and tried to look comfortable.*

*There was a painful silence during the first few minutes of the interview. Judge Ashland was perched in his robes behind his enormous walnut desk. He looked carefully at my resume and writing samples. From time to time, he would look up from the paperwork with his blue eyes behind oversized glasses -- always with a serious expression on his face. I slowly realized that Judge Ashland was really shy.*

*When Judge Ashland finally spoke, he asked me to call him "Cal" (short for Calvin) instead of "your honor" or "judge." That was disarming. Then he*

# BIG BOOK OF BANKRUPTCY FUNNIES

---

said the magic words, "You are hired." Cal also said, "I think that we will work well together. Welcome aboard!"

I was ecstatic, on top of the world. I'm sure I shook his hand a little too enthusiastically.

During my four-month tenure, Cal and his career law clerk (then Ms. Kathleen Lax) took time to teach me how to craft a brief, present issues, and be professional. (Eventually, Kathleen Lax was appointed as a bankruptcy judge. From 1987 to 2010, Judge Lax -- ultimately serving and retiring as Judge Kathleen Thompson -- was on the bankruptcy bench in the San Fernando Valley Division of the Central District of California.

Cal always displayed good humor and a positive attitude in chambers.

One afternoon (just before mounting the bench), Judge Ashland said to me, "Now let's go out there and see what's in all of their little pointed heads."

Another time, I remember a pro se debtor asking Judge Ashland, "Are you a mean judge?" Cal smiled and responded, "No, but some days, I wish I was a mean judge!"

Cal and I enjoyed sharing jokes and humor about the law. When my term was up, Cal gave me a copy of his personal legal joke book. I treasure the book because it reminds me not to take life too seriously.

When Judge (then attorney) Ashland first moved to Los Angeles from Iowa, Ashland's first job was with the bankruptcy and collections boutique now known as Sulmeyer Kupetz. After receiving a stellar written letter of reference from Judge Ashland, I also began my own 35-year career at Sulmeyer Kupetz. For the last 18 years, I have been a partner at Hinds & Shankman, LLP specializing in creditor rights and remedies, financial and business litigation, and corporate

restructuring.

Judge Ashland never stopped mentoring his former clerks. I distinctly recall my early appearances before Judge Ashland. After we completed the business at hand, Judge Ashland would sometimes ask me a personal question. Such as, "Have you made any mistakes yet?" or "Do you have any clients in jail?" (That second question always worried me a little.) After a calendar, Cal might invite me into chambers to chew the fat about daily life.

Cal was also a friend. When Judge Ashland learned that my sister died, he adjourned court. Cal, Kathleen Lax, and Sheri Bressi (his deputy clerk) called to ask what they could do to help me and the family. I was truly touched.

Cal set a great example of what it means to be the best person and attorney that one can be.

Finally, just to be clear, I did not have access to Judge Ashland's Big Book of Bankruptcy Funnies until after I won my fair share of Bankruptcy Joke for a Buck competitions.

That is my alibi, Professor Bovitz, and I am sticking with it.

## **More about the Big Book of Bankruptcy Funnies.**

I've had the privilege to read Judge Ashland's Big Book of Bankruptcy Funnies. (The Consumer Bankruptcy Journal thanks Judge Ashland's widow, Ilse, and the Ashland family for permitting us to review and refer to a few selections from the joke book.)

The Big Book of Bankruptcy Funnies includes over a hundred cartoons from many major publications.

In one cartoon (Peanuts, December 2, 1980), Linus reminds us that Abraham Lincoln -- unlike Snoopy, the dog/

attorney -- was always able to find his way to the courthouse when he was a practicing lawyer.

Another cartoon shows two judges in a private conversation. One judge whispers to the other, "Did you ever have a day when you don't give a damn about the rules of evidence?" This reminds me that bankruptcy judges may not enjoy our excessive evidentiary objections.

The Hon. Barry Russell, U.S. Bankruptcy Judge, Central District of California, is an exception to this rule on evidentiary objections. Judge Russell is the author of the Bankruptcy Evidence Manual (more than 1,200 pages on evidence). At \$581.85, Judge Russell's book is probably the most expensive paperback available from [Amazon](#). Don't check the "OK to deliver by drone" box or Amazon might hurt someone.

Over the years, Paul Shankman cut out published cartoons from the newspaper, dropped the published tag lines, added his own cutting-edge bankruptcy lines, and sent these to Judge Ashland. Judge Ashland placed many of Mr. Shankman's Franken-toons in the Big Book of Bankruptcy Funnies.

The Big Book of Bankruptcy Funnies included an article from the August 7, 1978 edition of Family Circle. This was an excerpt from Barbara Seuling's book, "You Can't Eat Peanuts in Church & Other Little Known Laws." For example, "In Connecticut, the law states that if you are beaver, you have a legal right to build a dam." (Compare the cost of this little gem to Judge Russell's book. At 85 cents, You Can't Eat Peanuts in Church & Other Little Known Laws is probably the least expensive paperback available from [Amazon](#).)

The Big Book of Bankruptcy Funnies includes an undated article from the

Los Angeles Federal Savings Quarterly. The article quotes excerpts of witness statements. For example, "Coming home, I drove into the wrong house and collided with a tree I don't have." (I found no evidence that this compelling publication is still in circulation. Perhaps the publisher changed the name.)

Since Judge Ashland sat in a Los Angeles courtroom, I was surprised that the Big Book of Bankruptcy Funnies did not include any references to California's Maxims of Jurisprudence. I like to sneak these into every important brief. See, California Civil Code §3526

("No man is responsible for that which no man can control."); §3529 ("That which ought to have been done is to be regarded as done, in favor of him to whom, and against him from whom, performance is due."); §3533 ("The law disregards trifles."); §3535 ("Contemporaneous exposition is in general the best."); §3537 ("Superfluity does not vitiate."); §3547 ("A thing continues to exist as long as is usual with things of that nature."); and, my favorite, §3548 ("The law has been obeyed.").

Judge Ashland was a great man.

He died in 1997, at the age of 64. See, Myrna Oliver, "Calvin Ashland; Bankruptcy Court Judge," Los Angeles Times, April 16, 1997, available [HERE](#).

As Paul Shankman summed it up, "Cal taught me to never lose my humanity, caring, patience, and compassion. I will always miss Cal greatly as a mentor, colleague, and friend."

So stipulated.



When you have to be right.

## Cheetah™ Bankruptcy Law Research Suite

**Save 25%**  
**Mention this ad  
and receive 25% off.**  
*New customers only.*

Powered by Wolters Kluwer's world class content, our web-based **Cheetah™ Bankruptcy Law Research Suite** combines authoritative content, expert analysis, practice aids, news and primary source content for bankruptcy law practitioners, legal researchers and scholars.

**Cheetah™ Bankruptcy Law Research Suite** provides:

- **Expert analysis** to provide practical guidance on the impact of the law and the bankruptcy litigation process
- **Up-to-date information** to allow you to stay on top of the latest developments in bankruptcy law
- **Practice aids and case tables** to allow you to quickly locate and cross reference forms by name and number and pinpoint research by case subject, name or number
- Full text of **authoritative content**
- **And much more!**

Contact us at **1-800-638-8437** or [wolterskluwerlr.com/cheetah](http://wolterskluwerlr.com/cheetah) for a **free demo**