

— December 2025 —

# THE CREDIT REPORT

A Publication by the IWIRC - Virginia Network



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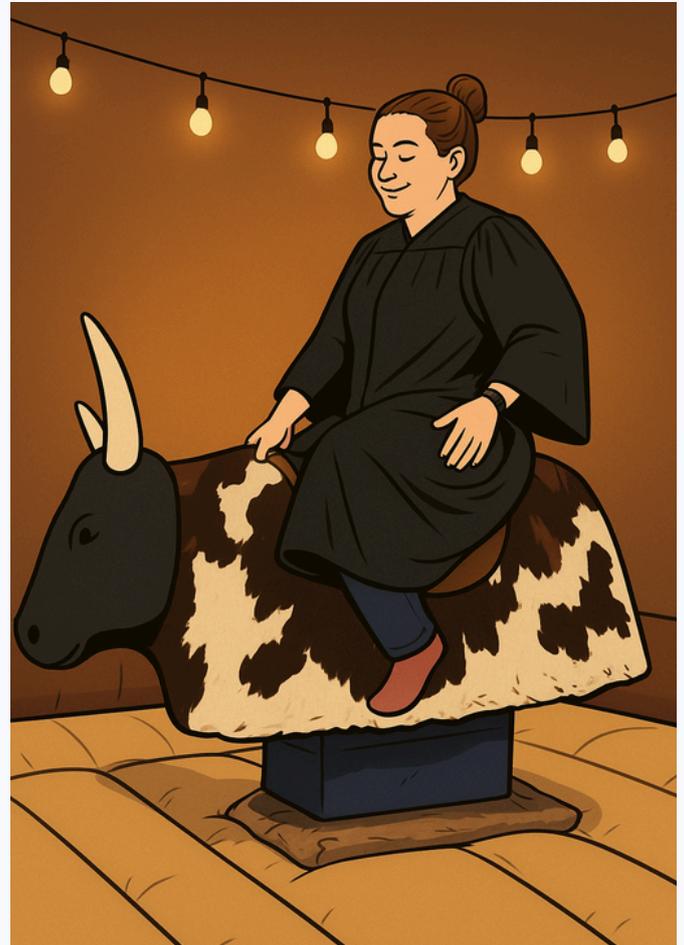
# Not My First Rodeo (Anymore): Five Years in the Robe

By the Hon. Elizabeth L. Gunn

Recently photos from the IWIRC celebration hosted by the Virginia Network popped up in my Timehop App, and I thought to myself, “How has it been 5 years?” Just like raising kids (or pets or plants), the phrase “the days are long, but the years are short” is particularly applicable to serving as a bankruptcy judge. In many ways, I was just working from my remote COVID office and receiving the call that I was selected, and in many others, I find myself thoroughly entrenched in many of the non-courtroom related aspects of serving as a judge.

The most common question I get is “what has surprised you?” Without a doubt, it has been the time I spend on tasks that are in no way directly related to a case, a docket, a hearing, or an order. I serve on inter- and intra-court committees, I’m active in judicial groups and bar organizations, and there is a surprisingly huge hidden amount of administrative work that goes along with the operations of a court. It is truly an infrequent treasure to find a day when I have less than three conference calls and multiple hour long stretches to sit, write, and check off my (always too long) to-do list.

There are many things that took time to get used to: (1) calling other judges by their first names (I tried to call Judge Huennkens “Judge Kevin” for about 9 months, and he kept insisting I could not use “judge”); (2) not using my first name anymore (or at least much more infrequently); (3) being an elephant in any room I walk into where



people know what my job is; (4) court not starting until I enter the room (I once apologized to my courtroom deputy that I was a couple minutes late, and she reminded me “it doesn’t start without you”), same is true for recesses – I get to make that call!; and (5) being quoted back to myself!

Without question the biggest “perk” is the ability to truly mentor young attorneys. Primarily I’m referring to my term clerks, who are truly part of my family forever. But I have had more than a dozen interns from all different law schools and through organizations such as IWIRC, am able to

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work with others. Watching someone grow, learn, thrive, and ultimately be successful and/or recognized is incredibly fulfilling. I know the success is indicative of their amazing traits, but where I can, it is personally and professionally uplifting to be just a very small part of their journeys.

Was being a judge what I expected? In many ways it is – it is intellectually challenging and fulfilling and is a true form of public service. My best

compliments are from those who have appeared in my court. “You a’ight judge” stands out as a highlight. At the same time, I did not clerk, so my expectations were limited. So, while it has easily met the limited expectations I had; more importantly, it has and continues to involve so much more than I could have ever anticipated. Serving as a judgeship certainly is not for everyone, but for me, it is the best job in the whole world (perhaps only surpassed by being a mom to my kids).



## ***Dollars & Sense***

### **2025-2026 Virginia Bankruptcy Law Clerks**

#### **Chief Judge Paul M. Black**

Elizabeth Carroll, Career Law Clerk - 540.857.2394  
Nicholas Whitley, Term Law Clerk

#### **Judge Rebecca B. Connelly**

David Barnes, Career Law Clerk - 540.434.6747  
Dillon Ebner, Term Law Clerk

#### **Chief Judge Brian F. Kenney**

Stephen Steward, Term Law Clerk - 703.258.1244

#### **Judge Klinette H. Kindred**

Brandon Poirier, Career Law Clerk - 703.258.1289

#### **Judges Keith L. Phillips and Kevin R. Huennekens**

Rachel Greenleaf, Career Law Clerk - 804.916.2451

#### **Judge Frank J. Santoro**

Cindy Wiegand, Career Law Clerk - 757.222.7471  
Tobias Jeung, Term Law Clerk - 757.222.7472

#### **Judge Stephen C. St. John**

Heather Berry, Career Law Clerk - 757.222.7482  
Danielle Tabatneck, Term Law Clerk - 757.222.7481

*Practical practice pointers  
you can use!*

PLEASE NOTE, each judge has their own chambers communications policy. Only use this information to the extent permitted by the applicable judge.

# Recent Developments

## New Cases You Need to Know.

***In re Martinez*, Case No. 20-10250-BFK, 2025 WL 3263991, 2025 Bankr. LEXIS \_\_\_\_\_ (Bankr. E.D. Va. Nov. 21, 2025) (Kenney, C.J.):** Chapter 13 debtor reopened his case to disclose and exempt a post-petition claim for employment discrimination. The trustee objected to the debtor's claimed exemption.

The debtor's claims for lost wages were property of the estate under §1306(a)(2) and not subject to exemption under Va. Code §34-29. Although pre-petition wages may be exempt under state law, the court found that §1306(a)(2) evidenced a clear congressional intent to displace state law on exemptions for post-petition wages. The debtor's emotional distress damages were sufficiently attributable to "personal injury" and could be exempted under Va. Code §34-29. Finally, the court determined that any punitive damages would follow the nature of the underlying claim. The court deferred ruling, pending a final settlement or damages award.

***Liberty Mut. Ins. Co. v. Hopeman Bros., Inc.*, Case No. 3:25-cv-603-DJN, 2025 WL 3205866, 2025 U.S. Dist. LEXIS 226135 (E.D. Va. Nov. 17, 2025) (Novak, J.):** Liberty Mutual provided asbestos-related insurance policies to the debtor. Liberty Mutual filed an adversary proceeding, seeking a declaratory judgment that a 2003 settlement agreement between it and the debtor extinguished further obligations for asbestos-related claims.

The district court granted the motion and withdrew the reference. Liberty Mutual's claim was non-core because it involved pre-bankruptcy agreements independent from the chapter 11 case. Withdrawal would not negatively impact uniform administration of

the bankruptcy case and would promote judicial economy by eliminating additional stages of briefing, since the bankruptcy court could not enter final judgment in this non-core matter. The court rejected the committee's argument that withdrawal constituted forum shopping, noting that the district court would eventually conduct de novo review of the bankruptcy court's adjudication regardless.

***Barrett v. Up Ashburn, LLC (In re McCarthy Contracting, LLC)*, Adv. Pro. No. 25-03029-KLP, 2025 LX 592085 (Bankr. E.D. Va. Nov. 13, 2025) (Phillips, J.):** The Chapter 7 trustee filed a complaint seeking turnover of \$48k owed to the debtor by the defendant under a construction contract. The court granted the defendant's motion to dismiss without prejudice. Turnover under §542 is for collection of matured debts, not liquidation of disputed contract claims. The court found the complaint deficient because it: (1) failed to explain how the specific amount of \$48k was calculated from an \$833,393 contract; (2) contained no information about deposits, progress payments, or accounting methods; (3) alleged facts inconsistent with the contract terms regarding performance timeline; and (4) did not explain why the debtor was still performing services in 2024 when the contract specified completion by August 2023.

***Barber DME Supply Grp., LLC v. Barber (In re Barber)*, Adv. Pro. Nos. 25-01036-BFK, 25-01037-BFK, 2025 WL 3131322, 2025 Bankr. LEXIS 2907 (Bankr. E.D. Va. Nov. 6, 2025) (Kenney, C.J.):** Mr. Barber was the 100% owner of Barber DME, which in turn owned a warehouse and a condo. Barber sold his membership interest in Barber DME in 2021.

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In 2022, Barber purported to transfer both properties to himself via deeds of gift, then transferred the properties to entities he owned. Barber DME obtained a \$3,010,000 judgment against Barber for fraud in state court. After Barber filed an individual Chapter 11 bankruptcy, he removed the fraudulent transfer actions to bankruptcy court. Barber DME moved to remand back to state court.

The court found 'related to' jurisdiction because Barber DME's recovery of the properties (if ordered), may result in a reduction of the judgment against the debtor, but may also result in indemnity claims against the debtor by the debtor's new companies. Despite having jurisdiction, the court found mandatory abstention appropriate because all six required elements were satisfied, particularly noting that the defendants failed to show the actions could not be timely adjudicated in state court.

**Church v. Ness (In re Ness), Adv. Pro. No. 25-03002-KLP, 2025 WL 3114138, 2025 Bankr. LEXIS 2894 (Bankr. E.D. Va. Nov. 6, 2025) (Phillips, J.):** After his home suffered fire damage, Church hired Drumheller as his agent to work with insurance and find a contractor. Drumheller recommended Ness and Beaverdam Construction. Church signed a building permit application seeking exemption from the contractor requirement, indicating he would perform the work himself. Ness received \$151k but failed to complete the project. Church obtained a default judgment against Ness in state court. Ness then filed a Chapter 13 bankruptcy.

The court ruled that the debt owed by Ness to Church is dischargeable. Church failed to prove Ness made any false representation about her licensure status. Evidence showed Church knew Ness was unlicensed when he applied for a building permit exemption. The court found Ness's testimony credible that

she never claimed to hold a contractor's license. Church failed to establish that Ness acted in a fiduciary capacity, as Virginia law does not require contractors to segregate funds, and no evidence showed Ness was required to hold funds in trust.

**In re 1333 Baecher Lane VA, LLC, No. 24-71088-SCS, 2025 WL 3083057, 2025 Bankr. LEXIS 2859 (Bankr. E.D. Va. Nov. 4, 2025) (St. John, J.):** The debtor filed a Subchapter v, which later converted. The debtor's principal asset was real property sold by the Chapter 7 trustee. Counsel for the debtor applied for approval of his fees for work performed during the Chapter 11 case. The debtor's sole member objected to the fees as excessive, relying on an unsworn letter from another attorney criticizing various time entries.

The court overruled the objection and approved the application in its entirety. The court found counsel's hourly rate reasonable based on expert testimony that rates between \$375-\$575 were approved in similar cases in the district. The court determined the time expended was reasonable and necessary given the challenges faced, including lender communication issues, multiple payoff statements, and difficulties with the debtor's financial records. The court rejected the argument that fees should be lower because the debtor had only one asset, finding that the complexity of issues, not asset type, determines reasonable fees.

**South Carolina v. United States (In re Yellow Poplar Lumber Co., Inc.), No. 1:25-CV-7-JPJ, 2025 WL 2978053, 2025 U.S. Dist. LEXIS 208830 (W.D. Va. Oct. 22, 2025) (Jones, J.):** Yellow Poplar Lumber Company went bankrupt in 1931 under the Bankruptcy Act of 1898. In 2013, a dispute arose regarding Virginia natural gas estates owned by the debtor pre-petition. The case was reopened and transferred to the Western District of Virginia. After a 2017 settlement, the estate received proceeds from gas wells, which it



*Next Event!*

# ANNUAL HOLIDAY PARTY

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disbursed. South Carolina moved to escheat \$422k in unclaimed funds under state law.

The district court affirmed the denial of South Carolina's request to transfer venue and to escheat funds. §66 of the Bankruptcy Act of 1898 (as amended in 1956) prohibits escheat of unclaimed bankruptcy funds to states. The 1956 amendment applied because the unclaimed funds did not come into existence until 2017, after the amendment was enacted. The court distinguished *In re Moneys Deposited*, 243 F.2d 443 (3d Cir. 1957), where funds had already escheated to Pennsylvania before the 1956 amendment. The court found no conflict between state and federal law given that the funds did not escheat prior to the 1956 amendment. The bankruptcy court properly exercised its discretion in denying venue transfer based on its extensive knowledge of the case.

**All Am. Black Car Serv., Inc. v. Gondal (In re All Am. Black Car Serv., Inc.), Nos. 24-1981, 24-1982, 2025 WL 2925355, 2025 U.S. App. LEXIS 26822 (4th Cir. Oct. 15, 2025) (per curiam):** All American Black Car Service had three shareholders: Cheema (51%) and appellants Sheiryar and Gondal (49% combined). They agreed to liquidate the corporation, pay debts, and place remaining funds in escrow. Appellants sold vehicles for \$317k, paid \$88,559.31 in debt, but kept the remaining \$228k. Cheema attempted to revive the business by placing it in Chapter 11. The debtor filed an adversary proceeding seeking return of the \$228k plus lost profits.

The Fourth Circuit affirmed. The court did not abuse its discretion in excluding Sheiryar's testimony about appropriate rates because he sought to testify about what

others (like ZipRecruiter) said his work was worth, rather than basing his opinion on his own knowledge or experience in the limousine industry. The bankruptcy court did not clearly err in rejecting appellants' ratification defense where the debtor effectively repudiated their actions by filing suit to claw back the funds within weeks of learning that they had kept the money. Appellants remained liable for converting the funds but were entitled to a 49% setoff for their equity stake pursuant to Va. Code §13.1-745(A), resulting in a final judgment of \$116k.

**In re Mendieta, Bankr. E.D. Va. No. 21-11518-BFK, 2025 WL 2937360 (Bankr. E.D. Va. Oct. 15, 2025) (Kenney, C.J.):** The debtor, by counsel, filed Chapter 7 and later converted to Chapter 13. The attorney disclosed receiving \$1,500 for the Chapter 7, but failed to disclose receipt of a \$338 filing fee and additional \$1.8k fee charged after conversion, as required by Bankruptcy Rule 2016(b).

The attorney failed to appear at a hearing, despite knowing he had a scheduling conflict. The debtor attended, unrepresented, to request a continuance. The attorney also ignored a court order requiring a written response to an order to show cause, later claiming the notice went to his spam folder. In 2023, the attorney had been previously suspended for 60 days for failing to appear at multiple hearings and a meeting of creditors.

The court found the attorney violated Rule 1.1 (competence), Rule 1.3(a) (diligence), and Rule 3.3 (candor to the tribunal) of the Virginia Rules of Professional Conduct. The court emphasized that full fee disclosure under Rule 2016(b) is a continuing obligation and that failing to appear or to monitor electronic

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filings constitutes serious professional misconduct. The court suspended the attorney from practice for one year, with his CM/ECF privileges revoked. The court also ordered the attorney refund all fees paid by the debtor. Finally, the court referred the matter to the state bar for further action.

**Vaughn v. Hassett, Case No. 1:24-cv-1793-PTG, 2025 WL 2772751, 2025 U.S. Dist. LEXIS 192364 (E.D. Va. Sep. 29, 2025) (Giles, J.):**

Vaughn was the sole owner and shareholder of VHI. The Hassetts contracted with VHI for construction services. VHI failed to complete the work, leading to an arbitration award of \$201,919.52 against VHI. Vaughn filed for Chapter 13 bankruptcy, later converted to Chapter 7. The Hassetts filed a \$250,000 claim against Vaughn personally. VHI had no corporate records, officers, meetings, or employees. Vaughn admitted to using VHI accounts to shield personal funds from creditors. Evidence showed Vaughn extracted payments from clients under false pretenses.

The district court affirmed the bankruptcy court's order overruling Vaughn's objection to the Hassetts' claim and allowing them to file their claim against him personally. The court found that Vaughn's appeal was not equitably moot because the bankruptcy court had ordered an amended "Plan of Liquidation," referring to the Chapter 7 trustee's final report.

On the merits, the court determined that both prongs of Virginia's veil-piercing test were satisfied. Under Virginia law, to pierce the corporate veil, the plaintiff must show: (1) the corporation was the alter ego of the individual, and (2) the corporation was used as a device or sham to disguise wrongs, obscure fraud, or conceal crime. Here, (1) Vaughn's counsel conceded the first prong, and evidence showed VHI lacked corporate formalities; (2) Vaughn used VHI to extract payments from clients under false pretenses and to shield personal funds from creditors, which constituted legal wrongs under Virginia law sufficient to justify piercing the corporate veil.

# FALL HIKE

On Saturday, October 18, members from the Virginia and DC networks met in the Blue Ridge Mountains for a hike, followed by a trip to Early Mountain Vineyards. The weather was perfect!

If you missed out, be sure to join us next year!



# NOTE from the EDITOR

We are in the midst of yet another holiday season. For me, that means shooing cats off of wrapping paper and convincing the dog not to pee on the Christmas tree.

Regardless of what you celebrate and who you celebrate with, I hope you have a wonderful winter. Looking forward to seeing you all in 2026! IWIRC has a great year planned and I can't wait to share it with you all!

*In solidarity,  
Rachel Greenleaf*



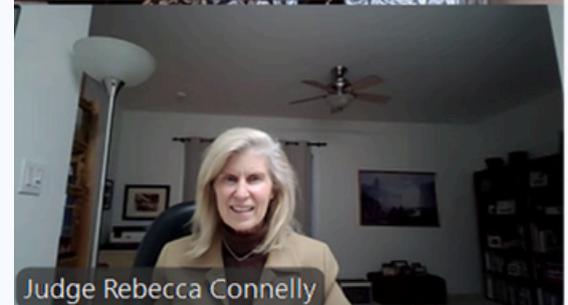
## From Notice to Nuance: *Understanding the 2025 Amendments to Bankruptcy Rule 3002.1*

On November 17, 2025, former and current IWIRC - Virginia Network board members, Judge Rebecca Connelly, Hannah Hutman (Hoover Penrod PLC), and M. Christine Maggard (Brock and Scott PLLC), presented a lively and engaging 1 hour CLE program on the new amendments to Bankruptcy Rule 3002.1.

We had 50 registrants for this program! Feedback included

- “The CLE was great; I love that you ‘cornered,’ in a three-way, all the available perspectives by the choice of the panelists.”
- “An excellent presentation.”
- The program’s “content is so very important to our daily work.”

If you have an idea for a continuing legal education topic or would like to be considered for speaking, please contact Rachel. We are always looking for more educational content!



# New Member Spotlight



**Liv Maier,**  
Hunton Andrews Kurth LLP

A 2024 graduate from W&L Law, Liv previously clerked for the Honorable Joseph N. Callaway (E.D.N.C) before starting at Hunton in fall 2025 as a bankruptcy associate.



**Shannon Morgan**  
Staff Attorney for the Chapter 13 Trustee

Shannon is licensed in Alaska, Colorado, & Virginia. Before becoming a staff attorney, Shannon had an extensive litigation practice, covering domestic relations matters, civil disputes, contested bankruptcy proceedings, criminal defense, and personal injury. Shannon lives in Greene County with her husband & 3 children.



**Morgan Mumford**  
McGuireWoods

Before joining McGuireWoods, Morgan clerked for both the Honorable Joseph N. Callaway (E.D.N.C.) and the Honorable Frank J. Santoro (E.D. Va.)



**Elizabeth Halsey Parrott**  
McCalla Raymer Leibert Pierce, LLP

Licensed in Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, & West Virginia, as well as Maryland federal courts , Liz's practice focuses on creditor representation, mainly banks and mortgage servicers. Liz lives in the Shenandoah Valley .



**Heather Parsons**  
Giles & Lambert, P.C.

Heather graduated from Virginia Tech in 2009 & Regent University School of Law in 2012. She joined Giles & Lambert in 2017 after working for Legal Aid. Heather works primarily in the Blacksburg office, regularly representing Chapter 7 and 13 clients. She lives in Christiansburg with her family.



**Angela M. Scolforo**  
Standing Chapter 13 Trustee (W.D. Va.)

Angela was appointed Chapter 13 Trustee in 2023, after serving as a staff attorney for 18 years. She successfully briefed & argued *Virginia v. Webb*, 908 F.3d 941 (4th Cir. 2018) (creditors cannot garnish funds held by the trustee). Angela has 7 children & 15 grandchildren

# Member News



## Dream On!

Members of the Virginia and DC Networks had the opportunity to participate in this year's *Discovering Restructuring Expertise and Mentorship Symposium (DREAMS)* program at the Howard University School of Law.

The program informed students about various careers in the insolvency field, as well as suggestions for mentorship and sponsorship opportunities

## UPCOMING EVENTS

**December 4**

Board Meeting and  
Holiday Party

**December 16**

Richmond Bar Association Bankruptcy Section's  
Holiday Party, co-hosted by IWIRC - Virginia Network

**January 22**

"An Evening for Our Most Giant Selves" - VMFA tour  
followed by dinner with Judge Gunn

**Not a member?**

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