

- October 2026 -

THE CREDIT REPORT

A Publication by the IWIRC - Virginia Network



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MEET THE NETWORK

Five Minutes with Sara John

SARA JOHN

Network Vice Chair

Vice President, M. Richard Epps, P.C.
Virginia Beach, VA

24 YEARS

IN BANKRUPTCY
& RESTRUCTURING



01

THE PATH TO BANKRUPTCY

What drew you to bankruptcy or restructuring work, and how did you arrive at your current role?

I began my bankruptcy practice right after taking the bar exam when my best friend from law school suggested I apply to work for the firm where she had just been hired. Not many firms were hiring before the bar results came in and she found one that did, and it was a bankruptcy-focused practice. I was hired and discovered I love the code-based and mathematical nature of bankruptcy practice. I represented debtors for a few years before switching to the "other side" and I have been exclusively representing creditors for over 20 years.

02

WHEN TO CALL SARA

What types of matters are a natural fit for your practice, and when should we call you for help?

Creditor representation in bankruptcy is the focus of my practice. You should call me for help if you are owed money and the person who owes you threatens to file bankruptcy or files bankruptcy. I have been taking on a few pro bono cases a year in order to help individuals or small businesses navigate being a creditor in bankruptcy. Two types of individual creditors who might not realize they are creditors are someone whose ex-spouse files bankruptcy and has a support obligation and someone who has been a victim of fraud, whether it be a Ponzi scheme, a romance scam, or any other kind of fraud.

03

PROUDEST ACCOMPLISHMENT

What's an accomplishment (professional or personal) you're particularly proud of?

One of my proudest professional accomplishments is winning a case that had a published opinion, it was so cool to see my name in the Virginia Lawyers Weekly. Personally, I'm proud of my 22 and 18 years old.

“

The bar is very friendly and generally very open to helping newer attorneys.

”

04

WHAT SHE'S WATCHING

What trend or development in bankruptcy are you watching right now?

The trend I am seeing in my practice is more and more pro se filers who use AI tools to prepare legally sound pleadings. I think the rise in the numbers of pro se filers has been brought on by access to so much free information online. I feel like more pro se cases are being successfully completed recently and I predict this trend will continue.

05

ADVICE FOR NEWER LAWYERS

What advice would you give to someone newer to the field?

I would advise someone new to the field to first read the local rules and then read them again. Go to court, even if you do not have anything on the docket, to see the practice and procedure in person. Each Division might do things differently, so it's a good idea to get as much exposure as possible to the individual courts you will be appearing in. Having a mentor who you can go to with questions or for advice is essential. Our bar is very friendly and generally very open to helping newer attorneys.

Recent Developments

New Cases You Need to Know.

Bayramov v. Am. Credit Acceptance, LLC (In re Total Auto Fin. LLC), Case No. 25-1490, 2026 WL 2251900, 2026 U.S. App. LEXIS 23481 (4th Cir. Aug. 5, 2026) (Richardson, J.): After American Credit Acceptance declared Total Auto Financing in default and replaced its loan servicer, the value of Total Auto's portfolio fell and the company filed bankruptcy. Its owners, the Bayramovs, brought adversary proceedings in their own names over alleged injury to the portfolio, without involving the trustee. The bankruptcy court dismissed the complaints for lack of standing, and the district court affirmed.

The Fourth Circuit affirmed the dismissals but clarified that ownership of the claims is a merits issue under Fed. R. Civ. P. 12(b)(6), not an Article III standing question. Under Virginia law, the alleged injuries belonged to Total Auto, not its members individually. Mr. Bayramov's increased exposure on his personal guaranty did not make his negligence claim direct: recovery by the LLC would offset that exposure. The Bayramovs had neither demanded action from the trustee nor pleaded a proper derivative claim.

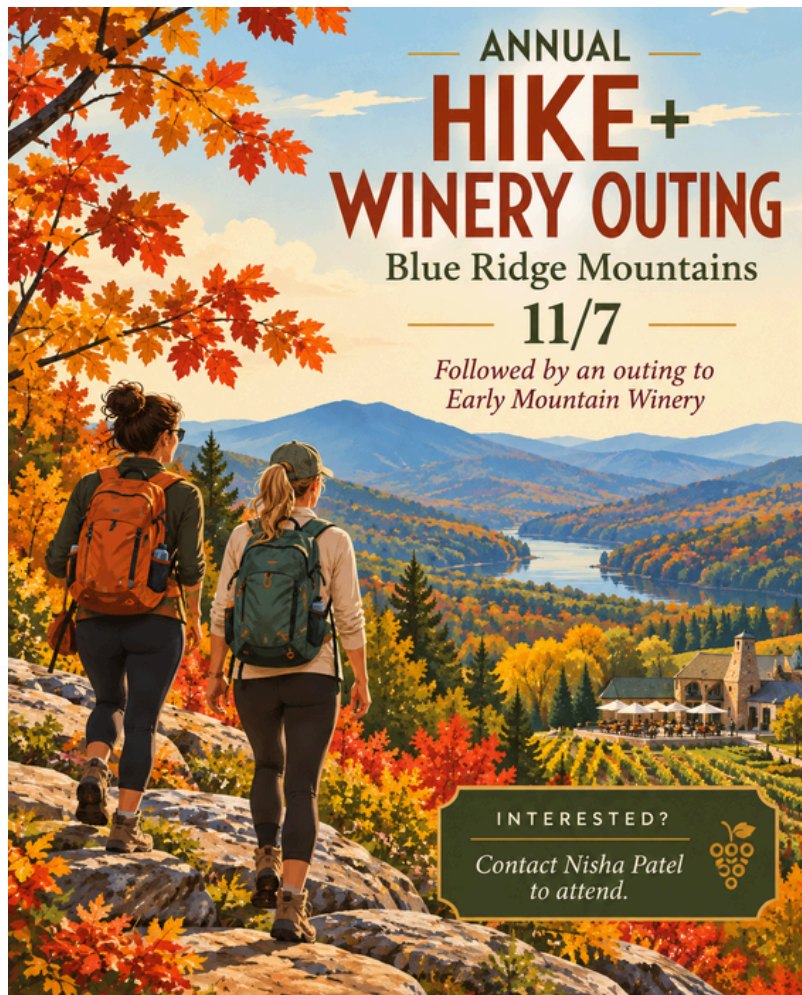
Bristol Springs Custom Homes, LLC v. Argo Grp. US, Inc., Case No. 25-1070, 2026 WL 2137953, 2026 U.S. App. LEXIS 22065 (4th Cir. July 24, 2026) (per curiam): After a jury awarded Bristol Springs's customers \$325k for construction defects, its insurer, Colony, negotiated a settlement under a reservation of rights. Bristol then filed bankruptcy, complicating any release of its appeal rights. Colony repeatedly sought guidance from Bristol's bankruptcy counsel, but Bristol did not respond or counteroffer. The dispute settled for \$385k with bankruptcy court approval. Bristol then sued Colony and its claims administrator for breach of contract and bad faith; the district court granted the defendants summary judgment.

The Fourth Circuit affirmed. Bristol did not show that its counsel's services were necessary to secure the settlement under West Virginia's Hayseeds doctrine, particularly given its silence during negotiations. The cited Unfair Trade Practices Act provisions protected third-party claimants, not an insured suing its own insurer. The court dismissed Colony's cross-appeal seeking affirmance on alternative grounds as unnecessary.

Choudhary v. Gorman, Case No. 1:25-cv-1558 (PTG/WBP), 2026 WL 2861628, 2026 U.S. Dist. LEXIS 216881 (E.D. Va. Sept. 23, 2026) (Giles, J.): The court denied confirmation of the Chapter 13 debtors' first plan because it was underfunded. Their amended plan was also underfunded and proposed a 63-month term in violation of § 1322(d). The debtors appealed the denial of confirmation but did not seek a stay. Instead, they requested more time to file another plan, i.e., delaying until the district court decided the appeal. The bankruptcy court denied the extension and dismissed the case for unreasonable delay under § 1307(c).

On appeal from the dismissal, the district court rejected the trustee's equitable mootness argument: plan payments had been returned, and no irreversible distributions or third-party transactions had occurred. It nevertheless affirmed, finding no abuse of discretion in dismissing for unreasonable delay.

Continued on page 4



— ANNUAL —
HIKE +
WINERY OUTING
 Blue Ridge Mountains
 — 11/7 —
Followed by an outing to
Early Mountain Winery

INTERESTED?
 Contact Nisha Patel
 to attend.

In re Laster, Case No. 3:25-cv-950 (RCY), 2026 WL 2861625 (E.D. Va. Sept. 23, 2026) (Young, J.): The bankruptcy court dismissed the pro se Chapter 7 debtor's case after he failed to attend the § 341 meeting. Rather than timely appeal, the debtor moved to vacate the dismissal under Fed. R. Civ. P. 60. The bankruptcy court instead applied Fed. R. Civ. P. 59(e) (although a motion under 59(e) would be untimely). The district court reversed and remanded for the bankruptcy court to evaluate the motion under Rule 60.

Jenkins v. United States, Case No. 2:25-cv-224 (JKW), 2026 WL 2323532, 2026 U.S. Dist. LEXIS 179756 (E.D. Va. Aug. 11, 2026) (Walker, J.): The Chapter 7 debtor disclosed a workers' compensation claim arising from a prepetition workplace injury but did not separately disclose potential claims under the Longshore and Harbor Workers' Compensation Act, believing the existing disclosure covered them. After his case closed, he sued the government and AMP United LLC. The defendants sought summary judgment based on judicial estoppel. The debtor reopened his bankruptcy case, and the reappointed trustee moved to substitute himself as plaintiff.

The district court allowed substitution. Because the injury occurred before bankruptcy, the claim belonged to the estate under § 541(a)(1), making the trustee the real party in interest under Fed. R. Civ. P. 17(a)(1). The debtor's alleged bad faith and the defendants' judicial estoppel arguments were matters for summary judgment, not grounds to prevent substitution under Fed. R. Civ. P. 25(c). The court did not address Keathley.

Locus v. Unit Owners Ass'n of Lafayette Forest Condo., Case No. 1:26-cv-02056 (MSN/WEF), 2026 WL 2296082, 2026 U.S. Dist. LEXIS 179462 (E.D. Va. July 29, 2026) (Nachmanoff, J.): A state court entered judgments against Locus for unpaid condominium assessments and fraudulent transfers and ordered three properties sold. Before the sales, Locus filed Chapter 13 that was dismissed for payment default, then filed a second case in which she could not confirm a plan. The bankruptcy court granted the condominium association relief from stay, finding that the second filing continued her effort to hinder, delay, or defraud creditors. Locus sought a stay pending appeal to prevent the judicial sales.

The district court denied the emergency motion. Locus had not shown a likelihood of success: the bankruptcy court properly credited the state court's findings and did not clearly err in finding the scheme continued through the bankruptcy filings. Although a sale would harm Locus, the association's harm and the public interest in enforcing lawful judgments weighed against a stay.

Brown v. Goldman Sachs Bank USA (In re Brown), Adv. Pro. No. 24-07009-PMB, 2026 WL 2671672, 2026 Bankr. LEXIS 2313 (Bankr. W.D. Va. Sep. 10, 2026) (Black, C.J.): Goldman Sachs moved to dismiss the debtors' putative class action for stay violations. The court held that the complaint adequately alleged a willful stay violation: after

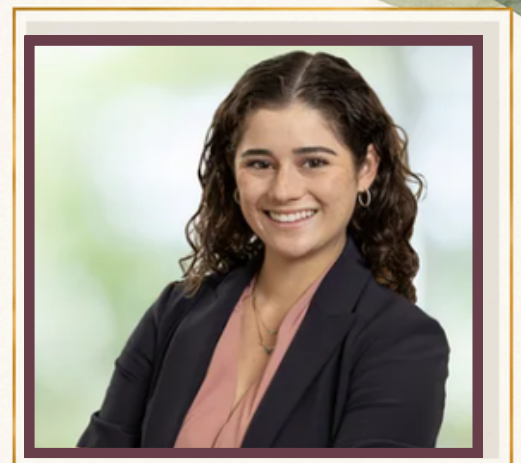
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Congratulations, Olivia "Liv" Maier

Associate, Hunton Andrews Kurth

Elected to the Board as IWIRC
Virginia's First Emerging Leaders Chair

*We are thrilled to welcome Liv
to this new leadership role.*



receiving notice of the bankruptcies, Goldman Sachs continued sending collection emails, making calls, and issuing other communications about the debtors' Apple Cards. Specific intent to violate the stay was unnecessary; knowledge of the bankruptcy and an intentional collection act sufficed.

The court nevertheless dismissed the complaint without prejudice because it did not adequately plead actual damages. A stay violation does not create a per se compensable injury, and attorneys' fees or potential punitive damages did not dispense with the need to allege a concrete injury. The threatened credit reporting was speculative, allegations of stress and anxiety were conclusory, and the claim of lost time lacked factual detail.

In re McPherson, Case No. 26-70528-PMB, 2026 WL 2589947, 2026 Bankr. LEXIS 2206 (Bankr. W.D. Va. Sept. 1, 2026) (Black, C.J.): Before the pro se debtor filed Chapter 7, Klima, Peters & Daly (KPD) sued him in state court to collect a debt. KPD promptly dismissed that action after the filing. The debtor later received documents concerning the debt's ownership and history, but they contained no payment demand. He alleged further harassment and sought sanctions for violating the automatic stay. KPD did not respond or appear at the hearing.

The court denied the motion. Despite KPD's default, the debtor had to prove a stay violation, willfulness, and resulting damages under § 362(k). He presented no documentary support for his harassment allegations and failed to prove postpetition collection activity.

Austin v. Wharam (In re Wharam), Adv. Pro. No. 15-01126-BFK, 2026 WL 2534151, 2026 Bankr. LEXIS 2169 (Bankr. E.D. Va. Aug. 21, 2026) (Kenney, C.J.): In 2015, the debtor's former husband obtained a default judgment declaring several divorce-related obligations nondischargeable under §§ 523(a)(4), (5), (6), and (15). More than a decade later, the debtor moved to reopen the adversary proceeding, citing statements by her former husband that she claimed conflicted with the state court's finding that she had forged powers of attorney.

The court treated the request as a motion for relief from judgment under Fed. R. Civ. P. 60. The alleged inconsistencies could have been raised as defenses and did not constitute fraud on the court under Rule 60(d)(3). They instead alleged ordinary fraud under Rule 60(b)(3), which carries a 1-year deadline. The court denied the untimely motion.

From Practice to Podium



On August 24, vice chair **Sara John** and secretary **Kelly Barnhart** presented *Striking Gold: Bankruptcy Rule 2004 & Other Investigative Strategies to Locate Recoverable Assets*, a program from Virginia CLE.

McGrath v. Pearson (In re Pearson), Adv. Pro. No. 25-07027-PMB, 2026 WL 2342167, 2026 Bankr. LEXIS 2026 (Bankr. W.D. Va. Aug. 12, 2026) (Black, C.J.): The debtor's separation agreement required her to maintain her ex-husband's life insurance for their children, but she remained the designated beneficiary. After his death, she received and spent the \$200k proceeds. The children later obtained a state court money judgment on a constructive trust and equitable assignment claim; their contract, conversion, and unjust enrichment claims were time-barred. After the debtor filed Chapter 7, the children sought to have the judgment declared nondischargeable.

The bankruptcy court held that the state limitations ruling did not bar a dischargeability determination because a valid final judgment established the debt and the children complied with the bankruptcy deadlines. It rejected their claims under § 523(a)(2)(A), (a)(4), and (a)(6) for lack of proof of the required intent, crediting the debtor's testimony that she believed counsel had removed the insurance provision from the PSA.

The court held the debt nondischargeable under § 523(a)(5). The agreement characterized its obligations as support, and the extrinsic evidence supported that characterization. Alternatively, the debt fell under § 523(a)(15) as an obligation to the debtor's children incurred in connection with a separation agreement.

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Mahar v. New Rez LLC (In re Mahar), Case No. 25-72454-SCS, 2026 WL 2220314, 2026 Bankr. LEXIS 1907 (Bankr. E.D. Va. July 31, 2026) (St. John, J.): In her 11th bankruptcy case since 2012, the debtor sued her lender and mortgage servicer to invalidate a valid postpetition foreclosure sale. She acknowledged that no automatic stay arose upon the filing but asserted a servicing-regulation claim, a request for equitable relief under § 105(a), and Virginia contract claims.

The court dismissed for lack of subject-matter jurisdiction. The claims did not arise under the Bankruptcy Code or in a bankruptcy case; invoking § 105(a) alone did not supply jurisdiction. Nor were they related to the bankruptcy: the debtor sought no recovery for the estate, the property had no equity for creditors, and the trustee had abandoned the property and claims.

In re Perez, Case No. 26-10818-BFK, 2026 WL 2226056, 2026 Bankr. LEXIS 1906 (Bankr. E.D. Va. July 31, 2026) (Kenney, C.J.): Perez and his nonfiling spouse kept separate finances and split their rent. In his Chapter 7 means test, Perez included household income that put him above the median but claimed a \$1k monthly marital adjustment for his spouse’s gambling debts. The U.S. Trustee sought dismissal for abuse, arguing that disallowing the adjustment would trigger the § 707(b)(2) presumption.

The court allowed the adjustment because the debts were solely the spouse’s and did not pay household expenses, although Perez could not have deducted his own ongoing gambling losses. It also rejected dismissal under the totality of the circumstances in 707(b)(3). The couple otherwise lived modestly, and there was no evidence Perez could make his spouse stop gambling and redirect that money to creditors.

In re Hopeman Bros., Inc., Case No. 24-32428-KLP, 2026 WL 2189983, 2026 Bankr. LEXIS 1919 (Bankr. E.D. Va. July 29, 2026) (Phillips, J.): A judicial mediation governed by a confidentiality order produced the debtor’s § 524(g) plan. Liberty Mutual, an insurer opposing the plan, asserted a claim for bankruptcy monitoring expenses under a prepetition indemnification agreement. After the district court remanded the claim objection, Liberty Mutual asked the bankruptcy court to modify the mediation order so it could obtain confidential mediation communications on the debtor’s obligation to minimize those expenses.

The court denied the request because modification would conflict with LBR 9019-1(J), which binds the court and parties. It distinguished *In re Anonymous*, 283 F.3d 627 (4th Cir. 2002), as addressing a different mediation rule. Even if that decision’s manifest-injustice standard applied, Liberty Mutual had not shown that nonconfidential discovery could not provide the information it sought.



Tina's Wish Returns to Richmond for Its 2026 Virginia Gathering

On Thursday, October 15th, Tina's Wish will host its 2026 Virginia Gathering in Richmond - an evening dedicated to raising awareness and funds for early detection ovarian cancer research.

Expect to see fellow Financial Restructuring colleagues, and enjoy a meaningful program.

There is no early detection test for ovarian cancer. Tina's Wish is working to change that, funding innovative scientific research for the prevention and early detection of the disease and providing gynecologic health education. Guided by its mission—Know Early. Know Hope.®—the foundation has raised more than **\$34 million** since its founding and now funds **\$2.4 million** in research each year.

To learn more, become a sponsor, or purchase tickets, contact Anna Gibson at agibson@tinawish.org or visit tinawish.org/virginia26.

New Member

SPOTLIGHT



Hon. Keith L. Phillips



Beth Sieg



Katey O. Balderaz



Kathryne Shaw



Kristen Nina P. Belber



Lorrie Bradley-Ferrall



M. Christine Maggard



Todd Rich

Dear Miss Reese

TRUCT-SHERING

Your go-to source for navigating the practical (and perplexing) realities of insolvency and restructuring.

Have a question for Miss Reese? Send it to iwircvirginia@gmail.com.

I am not sure how to work with support staff and paralegals, especially regarding delegating work and giving feedback. Any advice?

Dear Learning to Lead, Law school teaches you how to read and write. It rarely teaches you how to lead a team. Here's the secret: the best assistants and paralegals have probably forgotten more about your firm's procedures than you currently know.

Treat them as teammates, not task lists. When delegating, explain the *why*, not just the *what*. Instead of saying, "Please draft this notice," explain what the filing accomplishes and when it's needed. That context helps everyone make better decisions. When giving feedback, be specific and timely. Correct the work – not the person. And when someone does outstanding work, tell them that too. Positive feedback is surprisingly rare in law firms, and it costs nothing. Finally, ask questions. "How have you handled this before?" may be the smartest sentence a new attorney can say.

The strongest legal teams aren't built on hierarchy. They're built on mutual trust and respect.



On August 29, the Virginia Network and the Risk Management Association shared an evening of beers, brats, and baseball.

Thanks to Hirschler for their generous sponsorship of the game.

One-Minute TOOLBOX

PRACTICAL TIPS
TO MAKE YOUR
BANKRUPTCY PRACTICE

just a little easier.

Before You Hit “File”: A 60-Second Filing Checklist

One lasy look can save you a lot more than one minute later.

1

Check the Event Code.

Make sure the filing event actually matches what you are filing. The wrong event can affect noticing, deadlines, reports, and how easily someone can find the document later.

2

Check the Attachments.

Confirm that every exhibit, proposed order, or supporting document is attached—and that the labels make sense to someone who did not prepare the filing.

3

Read the Docket Text.

Before submitting, read the proposed docket entry from beginning to end. Check the case number, parties, document references, hearing information, and anything else that will become part of the docket.

4

Double-check any hearing information.

If your motion requires a notice of hearing, after making sure it complies with the judge’s hearings calendar, make sure to select the right time, date, and courtroom.

Bonus: Open the filing once it hits the docket.

Thirty seconds now is better than discovering the problem tomorrow.

Full Disclosure: Ethical Issues in Chapter 13

RICHMOND BAR ASSOCIATION
BANKRUPTCY SECTION CLE

 **October 27** |  **12:00 PM**

Join us for a discussion on the ethical implications of disclosure in Chapter 13.

Speakers

- ◆ Angela Scolforo (member)
- ◆ Heather Parsons (member)
- ◆ Rachel Jones (non-member)

Moderated by
Nisha Patel (past chair)

Stay Tuned
- for details about our -

Annual Holiday Gathering

NOTE from the EDITOR



Fall is officially here, and with it, a lot of the things I love most about this time of year: sweater weather, warm blankets, fuzzy slippers, and hot toddies! As you can probably tell, I am ready for hibernation.

We recently held our annual Mid-Atlantic happy hour, thanks to the generous sponsorship of **Dudley Resources**. The event was a huge success - in fact, it was so successful that we had too much fun for pictures. It was especially nice to see so many familiar faces, along with some new ones. We also elected our first Emerging Leaders Chair, which I'm very excited about and which you can read more about in this issue.

It feels like a good example of where IWIRC Virginia is right now: continuing the traditions people look forward to, while also finding new ways to grow and get more people involved. And speaking of traditions, our annual Blue Ridge hike is coming up on November 7, followed by a visit to Early Mountain Winery.

There is still plenty happening before the end of the year, and I'm looking forward to seeing many of you along the way.

In solidarity, Rachel Greenleaf

“The future depends entirely on what each of us does every day: a movement is only people moving.”

- Gloria Steinem

So keep on moving...