



May 22, 2014

## BANKRUPTCY

Debtor's Estate Set to Expand or Contract Based on Supreme Court Ruling in **Clark v. Rameker**



Before the Supreme Court this term is the question of whether a beneficiary individual retirement account (an "Inherited IRA") is exempt from a debtor's bankruptcy estate under 11 U.S.C. § 522(b)(3)(C) and (d)(12) of the Bankruptcy Code. The issue turns on 1) whether the funds in an Inherited IRA are "retirement funds," and 2) whether an Inherited IRA is considered tax exempt under the Internal Revenue Code (the "Tax Code").

Read the full article. For more information, contact [Marc Solomon](mailto:msolomon@burr.com) at (205) 458-5281 or [msolomon@burr.com](mailto:msolomon@burr.com) and [Hanna Lahr](mailto:hlahr@burr.com) at (205) 458-5462 or [hlahr@burr.com](mailto:hlahr@burr.com).

## Supreme Court Denies Certiorari to Hear Bank of America's Challenge to Eleventh Circuit's Rule Regarding Lien Stripping in Chapter 7 Bankruptcy Cases



The U.S. Supreme Court recently denied certiorari to an Eleventh Circuit appeal which would have addressed the issue of whether section 506(d) of the Bankruptcy Code permits a chapter 7 debtor to "strip off" a wholly unsecured junior lien in *Bank of America, N.A. v. Sinkfield*.

Read the full article. For more information, contact [Daniel French](mailto:dfrench@burr.com) at (404) 685-4265 or [dfrench@burr.com](mailto:dfrench@burr.com).

## FIRM NEWS

### 77 Burr Attorneys Selected As 2014 *Alabama Super Lawyers* and Rising Stars

In addition to the six Burr & Forman attorneys selected as *2014 Georgia Super Lawyers and Rising Stars*, 52 Burr attorneys have been included among *Alabama Super Lawyers* for 2014, and an additional 25 attorneys are recognized as "Rising Stars" by the publication. [View the full list](#), by office, of Burr & Forman attorneys named to 2014 *Alabama Super Lawyers* and *Alabama Rising Stars*. 2014 *Super Lawyers* and *Rising Stars* lists for Florida, Mississippi and Tennessee will be released soon. *Super Lawyers* can be found online [here](#), where lawyers can be searched by practice area and location.

### Burr's Bill Schifino Named as Outstanding Lawyer by Hillsborough County Bar Association



[William \(Bill\) J. Schifino, Jr.](#) has received the prestigious Hillsborough County Bar Association Outstanding Lawyer Award. The annual honor recognizes an attorney, who through personal and professional ethics and conduct, has made a significant difference in the practice of law and the Tampa Bay community. [Read the full announcement.](#)

### Burr & Forman Adds Financial Services Attorney in Tampa



Jacqueline Simms-Petredis has joined the firm as a Tampa-based associate in the firm's [Financial Services Litigation](#) practice group.

Simms-Petredis' practice includes advising financial institutions, mortgage loan originators, loan servicers and investors in contested foreclosures, bankruptcy adversary proceedings, compliance issues, and direct filed lawsuits. Additionally, she has experience advising in-house counsel on litigation arising under the Truth in Lending Act, the Real Estate Settlement Procedures Act, the Fair Credit Reporting Act, the Florida Consumer Collections Practices Act and the Fair Debt Collection Practices Act.

Read Jacqueline's [bio](#), or contact her at (813) 367-5751 or [jsimms-petredis@burr.com](mailto:jsimms-petredis@burr.com).

## UPCOMING SPEAKING ENGAGEMENTS

### Bess Creswell to Speak at the American Bankruptcy Institute's 19th Annual Southeast Bankruptcy Workshop



Mobile partner, [Bess Creswell](#), will be speaking at the American Bankruptcy Institute's 19th Annual Southeast Bankruptcy Workshop. Bess will be speaking on the topic of "Asset Protection Trust in Bankruptcy - Creation, Litigation and Practical Guides to Both." The workshop will be held on July 24-27th at the The Ritz-Carlton, Amelia Island.

For more information or to register for the ABI workshop, click [here](#).

### John Chiles to Speak at Consumer Finance Class Actions & Litigation Conference

## LITIGATION

### The SEC'S New Municipal-Advisor Rules Become Effective July 1



The SEC's new Municipal-Advisor Rules become effective July 1, 2014. Required by Dodd-Frank § 975, the Rules were adopted last year, but the SEC postponed their implementation from January to July 1. [Read about the implications of these new rules here.](#)

For more information, contact [Tom Potter](#) at (615) 724-3231 or [tpotter@burr.com](mailto:tpotter@burr.com).

### Florida Appellate Court: Lenders Must Authenticate Business Records



In *Hunter v. Aurora Loan Services, LLC*, the First District Court of Appeals found that a lender must lay the necessary foundation under the business records exception to admit documentation from a prior servicer into evidence.

[Read the full article.](#) For more information, contact [John Chiles](#) at (954) 414-6203 or [jchiles@burr.com](mailto:jchiles@burr.com) and [Courtney Oaks](#) at (954) 414-6213 or [coaks@burr.com](mailto:coaks@burr.com).

### FINRA Sends Transition Bonus Disclosure Rule To SEC



The Financial Industry Regulatory Authority ("FINRA") recently submitted [FINRA Rule 2243](#) to the SEC for approval. The rule would require representatives who have or will receive "upfront payments" or "potential future payments" exceeding \$100,000 to disclose to former customers considering transferring their accounts, within ranges, incentives that



[John Chiles](#) will be a featured speaker at the Consumer Finance Class Actions & Litigation conference July 28-29, 2014 at The W Chicago - City Center in Chicago, IL. The conference will provide expert strategies for in-house and outside counsel on navigating class actions, litigation and government enforcement actions and examinations in the consumer finance industry. Chiles will be speaking on the topic of "Debt Collection and Credit Reporting Litigation and Enforcement Actions: Effective Defense Strategies for New and Emerging Claims and Government Enforcement Actions Arising from TCPA, FCRA and FDCPA." For more information on the Consumer Finance Class Actions & Litigation conference, click [here](#).

## Headlines

- [Fed Regulator Calls for End of Banks' Self-Grading of Risk](#)
- [Regulator Won't Act on Loan Limits for Fannie Mae and Freddie Mac](#)
- [Community Bankers Support Tiered Banking Regulatory System](#)
- [Banks Making Progress on Checking Account Transparency](#)
- [FFIEC Details Banks' Responsibilities Against Cybersecurity Threats](#)

## News Briefs

### Fed Regulator Calls for End of Banks' Self-Grading of Risk

Under international banking rules, large banks are allowed to use their own tests to assess the riskiness of their assets and activities. In a speech, Daniel K. Tarullo, the Fed governor who oversees regulation, said he believed that regulators should consider stopping the banks from using their own estimates.

(Source: The New York Times, 2014-05-08)

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### Regulator Won't Act on Loan Limits for Fannie Mae and Freddie Mac

The regulator for Fannie Mae and Freddie Mac said he would not force the mortgage finance giants to reduce the limits on loans they guarantee, because of concerns about the slowing housing market. Mel Watt, who took over as director of the Federal Housing Finance Agency in January, reversed course after the agency indicated last year that it was preparing to lower the maximum mortgage size it would back.

(Source: Los Angeles Times, 2014-05-13)

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### Community Bankers Support Tiered Banking Regulatory System

The Independent Community Bankers of America said it supports remarks by Federal Reserve governor Daniel Tarullo that the U.S. needs a tiered banking regulatory system that treats community banks as different from mega-sized national banks and regional banks. Tarullo suggested that community banks -- those with \$10 billion or less in assets -- should be exempt from some of the Dodd-Frank regulations.

(Source: Albuquerque Business First, 2014-05-09)

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### Banks Making Progress on Checking Account Transparency

The largest banks in the nation are getting better at disclosing information about checking accounts' terms and conditions, but there's still more they can do to educate consumers. The 2014 "Checks and Balances" report by the Pew Charitable Trusts says that disclosure policies are improving and overdraft protection at ATMs is rising, but more banks are charging extended overdraft fees and limiting options for dispute resolution.

(Source: Buffalo Business First, 2014-05-13)

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### FFIEC Details Banks' Responsibilities Against Cybersecurity Threats

Bank regulators expect all banks to demonstrate critical cyber risk management in at least four areas: governance, threat intelligence, vendor management, and incident response and resilience. This was the key message of a recent webinar presented by the Federal Financial Institutions Examination Council, which emphasized that midsized and community banks increasingly are targeted by cyber criminals.

(Source: ABA Journal, 2014-05-12)

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the representative is receiving from the representative's new firm and the basis for those incentives.

[Read the full article.](#) For more information, contact [Ben Coulter](#) at (205) 458-5420 or [bcoulter@burr.com](mailto:bcoulter@burr.com) and [Al Teel](#) at (205) 458-5389 or [ateel@burr.com](mailto:ateel@burr.com).

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