Introduction

The implementation of BAPCPA resulted in more than 2 million non-business filings in 2005. Not surprisingly, 2006 and 2007 saw unusually low filing rates. After a steady uptick beginning in 2008, filings are on the decline from a high of more than 1.5 million in 2010. Through the third quarter of 2013, filings were approximately 808,000. Of these, only slightly more than 1,000 are chapter 11 cases. It is therefore surprising that so many ABI authors in 2013 chose to write about the intricacies of individual chapter 11 bankruptcy, a much rarer filing, and a few of the best articles appear in Chapter 1.

This year also saw an interesting divergence from the subjects that were hot consumer topics during the past few years. Lien-stripping and student loan repayment have taken center stage as consumers continue to struggle to deal with unmanageable amounts of debt. Consumer lenders continue to be a focus of regulatory action, including intense scrutiny from the Consumer Financial Protection Bureau. These actions attempt to remediate past mistakes and impose a framework of transparency and accuracy into consumer transactions in the future.

Other articles in this book were selected because of their timeliness and value to consumer practitioners. However, there are two areas of importance in consumer bankruptcy matters not covered in these materials because they are so recent that authors have only just begun to write about them.

First, in 2013, the law continued to develop regarding confirmation of a proposed chapter 13 plan, particularly the "applicable commitment period" requirement. In *Danielson v. Flores* (9th Cir. Aug. 29, 2013) (*en banc*), the U.S. Court of Appeals for the Ninth Circuit sided with a chapter 13 trustee and affirmed a bankruptcy court ruling, deciding that a debtor's chapter 13 plan that does not pay all allowed unsecured claims in full must, in order to be confirmed, last at least as long as the "applicable commitment period" (*i.e.*, three or five years) set forth in the Bankruptcy Code, notwithstanding that the debtor's disposable income is less than zero. Thus, the Ninth Circuit reversed not only an earlier three-judge panel in the same case, but also its own holding in the 2008 decision *Maney v. Kagenveama* (*In re Kagenveama*), 541 F.3d 868 (9th Cir. 2008), and joined two sister circuits (*Baud v. Carroll*, 634 F.3d 327 (6th Cir. 2011) and *Whaley v. Tennyson* (*In re Tennyson*), 611 F.3d 873 (11th Cir. 2010)); meanwhile the Fourth Circuit is scheduled to hear argument on the issue in early December 2013 (*Pliler v. Stearns*, *cause docketed*, No. 13-1445 (4th Cir. Apr. 4, 2013)).

Finally, the Advisory Committee on Rules of Bankruptcy Procedure has proposed a new Official Form for chapter 13 plans and accompanying changes to the Federal Rules of Bankruptcy Procedure that will implement the Official Form. The new Rules and Form are designed to provide uniformity and consistency to the practice of chapter

13 bankruptcy. This will be especially helpful to national creditors, which currently deal with myriad plan forms and local procedures throughout the country. Some of the major changes include reducing the deadline to file claims by almost half, allowing the valuation of certain collateral and avoidance of liens via plan confirmation and a requirement that any nonstandard provision be included in a specified section in order to be effective. The comment period is open through Feb. 15, 2014. Information about the proposals and how to comment can be found at www.regulations.gov/#!docketDetail;D=USC-RULES-BK-2013-0001.

We hope you find *Best of ABI 2013: The Year in Consumer Bankruptcy* to be a valuable resource. For the most comprehensive coverage of all bankruptcy trends, please consider purchasing the companion volume, *Best of ABI 2013: The Year in Business Bankruptcy*.