

# Courting Failure

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How Competition  
for Big Cases  
Is Corrupting the  
Bankruptcy Courts

Lynn M. LoPucki

THE UNIVERSITY OF MICHIGAN PRESS  
*Ann Arbor*

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Published in the United States of America by  
The University of Michigan Press  
Manufactured in the United States of America  
© Printed on acid-free paper

2008 2007 2006 2005 4 3 2 1

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*A CIP catalog record for this book is available from the British Library.*

Library of Congress Cataloging-in-Publication Data

LoPucki, Lynn M.

Courting failure : how competition for big cases is  
corrupting the bankruptcy courts / Lynn M. LoPucki.

p. cm.

Includes index.

ISBN 0-472-11486-7 (cloth : alk. paper)

1. Bankruptcy—United States. 2. Forum shopping—  
United States. 3. Judicial corruption—United States.  
I. Title.

KF1526.L67 2005  
346.7307'8—dc22

2004021715

To Frances, who made it happen

## Acknowledgments

My work on this book was supported by grants from the National Conference of Bankruptcy Judges Endowment for Education and the American Bankruptcy Institute Endowment for Education. The content of the book is based in part on work supported by the National Science Foundation under grant SES-8618353 and also in part on findings from a series of research projects conducted and reported with coresearchers and coauthors. These colleagues are Professor William C. Whitford of the University of Wisconsin Law School; Professor Theodore Eisenberg of the Cornell Law School; Joseph W. Doherty, associate director of the Empirical Research Group at the UCLA Law School; and Sara Kalin, a graduate of the UCLA Law School who currently practices with the Securities and Exchange Commission.

I thank Mike Champion, Christian Dodd, Scott Halvorsen, L. Nicolle Hollingsworth, Michael Kovalski, Drew LoPucki, and Richard Scheelings for assistance with research and Frances H. Foster, Jim Reische, Gary D. Rowe, Lynn A. Stout, Elizabeth Warren, and Jay L. Westbrook for comments on the manuscript or portions of it, and Susan Rabiner for guidance. Jim Reische, my editor at the University of Michigan Press, did a marvelous job of rescuing this project from obscurity and guiding me through the publication process.

I am also deeply indebted to the dozens of bankruptcy lawyers and judges who furnished leads for my investigations. Their only reward will be the contribution they made to the integrity of the bankruptcy system; nearly all of them requested anonymity. Without their help, I would not have found the facts and documents that make the case presented in this book.

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## A Note on the Statistics in This Book

Most of the statistics that appear in this book are based on data contained in the author's Bankruptcy Research Database (BRD). The BRD includes data on all bankruptcy cases filed by or against large public companies in the U.S. bankruptcy courts since October 1, 1979—presently a total of 683 cases. Cases are considered “large” if the debtor's assets exceeded \$220 million, measured in current dollars as of the time of filing (\$100 million in 1980 dollars). They are “public” if the company was required to file annual reports with the Securities and Exchange Commission in any of the three years before bankruptcy. (About 80–90 percent of the companies large enough for their cases to be included in the BRD are public companies.) Unless otherwise specified, the numbers of “big” or “large” cases reported in this book are the numbers of such cases in the BRD.

The cases included in the BRD are not a sample. They are all cases filed by or against large public companies. For that reason, it was neither necessary nor possible to calculate the likelihood that the BRD cases are representative of some larger group. They are the larger group.

An abbreviated version of the BRD is available without charge at <http://lopucki.law.ucla.edu>. Using that version, readers can examine the data behind most of the statistics reported in this book, calculate statistics not reported in this book, and see how the pattern of big bankruptcy reorganizations has changed since the publication of this book.

A Judge Shall Avoid Impropriety and the Appearance of  
Impropriety in All of the Judge's Activities.

—Canon 2, American Bar Association  
Model Code of Judicial Conduct (1990)

Any . . . judge . . . of the United States shall  
disqualify himself in any proceeding in which his  
impartiality might reasonably be questioned.

—Title 28, United States Code, § 455(a)