

ABI Network Update

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IN THIS ISSUE

[ABI Young and New Members Committee e-Newsletter Available Online](#)

[New Court Opinions Posted Online](#)

[Latest Job Postings at ABI Career Center](#)

ABI EVENTS CALENDAR

[Southwest Bankruptcy Conference
Sept. 9-12, 2004
Las Vegas](#)

[Investment Banking Program
Sept. 20, 2004
New York](#)

[Views from the Bench
Oct. 1, 2004
Washington, D.C.](#)

[Caribbean Insolvency Symposium
Nov. 11TM2, 2004
San Juan, Puerto Rico](#)

WHAT'S NEW

[Weekly Quick Poll](#)

[Previous Quick](#)

[Past Update Issues](#)

August 24, 2004

ABI WORLD

Highlights

WEAK STOCKS, UAL REVIVE PENSION CRISIS

Declining U.S. stock prices and United Air Lines' move to terminate its pension plans are reviving a pension crisis that got a brief fix from the 2003 bull market, according to Morgan Stanley, Reuters reported. "Some people had hoped that the pension issue was solved by the 2003 bull market, but that is far from true," said Trevor Harris, the firm's top strategist in the areas of accounting and valuation. He calculates the overall pension deficit for companies in the Standard & Poor's 500 will reach almost \$250 billion by year's end, about \$30 billion greater than the deficit at the end of 2002.

As for the potential impact of United's decision to possibly pull the plug on its union pension plans, Harris said it will force other companies to rethink their contributions. "The threatened UAL termination could mean that additional companies will have to reconsider whether they will maintain their defined benefit plans, especially the stronger companies who must fund the Pension Benefit Guaranty Corporation (PBGC). The PBGC already has a deficit, which could double in size if UAL terminates its plans," Harris wrote in a recent report.

Read today's editorials published in *USA Today* on United Airlines. Lead editorial on pension troubles, [Companies Fail Workers](#) and an op-ed by ABI Resident Scholar Edward Janger, [Bankruptcy Law Eases Pain](#).

DOMA UPHELD IN IMPROPER JOINT FILING CASE

The bankruptcy court for the Western District of Washington last week dismissed a purported joint filing by a lesbian couple who challenged the constitutionality of the federal Defense of Marriage Act (DOMA). The joint debtors were married in British Columbia in 2003, a union valid in that province of Canada. They filed for bankruptcy in December of that year; one of the joint debtors died in March of this year. Under Section 302 of the Code, a joint case is filed by an individual and such individual's spouse. The term spouse refers only to a person of the opposite sex who is a husband or wife, under DOMA. Judge Paul Snyder rejected arguments

ABI Network Update

[Poll Results](#)

[Latest Circuit Case Update \(5th\)](#)

[Bankruptcy Thursday](#)

[ABI Career Center](#)

[Cracking the Code](#)

that DOMA violated the Tenth Amendment, principles of international comity, due process and equal protection under the 14th Amendment: This court concludes that same-sex marriage is not a fundamental right, DOMA does not directly or substantively interfere with the ability of same-sex couples to marry, and rational basis review is the appropriate level of scrutiny to apply for purposes of a due process analysis. The court had no trouble upholding DOMA under a rational basis review. The case is *In re Kandu* (2004 WL 1854112), decided August 17, 2004.

REGISTER TO ATTEND ABI S CARIBBEAN INSOLVENCY SYMPOSIUM

Join ABI in Puerto Rico for the [Caribbean Insolvency Symposium](#), to be held Nov. 11TM2, 2004, at the Caribe Hilton in San Juan, Puerto Rico. This first-ever ABI conference held on the Caribbean island of Puerto Rico brings together top national speakers on today's significant cross-border commercial bankruptcy law issues. A Latin American flavor is added by faculty members from the Dominican Republic and bankruptcy judges from Puerto Rico. All programs will be simultaneously translated (English Spanish).

This year's conference will provide over six hours of CLE/CPE credit in addition to a variety of optional events and networking opportunities. The opening reception features as a guest speaker the Governor of Puerto Rico, Sila M. Calderón. Topics include conflict of laws and ancillary foreign proceedings, insolvency risk management in the Caribbean Basin and much more! [Register online](#) today!

WELCOME NEW ABI MEMBERS

Please welcome the following new members from August 20-24:

Michael Antoniewicz (Commercial Credit Counseling Services Inc.; Paramus, N.J.), Alexander J. Chobot (GMAC Commercial Finance; Southfield, Mich.), Tina L. Colman (Spector, Gadon & Rosen PC; Philadelphia), John T. Cooke (Seattle), Leann R. Deeter (Raina D. Cornell & Associates; Lancaster, Ohio), Svetlana Eisenberg (Debevoise & Plimpton; New York), Robert Gambrell (Gambrell & Stone PLLC; Biloxi, Miss.), Stuart Jamieson (Radius Equity Partners LLC; Westport, Conn.), Nancy Evelyn Johnson (Robinson, Barton, McCarthy, Calloway & Johnson PA; Columbia, S.C.), Patrick J. Kearney (Selzer Gurvitch Rabin & Obecný Chtd.; Bethesda, Md.), Elias Makris (GE Commercial Finance; Frisco, Texas), Maureen Matchett (Gordon & Silver Ltd.; Las Vegas), Tanya N. Moran (Hutchinson & Steffen; Las Vegas), Anna Elaine Morris (Hunton & Williams LLP; Miami), Lee B. Parker III (Hunt Special Situations Group LP; Dallas), Daniel W. Polachek (Northampton, Mass.), Mark A. Redmiles (Department of Justice, Office of the U.S. Trustee; Kensington, Md.), Christine Roberts (Rawlings, Olson, Cannon, Gormley & Desruisseaux PC; Las Vegas), Katie Stenberg (Waller Lansden Dortch & Davis PLLC; Nashville, Tenn.) and Edie Walters (Torys LLP; New York).

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The 2003 BankruptcyData.com Bankruptcy Yearbook & Almanac is Now Available

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The Bankruptcy Yearbook & Almanac puts essential bankruptcy information at your fingertips with over 500 pages of facts, figures, graphs and commentary covering all aspects of corporate bankruptcy from U.S. Bankruptcy Court filing data summaries to bankruptcy filing and default trends to professional retention and compensation overviews.

The 2003 Bankruptcy Yearbook & Almanac will save you time and money by providing you the bankruptcy information you need when you need it. To subscribe click on:

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IN THIS ISSUE

[Weak Stocks, UAL Revive Pension Crisis](#)

[DOMA Upheld in Improper Joint Filing Case](#)

[Register to Attend ABI's Caribbean Insolvency Symposium](#)

[Welcome New ABI Members](#)

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ABI YOUNG AND NEW MEMBERS COMMITTEE E-NEWSLETTER AVAILABLE ONLINE

The August issue of ABI's Young and New Members Committee e-Newsletter is available at ABI World. Read an article on foreign proceedings and Section 304 of the Bankruptcy Code. Learn about the joint program to be presented by the Business Reorganization Committee and the Young Members Committee at the ABI Winter Leadership Conference on valuations in chapter 11 cases.

NEW COURT OPINIONS POSTED ONLINE

In re: Lee Kandu

In re: Elaine Abramson

In re: Jack A. Bowshier

LATEST JOB POSTINGS AT ABI CAREER CENTER

Check out the ABI Career Center. The Center is a one-stop site for job seekers and employers in the insolvency community. Career Center resources are available free to both employers and job seekers. New positions are featured daily. The latest listings include:

- Bankruptcy Associate, Boston
- Bankruptcy Associate, Scottsdale, Ariz.

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