

**A ROUND TABLE DISCUSSION OF THE
CURRENT ISSUES RELATED TO §503(b)(9)
AND RECLAMATION CLAIMS**

Panelists: John T. Gregg
Barnes & Thornburg, LLP

Judith Greenstone Miller
Jaffe Raitt Heuer & Weiss, P.C.

Ronald L. Rose
Dykema Gossett, PLLC

Presented By: Debtor/Creditor Rights Committee of
the Business Law Section
of the State Bar of Michigan

Date: Tuesday, November 18, 2008

Time: 5:30 p.m. Dinner
6:00 p.m. Presentation and Meeting

Location: Jaffe, Raitt, Heuer, & Weiss, P.C.
27777 Franklin Road, Suite 2500
Southfield, MI 48034-8214

**There is no charge for the dinner and meeting, but space may be limited.
Please reserve with Judy Calton at 313-465-7344 or jcalton@honigman.com.
We look forward to seeing you there.**

**Debtor/Creditor Rights Committee of the
Business Law Section of the State Bar of Michigan**

November 18, 2008

Presentation:

***Roundtable Discussion of Issues Related
to Section 503(b)(9) and Reclamation Claims***

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I. Section 503(b)(9) Claims

- Created Under BAPCPA
- What is a Section 503(b)(9) Claim - Statutory Requirements
- How does one assert a Section 503(b)(9) claim?
- When is one required to assert a Section 503(b)(9) claim?
- Determining “value” of the 503(b)(9) claim
- “Goods” versus services, interest, freight, fees and costs
- Importance of Reviewing Scheduling and Procedures Orders
- Impact of Local Bankruptcy Rules
- Must the goods be actually received by the claimant to entitle the claimant to an allowed claim under Section 503(b)(9)? What about goods in transit or shipped to a third party for the benefit of the claimant?
 - “Allowance is not “Payment” - Can a claimant compel immediate payment of a Section 503(b)(9) claim? Protecting rights of payment as part of confirmation of a plan
 - Is the return of all preferential payments a prerequisite to allowance and payment of a Section 503(b)(9) claim?

- What is the impact of a Section 503(b)(9) claim on calculating “new value” under Section 547(c)(4)?

- Does an unsecured creditors committee represent the interests of Section 503(b)(9) claimants?

- Formation of 503(b)(9) Committees

- Are 503(b)(9) claimants entitled to a “carve-out” as part of the initial financing order?

- Recent Decisions on 503(b)(9) Issues

II. Reclamation Claims

- What is a reclamation claim – State law governing reclamation claims

- Pre-BAPCPA Requirements

- Post-BAPCPA Changes

- The Impact of *Phar-Mor, Inc. v. McKesson Corporation*, 534 F.3d 502 (6th Cir. July 17, 2008)