

# **History of the United States Bankruptcy Court Erie, Pennsylvania**



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## **History of the Bankruptcy Court in Erie, Pennsylvania**

By an Act of Congress passed in 1866, Erie was named as one of the locations for the United States District Court to sit.<sup>1</sup> The first session of the District Court was held in Erie in January, 1867.<sup>2</sup>

The bankruptcy court has had an equally long presence in Erie. Under the Bankruptcy Act of 1867:<sup>3</sup>

The district courts were given original jurisdiction as “courts of bankruptcy.” The district courts were directed, however, to appoint one or more “registers in bankruptcy, to assist the judge of the district court in the performance of his duties.” These “registers” thus were the predecessors of the twentieth century “referee” and “bankruptcy judge.”<sup>4</sup>

Samuel Ebenezer Woodruff was appointed Register in Bankruptcy in 1867.<sup>5</sup> (See Exhibit A.) He served in Erie until the Bankruptcy Act of 1867 was repealed in 1877.<sup>6</sup> A portrait of Samuel Ebenezer Woodruff was retrieved from the attic of the Erie County Courthouse and now hangs in the Bankruptcy Courtroom.

The Bankruptcy Act of 1898<sup>7</sup> was the beginning of the era of permanent federal bankruptcy legislation. Under the Bankruptcy Act of 1898, the United States District Courts sat as “courts of bankruptcy” and the offices of referee and trustee were created. The District Court appointed Referees for a term of two years. Referees replaced “commissioners” under the Bankruptcy Act of 1840 and “registers” under the 1867 Act. The bulk of the judicial and

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<sup>1</sup> Act of July 28, 1866, 14 Stat. 342; Samuel P. Bates, Erie County, Pennsylvania, History of Erie County, Pennsylvania 1884, available at: <http://www.northwesternpa.net/histories/bateschapter19.htm>

<sup>2</sup> Id.

<sup>3</sup> 14 Stat. 517

<sup>4</sup> Charles J. Tabb, The History of Bankruptcy Laws in the United States, 3. AM. BANKR. INST. L. REV. 5-51 (1995)

<sup>5</sup> Emory Walling, Memoirs of the Erie County, Pennsylvania, Bench and Bar, Volume I (1928), pp. 90-92

<sup>6</sup> 20 Stat. 99

<sup>7</sup> 30 Stat. 544

administrative work on bankruptcy cases was performed by the Referee. Section 2(u) of the 1898 Act provided that orders of the referee were subject to review by the District Court and that the District Court “[c]onsider and confirm, modify or overrule, or return with instructions for further proceedings, records and findings certified to them by referees.”

Joseph M. Force was appointed as the first Referee in Erie under the 1898 Act. He served as a Referee until 1922.<sup>8</sup> (See Exhibit B.)

Joseph M. Force was associated in practice with Robert L. Roberts and George M. Mason, with offices in what was the old Baker Block on the northeast corner of Seventh and State Streets, the location of the present Federal Courthouse.

George M Mason succeeded Joseph M. Force as Referee in bankruptcy in 1922.<sup>9</sup> (See Exhibit C.)

On April 5, 1926, Ritchie T. Marsh was appointed as part-time Referee in Erie. Shortly after his appointment, he attended the organizational conference of the National Association of Referees in Bankruptcy held in 1926 and also attended subsequent conferences. Bankruptcy hearings were conducted in the Referee’s law offices in the Ariel Building, at the northeast corner of 8th and State Streets in Erie, Pennsylvania. Ritchie T. Marsh served as Referee until shortly before his death in December, 1947.<sup>10</sup> (See Exhibit D.)

In 1946, Congress provided a fixed salary for Referees and provided that the term of Referees appointed by the United States District Court was extended from two (2) to six (6) years.

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<sup>8</sup> Emory Walling, Memoirs of the Erie County, Pennsylvania Bench and Bar, Vol. I (1928), pp. 283-285

<sup>9</sup> Erie County Bar Foundation, Memoirs of the Erie County, Pennsylvania Bench and Bar, Vol. II (2000), p. 149

<sup>10</sup> Id. at p. 147

James E. Marsh, Sr. succeeded Ritchie T. Marsh as Referee. Hearings continued to be held at the Referee's Office in the Ariel Building. James E. Marsh, Sr. served one term, from 1947 until 1953.<sup>11</sup> (See Exhibit E.)

Charles A. Mertens, Jr. was appointed part-time Referee in 1953.<sup>12</sup> (See Exhibits F and G.) Referee Mertens served until 1959. Mertens was the first Referee in Erie to have offices in the United States Courthouse, initially located on the second floor and subsequently moving to the third floor, where bankruptcy proceedings were held until 1996.

William B. Washabaugh, Jr. was appointed a part-time Referee in Bankruptcy in Erie on July 20, 1959. Sixty-two (62) bankruptcy cases were filed in the Erie Division in 1959. In 1964, when the caseload in the Erie Division increased to 134, Referee Washabaugh's position became full time.

The position of Bankruptcy Judge was created by Congress in 1978. Referee Washabaugh became the first Bankruptcy Judge in Erie and continued in that position until his retirement on March 22, 1985.<sup>13</sup> (See Exhibit H.)

Many changes in bankruptcy practice took place during Washabaugh's tenure, mostly as a result of the passing by Congress of the Bankruptcy Code of 1978.<sup>14</sup>

Prior to the Bankruptcy Code, the first meeting of creditors under § 341 of the Code was conducted by the Judge and in cases where the Judge determined that a trustee was necessary, the Judge had the ability to choose the trustee. The trustee was not necessarily an attorney. Under the Code, a panel of trustees was empanelled for random case assignment. The trustees began to

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<sup>11</sup> Id. at p. 146

<sup>12</sup> Id. at p. 159; 28 J. NAT'L. ASS'N. REF. BANKR. 1 (1954), p. 59

<sup>13</sup> Erie County Bar Foundation, Memoirs of the Erie County Bench and Bar, Vol. II (2000) p. 255

<sup>14</sup> 11 U.S.C. § 101, et. seq.

conduct the § 341 meetings and make the determination if assets were available for distribution to creditors.

Prior to 1979, bankruptcy cases in Erie were processed through the District Court Clerk's Office. Upon intake, the case was forwarded to the Bankruptcy Judge's chambers, which consisted of the Judge, a secretary and two clerks.

In October, 1979, a separate Bankruptcy Clerk's Office was opened. Judge Washabaugh's secretary, Dona Hopsecger, became the Deputy-in-Charge of the Bankruptcy Clerk's Office and Judge Washabaugh's clerks, Debra Sciamanda, who began her career in May 1974, and Pamela Barner, who began her career in June 1979, would serve in the new Clerk's Office.

Debra Sciamanda became Deputy-in-Charge in 1981 and remains in that position to this date. Pamela Barner continues to serve as Courtroom Deputy. Guy C. Fustine, currently a prominent Erie bankruptcy attorney, served as one of Judge Washabaugh's law clerks.

Under the Bankruptcy Code, the referee system was abolished and a court of record, known as the United States Bankruptcy Court, was established. In 1982, the Supreme Court of the United States determined that the broad grant of authority given to the bankruptcy court under the Bankruptcy Code was unconstitutional.<sup>15</sup> Congress acted in 1984 to remedy the situation.<sup>16</sup> Under the 1984 amendments, "the bankruptcy judges [are a] 'unit' of the district court" and are "known as the bankruptcy court for that district."<sup>17</sup> The bankruptcy court serves as an adjunct to the district court.<sup>18</sup>

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<sup>15</sup> In *Northern Pipeline Construction Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982)

<sup>16</sup> See Bankruptcy Amendments and Federal Judgeship Act of July 10, 1984, Pub. L. 98-358, 98 Stat. 333

<sup>17</sup> 28 U.S.C. § 151

<sup>18</sup> *Id.*

The 1984 amendments provide that the Court of Appeals is responsible for the appointment of Bankruptcy Judges to a 14-year term. Warren W. Bentz was sworn in as Bankruptcy Judge on March 22, 1985, upon his appointment by the Court of Appeals for the Third Circuit. (See Exhibit I.)

Judge Bentz was initially assigned a significant portion of the Pittsburgh Division cases in addition to all of the Erie Division cases. Most notable among the Pittsburgh Division cases was the Wheeling-Pittsburgh Steel Corp. case, one of the then largest cases in the District.

Judge Bentz was elevated to Chief Bankruptcy Judge for the Western District of Pennsylvania on January 1, 1994, and served in that capacity until January 8, 1996.

In 1996, with imminent plans to expand and renovate the existing Federal Courthouse, the Bankruptcy Court moved to a temporary location at the First National Bank Building (now known as the Highmark Blue Cross Building), on the 7th floor of 717 State Street, Erie.<sup>19</sup> (See Exhibit J.)

Upon completion of the renovations and expansion at the Federal Courthouse, the Bankruptcy Court returned on July 19, 2004. The Bankruptcy Court space is located in the renovated Erie County Library Building with the Bankruptcy Clerk's Office located on the first floor and chambers and courtroom on the second floor.

Judge Bentz completed his 14-year term in 1999 and continued to serve after that date on recall status, remaining responsible for all of the Erie Division caseload. The number of bankruptcy cases filed in the Erie Division peaked at 5,390 in 2005. Judge Bentz will retire from the Bench in September 2009.

Judge Bentz employed four law clerks, Leonard Spagnolo, Kirk Katchen, Jon Musial and Ron Cook. Ron Cook served the Judge for over twenty years. Judge Bentz's long-time secretary,

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<sup>19</sup> George Miller, Temporary Courtroom, ERIE DAILY TIMES, April 5, 1996 at C1

Shirley Shields Fuller, retired in 2007 after an association of over thirty years with the Judge. Lori Yochim served as Judicial Assistant following Shirley's retirement. Carol Holdnack served as court reporter for Judge Bentz's entire tenure.

Following Judge Bentz's retirement in 1999 and while he continued to serve on recall status, it was determined that there was a need for an additional Judge in Pittsburgh. The Erie vacancy created by the retirement of Judge Bentz was utilized to fill that need.

Thomas P. Agresti was appointed as Bankruptcy Judge by the Court of Appeals for the Third Circuit to a 14-year term on April 5, 2004. (See Exhibit K.) Judge Agresti was appointed to the vacant position in the Erie Division. However, pending the full retirement of Judge Bentz, his case assignments were entirely from the Pittsburgh Division. His chambers are located on the 4th floor in the new Courthouse Annex in Erie. With the retirement of Judge Bentz in September 2009, Judge Agresti, who will also become Chief Judge for the Bankruptcy Court for the Western District of Pennsylvania at that time, will move to the Judge's chambers and courtroom in the Library Building and will assume responsibility for all of the Erie Division cases and also maintain a share of the Pittsburgh Division cases.

Prior to his appointment to the Bench, Judge Agresti was in private practice in Erie for 28 years and served as a member of the private panel of trustees acting as a Chapter 7 and Chapter 11 Trustee in many cases.<sup>20</sup> (See Exhibit L.)



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<sup>20</sup> Thomas Agresti as told to Steve Bien-Aimé, Breaking the Bank, ERIE TIMES NEWS, July 31, 2002 at F1



**United States Bankruptcy Registers, Referees and Judges**  
**Erie, Pennsylvania**

Bankruptcy Register in Erie under the Bankruptcy Act of 1867, Repealed in 1877

Samuel Ebenezer Woodruff	1867 - 1877
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Bankruptcy Referees in Erie under the Bankruptcy Act of 1898

Joseph M. Force	1898 - 1922
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George M. Mason	1922 - 1926
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Ritchie T. Marsh	1926 - 1947
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James E. Marsh, Sr.	1947 - 1953
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Charles A. Mertens, Jr.	1953 - 1959
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William B. Washabaugh, Jr.	1959 - 1978
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Bankruptcy Judges in Erie under the Bankruptcy Code of 1978

William B. Washabaugh, Jr.	1978 - 1985
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Warren W. Bentz	1985 - 2009
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Thomas P. Agresti	2004 - _____
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## **Exhibit A**

### **Honorable Samuel Ebenezer Woodruff, United States Bankruptcy Register**

**(1817 - 1881)**

***Taken from Memoirs of the Erie County, Pennsylvania, Bench and Bar, Volume I.  
Used by permission of Erie County Bar Foundation.***

S. E. Woodruff, son of Rev. Ephraim Treadwell and Sally (Alden) Woodruff, was born at Coventry, Connecticut, in 1817. His father, a nephew of Gov. Treadwell, graduated at Yale College in the class of 1797 and was a prominent Presbyterian minister and teacher for approximately fifty years, beginning in New England and ending in Ohio. His mother was a lineal descendant of the Pilgrim Alden of Plymouth Rock. S. E. Woodruff graduated at Hamilton College and then studied law at Cincinnati where he was admitted to the bar in 1841. Hon. Salmon P. Chase, afterward Chief Justice of the United States Supreme Court, being one of the board of examiners. He located at Rock Island, Ill., where he practiced law for a few years and then removed to Girard in this county and was admitted to our bar in 1846, where he practiced law continuously until his death. He was a diligent student and a painstaking, hard working lawyer. No business committed to his care was neglected. Gradually he acquired a large clientage and worked his way up in the profession until he became an exceedingly sound and able lawyer. Every case entrusted to him was carefully prepared and well tried. Few members of our bar have developed better as lawyers than did he.

In 1853 he became district attorney of Erie County, and in 1867, on the recommendation of his college classmate, Hon. Glenni W. Schofield, then in congress from this district, and on approval of Chief Justice Chase, Mr. Woodruff was appointed Register in Bankruptcy for this district. In 1872 he took up his residence in Erie, where he and his family thereafter resided, and

where he continued to practice his profession. He gave careful attention to his official duties and his services therein gave great satisfaction, until the Bankrupt Statute was repealed in 1877.

He won many victories at the bar, one of the most notable being that of *Turner v. Scott*, 57 Pa. 126, and *Scott v. Scott*, 70 Pa. 244, where he contended for and established the rule that a deed to take effect at the death of the grantor was in effect a will and as such revocable. Another important case he had was that of *Com. v. Hoskinson*, indicted for maintaining a brick yard in South Erie, which neighbors sought to abate as a public nuisance and employed Mr. Woodruff to assist the district attorney; this he did with signal ability. It was one of the most stubbornly contested cases ever tried in Erie county. S. A. Davenport put up a masterly defense and the jury, after forty hours deliberation, rendered a verdict of "Not guilty, but pay the costs." Soon after my admission to the bar, I consulted Mr. Woodruff about a contested case in the orphans' court, where his clients and mine had like interests. He took down a volume of the State reports and called my attention to a case which was in point and won ours. That was characteristic of Mr. Woodruff; he found and cited the controlling case or principle and did not burden the court with irrelevant authorities. In other words he had a discriminating legal mind, and there were few if any better at our bar. He wore dark chin whiskers and moustache, was a large, well built, fine looking gentleman, whose influence was enhanced by his high character and strict integrity. He never harbored a dishonest thought.

On May 12, 1848, he was united in marriage with Miss Eliza Sterrett, member of a very numerous and high class family. They had three children, a son, T. S. Woodruff, Esq., and two daughters. All lived to old age, but the daughters are now deceased. Mr. Woodruff was a Republican and had Erie county's endorsement for judge in 1870, but was defeated in the district by Hon. L. D. Wetmore, of Warren. A more kind and thoughtful man in his family, or one more

useful in the community than Mr. Woodruff would be difficult to find. He was exceedingly popular with the bar. I well remember the feeling expressed at his memorial services. Voices rarely heard on such occasions spoke his praises. We all realized we had lost a true friend. His death was somewhat remarkable. In good health and strength, his kind heart led him to the room of a friend afflicted with erysipelas, where he contracted the dread disease and in a few days was dead. Thus, sadly, ended the career of Samuel E. Woodruff on April 15, 1881, in the sixty-fourth year of his age. He was buried in the family lot at Girard. His widow survived him for many years and died in 1912. In early life he accepted the faith of his father and was ever after a consistent and active member of the Presbyterian Church.

## **Exhibit B**

**Honorable Joseph May Force, United States Bankruptcy Referee**

**(1853 - 1923)**

***Taken from Memoirs of the Erie County, Pennsylvania, Bench and Bar, Volume I.  
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Joseph M. Force, better known as Joe Force, son of William J. and Nancy (Burwell) Force, was born on a farm in North East township, December 20, 1853. They were a fine family, the father, a leading citizen there for over fifty years, was of French Huguenot lineage and the mother of English and Dutch extraction. They were devout members of the Methodist Church and maintained an ideal Christian home. The father owned a small farm on the Side Hill road, which he tilled and in addition had a cooper shop. Joe attended district school and grew to manhood on the farm. He entered the Lake Shore Seminary at North East as a student in the fall of 1871, at first walking to and from the farm, a distance of three miles, but later the family moved into the borough. Joe was diligent, took high rank as a scholar and graduated with Rev. Frank J. Nash and others in the class of 1874. He was genial, generally popular and it is my memory, taught for a time in the seminary from which he had graduated. He soon entered Ives Seminary at Theresa, New York, as a teacher, and also continued his studies there, so it conferred upon him the A. M. degree. Returning home he entered the law offices of Force & Parmlee, at Erie, and was admitted to the Erie Bar, November 28, 1879. For about forty-three years thereafter he practiced law with offices in this city, for many years being in partnership with Henry C. Yard, as Force & Yard. He long and with great satisfaction served as a Referee in Bankruptcy for the Western District of Pennsylvania. As a practitioner he was industrious, painstaking and efficient. His papers were always carefully and neatly drawn and, while he made

no specialty of court practice, he tried many cases and uniformly tried them with ability. He was a clear thinker, a logical reasoner and a good speaker, while his exceptionally high character gave him weight both with court and jury. He represented important and varied interests and had the full confidence of his clients. The T. M. Nagle interests were perhaps his best known clients. He was a consistent Republican but never sought public office, aside from his unsuccessful campaign in 1915 for judge against Judge Rossiter.

On May 28, 1885, Joseph M. Force was united in marriage with Miss Clara Gunnison, daughter of the late Hon. Jonas Gunnison and sister of Judge Frank Gunnison. They had one son, who died in infancy and an adopted daughter. When about sixty-five years of age Mr. Force suffered a paralytic stroke, from which he sufficiently recovered to continue at his professional work, but when he was in his sixty-ninth year he had a second stroke, from which he failed to recover and died in Monrovia, California, March 25, 1923, where he had gone in search of health. He was buried in the Erie Cemetery with Masonic honors.

Mr. Force was of medium size, usually wore a moustache, was fine appearing and a thorough gentleman on all occasions. He was eminently a public spirited citizen, always interested in what might promote the general welfare. He was a trustee of the Erie Academy, President of the Board of Trustees of the Erie Public Library, also a director and at one time President of the Erie Board of Trade. His principal recreation was agriculture and, as owner and manager of the Freeman Ellis farm in Harborcreek township, where he had a delightful summer home, was eminently successful. Raised a Methodist, in later years he transferred his membership, as did my friend T. W. Shacklett, to St. Paul's Episcopal Church, where both became prominent. He was a member of the Delta Tau Delta college fraternity and also of the Royal Arcanum. He was an active and prominent member of The Grange and so influential and

popular in Masonry that the thirty-third degree was conferred upon him in 1918. It may well be said that in all the relations of life, as a son, as a brother, as a husband, as a father, as a citizen, as a neighbor, as a fraternal brother, as a lawyer and as a Christian gentleman, Joseph M. Force rang true. Since his death the widow and daughter have resided in California.

## **Exhibit C**

**Honorable George M. Mason, United States Bankruptcy Referee**

**(1875 - 1948)**

***Taken from Memoirs of the Erie County, Pennsylvania, Bench and Bar, Volume II.***

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George M. Mason was born in Warren County, reared and attended school in Crawford County and then taught school in and about Fairview Township in Erie County before turning his eyes toward the study of law. His legal apprenticeship was served with Emory A. Walling, later distinguished judge of the Court of Common Pleas for more than 19 years, and later a Justice of the Supreme Court of Pennsylvania. Like most of Judge Walling's law students he became well grounded. On June 13, 1897, George Mason was admitted to practice in the courts of Erie County.



After Attorney Mason's admission, he was associated in practice with Joseph M. Force and Robert L. Roberts with offices in what was the old Baker Block on the northeast corner of Seventh and State Streets. Attorney Force was a referee in bankruptcy and upon his death Attorney Mason succeeded him in 1922.

George Mason was extremely religious and an ardent dry and when the judgeship race took place in 1915, under what was then a nonpartisan law, the wet and dry question was a burning issue and injected itself into the judgeship campaign before Joseph M. Force, for whom



Mason was campaign manager, and U. P. Rossiter. The latter won the September primaries in that year by a rather narrow margin. He won the November election by a more comfortable one.

When our Orphans' Court was created in 1921, George Mason opposed Henry A. Clark who had a wonderful career, both as a lawyer and as a legislator, in which he authored the original third class city code and later became a congressman. Clark defeated Mason for the Republican nomination (the nonpartisan law having been repealed) by a rather narrow margin. Mason was a sterling lawyer and fellow lawyers noted that his quick perception and analysis of the problems brought to him by his clients was remarkable.

Attorney George M. Mason died in 1948.

## Exhibit D

**Honorable Ritchie T. Marsh, United States Bankruptcy Referee**

**(1870 - 1947)**

***Taken from Memoirs of the Erie County, Pennsylvania, Bench and Bar, Volume II.***

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Ritchie T. Marsh was born in 1870. He was an 1893 graduate of the Edinboro Normal School. Without benefit of a college or law school education he was registered as a law student in the office of Lamb and Walling on May 15, 1896. Nowadays a lawyer admitted to the bar without either collegiate or law school training would be looked at with askance by his fellow members yet it is to be doubted if any budding legal hopeful could have been better prepared for the bar than by an apprenticeship with Theodore A. Lamb (*Walling* 224) and Emory A. Walling. The latter described Lamb as “the best book lawyer in the history of Erie County.” Walling himself, as a lawyer, judge and justice was preeminent and outstanding. It will be noted in the *Walling Memoirs* that, without known exception, every law student registered under him became a successful lawyer. Many attorneys can excel before the court on questions of law but be weak before a jury and the converse is also true. Graduates of an apprenticeship with Judge Walling were at home before the court on questions of law and before a jury on questions of fact and Ritchie T. Marsh was a proven example.



He was admitted to the Erie County Bar Association in 1899. He was a member of the Marsh and Eaton law firm and later was a founding member of the law firm of Marsh, Spaeder, Baur and Marsh. Attorney Ritchie Marsh conducted a general practice that dealt in corporation, insurance, trial and commercial law. He was particularly known to his fellow members of the bar for his ability to apply common sense to legal issues. Two legal maxims in which he particularly believed were: “Ratio legis est anima legis” (*the reason of law is the soul of law*) and “Cessante ratione legis, cesset at ipsa lex” (*the reason of the law ceasing, the law itself also ceases*).

From the date of his admission to the Erie County bar (July 3, 1899) Ritchie T. Marsh was an active, aggressive and stalwart member thereof until within just a few months before his death. In 1923 he served as President of the Erie County Bar Association. He was a good general all-around practitioner, an able trial lawyer, but above all he was an attorney who, in the solution of legal problems, used the authority of common sense. To him that which did not tally with common sense was not good law even though judicial decisions might have squinted otherwise.

Attorney Marsh died in 1947.

## **Exhibit E**

**Honorable James E. Marsh, Sr., United States Bankruptcy Referee**

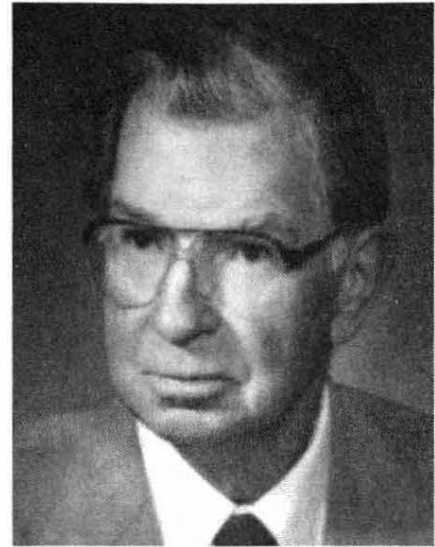
**(1908 - 1988)**

***Taken from Memoirs of the Erie County, Pennsylvania, Bench and Bar, Volume II.***

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James E. Marsh, Sr. was born on July 26, 1908 in Erie, Pennsylvania, the son of the late John A. and Margaret Goodrich Marsh. He was a 1926 graduate of Academy High School and a 1930 graduate of Grove City College. He graduated from the University of Pittsburgh School of Law in 1933, and was admitted to the Erie County Bar Association in 1934.



He served in the U.S. Army during World War II as a first lieutenant in the Judge Advocate General Corps. He was a senior partner in the law firm of Marsh, Spaeder, Baur, Spaeder and Schaaf and had practiced law in Erie County for 55 years. He conducted a general practice and dealt in corporate, insurance, trial and commercial law.

During his distinguished legal career, Attorney Marsh was President of the Erie County Bar Association from 1973 to 1974, and was named *Chancellor of the Bar* in 1985. He was a member of the Pennsylvania Bar Association and the American Bar Association. He held the position of solicitor for the Borough of Edinboro and the Township of McKean. He was the mayor of Sibleyville, a past member of the Commonwealth Lodge No. 695, F. & A.M. and York Rite Bodies, and had held various offices in the Masonic Temple Association. He was a life

member of the Zem Zem Temple Shrine, the Kiwanis Club of Erie and the St. Francis Usher Club. He was also a member of the Royal Order of Jesters, the Legion of Honor, the Erie Maennerchor Club, the Aviation Club, Erepa Grotto, the Saga Club and the First Presbyterian Church of the Covenant.

Attorney Marsh died on December 25, 1988 at the age of eighty. He was survived by his wife, Florence McBride Marsh and four children. Two sons, Ritchie T. Marsh and James E. Marsh, Jr. became attorneys and practice at Marsh Spaeder Baur Spaeder and Schaaf. Their two daughters are Virginia Sundberg and Linda Lorah. Several grandchildren have also become attorneys including Gene Sundberg and Kurt Sundberg who also practice at Marsh Spaeder Baur Spaeder and Schaaf. Granddaughters Kristen Sundberg and Kelly Marsh Gronbeck became attorneys, practicing outside of Erie County.

## Exhibit F

**Honorable Charles A. Mertens, Jr., United States Bankruptcy Referee**

**(1905 - 1962)**

***Taken from Memoirs of the Erie County, Pennsylvania, Bench and Bar, Volume II.***

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Charles A. Mertens, Jr. was born on August 7, 1905 in Erie, Pennsylvania, the son of Charles A. and Anna Claus Mertens. Upon his graduation from Erie Central High School in 1923, he attended the University of Michigan Liberal Arts College and then the University of Michigan Law School where he received his degree in 1930. He was admitted to the Erie County Bar Association that same year.



Attorney Mertens was a member of the Church of the Covenant; University of Michigan Union; Honorary Order of Coif; the Pennsylvania Bar Association; Lawrence Lodge 708, F. & A. M.; Erie Consistory; Zem Zem Temple; Erie Exchange Club; Erie Yacht Club; Erie Maennerchor; Independent Order of Odd Fellows and the YMCA.

During his career he served as referee in bankruptcy and practiced actively up until the time of his death with the law firm of Jiuliente, Mertens, Jiuliente, Kelleher and Restifo with offices at 23 West Seventh Street.

Attorney Mertens died on October 27, 1962 at the age of 57 as a result of a heart attack. He was survived by his wife, Agnes Herwig; a son, William A. Mertens; a daughter, Julie Ann Mertens; a brother, Edward H. Mertens; a sister, Mrs. V. Walter Streeter; and two half-brothers, J. Robert Mertens and Donald A. Mertens, both of Dallas, Texas.

*Taken from*  
**Journal of the National Association of Referees in Bankruptcy,**  
**Volume 28 (1954), page 59, by Charles Seligson.**  
*Used by permission of the American Bankruptcy Law Journal*  
*and the National Conference of Bankruptcy Judges.*

April, 1954

NATIONAL ASSOCIATION OF REFEREES IN BANKRUPTCY

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part of the new approach for dealing with post-bankruptcy and post-confirmation debts, where the discharge is revoked or the confirmed plan or arrangement is not consummated and bankruptcy is directed.<sup>432</sup> It vests title to the debtor's property in the trustee as of the date of the order directing that bankruptcy be proceeded with, provides that post-confirmation debts shall share on a parity with the pre-arrangement proceeding debts of the same classes, as reduced by the arrangement and payments thereon, and makes the date of the order directing bankruptcy the date of bankruptcy for the purpose of applying the provisions of Chapters I to VII, inclusive, not inconsistent with Section 669. The language of this section is identical with that contained in new Section 381 of Chapter XI<sup>433</sup> and new Section 486 of Chapter XII.<sup>434</sup> The reason for the addition of the three new sections are set forth in the comment on Section 381.<sup>435</sup>

#### Referees' Compensation

One other bill<sup>436</sup> dealing with bankruptcy administration was adopted during the past year. That measure amended Section 40a of the Bankruptcy Act<sup>437</sup> to read as follows:

§ 40. Compensation of Referees; Referees' Salary and Expense Funds; Retirement of Referees a. Referees shall receive as full compensation for their services salaries to be fixed by the conference, in the light of the recommendations of the councils, made after advising with the district judges of their respective circuits, and of the Director, at the rates not more than \$12,500 per annum for full-time referees, and not more than \$6,000 per annum for part-time referees. In fixing the amount of salary to be paid to a referee, consideration shall be given to the average number and the types of, and the average amount of gross assets realized from, cases closed and pending in the territory which the referee is to serve, during the last preceding period of ten years, and to such other factors as may be material. Disbursement of such salaries shall be made monthly by or pursuant to the order of the Director.

The following explanation for the change in this section was given in the Senate Committee report on the bill:

The purpose of the proposed legislation, as amended, is to increase the limit of salaries of full-time referees from \$10,000 per annum to \$12,500 per annum, and to increase the limit on the salaries of part-time referees from \$5,000 per annum to \$6,000 per annum. The legislation, as amended, has the endorsement and recommendation of the Judicial Conference of the United States as set forth in the report received for the Administrative Office of the United States Courts, dated October 25, 1951, which is attached hereto.

The Committee on Bankruptcy Administration considered the matter after it had received letters expressing views of the district judges of the circuit conferences insofar as they had acted on this proposal, and the committee was of the opinion that in view of the steady increase in the cost of living since the establishment in 1947 of the salary system for compensating referees, especially in the metropolitan areas, the maximum limits upon the salaries of referees should be raised.

... The committee is cognizant of the fact that referees' salaries have not increased along with other incomes and that the costs of living have increased. The committee believes that the bill is meritorious.<sup>438</sup>

The new maximum salary of \$12,500 set by the bill is inadequate. It falls short of covering the wide increase in today's cost of living. The salary system of compensating referees was established on July 1, 1947.<sup>439</sup> That system has been self-sustaining since its establishment, and there is a substantial surplus in the referees' salary fund at the present time.<sup>440</sup> It is estimated that the cost of the increase provided by the new measure "is well within the current yearly surplus so that the increase would cast no burden on the general funds of the Government."<sup>441</sup> A maximum of \$15,000 would be more in line with present day conditions although not completely adequate for referees in large metropolitan districts. It would impose no burden on the Government, for the system would continue to be self-

sustaining. The federal district judges presently receive \$15,000 per annum, but it is hoped that the salary of the district judge will soon be increased. It is recognized that the maximum salary of a referee should not equal that paid to the district judge. Perhaps the referee's salary should be related proportionately to the salary of the district judge. If so, it would be desirable to provide that the maximum referee's salary shall be five-sixths of that paid to the district judge. The compensation of referees would then be sufficient to enable qualified referees to continue in office and thus there would be assurance of continued competent direction of the administration of bankrupt estates.

Apart from the legislation discussed above,<sup>442</sup> there were significant developments in bankruptcy through decided cases. The courts were occupied in 1952 with many cases which expanded and in some instances clarified the case law. The rendering in circuit courts of appeals of important split decisions<sup>443</sup> with strong dissents distinguished the year. These decisions illustrate the difficulty of the construction of the bankruptcy law and its application to particular fact patterns.

#### REFEREE MERTENS SUCCEEDS MARSH



REFEREE CHARLES A. MERTENS  
Erie, Pa.

Charles A. Mertens was appointed part-time Referee in Bankruptcy at Erie, Pennsylvania, to succeed James E. Marsh. Mr. Mertens was born Aug. 7, 1905, in Erie, Pa., and graduated from the University of Michigan Law School in 1930 with the degree of J. D. He has been a member of the Pennsylvania Bar for 23 years and served as attorney for the H.O. L.C. from 1933 to 1945, and from 1951 to 1953 was District Counsel for the Office of Price Stabilization at Erie. As Referee he serves eleven counties in the Western District of Pennsylvania.

Mr. Mertens is married and lives with his wife and two children at 331 Lincoln Ave., Erie.

#### REFEREES MURPHY AND STREETER PARTICIPATE IN CREDIT CONFERENCES

A panel discussion, "Assignments, Bankruptcies and Rehabilitation" was a part of the program of the annual Tri-State Credit Conference, held in Omaha, Nebr., last December. Referee Emmet L. Murphy, Omaha, presided, and various Credit Men's Association secretaries participated.

Another panel discussion "Operation — Bankruptcy" was held by the Illinois Regional Credit Conference in Chicago that month. Referee Wallace Streeter, Chicago participated. He explained the function of the Referee and answered questions on the technical aspects of the bankruptcy law.

<sup>442</sup> See notes 1 and 436 *supra*.

<sup>443</sup> *Austrian v. Williams*, 198 F.2d 697 (2d Cir. 1952); *Pomper v. United States*, 196 F.2d 211 (2d Cir. 1952); *In re Manufacturers Trading Corp.*, 194 F.2d 948 (6th Cir. 1952); *Schwartz v. Miller*, 192 F.2d 727 (2d Cir. 1951).

<sup>432</sup> *Supra* note 13 at 11.

<sup>433</sup> See note 334 *supra*.

<sup>434</sup> See note 389 *supra*.

<sup>435</sup> See note 334 *supra*.

<sup>436</sup> Pub. L. No. 457 (S. 2240), 82d Cong., 2d Sess., approved and effective July 7, 1952.

<sup>437</sup> 66 STAT. 438, 11 U.S.C.A. § 68 (Supp. 1952).

<sup>438</sup> SEN. REP. No. 1392 on S. 2240, 82d Cong., 2d Sess. 1, 2 (1952).

<sup>439</sup> H.R. REP. No. 2321 on S. 2240, 82d Cong., 2d Sess. 2 (1952).

<sup>440</sup> *Ibid.*

<sup>441</sup> *Ibid.*

## **Exhibit H**

**Honorable William B. Washabaugh, Jr., United States Bankruptcy Judge**

**(1905 - 1988)**

***Taken from Memoirs of the Erie County, Pennsylvania, Bench and Bar, Volume II.***

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William B. Washabaugh, Jr., served as United States Bankruptcy Judge for the Western District of Pennsylvania since his appointment to that position on July 20, 1959 until his retirement on March 22, 1985. He was born in Grove City, Pennsylvania, July 21, 1905, the son of the late Dr. William B. Washabaugh, former Erie obstetrician, and Elizabeth C. Washabaugh.



He was graduated from Erie Central High School in 1923, Princeton University with a bachelor of arts degree with honors in English in 1927, and the University of Pittsburgh School of Law with a J.D. degree in 1930 in which year he was admitted to the bar.

He served as President of the Erie County Bar Association in 1963-64 and was president of the Law Alumni Association of the University of Pittsburgh in 1972. He was a member of the Client's Security Fund Administrative Board of the Pennsylvania Bar Association, a member of the National Conference of Special Court Judges of the American Bar Association and a 3rd Circuit member of the board of governors of the National Conference of Referees in Bankruptcy. During the Eisenhower administration, Judge Washabaugh was chairman of the Republican



finance committee of Erie County. He served six years on the board of directors of the Millcreek Township School Board, and was a member and officer of numerous other local organizations. At the time of his appointment to the bench, he was senior partner of the Erie law firm of Washabaugh, McClure & Miller, now McClure & Miller.

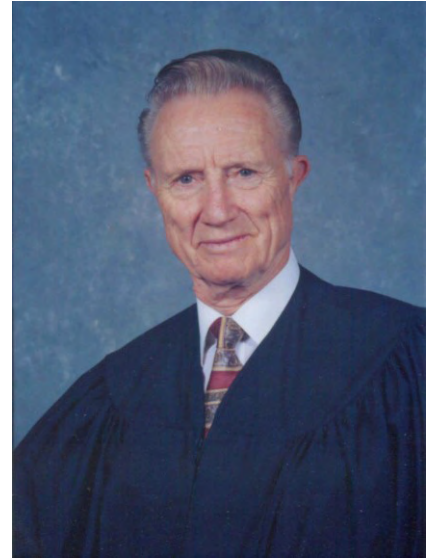
Washabaugh was a well-respected legal scholar who loved the law, music, poetry and literature, according to colleagues who knew him well. He was a hard worker who put in long hours at his job.

Judge Washabaugh was married to Dorothy Elizabeth Lowery in Birmingham, Alabama on August 12, 1930. Their only child, William B. Washabaugh, III was born in Erie on September 16, 1931 and predeceased both of them. Judge William B. Washabaugh, Jr. passed away on June 21, 1988.

## **Exhibit I**

### **Honorable Warren W. Bentz, United States Bankruptcy Judge**

Warren W. Bentz was born in Fairfield, NE on January 8, 1926. He was appointed U.S. Bankruptcy Judge for the Western District of Pennsylvania, Erie Division on March 22, 1985. Judge Bentz served as Chief Bankruptcy Judge for the Western District of Pennsylvania from January 1, 1994 until January 8, 1996. He served a complete 14-year term as U.S. Bankruptcy Judge and retired on March 21, 1999. He immediately began serving on recall status on March 22, 1999,



and all of the Erie Division cases were assigned to Judge Bentz through September 2009.

Judge Bentz served in the U.S. Navy. He attended the University of Virginia and received a degree in Engineering from the University of Michigan in 1946. He worked as a structural engineer from 1946 to 1953 and obtained his law degree from Harvard Law School in 1954.

Judge Bentz is a member of the Pennsylvania Bar Association, the American Bar Association, the American Judicature Society, and the Pennsylvania Society of Professional Engineers. He has been a member of the Erie County Bar Association since 1956, serving as its Secretary in 1959; on the Executive Committee from 1966 to 1972 and again from 1977 to 1979; as President in 1978; and in various years as Bankruptcy Committee Chairman. The Erie County Bar Association named him "Chancellor of the Bar" in 2000.

Judge Bentz has participated in community activities and has served as a member, officer or director of the Erie YMCA, the Erie YMCA Handball Club, the Erie Kiwanis Club, the Erie

Philharmonic, the Preservation Project of Erie and the Multiple Sclerosis Society & Clinic of Erie, Inc.

Judge Bentz enjoys handball, playing regularly at the YMCA. He was a member of the University of Virginia boxing team in 1943; a member of the University of Michigan track team (pole vault) from 1944 to 1946, and a member of the University of Michigan Football team in 1944 and 1945. He holds two gold track shoes for Big Ten Team Championships in 1944 and 1945.

## **Exhibit J**

### **Temporary Courtroom**

***Taken from Erie Daily Times, April 5, 1996, by George Miller.  
Used by permission of Erie Times-News.***

The federal government is paying \$1.6 million over the next five years to move the district bankruptcy court, and the move is only temporary.

When the government moves out, maybe by the year 2000, it will have to leave behind the bulletproof glass and the rich textured red carpet and dark wood furnishings.

Even the judge who will occupy the new courtroom, Bankruptcy Court Judge Warren W. Bentz, wonders aloud about the new courtroom.

“This is more expensive than I would expect,” Bentz said amidst carpeting, wood furnishings and paneling in the new courtroom.

“I just go where I’m told to go,” he said.

When he raised questions, Bentz noted, “They say, ‘Judge, You don’t understand.’”

The U.S. Bankruptcy Court in Erie has moved to the newly built courtroom and offices in the former First National Bank building downtown.

The move is only “temporary” and expected to last until the federal courthouse is expanded and renovated at an undetermined time in the future.

The federal government is paying about \$1.6 million over the next five years to lease the space at 717 State St., according to John C. Thompson, regional spokesman for the U.S. General Services Administration.

The government has an option to lease the space for another five years for a total of about \$945,000.

Bankruptcy Court had occupied about 4,400 square feet of space on the third floor of the federal courthouse building at South Park Row and State Street. It now has 10,086 square feet of space on the fourth, fifth and seventh floors of the former FNB building.

The government will not be able to salvage any of the material in the new courtroom because the alterations were done by the building owner, Covelli Real Estate, to accommodate Bankruptcy Court.

The new location features increased security, such as bulletproof glass to protect employees in the office where bankruptcy records are available for public inspection.

Bentz noted that bankruptcy court is a unit of U.S. District Court and the guidelines for new courtrooms are established by the U.S. court system. “Bankruptcy court has grown in stature in the last 15 years,” he said.

The local Bankruptcy Court handles about 1,000 cases a year ranging from personal to complex corporate bankruptcies in a 10-county area.

Bentz still is puzzled by the need for the move, saying he was satisfied with his courtroom in the federal courthouse where he has presided since 1985. Bankruptcy Court has been in that location since 1973.

Bentz said the decision on the new courtroom and offices was made by the administrative office of the U.S. court system and the U.S. General Services Administration.

The GSA’s Thompson said the federal government built the new courtroom and offices because of anticipated future expansion needs of the district court offices, although no immediate plans exist for the third floor space in the federal courthouse.

He said the bankruptcy court lease can be canceled any time after five years with 90 days notice.

Thompson said the Bankruptcy Court move is temporary and dovetails with plans to expand and renovate the existing federal courthouse at an estimated cost of \$15 million to \$20 million.

“When that will occur remains to be seen,” he said.

Thompson said GSA is pursuing the courthouse expansion project, but the agency just received the 1997 budget figures and there is no appropriation for Erie’s federal courthouse project.

That means the earliest the project could be approved is in fiscal year 1998, which would mean completion in 2000 or later.

Several other agencies have moved from the federal courthouse in recent years and have long-term leases.

The FBI and U.S. Attorney’s offices have 10-year leases similar to the one for Bankruptcy Court, according to the GSA’s Thompson. The U.S. Attorney’s office occupies nearly 3,000 square feet of space at 100 State St. for about \$59,000 annually. The FBI also occupies about 3,000 square feet of space in the former FNB building for about \$61,000 annually.

Thompson said the plan is ultimately to have the federal offices in the expanded and renovated courthouse. The federal government wants to purchase the main Erie County Library building next door and nearby vacant Isaac Baker & Son building, 629 State St., as part of the renovation and expansion project.

Bentz, however, noted that the Bankruptcy Court judges in Pittsburgh were promised new courtrooms in 1979 and still don’t have them.

## **Exhibit K**

### **Honorable Thomas P. Agresti, United States Bankruptcy Judge**

On April 5, 2004, Thomas P. Agresti was sworn in by U.S. District Court Chief Judge Donetta W. Ambrose as the ninth United States Bankruptcy Judge for the Western District of Pennsylvania.

Judge Agresti was appointed to the bankruptcy judgeship vacated by Judge Warren W. Bentz when Judge Bentz assumed recall status. Prior to Judge Bentz's retirement in the fall of 2009, Judge Agresti's



caseload encompassed only Pittsburgh Division cases. In the fall of 2009, Judge Agresti assumed responsibility for all matters filed in the Court's Erie Division which includes all bankruptcy cases filed in counties located in the Western District of PA north of Interstate 80. Judge Agresti continues to hear a portion of the Pittsburgh Division cases. Also in the Fall of 2009, Judge Agresti assumed the duties of "Chief Judge" of the Bankruptcy Court for the Western District of PA.

## Exhibit L

Taken from Erie Times-News, July 31, 2002, by Thomas Agresti.  
Used by permission of Erie Times-News.

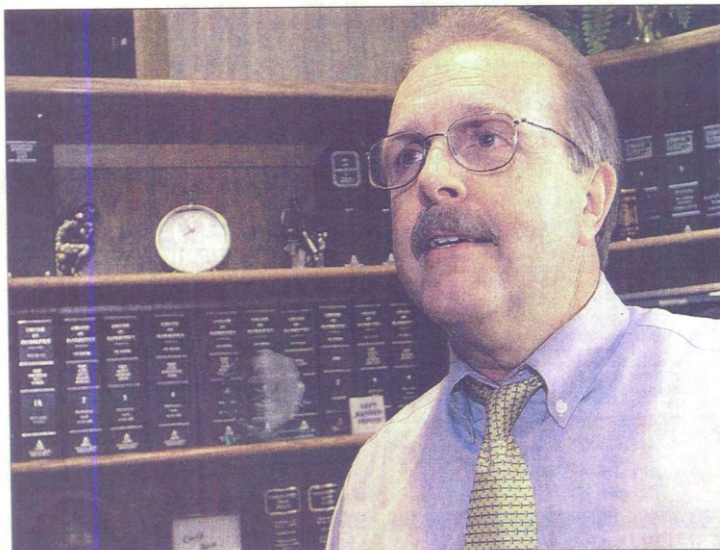
Erie Times-News

# Business

Wednesday, July 31, 2002 • www.GoErie.com

"There's a lot of tears in these cases. ... There's a lot of misery."

— Thomas Agresti, bankruptcy trustee



JACK HANRANAN/Erie Times-News

Thomas Agresti has practiced law for 26 years. Part of his job is recovering assets for creditors in bankruptcy cases.

## Breaking the bank

### Lawyer sees worst of financial mismanagement

By THOMAS AGRESTI  
as told to Steve Bien-Aimé, staff writer

I'm a member of the private panel of trustees appointed by the United States trustee. The U.S. trustee supervises all cases filed under the bankruptcy code. It's (my) job to administer, liquidate, litigate and distribute the assets we try to recover for the benefit of creditors.

In 1982, I was an assistant district attorney in Erie and I went to a Wednesday noon discussion group of lawyers. Judge



One in a series in which Erie workers talk about their jobs.

William Washabaugh was there and I was seated next to him. He asked me what I was doing. He said, "Why don't you join the private panel of trustees?"

My dad and uncle thought it was a good idea. I submitted an application and three months later I was selected.

We're primarily lawyers in private practice. There are a lot of tears in these cases because of the situation. There's a lot of misery.

We ask them to give us a short statement about why they filed for bankruptcy. It's a tough thing for people to tell you what happened. It's demeaning. You have to have compassion and empathy.

Many times it's a family illness or a business failure. A lot of cases it's the abuse of the credit cards. It's almost like drugs. You enjoy them. Then you get hooked. The

#### ON THE JOB

■ Name Thomas Agresti  
■ Age: 51  
■ Job: Lawyer, partner at Agresti and Agresti, 319 W. 10th St.

only way to get clean is to go cold-turkey. I've seen cancer victims. They lost their jobs and use credit cards to pay their bills. Before you know it, they have \$40,000 in credit card debt.

We're seeing younger people. I've seen them at 21 years (old). I've seen them at 19 years (old).

That is one of the sadder things I see. Ninety-eight percent of debtors are below the exemption level, at least in western Pennsylvania. They get to keep everything. The bankruptcy system relies on the honor system. My job is to make sure the exemptions are verified.

In Chapter 7, a trustee is appointed in every case. In Chapter 7, you basically give up. About two-thirds of all filings are Chapter 7 bankruptcies.

In Chapter 11, the debtor files bankruptcy but still is in control of his destiny. When creditors or the courts determine it is not in the best interest of the court for the debtor to remain in control, a Chapter 11 trustee is appointed.

In the early '80s, I ran the Grenada Apartments for three years and ultimately sold it to its current owner. It was like running a checkbook and not spending more than what you have. The creditors received 85 percent in the plan of reorganization.

It appears that my trustee concentration will go from one-third to 50 percent of my practice. In 2001, I had 450 cases and this year I'm on pace (for more than) 500 cases.

The bankruptcy practice for those in this specialty is picking up as well. Talking to other lawyers, they say everyone's busy.

But, there's an ebb and flow of work and that's why I have to maintain a private practice.

I have time to continue my private practice — commercial litigation and personal injury litigation. I often represent debtors, creditors and creditors committees in Chapter 11 cases ... and creditors in Chapter 7 cases in which I do not act as trustee.

I was kind of bred to be a lawyer. My dad and my uncle, Dick and Joe, started Agresti and Agresti in the late '60s. My dad never pushed me. He wanted me to be a doctor.

My dad, uncle and cousin all went to University of Pittsburgh Law School. I went to Pitt undergrad and I was lucky enough to get in to the law school, graduating in 1976.

I have been a lawyer for 26 years. It's an honorable job. Lawyers do a lot of good work at a reasonable rate.

I'm proud to be a lawyer and I'm proud to be part of a family tradition of lawyers.

STEVE BIEN-AIMÉ can be reached at 870-1794 or by email at [steve.bien-aimé@timesnews.com](mailto:steve.bien-aimé@timesnews.com).