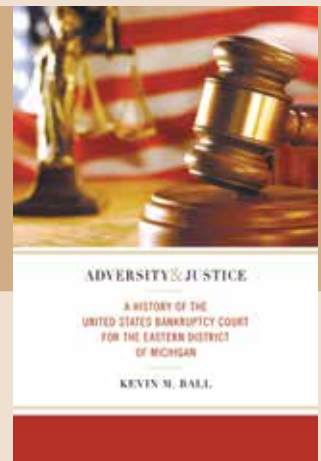


# Adversity & Justice: A History of the United States Bankruptcy Court for the Eastern District of Michigan

By Kevin M. Ball, published by Wayne State University Press (2016), hardcover, 247 pages, \$39.99

<http://www.wsupress.wayne.edu/books/detail/adversity-and-justice>



Reviewed by John R. Runyan

Writing a history of an institution like the United States Bankruptcy Court for the Eastern District of Michigan is not easy. It requires a lot of painstaking research into contemporaneous newspaper accounts and interviews of those still living who were or are the institution's major players. With respect to an institution like the bankruptcy court, such a history also requires plodding through docket sheets and pleadings in the court's microfiched records to unearth those cases upon which the court's reputation was built.

With the support of the Bankruptcy Committee of the Historical Society of the United States District Court for the Eastern District of Michigan and the financial support of most of the Eastern District bankruptcy bar, bankruptcy attorney Kevin Ball (now director of paralegal and business programs at Baker College) has taken on the daunting task of writing a history of the U.S. Bankruptcy Court for the Eastern District of Michigan. After a brief discussion of bankruptcy law and the developments that led Congress to narrowly pass the first national bankruptcy act in 1800, Ball describes the judges and case filings in the Eastern District from the seven men who served as "registers" during the 11-year tenure of the 1867 Bankruptcy Act to the momentous filing of the city of Detroit bankruptcy petition on July 18, 2013.

If you are wondering about the title of the book, Ball offers this explanation:

[That title] reflects both the nature of bankruptcy and the story of the court. Adversity is at the heart of bankruptcy.... But justice is part of bankruptcy law too.... the concepts of adversity and justice have special meaning for the bankruptcy court for the Eastern District of Michigan. Justice has certainly been part of the court's history; as detailed in these pages, its bench has been the home of several well-respected jurists, many with national reputations. However, adversity has also been part of the court's story. It has twice coped with court scandals (p 4).

To his credit, Ball does not attempt to sugarcoat the court's two brushes with scandal. The first took place a century ago when the court's second referee-in-bankruptcy, Lee E. Joslyn—who maintained a private law practice while serving as referee—came under criticism from creditors, particularly

the Detroit Credit Men's Association, which charged him with cronyism, conflicts of interest, and self-dealing. These charges ultimately led to a Department of Justice investigation and Joslyn's eventual resignation.

Ball devotes two full chapters to the second scandal, which will be familiar to many readers since it took place in the early 1980s and resulted in a bankruptcy judge's resigning in disgrace and the court's chief clerk, a deputy clerk, and one of the most prominent members of the Detroit bankruptcy bar going to prison. Ball's comprehensive account of the tawdry details of this scandal show that the book is well named.

Ball's work also has its heroes. Among them is Paul H. King, who succeeded Joslyn and served as referee from 1919 until his untimely death in 1942. King was one of Detroit's most prominent citizens, the foremost advocate for bankruptcy reform in the 1920s and 1930s, and responsible for founding two of the field's most distinguished professional organizations—the

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National Bankruptcy Conference and the National Association of Referees in Bankruptcy (now the National Conference of Bankruptcy Judges). Another is Bankruptcy Judge (and later U.S. district judge) George Woods, a former federal prosecutor and interim U.S. attorney in Detroit who helped restore the bankruptcy court's reputation after the scandal of the early 1980s. Then acting clerk of court David Sherwood also played a substantial role in restoring the court's reputation, according to Ball's sources.

Equally compelling is Ball's narrative about some of the significant cases to come before the court, starting in 1908 with the bankruptcy of one of Detroit's leading stock brokerage firms, Cameron Currie & Co., and its partners, Cameron Currie and Louis Case. Ball spends a chapter discussing the role of bankruptcy in the automotive industry, describing how 232 of 239 entrants to the industry between 1897 and 1933 disappeared by the end of that period, including the Lozier Motor Company. Of particular interest is Ball's description of how the Chrysler Corporation grew out of the bankrupt Maxwell Motor and its predecessor, Maxwell-Briscoe Motor Corporation; and how Henry Ford acquired the struggling Lincoln Motor Company from his nemesis and former owners of the Cadillac Motor Car Company, Wilfred and Henry Leland.

More sobering is the long list of Detroit-area businesses that took advantage of the Chapter 11 "debtor-in-possession" restructuring provisions of the 1978 Bankruptcy Code, including Chatham Supermarkets, DeLorean Motor Company, F&M Distributors, Great Scott and Allied Supermarkets, Highland Appliance, Jacobson's Department Stores, McLouth Steel, and Peet Packing Company—many of which were ultimately forced into liquidation. Interestingly, Ball points out that while each of the above was filed in the Eastern District of Michigan, other businesses with a substantial presence in southeastern Michigan—Borders Books, Frank's Nursery & Crafts, Fretter Appliance, and K-Mart—chose to litigate elsewhere.

Ball saves his best case description for last. In great detail, he describes the city of

Detroit bankruptcy: the interest-rate swaps purchased by former mayor Kwame Kilpatrick to fund Detroit's monstrous pension liabilities, which largely precipitated the city's insolvency; the appointment of Jones Day attorney Kevin Orr as emergency financial manager; and Bankruptcy Court Judge Steven Rhodes's deft handling of the case, including his wise decision to give 45 Detroit residents and retirees their "day in court"; and Judge Rhodes's equally prescient decision to involve U.S. District Court Chief Judge Gerald Rosen, the architect of the so-called "Grand Bargain."

*Adversity & Justice* is not a "page turner." However, Ball deserves credit for writing a comprehensive and balanced history of the

U.S. Bankruptcy Court for the Eastern District of Michigan, one that should be on the shelves of lawyers—bankruptcy attorneys or otherwise—who love history, particularly the history of a significant eastern Michigan institution whose story has not previously been told. ■



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