



**Session Date:** Friday, May 19, 2023

**Session Time:** 9:00am-10:00am

**Session Name:** Ante Up: The Rise of Receiverships in 2023

**Total Minutes:** 60

**Total Credit Hours:** 1

**CALIFORNIA  
BANKRUPTCY FORUM**



**CALIFORNIA  
RECEIVERS FORUM**



**Ante Up! The Rise of Receiverships**

Some receiverships are economy insensitive; others are driven by market volatilities, inflation, and other economic pressures. The current downturn presents unique challenges and opportunities to restructure and/or repurpose troubled assets and businesses, including in emerging market sectors and regulatory environments. Join a cross-section of the best and brightest receivers from across California who will share their current work and wisdom in the federal and state courts, and their future projections where receiverships are and will be most active and beneficial.

**Panelists**

Ryan Baker, Receiver, Douglas Wilson Companies, Irvine  
Stephen J. Donell, Receiver, FedReceiver, Inc., Los Angeles  
Gerard Keena, Receiver, Bay Area Receivership Group, Berkeley  
Scott Sackett, Receiver, Fiduciary Management Technologies,  
Inc., Sacramento

**Moderator**

Mia Blackler, Lubin Olson & Niewiadomski, LLP, Bay Area

**Producers**

Dominic LoBuglio, CPA, Inc., Los Angeles Moderator

## ANTE UP! THE RISE OF RECEIVERSHIPS

### **I. EXTERNAL FACTORS ROULETTE IMPACTING RECEIVERSHIPS**

- A. Market fluctuations include:
  - i. inflation/interest rates
  - ii. supply chain
  - iii. labor market
  - iv. insurance rates (e.g., general liability, fire)
  - v. post COVID-19 effects
  
- B. Unexpected events include:
  - i. corporate infighting
  - ii. fraud
  - iii. death
  - iv. global volatility

### **II. BET ON THESE RECEIVERSHIPS IN 2023**

- A. Office Properties
  - i. impacts in different geographic markets
  - ii. the hybrid office model
  - iii. zombie buildings – can landlords afford to hold
  - iv. bankruptcy not necessarily a viable option
  - v. what are lenders doing
  
- B. Broken Construction Projects
  - i. arising from partner disputes, lenders who are done waiting
  - ii. difference from what we saw in 2008-2012
  - iii. developers unable to obtain permanent financing with current interest rates
  - iv. lingering effects of the pandemic
  
- C. Cannabis
  - i. capital restraints that other business sectors do not face
  - ii. no bankruptcy
  - iii. check out the panel!

### **III. SOLID RECEIVERSHIP BETS**

- A. Other State Courts
  - i. criminal courts
  - ii. probate courts
  - iii. family courts
- B. Federal receiverships
  - i. crypto
  - ii. Ponzi schemes

### **IV. WHAT'S AT STAKE?**

- A. Flexibility within receivership law allows for complex resolutions
- B. Complex sale procedures
  - i. from the trenches
  - ii. receiverships in combination with other fiduciary actions
- C. Partnership disputes
  - i. traditional business partnerships, LLCs
  - ii. family offices
  - iii. professional associations

### **V. PRE-RECEIVERSHIP GAMBLING**

- A. Receivers in advisory roles
  - i. pros and cons
  - ii. risk management
  - iii. preempt takeover
  - iv. appease partners, investors, lenders, investors

### **VI. DID WE WIN OUR BETS?**

- A. What did the receivers bet in February 2023?
- B. How did they do?

## **RECEIVERSHIP LAW RESOURCES**

Code Civ. Proc. §§ 564-570  
Code Civ. Proc., §§ 872.010-874.323  
Penal Code 186.11  
Prob. Code § 1000  
Prob. Code § 16420  
Prob. Code § 17206  
Rules of Court 3.1175-3.1184

FRCP Rule 66  
28 U.S.C. § 754  
28 U.S.C. § 959

Ryan C. Baker  
Mia S. Blackler  
Stephen J. Donell  
Gerard F. Keena II  
Scott Sackett

# Ryan C. Baker

## VICE PRESIDENT

### Education:

B.S., Economics  
New York University

M.B.A., University of  
Southern California

### Affiliations:

California Receivers  
Forum (CRF), Director

National Association of  
Federal Equity Receivers  
(NAFER), Member

California Bankruptcy Forum  
(CBF), Los Angeles County  
Chapter, Member

California Bankruptcy Forum  
(CBF), Orange County  
Chapter, Member

Participates in Receiver and  
Insolvency Education courses  
sponsored by the Forum and  
Loyola Law School

Mr. Baker has extensive receivership experience involving governmental agency and regulatory-related receiverships in both State and Federal courts. Over the past dozen years, Mr. Baker has been appointed on or served as lead agent on numerous receiverships originating from agencies including the Securities and Exchange Commission, Department of Justice, multiple District Attorney's offices, among others.

Mr. Baker's most significant assignment was in the matter of Private Equity Management Group – a billion-dollar Ponzi scheme exposed in Federal Court by the Securities and Exchange Commission that led to the appointment of a Federal Equity Receiver. Mr. Baker was tasked with tracing \$1 billion worth of investment from nine investors over a 10-year period into 46 investment vehicles located in the British Virgin Islands. The overall investments included over 50 assets and 275 life insurance policies (with over a billion dollars in face value) and a cash flow requirement of \$70 million per year to keep the premiums current. Most of the assets were jointly owned by multiple investors. This analysis provided the basis for the court-approved distribution plan to victims of the \$336 million recovery.

Another regulatory example includes a medical equipment vendor that came under the scrutiny of the Orange County District Attorney. The company was accused of fraudulent billing practices overcharging insurance providers and Medicare. Mr. Baker oversaw the review of the invoicing practices of the business, determined errors in billing practices and protocols, and initiated changes to ensure future billings were performed in accordance with prescribed lawful guidelines.

Other regulatory receivership examples include:

- SEC vs. Private Equity Management Group – A \$1B Ponzi scheme involving 8-large foreign banks investing in a private equity company. However, following the Great Recession the company turned to using new investor monies to pay off maturing debt.
- SEC vs. Home Paradise Investment Center, LLC – A \$29.5M EB-5 immigration investment program fraught with allegations of fraud and misappropriation.
- SEC vs. Capital Cove Bancorp, LLC – A \$17.3M Ponzi scheme involving investments in 37-residential “fix-and-flips” homes. With promises of 12-30% returns, investors were promised first-place deeds of trust. In reality, however, they were often in third or fourth place and typically behind hard-money lenders.
- People of the United States (DOJ) vs. Shipley et al. – An action brought by the Department of Justice relating to delinquent IRS taxes of \$18.3M. Tasks involved maximizing the recovery from three residential mansions totally 45,000 square feet, 50 paintings and 223 antiques and other valuable artifacts.
- SEC vs. Secured Capital Investments – A \$14M Ponzi scheme involving real estate assets, tax liens, startup investments and loans to insiders.
- The People of the State of California (Orange County DA) vs. Campau et al. – A medical equipment supplier accused of fraudulent billing practices that were, with the assistance of the receiver, brought back into compliance.
- The People of the State of California (Orange County DA) vs. Suleiman et al. – A mortgage refinance fraud that involved liquidating assets and distributing approximately \$500K to harmed victims.

Prior to joining Douglas Wilson Companies in 2019, Mr. Baker was a Receiver for ten years at Mosier & Company, Inc.

## PRACTICE AREAS

- Litigation
- Bankruptcy and Creditor's Rights

## EDUCATION

- Boston University School of Law (J.D. 1996)
  - Editor, American Journal of Law and Medicine
- Cornell University (B.A. 1993)
  - Double major in French and Linguistics

Mia S. Blackler is a Partner in Lubin Olson's Litigation and Bankruptcy and Creditors' Rights Practice Groups, with an emphasis in commercial, real property and financial institutions litigation in state and federal trial and appellate courts. Ms. Blackler's litigation experience includes wrongful foreclosure defense, bank operations, interbank disputes and commercial disputes. She is well versed in enforcing creditors' rights, including prosecuting collection actions, seeking prejudgment remedies and receiverships. Ms. Blackler has also handled complex fraud actions and class actions.

Ms. Blackler also maintains an active employment practice. She provides risk avoidance and pre-litigation advice and counseling on employment policies and practices compliance issues. Ms. Blackler also advises employers on the impact of recent laws directly impacting employee-employer relationships. When employment disputes arise, Ms. Blackler defends employers against wrongful termination, discrimination, sexual harassment and compensation claims brought before the courts and administrative agencies, and also serves as monitoring counsel on matters handled through business insurance.

Ms. Blackler was the 2018 President of the California Receiver's Forum and is the former president of its Bay Area Chapter of which she has been a board member since 2011. Ms. Blackler was a Symposium Co-Chair of the California Receiver's Forum Loyola VIII conference in 2020. Ms. Blackler is a current member and former Co-Chair of the Financial Institutions Committee of the California Lawyers Association. Ms. Blackler serves as a volunteer arbitrator for the State Bar of California's Mandatory Fee Arbitration Program. She previously served on the Board of Directors for Pets Unlimited.

Before joining Lubin Olson, Ms. Blackler practiced with Buchalter, a professional corporation, where she chaired its San Francisco litigation department in 2018.



## Partner

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**Stephen J. Donell, CPM<sup>®</sup>, ARM<sup>®</sup>, CCIM** is President of both Jalmar Properties, Inc., and FedReceiver, Inc. both of which are based in Los Angeles, California. Mr. Donell has administered and/or been appointed as a receiver in over 900 cases. Mr. Donell has decades of experience in receivership matters involving residential and commercial real estate, asset and business operations and liquidations, oil and gas partnerships, post judgment enforcement actions, hotel/motel, assisted living facilities, single family and condominium construction completion/entitlements, gas station/c-stores, marital dissolutions, sub-standard housing, complex partnership disputes and appointments in federal court as receiver in numerous actions filed by the United States Securities and Exchange Commission, the Federal Trade Commission, California Dept. of Justice and other government enforcement actions including sub-standard housing cases. In addition, Mr. Donell has served as a provisional director, provisional member, dissolution manager, probate administrator and partition referee.

He is a past Co-President of the Los Angeles/Orange County chapter of the California Receivers Forum (CRF), a current CRF Board Member and Past President of National Association of Federal Equity Receivers (NAFER). Mr. Donell also serves as a property management standard of care expert witness and is President of Donell Expert Services, Inc.





# GERARD F. KEENA II

**Gerard F. Keena II** is the Founder and President of Bay Area Receivership Group, operating throughout California and providing next level strategy and solutions in financial and business matters. Mr. Keena has over 20 years of experience as a business fiduciary and advisor in such specialized areas as receiverships, liquidating trustee assignments, assignment for the benefit of creditors, and other corporate officer appointments as they relate to business operations, real estate management and the disposition of distressed and non-distressed assets. Mr. Keena earned his Bachelor of Arts in Economics from Hamilton College and his Masters of Business Administration from the University of Rochester-Simon Business School. Prior to founding Bay Area Receivership Group, Mr. Keena served as a commercial banker with Chase Manhattan Bank and as a consultant with Diablo Management Group.

Mr. Keena's finance background, coupled with experience in numerous fiduciary and interim management roles, provides a strong background in operations, management, accounting, inventory control, reporting, taxation, compliance requirements, and overall strategy.

Bringing a hands-on approach and dedicated focus to the mission of quickly assessing critical business issues and fashioning game-changing solutions, Mr. Keena identifies opportunities for unlocking value via strategic business transactions.

Recognized as a leader in business and financial matters, Mr. Keena is frequently appointed by courts as a fiduciary to, along with the Bay Area Receivership Group team, develop solutions for and maximize the value of distressed and non-distressed businesses and assets. Courts throughout the State of California have appointed Mr. Keena as a fiduciary, including, for example, Superior Courts in the counties of Alameda, Contra Costa, San Francisco, Sacramento, Solano, and Sonoma. In addition, Mr. Keena has served as a fiduciary following nomination by the Commodity Futures Trading Commission and the State of California Department of Justice.



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FIDUCIARY MANAGEMENT TECHNOLOGIES, INC.

Scott Sackett is the President of Fiduciary Management Technologies, a software company that develops financial accounting and case management software for use by fiduciaries administering receiverships, bankruptcies, conservatorships, and trusts. Mr. Sackett has served as a state court receiver since 2002. He has also have served as a Ch. 11 bankruptcy trustee, special master, disbursing agent, referee, third-party neutral, and “keeper” for the US Marshall’s service. Mr. Sackett is a graduate of the University of California, Berkeley College of Engineering and has held management positions in the technology, property management, resort development, farming, and airline industries. Mr. Sackett has been directly involved in the startup of three technology companies delivering sensor and measurement products, network security products, software and services to a variety of markets. Mr. Sackett is a past president of the California Receivers Forum and the current Co-Chair for the Sacramento Valley Council.