

# **BUSINESS BANKRUPTCY BLOGS**

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**Tom Kirkendall** has been a leading expert in complex business litigation matters in the Houston, Texas area for the past 27 years.

Born and raised in Iowa City, Iowa, Mr. Kirkendall moved to Houston in 1972 and worked his way through college and law school. He received a Bachelor of Arts, *cum laude*, in 1975 from the University of Houston and a Doctor of Jurisprudence in 1979 from the University of Houston Law Center.

After working for one of Houston's oldest downtown law firms for two years immediately after law school, Mr. Kirkendall at the age of 28 was one of the founding partners in 1981 of the Houston business litigation boutique firm that bore his name and became prominent over the next 20 years in complex business litigation matters in Houston and throughout Texas. After serving as one of the principal lawyers and the managing partner in that firm, Mr. Kirkendall established a solo practice in 2000 in which he concentrates on personalized representation of clients in complex business litigation matters and utilization of technology applications in such representation.

Mr. Kirkendall has represented a wide variety of clients in complex business litigation and reorganizations in state and federal courts throughout Texas and the United States. Mr. Kirkendall's practice has involved trials and appeals in such diverse litigation areas as corporate reorganization and bankruptcy, securities and business fraud, white collar-business criminal cases, anti-trust, real estate, construction, oil and gas, insurance disputes, civil rights, First Amendment issues, defense of civil and criminal contempt matters, and defense of individuals in NCAA Infractions Committee hearings. He maintains an "AV" rating from the Martindale-Hubbell Legal Directory

Mr. Kirkendall has been an author and lecturer for the State Bar of Texas Advanced Bankruptcy Seminar and the Houston Bar Association in various areas of business litigation and corporate reorganization law, as well as the proliferation of weblogs. Since February 2004, Mr. Kirkendall has also maintained the popular *Houston's Clear Thinkers* weblog (<http://blog.kir.com>), which addresses issues of interest for the Houston legal, business, medical and academic communities. Mr. Kirkendall also frequently lectures on a variety of business litigation topics for private companies and citizen groups.

Mr. Kirkendall is a member of the American, Texas, Houston, and Fifth Circuit Bar Associations, the American Bar Association Litigation and Business Law Sections, the State Bar of Texas Litigation, Appellate, Bankruptcy Law, Antitrust and Business Litigation, and Computer & Technology Sections, and the Houston Bar Association Litigation, Appellate, Federal Practice, and Bankruptcy Sections. Mr. Kirkendall is a Sustaining Life Fellow of the Houston Bar Foundation, a Sustaining Life Member of the A.A. White Society of the University of Houston Law Center, a Life Member of the University of Houston Alumni Association, a founding board member of the University of Houston Athletics Foundation, and a member of the 12<sup>th</sup> Man Foundation of Texas A&M University.



## BUSINESS BANKRUPTCY BLOGS

### I. INTRODUCTION

Weblogs — or “blogs,” for short — have multiplied rapidly over the World Wide Web in recent years, attracting considerable attention in numerous areas. One particularly productive area of growth has been specialized blogs focusing on legal issues — nicknamed “blawgs” — that have become an important source for understanding and researching legal issues. The purpose of this chapter is to provide an introduction to blogs in general, refer to several important blawgs that focus on business bankruptcy-related issues and provide some tips for utilizing blawgs efficiently in performing legal research.

#### A. What are blogs and how do they work?

Writing and analysis of legal issues has traditionally been the exclusive province of courts and law-related publications, such as court decisions, law reviews and law-related periodicals. Inasmuch as printing and publication require substantial assets to reach an adequate audience, owners of these traditional vehicles of publication make substantial investments in assets such as equipment, office space, technology, personnel and goodwill. Although there are benefits to the distribution of specialized information through such mediums, one of the downsides is that the significant capital investment creates a barrier of entry for potential providers of useful information who could facilitate the development of ideas to a far wider audience. The traditional model of distributing law-related information also tended to filter out divergent views and restricted the distribution of viewpoints and related information to wider markets.

This traditional model has been challenged dramatically since the proliferation of the World Wide Web. Legal analysis and writing is no longer exclusively the province of the court decisions, law reviews and the law-specific periodicals. Anyone with a computer can upload information to a website and potentially reach an audience far larger than virtually any of the traditional mediums. However, with such ease of access, the audience members — the beneficiaries of this freer flow of information — still were required to search through an exponentially-expanding heap of information to find the specialized information that they needed.

Web technology adjusted to the foregoing problem by developing blogs. Blogs are generally a series of writings — called “posts” — from a single Web site with a common author or group of authors that is frequently integrated with commentary on the topic of the post from

other blogs. Industry sources estimate that over 55 million blogs are currently in existence and that the number is rapidly increasing.

Dave Winer, one of the first bloggers, provides the following definition: “A [blog] is a hierarchy of text, images, media objects and data, arranged chronologically, that can be viewed in an HTML browser.” Winer summarizes the key technical features that most blogs share:

1. Each blog post has a title, date, and “permalink” that gives its web address.
2. The home page has the most recent posts.
3. Archives include the remaining posts, usually organized by category.
4. The author may permit viewers to comment below each post.
5. “Really Simple Syndication” (RSS) feeds allow viewers to subscribe to multiple blogs to facilitate quick review of the information contained in the blogs.
6. A “trackback” linked to the blog post enables other blogs to notify (or “ping”) blogs they link. The blog author can then track and respond to others who cite the blogger, and readers of the linked blog can refer to the record of trackbacks under each blog post.
7. A blog’s “blogroll” establishes the blog in a community of other blogs, as well as publicizing these blogs.

Dave Winer, *What Makes a Weblog a Weblog* (May 23, 2003); <http://blogs.law.harvard.edu/whatMakesAWeblogAWeblog>

Although the technology of the Web has been the motor of blog development, search engines have played an equally important and not as obvious role. Given that there are literally billions of blog posts, search engines such as *Google* provide an essential filtering device by finding not only relevant posts, but also ranking related posts. For example, *Google* ranks search results according to the number of sites that link to the search result and the importance of each linking site, so that links are essentially “votes” in support of the blog’s quality. Generally, bloggers build readership of their blogs by establishing credibility and encouraging links from other credible blogs so that a blog’s audience represents a goodwill asset that is analogous to the readership of the conventional law-writing mediums.

The foregoing is a brief overview of blogs and the underlying technology as of today. That technology is evolving rapidly and may look quite different in a just a few years. Nevertheless, such key blog characteristics as their interactive nature will likely survive any technological advances, so an understanding of basic blog technology at this point in time is important for remaining abreast with the development of this key emerging source of information.

## II. BANKRUPTCY BLAWGS

### A. The First Tier

The following are several of the current key bankruptcy blawgs. This is not meant to be a complete list. Inasmuch as blogging has low barriers of entry, new blogs tend to come and go quickly depending on the motivations of the authors of the blogs. The following blawgs are noteworthy for the quality and regularity of their content:

#### 1. *Credit Slips*

<http://www.creditslips.org/creditslips/>

A blawg authored by six academics — including former University of Texas and current Harvard Law professor Elizabeth Warren — on all things about credit and bankruptcy or, as they put it, “discussing and debating what does happen and what should happen when consumers and businesses borrow money.” Although less than a year old, *Credit Slips* has quickly become one of the most influential bankruptcy-related blawgs.

#### 2. *The Bankruptcy Litigation Blog*

<http://www.bankruptcylitigationblog.com/>

This blawg, started midway through 2005, is authored by Chicago bankruptcy lawyer Steve Jakubowski and concentrates on issues relating to business bankruptcy cases. However, this excellent blawg provides much more, such as a regular listing of new law review articles relating to insolvency and reorganization law and key posts from other blawgs on bankruptcy-related issues. It is a first-rate resource for keeping up with key issues involved in pending reorganization cases from around the country.

#### 3. *In the (Red): The Business Bankruptcy Blog*

<http://bankruptcy.cooley.com/>

This blawg by San Francisco lawyer Bob Eisenbach was started in mid-2006 for the purposes of helping “CEOs, CFOs, boards of directors, credit professionals, in-house counsel and others to stay informed about important business bankruptcy issues and developments.” A good resource for keeping up with bankruptcy-related developments of interest for your clients.

#### 4. *bankruptcy blog*

<http://dcbabk.wordpress.com/>

A new blawg that that Chicago bankruptcy attorney Mazyar M. Hedayat began in January that is dedicated to the discussion of bankruptcy law, cases, essays, and events written. So far, this blog has been analyzing a broad range of bankruptcy cases and issues. Definitely one to keep an eye on.

### B. The Next Tier

The following blawgs focus on bankruptcy issues, but are either more regional in nature than the first tier or involve less frequent posts from their authors.

#### 1. *A Texas Bankruptcy Lawyer’s Blog*

<http://stevesathersbankruptcynews.blogspot.com/>

Well-known Austin bankruptcy lawyer Steve Sather started this promising new blawg in June, 2006, but had no posts from between November 22<sup>nd</sup> and the January 8<sup>th</sup> submission of this outline. Keep an eye on this one — if Steve stays with it, this blawg will be an important source of local information for Texas bankruptcy lawyers.

#### 2. *E-everything for Bankruptcy Lawyers*

<http://www.e-everything4bk.blogspot.com/>

Another new Texas bankruptcy blog started by Ft. Worth bankruptcy lawyer Lee Barrett. As of updating this article, the blog had not been updated since January 31, but the previous blog posts were quite extensive and covered a fair range of issues.

#### 3. *Georgia Bankruptcy Law Blog*

<http://www.georgiabankruptcyblog.com/>

Atlanta lawyer Scott Riddle’s blawg is somewhat regional in nature, but still a terrific resource for bankruptcy lawyers everywhere.

#### 4. *Bankruptcy Practice Pro*

<http://www.bkpracticepro.com/>

New York City consumer bankruptcy lawyer Jay Fleischman recently created this interesting blawg focusing on helping consumer bankruptcy lawyers to increase profitability and efficiency without sacrificing quality client care.

#### 5. *ABI’s BAPCA Blog*

<http://bapcpa.blogspot.com/>

A helpful blawg that was created to follow developments while Congress debated BAPCA, but has not been frequently updated over the past six months.

6. ***Bankruptcy and Reorganization Blog***

<http://www.bankruptcylawblog.com/>

A California-based blawg focusing on chapter 11 that is updated less frequently than the first tier of blawgs.

C. ***Other Important Blawgs and Blogs***

Some of the best blawgs dealing with business bankruptcy and insolvency issues do not focus exclusively on bankruptcy, but are still terrific resources for understanding and researching business law issues that often arise in or impact business bankruptcy cases.

1. ***Ideoblog***

<http://busmovie.typepad.com/ideoblog/>

University of Illinois Law Professor Larry Ribstein's blawg that focuses on corporate and securities law issues, which often addresses business insolvency and reorganization issues as well as questions involving officer and director liability. An outstanding resource for any business bankruptcy attorney.

2. ***Professor Bainbridge***

<http://www.businessassociationsblog.com/>

UCLA Law Professor Stephen Bainbridge's outstanding blawg on legal issues involving business associations, which often involves insolvency issues pertaining to various forms of business associations. Another great resource of keeping abreast of developments in this key area of business reorganization law.

3. ***Conglomerate***

<http://www.theconglomerate.org/>

A blawg focusing on business law issues maintained by five law professors, including former Houston attorney Christine Hurt. Given that the risk of insolvency gives rise to numerous key business law issues, corporate reorganizations and bankruptcy issues are frequently addressed. An insightful forum.

4. ***Dealbook***

<http://dealbook.blogs.nytimes.com/>

The New York Times' excellent blog on developments in the business world. An essential daily read for any attorney wanting to keep abreast of possible corporate reorganization candidates.

5. ***Dealbreaker***

<http://www.dealbreaker.com/>

"A Wall Street Tabloid," *Dealbreaker*, like *Dealbook*, is a must-read for anyone wanting to keep up with emerging deals and business disputes.

6. ***InterAlia***

<http://www.inter-alia.net/>

Dallas lawyer Tom Mighell is the dean of Texas blawgers and his blawg, *InterAlia*, is the granddaddy of Texas blawgs. Although *InterAlia* focuses on technology that is helpful to lawyers, Tom often includes an item noting interesting new blawgs. Reading *InterAlia* daily is a good way to keep up on the fast-developing blawgosphere.

7. ***The Wall Street Journal Law Blog***

<http://blogs.wsj.com/law/>

Peter Lattman is a former Wall Street litigator-turned-reporter who is the primary author of this fine blog that chronicles developments in the business of law. Throughout each week, the blog often includes news and issues relating to business bankruptcy cases. Another must-read on a daily basis for any attorney wanting to maintain a current understanding of developments on a wide array of business law issues.

8. ***White Collar Crime Prof Blog***

[http://lawprofessors.typepad.com/whitecollarcrime\\_blog/](http://lawprofessors.typepad.com/whitecollarcrime_blog/)

Bankruptcy is strong medicine with serious side effects, so the prospect of potential criminal liability is commonly an important issue in business bankruptcies. Law professors Ellen Podgor and Peter Henning maintain this blawg that focuses on white collar criminal law and cases, including many that involve business and securities issues. It is an excellent resource for staying up to date on developments of criminal issues in business cases.

9. ***Blawgletter***

<http://blawgletter.typepad.com/bbarnett/>

This is a new blawg started in December by longtime business trial lawyer Barry Barnett of Dallas. Based on the first couple of months of post, Barry is providing entertaining commentary on a wide-range of business law issues, including many that impact insolvency and reorganization law. Definitely keep an eye on this one.

10. ***Texas Appellate Law Blog***

<http://appealsplus.com/talblog/>

Another new blawg started by Austin appellate specialist D. Todd Smith to serve as an online resource for trial lawyers, solo and small firm practitioners, and others who may have matters pending before the Texas appellate courts. Todd has done a terrific job so far reviewing new Texas appellate decisions each week.

### III. BLAWG RESEARCH TOOLS

#### A. Separating the Wheat from the Chafe

Given that there are billions of blogs posts, finding the specialized information that you need can be similar to finding the proverbial needle in a haystack. Thus, several search engines are being developed to assist in the isolation of specific research goals:

##### 1. *Google Blog Search*

<http://blogsearch.google.com/blogsearch>

Google's search engine for blogs is a decent starting point for broad-based searches.

##### 2. *Justia BlawgSearch*

<http://blawgsearch.justia.com/>

This is the most promising search engines that has been developed to date for performing legal research on blawgs. Tim Stanley and the folks at Justia.com have developed *BlawgSearch* to search exclusively blawgs, and the Justia.com crew is adding blawgs on a daily basis. While using it on a variety of issues over the past month or so, I have found the coverage to be excellent already and far more focused than blawg searches on more generalized engines such as *Google Blog Search*.

##### 3. *Justia Federal Case Search*

<http://dockets.justia.com/> (still in beta)

[http://blog.kir.com/archives/2007/02/tracking\\_federa.asp](http://blog.kir.com/archives/2007/02/tracking_federa.asp)

Another interesting Justia search engine and website that allows the user to track federal court cases in a number of different ways, including by date, state or party name. The website taps into a database of recently filed federal district court civil cases and starts with a list of all of the cases, which then can be broken down by State/Court/Practice/Sub-Practice. You can subscribe to an RSS feed of all of the new cases that meet these criteria, or you can do a search and subscribe to an RSS fee of the search results. For example, you could track all of the federal court cases filed against a particular company as an RSS feed, or you could subscribe to just those that are filed in Texas. Whatever the search criteria, you can track new cases with an RSS feed. Justia has inputted over 300,000 case titles since January 1, 2006 and is now updating the database daily. The website is still in beta and Justia plans to add more functionality and editorial groupings of parties. But it's pretty darn useful already and merits watching.

##### 4. *Technorati*

<http://www.technorati.com/>

A popular blog search and referral engine that allows users to keep up with blog posts on certain subjects on a real time basis. *Technorati* also allows users to view other blogs that are linking to a particular blog.

##### 5. *BlogPulse*

<http://www.blogpulse.com/index.html>

Similar to *Technorati*, this service allows users to view where a particular blog or blog post is being commented on around the blogosphere.

##### 6. *Memeorandum*

<http://www.memeorandum.com/>

This is an interesting site that links breaking news articles of the day from the mainstream media to blog posts discussing the subject of those articles. Given that the blog focuses on current events, politics tends to dominate, but occasionally a breaking business story will emerge and it is a helpful way to hit the blogs that are discussing the subject.

##### 7. *Furl*

<http://www.furl.net/index.jsp>

Computers generally and the Web specifically are all about processing information quickly and efficiently. Inasmuch as busy lawyers often do not have the time immediately to read each article or nugget of information that they come across on the Web during each day, it is important to be able to organize and store that information quickly and efficiently for later reference. Furl is a free, web-based service that allows you to do just that. It has become an important database for my practice and weblog.

##### 8. *A Useful Search Tip*

Many blawgs have their own search engine built into their blawg template. However, using either *Google* or *Google Blog Search*, you can search any particular blog by using "site:" and the domain name to your *Google* search. For example, you could use "site:blog.kir.com skilling" to search for posts that I have written on *Houston's Clear Thinkers* in regard to former Enron CEO, Jeff Skilling. You can also use the same command to search top level domains such as .edu or .fr, a handy trick for finding academic research on, say, Enron ("site:.edu Enron").

#### IV. THE IMPORTANCE OF RSS

##### A. RSS = “Ready for Some Stories”

The eyes of non-techies tend to start glazing over when terms such as “RSS” start being thrown around. But RSS — short for “Real Simple Syndication” — really is a simple, powerful tool that is a wonderful time-saver for attorneys.

Blog posts and news stories on current legal issues tend to lose much of their benefit if they cannot be reviewed quickly and efficiently in the ordinary course of our daily lives. RSS is a technology that feeds an “aggregator” that allows you to review a quick list of the latest story headlines from all your favorite newspapers, websites and blogs, all in one place. Although a comprehensive review of RSS is beyond the scope of this outline, a good general review of RSS technology is here:

[http://cravingideas.blogs.com/backinskinyjeans/2006/09/how\\_to\\_explain\\_.html](http://cravingideas.blogs.com/backinskinyjeans/2006/09/how_to_explain_.html)

Moreover, a comprehensive list of aggregators — that is, services that aggregate your RSS feeds so that you can quickly review them — is here:

<http://www.newsonfeeds.com/faq/aggregators>

For several years, I have used *FeedDemon* (<http://www.newsgator.com/NGOLProduct.aspx?ProdID=FeedDemon>) as an aggregator and am quite satisfied with it. However, all the most recent versions of web browsers have RSS feeds and there are dozens of other web-based RSS aggregators. If you do not already have one, then I recommend starting out with *Google Reader*, which is a good, web-based aggregator that is easy to use. Once you get used to reviewing information through RSS, then you can try several of the more powerful aggregators that address your specific preferences and then choose one that fits your needs.

#### V. CONCLUSION

An important factor in a sophisticated client’s decision to hire an attorney is that attorney’s ability to process and evaluate information that affects the client’s legal problem. Blawgs have quickly become an important source of such information, particularly in that their open access and interactivity provides a distinct advantage over the more traditional modes of “bricks-and-mortar” information sources. Although blawg technology is still evolving quickly, maintenance of a basic understanding of this increasingly important legal research medium is necessary for attorneys to keep abreast of developments in the fast-changing world of business. Thus, adapt or be left in the dust!