

**Friday, November 5, 2021
9:00 AM to 10:15 AM**

General Session 6

“Seeking Normalcy in Retail – Shopping Centers and Bankruptcy on a Swiftly Tilting Planet”¹

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- I. History of Shopping Centers
 - a. Department Stores
 - b. Specialty v. Commodity
 - c. Natural Life Cycle of Retail Bankruptcies
 - d. Pre-Pandemic Department Store Filings
- II. Impact of Pandemic on Chapter 11 Cases, Shopping Centers, and Retailers
 - a. Changes and Trends Pre- Pandemic
 - i. Over-Expansion
 - ii. Changing Tastes
 - iii. Move Away From Enclosed Regional Malls
 - iv. Shift To Online Buying
 - v. Landlord Acquisitions Of Tenants
 - b. Chapter 11 Cases Underway When COVID-19 Struck
 - i. Lucky's Market (January 27, 2020)
 - ii. Pier 1 Imports (February 17, 2020)
 - iii. CraftWorks / Logan's Roadhouse (March 3, 2020)
 - iv. Modell's (March 11, 2020)
 - c. Changes As A Direct Result Of COVID-19
 - i. Bankruptcy Code Amended
 - 1. Good Samaritan Defense under Section 547
 - 2. Extension of Time to Assume or Reject Leases under Section 365(d)(4)
 - 3. Subchapter V Bankruptcy – Increased Debt Limit
 - ii. Companies Liquidated Because Of COVID-19
 - 1. Pier 1 Imports
 - iii. Supermarkets and Grocery – ‘Essential Business’ Improved
 - iv. Suspension/Litigation of Lease Payment Obligations
 - 1. State Courts Closed – moratorium on evictions
 - 2. Rent Deferrals under Section 365(d)(3) and Mothball Motions
 - 3. Non-Payment Litigation – Force Majeure, Impossibility, and Frustration of Purpose
 - (a) CEC (Chuck E Cheese)
 - (b) Cinemex
 - (c) Ruby Tuesday

¹ Inspired by *A Swiftly Tilting Planet*, Madeleine L'Engle, third book in the Time Quintet, Farrar, Strauss and Giroux 1978. The authors would like to thank their colleagues, Connie Choe, Amanda Lindner, Summer McKee, and especially Jennifer Raviele for their significant contributions to these materials.

d. Companies That Survived COVID-19

- i. Restaurants – CEC, Ruby Tuesday, SD Restaurant Group (Sonic), Too Jays
- ii. Movie Theatre/Restaurant and Entertainment – Alamo Drafthouse Cinemas, Cinemex, Punch Bowl Social
- iii. Department Stores – Belk, J.C. Penney, Neiman Marcus, Stage Stores
- iv. In Line and Jr. Anchor – Tailored Brands, J. Crew, Ascena, GNC, Francesca's, Its Sugar, Sugarfina, L'Occitane, Paper Source, The Paper Store
- v. Gyms and Fitness - 24 Hour Fitness, In Shape, You Fit, Gold's Gym, Town Sports Inc.

III. Lease Negotiations During And After The Pandemic

IV. Looking Back and Going Forward