

# NATIONAL BANKRUPTCY CONFERENCE

*A Voluntary Organization Composed of Persons Interested in the  
Improvement of the Bankruptcy Code and Its Administration*

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February 15, 2005

## By electronic mail

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Honorable John Cornyn  
United States Senate  
Washington, DC 20510

Re: **Bankruptcy Venue – S. 314**

Dear Senator Cornyn:

The National Bankruptcy Conference (“NBC”) writes in support of the principles reflected in S. 314, which would change the rules for venue of bankruptcy cases. The NBC is a voluntary organization composed of persons interested in the improvement of the Bankruptcy Code and its administration. A brief description of the NBC is attached.

Changes to the bankruptcy venue statute were first proposed formally by the National Bankruptcy Review Commission (the “NBRC”) in its 1997 Report, where the reasons supporting the changes are well-documented and described. The NBRC recommended that 28 U.S.C § 1408 be amended so that the venue alternatives for a corporation be limited to the district court where the corporation's principal place of business or principal assets are located and that the affiliate venue rule be modified so that a parent company could not choose venue for its own bankruptcy case based solely on a proper venue for an affiliate. S. 314 would limit bankruptcy venue in largely the same way. The NBC agrees in principle with these changes.

The NBC notes the difficulty in drafting this policy into statutory language in a way that accurately reflects the desired result without unintended consequences. It believes that the language of the NBRC proposal was deficient in certain respects, which S. 314 has sought to remedy. We have concern, however, that S. 314 may introduce other issues in interpretation. We would be pleased to offer the technical expertise of our members to work with your staff in addressing these concerns, so that the objectives of S. 314 can be fully realized. If we can be of assistance, please contact either our Vice-Chair Richard Levin, our Drafting Committee Chair Prof. Alan Resnick, or me. Our contact information is shown below.

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Senator John Cornyn  
February 15, 2005  
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With best regards.

Sincerely,

*/s/ Donald S. Bernstein*

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