

FROM AROUND THE DISTRICT

Barry University Dwayne O. Andreas School of Law Students Compete in St. John's University's 24th Annual Duberstein Moot Court Competition

By Alexis Leventhal



From Left to Right: Team Coach and Shared Law Clerk, Alexis Leventhal; Barry Law Student, Dalya Zalloum; Barry Law Student, Geraldine Pena; and Team Coach and Barry Law Professor, Linda Coco.

A motor vehicle company reeling from the recession files for Ch. 11 bankruptcy protection and successfully sells its “good” assets to a newly created entity in a free and clear sale. The proceeds of that sale along with the remaining assets are liquidated and used to pay creditors—leaving the newly created entity to march happily along until a class of unsecured creditors, deliberately deprived of notice of the entire bankruptcy proceeding, pops up over a year later suing in state court on a successor liability theory for injuries suffered pre-petition due to an accelerator defect. The state court litigation was removed to the bankruptcy court, where the bankruptcy judge determined the free and clear sale would be effective against the injured plaintiffs. And then the real trouble began....

This was, more or less, the fact pattern law students from all over the country were asked to consider and argue—both as the class action plaintiffs and the “new” car company—at this year’s Duberstein Moot Court Competition at St. John’s University in New York City. Students were asked to argue the bankruptcy court’s related-to jurisdiction in enforcing the free and clear sale, as well as whether the lack of notice made the free and clear sale unenforceable against the injured plaintiffs. The hypothetical fact pattern is, in fact, modeled after the Motors Liquidation Co. case currently before the Second Circuit Court of Appeals.

Barry Law made its first appearance at the Competition represented by 2Ls, Dalya Zalloum and Geraldine Pena, along with Coaches, Professor Linda Coco and Law Clerk Alexis Leventhal. Barry Law was one of 52 teams to compete in this year’s Competition and, although unable to make it through the initial cut of competitors, proved worthy opponents in both their mastery of the bankruptcy issues and effectiveness as oral advocates.

The full fact pattern, competitor briefs, and results of the competition can be found here: <http://www.stjohns.edu/law/center-bankruptcy-studies/duberstein-moot-court-competition>