BANKRUPTCY SYLLABUS
Law 701

Fall Semester 2021
8/6/21
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STUDENT RULES AND REGULATIONS

It is the responsibility of every student to be aware of the law school rules and regulations. You may access the Rules and Regulations Handbook at our TMSL website: http://www.tsulaw.edu/student_affairs/rules.html

COURSE BOOKS

Bankruptcy Cases, Problems, and Materials, Fourth Edition
By Barry E. Adler, Douglas G. Baird, and Thomas H. Jackson
Published by Foundation Press

United States Bankruptcy Code & Rules Booklet
Latest Edition

Published by LegalPub.com, Inc

COURSE DESCRIPTION & OBJECTIVE

Teaching students the fundamentals of bankruptcy law are the most important objectives a law professor can do in this course. The course concentrates on bankruptcy fundamentals while also highlighting the more obscure or concealed areas and requiring students to consider the various policy choices made by Congress and the courts. If students understand the fundamentals of bankruptcy, they are prepared to research the complications that will come up in their future practice of law. But if key basic concepts elude students, they will be lost from the beginning.

At the beginning of the course substantial time will be spent on creditors’ rights and remedies along with debtors’ protection outside of bankruptcy. It is absolutely essential in analyzing bankruptcy law to start by identifying basic first principles in the existing social, economic and legal world in order to identify precisely what bankruptcy
law should encompass.

The normative view of bankruptcy law is then tested against a particular bankruptcy code statute or rule through critical legal thinking to a variety of legal and factual issues that may arise in a real-life situation. Failure to take into account basic fundamental principles when selecting a bankruptcy statute or rule is a very serious and risky gamble.

This approach is not unique. In fields as disparate and complex as antitrust, oil and gas, intellectual property and corporate finance, analysis of discrete legal problems usually begins with a look at the theoretical framework that the law is built upon. This approach is very unique in bankruptcy law.

Bankruptcy law is a response to credit and has been in existence for almost as long as credit, for its origins can be traced back to ancient Roman law. It has also been a fixed feature of our legal landscape since the adoption of the United States Constitution, Article I Section 8.

The essence of credit economies is people and firms called debtors borrowing money from lenders called creditors. Bankruptcy law grew out of a distinct aspect of debtor-creditor relations where a debtor does not have enough to repay every creditor in full and specifically the effect of paying a particular creditor on its remaining creditors, in bankruptcy called the common pool problem, i.e., when the pool of debtor's assets is insufficient to pay the pool of creditors.

Another key policy in bankruptcy law is that of discharging a debtor of his or her obligations owing to creditors but, which applies only to debtors who are human beings and not to corporations controlled by a different doctrine. The rationale of forgiveness of an individual's debts can likewise be traced to early civilization's sense of compassionate humanitarian values. This forgiveness of debt policy for individuals has absolutely nothing to do with the rights of creditors as among themselves. The main advantage bankruptcy law offers an individual debtor lies in the benefits associated with discharge of
obligations owing to creditors. Discharge not only releases the debtor from past financial obligations but, also protects him or her from some of the consequences of that release.

GRADING
As permitted by the law school’s regulations a student=s grade will be a composite of class room performance and the final exam scheduled by the law school. Please refer to the Law School’s Grading System published in Student Rules and Regulations, SCHOLARSHIP, Section 3.

ACCOMMODATIONS
If you require special accommodations, please make arrangement with the Dean's office. Your application and documentation will remain confidential. Your prompt attention will allow the law school to accommodate you as soon as it has been made aware of your situation.

CLASS PARTICIPATION
Class participation is a critically important and an essential component of the course. Thus, each student must be prepared to discuss the doctrines, theories, logic and propositions of law presented in the assigned cases. In order to be adequately prepared for class, students are required to read and understand all assigned materials.

Students are required to read approximately 25 to 30 pages from the case book per each hour of class that meets for 3 hours per week. Students may be given recently decided cases or statutes not included in the casebook. Students will be responsible for these since they may modify or be the most recent pronouncement of existing law or establishment of new law.
READING ASSIGNMENTS

The following are the assigned reading materials from the case text book.

Part One
Debt and the Need for Bankruptcy Laws
pp. 1-3.

Chapter I. Individual Debt Collection Outside of Bankruptcy, p. 5.
A. The Rights of General Creditors, pp.6-12.
   Exercises 1A(1), 1A(2) p.12.

   Exercises 1B(1), 1B(2), 1B(3) pp.19, 20.

Chapter II. Bankruptcy as a Collective Debt Collection Remedy, page 21.
A. The Purpose of Bankruptcy and the Butner principle, pp. 21-30.
   Exercises 2A (1), 2A (2) page 31.

B. A Road Map to the Bankruptcy Code, pp. 32-41.

C. The Bankruptcy Forum, pp. 41-50.

Part Two

The Bankruptcy Process
pp. 51-53.

Chapter III. Commencement of the Case. page 55.

A. Eligibility for Bankruptcy, pp.55-59.
   Bankruptcy Code §109
Exercises 3A(1), 3A(2), 3A(3) page 60.  
*In re Treasure Island Trust, pp. 60-65*

B. Filing the Bankruptcy Petition, pp. 66-69.  
*Bankruptcy Code §§301,302,303*

*In re Kingston Square Associates, pp.70-77.*

C. Dismissal and Abstention, pp.79-84.  
*Bankruptcy Code §§ 305, 707, 1112*

Exercises 3C(1), 3C(2) page 84.  
*In re Ross-Rousey, pp. 86-91.  
In re Colonial Ford, pp. 92-98.*

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**Chapter IV. The Automatic Stay, page 103-104.**

A. Creditor Activities and the Automatic Stay  
*Bankruptcy Code §362(a)*

*Official Bondholders Committee v. Chase Manhattan Bank, pp. 107-111.*

B. Scope of the Automatic Stay, pp. 113-115.  
*Bankruptcy Code §§ 362(a)(3), 541(a)(1)*

*In re Cahokia Downs, Inc., pp. 115-118.  
C. Exceptions to the Automatic Stay, pp. 124-127.  
Bankruptcy Code §§362(b), 546

Exercises 4C(1), 4C(3), 4C(4) page 1128.  

Chapter V. Claims Against the Estate, page 141.

A. A Claim and When It Arises, pp. 141-142  
Bankruptcy Code §§101(5), (12), 727, 1141

Exercises 5A(1), 5A(2) pp. 142-143.  
Ohio v. Kovacs, pp. 143-147.

Epstein v. Official Committee of Unsecured Creditors,  
pp. 248-152

B. Allowing Claims, pp.154-156.  
Bankruptcy Code §502(b), (c)

Raleigh v. Illinois Department of Revenue, pp. 157-161.  
Bittner v. Borne Chemical, pp. 161-166

C. Secured Claims, pp. 177-179.  
Bankruptcy Code §506(a)

Exercises 5C (1), 5C (2), 5C (3) pp.179.  
Associates Commercial Corp. v Rash, pp. 179-185.

Chapter VI. The Bankruptcy Estate, page 191.

A. The Debtor=s Interest in Property, pp.191-197  
Bankruptcy Code §541 (a)

Exercises 6A (1), 6A (2) page 197.  
In re LTV Steel Company, Inc. pp 208-210
B. Ipso Facto Modifications, pp. 213-217

**Chapter VII. Executory Contracts, pp. 223-224.**

A. Executory Contracts Defined, page 225.

*Bankruptcy Code §365*

Exercises 7A(1), 7A(2), 7A(3), 7A(4) page 226.


B. Assumption, pp. 235-239.

*Bankruptcy Code §365(a)-(f)*


C. Rejection, pp. 255-257.

*Bankruptcy Code §§365, 502(g), 1113*

Exercises 7C(1), 7C(2) page 257.


**Chapter VIII. The Avoiding Powers, page 275.**

A. The Trustee=s Strong-Arm Power, page 275.


*Bankruptcy Code §§544, 550, 551*
Exercises 8A(1), 8A(2) page 279-280.  

*Bankruptcy Code §§544,550,551*

Exercise 8A(5), page 288.

B. Statutory Liens, pp. 299-300.  
*Bankruptcy Code §545*

Exercises 8B(1), 8B(2), 8B(5) pp. 300-301.  
*In re Walter*, pp. 302-308.

*Bankruptcy Code §§548, 550, 551*

Exercises 8C(1), 8C(2), 8C(4) pp. 315-316.  
1. Reasonably Equivalent Value, page 316.  
*BFP v. Resolution Trust Corp.*, pp. 316-323.

D. Voidable Preferences, pp. 352.  
1) Scope of Preferences Law, pp. 353-358.  
*Bankruptcy Code §547(b), (e), (f)*


2) Safe Harbors, pp. 374-378  
*Bankruptcy Code §547(c)*

Exercises 8D (10), 8D (12), 8D (13), 8D (14) pp.378-379.
Union Bank v Wolas, pp. 380-386.

Chapter IX.
Managing the Estate, page 401.

A. Turnover of Property, page 402.

Bankruptcy Code §§542, 543

Exercise 9A(1), 9A(2) pages 402, 403


B. Adequate Protection, pp. 411-416.

Bankruptcy Code §§362(d), 363(a), (e), 506(a), 552(b)

Exercise 9B(4) page 417.

C. Administering Property, pp. 430-433.

Bankruptcy Code §§363, 554

Exercises 9C(1), 9C(2) page 433.

1) Use of Assets, page 433

In re KMART Corp. pp. 438-443

2) Sale of Assets, pp. 447-448.

In re Lionel Corp., pp. 448-458.

3) Abandonment, pp. 467-468.

D. Financing the Estate, pp. 474-477.

Bankruptcy Code §§364, 503(b)


1) Debtor in Possession Financing, pp. 479-480.

In re Saybrook Manufacturing Co., pp. 480-484.
Judicial Guidelines pp. 485-490

2) Administrative Expenses, pp. 494-495.

Part Three

Disposition of the Case

Chapter X. Priorities in Distribution, pp. 523-525.

A. Codified Priorities, pp.525-526.
   Bankruptcy Code §§502, 503, 506, 507, 725, 726


Chapter XI. The Fresh Start for Individual Debtors, pp. 558-564.

A. Unbundling Interests in Property, pp. 565-571.
   Bankruptcy code §§506(d), 541(a) (6), (c)(2)

   Exercises 11A(1), 11A(2)

B. Exempt Property, pp. 583-587.
   Bankruptcy code §522(b), (d), (f)

   In re Geise, pp. 588-594.
   Owen v. Owen, pp.594-599.

C. Scope of the Discharge, pp. 600-603.
   Bankruptcy Code §§523, 524, 525


C. Denial of Discharge, pp.608-610.
Bankruptcy Code §§707(b), 727

Exercises 11D(1), 11D(2) page 610.

Chapter XII. Adjustment of Individual Debt in Chapter 13, pp.629-625.

A. Repayment Obligation on Unsecured Claims, page 625-626.

In re Jones, pp.637-642.

B. Treatment of Secured Claims, pp.644-647.
In re Mattson, pp. 654-658.
Problem 12B-1 page 664.