

SYLLABUS

BANKRUPTCY & CREDITORS' RIGHTS (Fall 2009)

Seton Hall University School of Law

Professor Lubben

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This course is designed to provide a comprehensive overview of the law of bankruptcy. We start with a brief look at some key elements of state debtor-creditor law and then move on to the Federal Bankruptcy Code, which dominates this area of the law. The bankruptcy portion of the class will look at both consumer and business bankruptcy.

Course Materials

The text for this course is Warren & Westbrook, *The Law of Debtors and Creditors*, 6th ed. You must also have a copy of the Bankruptcy Code and must bring it to class **every day**.

Note that the Bankruptcy Code was substantially amended during 2005 and several dollar figures in the Code were updated in 2007 -- old versions of the Code will not work for this class.

If you find that you need more explanation of certain topics, I suggest the multi-volume loose-leaf treatise *Collier on Bankruptcy*, which offers in-depth discussions of bankruptcy law and is widely viewed by practitioners as the definitive word on the Code. *Collier's* is available on LEXIS, in the bankruptcy section. Brian Blum's *Examples and Explanations* book is also helpful, but make sure you get the 4th or any latter edition, so that you have coverage of the 2005 amendments. Tabb's treatise on Bankruptcy (published by Foundation) has recently been updated and it also provides a good overview of the course. This last book may be especially good for those of you who struggle with the "problem based" structure of the course.

Also, do not underestimate the value of a good legal dictionary. You will run into many new terms in this class, and you need to understand these terms to make sense of the cases.

Structure of the Course

Problem Solving. The emphasis in the course will be on problem solving. We will spend most of our class time discussing the problems in the casebook.

We typically will not do any sort of traditional presentation of the cases in the book. Instead, I will begin with a short introductory lecture, answer any questions about the readings, and then we will look at the readings in context by working out the problems in class.

Assignments

Assignments are listed below. Please read the indicated pages in the text and prepare for class as described in the box below. All handouts will be available on Blackboard.

All problem sets contained in the readings are also part of the assignment and should be prepared before each class. Preparing the problems means not only reading them but reading and thinking about the relevant sections of the FDCPA, UFTA, Bankruptcy Code, etc. and how they apply to the facts presented and how changes in those facts could change your initial analysis.

Part I. Individual Debt Collection

1. Collection Without Courts (Class 1)
 - a. W&W, pages 1-33
2. State Law Debt Collection
 - a. Class 2
 - i. W&W, pages 33-71
 - ii. Problem set handout
 - b. Class 3
 - i. W&W, pages 71-96

Part II. Consumer Bankruptcy

3. Introduction to Bankruptcy
 - a. Class 4
 - i. W&W, pages 100-141
 - ii. Handout: Sample Petition
 - b. Class 5
 - i. W&W, pages 141-167
 - c. Class 6
 - i. W&W, pages 167-217
 - ii. Handout: State Exemption Laws
 - d. Class 7
 - i. *No class (European Law and Economics Conference)*
 - e. Class 8
 - i. W&W, pages 217-229
 - f. Class 9
 - i. W&W, pages 229-275
4. Chapter 13 Bankruptcy
 - a. Class 10
 - i. W&W, pages 281-326
 - b. Class 11

- i. W&W, pages 326-356

Part III. Business Bankruptcy

- 5. Business Liquidation, Involuntary Business Bankruptcy
 - a. Class 12
 - i. W&W, pages 359-387
 - ii. Handout: Data on Business Liquidation
- 6. Chapter 11 Reorganization
 - a. Class 13
 - i. W&W, pages 387-452
 - b. Class 14
 - i. W&W, pages 452-71
 - ii. Handout: DIP Financing
 - c. Class 15
 - i. Handout: Chapter 11 Operations
 - d. Class 16
 - i. W&W, pages 471-522
 - e. Class 17
 - i. W&W, pages 522-545
 - f. Class 18
 - i. W&W, pages 548-594
 - g. Class 19
 - i. Handout: Creditors' Committees
 - ii. W&W, pages 596-628
 - h. Class 20
 - i. W&W, pages 628-682
 - i. Class 21
 - i. 686-722
 - j. Class 22
 - i. 363 Sales Handout
 - k. Class 23
 - i. W&W, pages 722-766
 - l. Class 24
 - i. W&W, pages 766-797
 - ii. W&W, pages 826-841

PART IV. Functions and Boundaries of Bankruptcy Law

- 7. Comparative Corporate Reorganization
 - a. Class 25 – Canada & UK
 - i. Handout
 - b. Class 26 – Emerging Markets
 - i. Handout
- 8. Domestic jurisdiction and cooperation
 - a. Class 27
 - i. W&W, pages 841-881

Grading and Examinations

Final examination

Your grade will be based primarily on an open-book final examination at the end of the course.

Attendance and preparedness

Especially given the problem-oriented approach to this course, your preparation for class and active participation during class are essential. Prior preparation of the assigned reading materials and problems will therefore be presumed and required, and I reserve the right to incorporate these factors into your final class grade.

I call on people in class and expect everyone to be prepared. If there is a day when you cannot be prepared let me know by email before class and I will not call on you that day. Excessive requests to "opt out" of class participation will affect your final grade.

In addition to reading the assigned pages in the text, you must read the other assigned materials, especially the statutes and rules. **I expect you to know (and be able to cite and explain) the assigned statutes and rules.**

Office Hours and Discussion

I am in my office most days of the week, from approximately 10am to 5pm. Feel free to come by to discuss anything related to the class. Questions or requests to schedule a meeting at a specific time can be sent to my Seton Hall e-mail account shown at the top of the syllabus (my preferred means of communication). Please note that I generally prefer not to answer substantive questions in telephone calls.

Wednesday, July 8, 2009