

UC COLLEGE OF LAW
BANKRUPTCY
Spring, 2009

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Credit Hours: 3 semester credits

Text: *Bankruptcy (Including BAPCPA): 21st Century Debtor-Creditor Law*,
Second Edition by David G. Epstein, Bruce A. Markell, Steve H. Nickles
and Elizabeth L. Perris
Thomson West Publishing Co., 2006

Class Time: College of Law Room 100A
Tuesdays & Thursdays, 8:30 a.m. - 10:00 a.m.
January 12 - April 21, 2009 (except March 23 - 27, 2009)

SYLLABUS

Notes on the Assigned Material

Assigned readings are from Epstein, Markell, Nickles, & Perris, *Bankruptcy (including BAPCPA): 21st Century Debtor-Creditor Law* and Blum, *Bankruptcy and Debtor/Creditor, Examples and Explanations* (4th edition). References to "unit" refer to material in the Epstein text and references to "E & E" refer to material in the Blum book. Although the assigned material in E & E only includes a few of the examples, you will find that reviewing examples and explanations which have not been assigned will provide you with a useful tool to test your understanding of the material.

This syllabus does not indicate which sections of the Bankruptcy Code you must study for each assignment. This should be apparent from citations in the casebook. You can use West's 2008 Bankruptcy Code, Rules and Official Forms, 2008 Selected Commercial Statutes, or any other complete copy of the Bankruptcy Code (11 U.S.C.) that includes the 2005 amendments.

Class Assignments

(Because I want to make sure that I answer your questions and that you understand the material, I may have to make adjustments to this syllabus as the semester progresses.)

Class 1. Tuesday, January 13. **State Law Debt Collection.**

Unit 2, pp. 13-21 (skip Problem 2-2 on p. 19).

E&E sections 1.3 - 1.4, pp. 3-6; 2.1, pp. 7-8; 3.1 - 3.2, pp. 35-40, and 3.4 - 3.8, pp. 52-61.

Class 2. Thursday, January 15. **Introduction to Bankruptcy.**

Unit 3, pp. 23-32.

E&E section 5.5.2, pp. 97-103 (skip Examples on p. 103).

Class 3. Tuesday, January 20. **The Estate and Secured Claims.**

Unit 4, pp. 58 (start with "D. Property of the Estate") -71.

E&E sections 2.2 - 2.6, pp. 8-21, section 12.1 - 12.2, pp. 281-286.

Class 4. Thursday, January 22. **Equality of Distribution and Claims.**

Unit 4, p. 41, pp. 50 (start with "C. Claims") - 58 (stop after 2.2) and

Unit 6, pp. 125 - 129 (through problem 6-2), 138 (start with "D. Increasing Payment on a Claim by Reason of Priorities") - 149 (through problem 6-17)

E&E section 19.6, pp. 421-434, Example 5, p. 438-439, Explanation 5, pp. 445-447.

Class 5. Tuesday, January 27. **Automatic Stay.**

Complete prior assignment and Unit 4, pp. 72-79 (stop after problem 4-21).

E&E sections 10.1-10.5, pp. 237-245.

Class 6. Thursday, January 29. **(Guest Speakers)**

Roundtable Discussion between Margaret Burks, Chapter 13 Trustee; Kim Lewis, Esq., Dinsmore & Shohl; Stephen D. Lerner, Esq., Squire, Sanders & Dempsey; Douglas Lutz, Esq., Frost Brown Todd and MaryAnn Wilsbacher, Assistant U.S. Trustee

Class 7. Tuesday, February 3. **Protection of Third Parties, Adequate Protection and Relief from Stay.**

Unit 4, pp. 79 (start with problem 4-22) - 96.

E&E sections 11.1-11.5.4, pp. 259-272

Class 8. Thursday, February 5.

Complete prior assignment.

Class 9. Tuesday, February 10. **Fresh Start, Discharge and Exemptions.**

Unit 4, pp. 42-50 (through problem 4-6) and

Unit 9, pp. 278 (start with "B. Exemptions") - 296 (through problem 9-6).

E&E sections 22.2 and 22.3, pp. 520-522; sections 13.3-13.5, pp. 300-307

Plus the following problem:

D owns his residence which is worth \$300,000, subject to the following liens in the following order:

1. Mortgage, debt is \$250,000
2. ABC judgment lien, \$40,000
3. XYZ judgment lien, \$50,000

D is entitled to a homestead exemption in the amount of \$30,000.

To what extent can D avoid the ABC and the XYZ judgment liens using § 522(f)?

Class 10. Thursday, February 12.
Complete prior assignment.

Class 11. Tuesday, February 17. **Overview of Bankruptcy Eligibility and Chapter 7 Eligibility.**

Unit 5, pp. 99-119 (stop after 11 U.S.C. § 707(b)(4)(A)).
E&E sections 8.1 - 8.4.2.(1), pp. 177-187; 9.8, pp. 217-227.

Class 12. Thursday, February 19. **Chapter 7 Overview.**

Complete prior assignment and unit 9, pp. 275-278, Appendix pp. 667 - 673 (stop when you get to "C").

Class 13. Tuesday, February 24. **Chapter 7 Discharge and Dischargeability.**

Unit 9, pp. 297-317 (stop at the end of the 5 questions).

Class 14, Thursday, February 26. **Reaffirmation, Redemption and Secured Debt Issues in Chapter 7.**

Complete prior assignment.
Unit 9, pp. 317 (start with problem 9-17) - 328.
E&E section 13.6 - 13.8, pp. 307-313.

Class 15, Tuesday, March 3. **Avoiding Powers Overview and Fraudulent Transfers.**

Unit 7, pp. 155-164.
E&E sections 4.1 - 4.6, pp. 73-81; sections 14.1-14.8, pp. 323-331; and section 16.3, pp. 362-365.

Class 16, Thursday, March 5. **Fraudulent Transfers (continued).**

Unit 7, p. 165 (Problems 7-6 & 7-7), p. 173 (problem 7-10), pp. 183 - 184 (stop reading when you get to "C").
Cases not in text that will be provided as a hand-out.

Class 17, Tuesday, March 10. **Preferences.**

Unit 7, pp. 184 (start with "C. Increasing Property of the Estate by Avoiding Preferential Transfers") - 191 (stop at the end of problem 7-19), pp. 196-198. New value case to be assigned. Case will be provided as a hand-out.
E&E section 16.1, pp. 347-360.

Class 18, Thursday, March 12. **Section 544 Powers, Avoiding Transfers that are Not Timely Recorded and Turnover.**

Unit 7, pp. 209 - 223.
E&E section 15.1, pp. 333-337.

Class 19, Tuesday, March 17. **Executory Contracts.**

Unit 8, pp. 225 - 242 (through problem 8-9) (Skip Question 2 on p. 230 and Problem 8-6 on p. 239).
E&E sections 18.1-18.5, pp. 399-403; section 18.7, p. 404.

Class 20. Thursday, March 19. **Chapter 13 (part 1).**

Unit 5, pp. 119 (start with "G. Chapter 13 Eligibility and Dismissal") - 123 (through problem 5-13). Unit 10, pp. 329 - 349.

Case not in text that will be provided as a hand-out.

Class 21, Tuesday, March 31. **Chapter 13 (part 2).**

Unit 10, pp. 360-382 (skip problem 10 on p. 361 and stop at the end of problem 10-10).

Class 22, Thursday, April 2. **Chapter 13 (part 3).**

Unit 10, pp. 399 (start with "G. Use of Chapter 13 to Deal with a Demanding Tax Collector") - 401 (through problem 10-15), pp. 407-411. You will be provided with a revised problem regarding choosing between chapter 7 and chapter 13.

Class 23, Tuesday, April 7. **Chapter 11 (part 1).**

Unit 11, pp. 417-419, pp. 440 - 448 (skip Question 6 of Problem 11-3 and stop at the end of problem 11-6, pp. 458 (start with "G. Plan Preparation") - 463 (stop at the end of problem 11-9), pp. 470 (start with "H. Preparing for Confirmation") - 475 (stop after problem 11-12, part 1.).

E&E section 21.1-21.4.4, pp. 487-499.

Class 24, Thursday, April 9. **Chapter 11 (part 2).**

Unit 11, pp. 480 (start with "I. Consensual Confirmation") - 483 (through problem 11-15, part 1.), pp. 489 - 491 (stop at "F. Voting in Good Faith"), pp. 498 (start with "3. The Other Primary Confirmation Requirements") - 503 (stop at the end of the Dow Corning case, pp. 507 - 524 (through problem 11-21, part 1).

Class 25, Tuesday, April 14. **Chapter 11 (part 3).**

Unit 11, pp. 531 (start with "J. Non-Consensual Confirmation") - 536, pp. 544 (start with "3. Cram Down and Fair and Equitable") - 553 (including problem 11-23, part 1), pp. 560 (start with "5. Cram Down of Unsecured Claims") - 561, pp. 571 (start with "K. After Confirmation") - 572 (stop at the end of the quote from § 1141).

E&E sections 21.4.7-8, 21.7.3, pp. 500-502 and pp.512-516.

Class 26, Thursday, April 16. **Review.**

E&E, Appendix Summary of Significant Bankruptcy Chapter Differences, pp. 555 - 559.

Class 27, Tuesday, April 21. **Review.**

Grading

Grades will primarily be based on the final examination. You will have 24 hours to complete the examination which will be a combination of short-answer, multiple choice and essay questions. The examination must be completed by May 6.

Your grade may be adjusted up or down for class attendance and participation as follows:
Class Attendance - If you miss 4 or more classes your grade will be adjusted down one-half grade. I understand that everyone has a good reason to occasionally miss a class; that is why there is no downward adjustment unless you miss more than 3 classes.

Class Participation - Your grade will be adjusted up one-half grade if you are a good contributor. Your grade will be adjusted down one-half grade if you are a poor contributor. In determining your contribution to the class, I will consider whether you were well-prepared for class. If you advise me before class begins, you can take up to two passes during the semester from being called upon if you are not prepared to participate.

Questions

I am happy to talk with you. I will be available after class and at other times by appointment. You can email us to set up an appointment or with any questions. My email address is: Jeffery_Hopkins@ohsb.uscourts.gov.