

FALL 2013: BASIC BANKRUPTCY COURSE SYLLABUS - Mr. Dole

1. **The Course Objectives:** The objectives of this course are to teach the substantive law of Bankruptcy in a comprehensive manner, to consider ethical and professional issues related to Bankruptcy, and to integrate Bankruptcy with the analytical and practical skills necessary to the practice of law.
2. **Course Materials:** (1) E. Warren & J. Westbrook, The Law of Debtors and Creditors (6th Ed. Aspen 2009) (the Casebook or CB); (2) Bankruptcy Code, Rules, and Official Forms (West 2013 Law School Edition)(the Statutory Supplement or SS); and (3) materials supplied by the Instructor.

The SS includes UCC Article 9, the Uniform Fraudulent Transfer Act, the federal Bankruptcy Code (BC) as amended, the Bankruptcy Rules (BR), and the Official Bankruptcy Forms (OF). Be sure to look at the Official Forms in the SS, especially OF 6, the schedules of prepetition property and creditors and OF 7, the Statement of Financial Affairs (SOFA), the lists of prepetition sources of income, payments to creditors, lawsuits, administrative proceedings, garnishments, repossessions, gifts, and losses of all debtors. Debtors that are or have been in business have to provide additional information by answering OF 7 Questions 19-25. All BC Debtors must file OFs 6 & 7.

**The 2005 BC Amendments:** On 4/20/05 the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) was enacted. The 2005 Amendments were over 500 pages in length and affected many aspects of Bankruptcy (B) cases. Among other things, the 2005 Amendments imposed Means Tests in Ch. 7 cases filed by consumers and in Ch. 13 cases filed by individuals, added a new Ch. 15 dealing with cross-border

insolvency, and created new categories of business cases, including small business cases and health care business cases.

Form B22 epitomizes the 2005 amendments. Form B22, which is used to calculate Current Monthly Income (CMI), must be filed by every individual who files a voluntary Ch. 7, 11, or 13 case. Form B22A, the Ch. 7 version of the Form, even must be filed in order to claim an exemption from filing a completely filled-out Form B22A in a Ch. 7 case!

Every three years on April 1, Section 104(b)(1) requires automatic adjustment of the dollar amounts in the specified BC provisions to reflect changes in the Urban Consumer Price Index. The most recent automatic adjustment became effective on 4/1/13. The SS contains the 4/1/13 automatic adjustments. As you will discover, the \$ amounts in a few BC provisions are not subject to automatic adjustment.

**The CB Approach:** The CB presents explanatory text and cases followed by Problem Sets involving issues treated in the explanatory material. Handouts summarizing the CB explanatory material will be distributed that include the Hypotheticals and Questions to be discussed in class. The Handouts also designate selected CB Problems for class discussion. Class discussion will focus upon resolution of the Hypotheticals, Questions, and designated CB Problems in the Handouts. Each Handout has the same number as the CB Problem Set the Handout covers except the Handout for Problem Set Two, which also includes material from CB Problem Set Three.

3. **Helpful Websites:** United States Trustees (USTs) appointed by the U.S. Attorney General assist Bankruptcy Judges (BJs) in administering the BC in most federal judicial districts, including the S.D. of TX. The national UST website contains useful

information, including the official Census Bureau determinations of median family income and the IRS Standards that are used in applying the Ch. 7 and Ch. 13 Means Tests imposed by the 2005 BC Amendments. You should download the Census Data for **cases filed on or after 5/1/13**. The URL is

[www.usdoj.gov/ust/eo/bapcpa/meanstesting.htm](http://www.usdoj.gov/ust/eo/bapcpa/meanstesting.htm)

The Bankruptcy Court for the Northern District of TX has a useful website that includes links to the Bankruptcy Rules (BR) and Official Bankruptcy Forms (OF) implementing the 2005 BC Amendments. The URL is [www.txnb.uscourts.gov](http://www.txnb.uscourts.gov)

4. **Assignment for the First Class Session:** Discussion of: (1) the Class Syllabus; (2) the Barney's Story Handout; (3) the Debt Relief Agencies Handout; (4) the combined Federal Fair Credit Reporting Act and Federal Fair Debt Collection Practices Act Handout; (5) Bankruptcy Rule 9011 in the SS; (6) Milavetz, Gallop, & Milavetz, P.A. v. U.S., 130 Sup. Ct. 1324 (2010); (7) In re Humphries, 453 B.R. 261 (E.D. Mich. 2011); and (8) commencement of discussion of the Problem Set One Handout, which deals with the material on CB pp.3-28.
5. **Assignment for the Second Class Session:** Concluding discussion of the Problem Set One Handout, and discussion of the Problem Set 2 Handout, which deals with the material on CB pp. 33- 53 & 54-70.
6. **Materials for the first two class sessions:** Prior to the first class session, students should obtain a copy of and read as assigned: (1) the Class Syllabus; (2) the Barney's Story Handout; (3) the Debt Relief Agencies Handout; (4) the combined Federal Fair Credit Reporting Act and Federal Fair Debt Collection Practices Act Handout; (5) Bankruptcy

Rule 9011 in the SS; (6) Milavetz, Gallop, & Milavetz, P.A. v. U.S., 130 Sup. Ct. 1324 (2010); (7) In re Humphries, 453 B.R. 261 (E.D. Mich. 2011); (8) the Problem Set One Handout; and (9) the Problem Set 2 Handout. **These materials, other than BR 9011 which is in the SS, can be obtained by e-mailing my Secretary Charlette Jefferson from a U of H E-Mail Account and requesting that Charlette e-mail the materials to your U of H E-Mail Account. NonU of H E-Mail Accounts can not be used; Charlette's E-Mail address is [cmjeffer@central.uh.edu](mailto:cmjeffer@central.uh.edu)**

7. **Future Assignments:** *CB Problem Set 3 will be omitted. Following CB Problem Set 2, CB Problem Set 4 on CB pp.71-90, the state collective remedies material on CB pp.92-95, and Barney I on CB pp.96-97 will be discussed in class.*

Absent a special announcement, the standing assignment is to prepare two Problem Sets ahead of the last Problem Set or Barney's Problem discussed in class.

8. **Attendance Policy:** Under the Law Center 80% attendance rule, each student can take up to 3 unexcused cuts. Additional cuts will be excused for good cause. Attendance is taken by circulating a Roll Sheet for signature. Students who do not sign the Roll Sheet are deemed to have been absent. The Instructor should be notified of an inadvertent failure to sign the Roll Sheet as soon as possible.
9. **Class Performance Policy:** A student's grade can be raised one notch for outstanding class performance or lowered one notch for poor class performance.
10. **Examination Policy:** The examination will be all essay. The final examination will consist of no more than three essay questions.

A student can take into the examination room: the CB, the SS, all materials

distributed by the Instructor, personal class notes, and both personal outlines and outlines prepared by a study group. **Study groups are recommended.**

11. **The Law of the Course:** The federal BC as changed by the 2005 and subsequent amendments is the Law of the Course. From time-to-time particular nonbankruptcy law also will be designated the Law of the Course, which means that it is the only nonbankruptcy law that need be considered upon the particular point. The Official Text of UCC Article 9 and the Uniform Fraudulent Transfer Act in the SS, for example, are the Law of the Course.
12. **Students with Disabilities:** Students who need additional help pursuant to the Americans with Disabilities Act Guidelines should advise me of their needs as soon as possible.
13. **Keeping in Touch:** My office is Room 118 BLB. My office telephone number is (713) 743-2139. My E-Mail address is [ddole@central.uh.edu](mailto:ddole@central.uh.edu) My Secretary Charelette Jefferson's telephone number is (713) 743-2120. Charlette's E-Mail address is [cmjeffer@central.uh.edu](mailto:cmjeffer@central.uh.edu) Charlette's desk is in the first floor BLB secretarial suite.