

BANKRUPTCY LAW (5365)
UNIVERSITY OF HOUSTON LAW CENTER
FALL 2014

Instructor: Jeffrey M. Anapolsky
Email: jmanapolsky@central.uh.edu
Time: Tuesdays and Thursdays from 10:30-11:45 am
Location: 1 Bates Law Building (BLB)

I. OVERVIEW

In bankruptcy, the answers are never obvious. Your client's future will hinge upon whether you can solve seemingly impossible financial and legal issues. In this class, you will learn how to negotiate and litigate using the leverage created by the Bankruptcy Code. You will understand the roles, rights, and responsibilities of debtors, secured creditors, unsecured creditors, advisors, trustees, committees and bankruptcy courts. You will appreciate the differences among Ch. 11 business reorganizations, Ch. 13 consumer rehabilitations, and Ch. 7 liquidations. Guest lecturers from Houston's bankruptcy community will balance legal theory with practical examples.

II. MATERIALS

Each week, please check Blackboard for additional articles and handouts throughout the semester.

Required:

1. Warren/Westbrook/Porter/Pottow, *The Law of Debtors and Creditors* (Wolters Kluwer, 7th Edition 2014)
2. United States Bankruptcy Code & Rules Booklet (LegalPub.com, 2014 Edition)

Recommended:

3. Nesvold, Anapolsky, Lajoux, *The Art of Distressed M&A: Buying, Selling and Financing Troubled and Insolvent Companies* (McGraw-Hill, 2011).

III. REQUIREMENTS

Final Exam (100% of grade): Dec. 11, 2014 from 9 am – Noon. There will be multiple choice and essay questions. Further details will be provided towards the end of the semester.

While there are no prerequisites, you will need to understand the concepts in Business Organizations.

The school's academic rules and I require that you attend at least 80% of the classes. I may lower a final grade or take other appropriate disciplinary action (up to entering a failing grade) if it is determined that a student is absent from more than 20% of the classes. Since we have 26 regularly scheduled classes, this means you should not miss more than 5 sessions. I will treat the sign-in sheet circulated during each session as presumptive evidence of whether you were present. School rules allow me to adjust a student's grade by as much as one-third of a letter grade (e.g., B to B+ or A to A-) based on class performance. Please keep in mind that in-class performance is based on the overall quality, not quantity, of your participation. If a class has to be rescheduled, I will notify you as soon as possible and schedule a makeup class at a time during which you do not have any other classes.

IV. ASSISTANCE

While there will be no formal office hours, I will generally be eating lunch on campus after class and welcome students to join me. If you have any questions or need individual assistance, you can email me to make an appointment at a mutually convenient time and location. I am happy to discuss your career plans as well as bankruptcy law topics.

V. SCHEDULE AND ASSIGNMENTS

Date	Topic	Reading	Code/Rule
1. Tues., Aug. 26	Bankruptcy Overview Voluntary and Involuntary Petitions	<i>Law of Debtors and Creditors</i> p. 1-11, 359-362 <i>In re</i> AMR Corp. bankruptcy petition <i>In re</i> John and Mary Sample bankruptcy petition	11 U.S.C. §§ 301-303 Fed. R. Bankr. P. 1002-3, 1006
2. Thurs., Aug. 28	Debtor, Debtor-in-Possession, and Trustee	<i>Law of Debtors and Creditors</i> p. 366-379	11 U.S.C. §§ 101(13), 521, 1101(1), 1107-8 Fed. R. Bankr. P. 2007.1, 4002
3. Tues., Sept. 2	Claims, Administrative Expenses and Priorities	<i>Law of Debtors and Creditors</i> p. 129-31, 139-49 Watch 60 Minutes video mentioned on p. 149	11 U.S.C. §§ 501, 502, 503, 507 Fed. R. Bankr. P. 3001-8
4. Thurs., Sept. 4	Secured Creditors and Adequate Protection	<i>Law of Debtors and Creditors</i> p. 134-38, 207-15	11 U.S.C. §§ 101(37), 101(49), 101(51), 361, 506
5. Tues., Sept. 9	Unsecured Creditors and Committees	<i>Law of Debtors and Creditors</i> p. 131-34, 229-42	11 U.S.C. §§ 341, 502, 1102-3 Fed. R. Bankr. P. 2004
6. Thurs., Sept. 11	Insolvency and Fiduciary Duties <u>Guest:</u> Myron "Mickey" Sheinfeld <i>Sr. Counsel, King & Spalding</i>	<i>Directors' Fiduciary Duties in the Zone of Insolvency and Actual Insolvency</i>	
7. Tues., Sept. 16	Property of the Estate and Automatic Stay	<i>Law of Debtors and Creditors</i> p. 57-73, 384-409	11 U.S.C. § 362, 541 Fed. R. Bankr. P. 4001, 6007
8. Thurs., Sept. 18	First Day Motions, Cash Collateral, and Critical Vendors	<i>Law of Debtors and Creditors</i> p. 413-21, 427-33	11 U.S.C. §§ 105(a), 327, 328, 366, 1103(b) Fed. R. Bankr. P. 1007
9. Tues., Sept. 23	Visit to Bankruptcy Court and Hon. Marvin Isgur, 515 Rusk – Ch. 13 Panel, 9-11 am		
10. Thurs., Sept. 25	No class		
11. Tues., Sept. 30	Consumer Bankruptcies: Ch. 7 v. Ch. 13 <u>Guest:</u> Hon. Marvin Isgur, <i>U.S. Bankruptcy Court</i>	<i>Law of Debtors and Creditors</i> p. 281-302	11 U.S.C. § 707(b), 727(a)(8), 1325(a)(7)
12. Thurs., Oct. 2	Voidable Preferences <u>Guest:</u> Brian Kilmer, <i>Partner, Chamberlain Hrdlicka</i>	<i>Law of Debtors and Creditors</i> p. 469-88	11 U.S.C. §§ 547, 551
13. Tues., Oct. 7	Fraudulent Transfers	<i>Law of Debtors and Creditors</i> p. 511-32 <i>PDVSA Petroleo S.A. v. Trigeant, Ltd.</i>	11 U.S.C. §§ 548, 551
14. Thurs., Oct. 9	Fraudulent Transfers (cont'd) Setoff	<i>Law of Debtors and Creditors</i> p. 535-55 <i>Law of Debtors and Creditors</i> p. 421-27, 498-501	11 U.S.C. §§ 548, 551 11 U.S.C. §§ 362, 547(c)(5), 553
15. Tues., Oct. 14	DIP Financing <u>Guest:</u> Adam Pollock <i>Managing Director, Stellus Capital</i>	<i>Law of Debtors and Creditors</i> p. 435-47	11 U.S.C. § 364

16. Thurs., Oct. 16	Executory Contracts and Unexpired Leases	<i>Law of Debtors and Creditors</i> p. 561-73, 577-83	11 U.S.C. §§ 365, 502(g)(1) Fed. R. Bankr. P. 6006
17. Tues., Oct. 21	363 Sales	<i>Law of Debtors and Creditors</i> p. 697-712, 715-22	11 U.S.C. § 363 Fed. R. Bankr. P. 6004-5
18. Thurs., Oct. 23	Disclosure Statement, Plan of Reorganization Confirmation, Consummation and Discharge <u>Guest:</u> <i>John Higgins, Partner, Porter & Hedges</i>	<i>TBD</i>	11 U.S.C. §§ 1125, 523-524, 1123(a), 1129(a), 1141-45 Fed. R. Bankr. P. 4004-7
19. Tues., Oct. 28	Plans: Exclusivity	<i>Law of Debtors and Creditors</i> p. 599-608	11 U.S.C. § 1121
20. Thurs., Oct. 30	Consumer Bankruptcies: Means Test <u>Guest:</u> <i>Vicky Fealy, Founder, The Fealy Law Firm, P.C.</i>	<i>Law of Debtors and Creditors</i> p. 253-77	11 U.S.C. §§ 101(10A), 707(b), 1325(b)(3)
21. Tues., Nov. 4	Plans: Voting, Absolute Priority Rule, and Cramdown	<i>Law of Debtors and Creditors</i> p. 608-17, 639-60	11 U.S.C. §§ 1122, 1126, 1129(a)(10), 1129(b)(2)
22. Thurs., Nov. 6	Plans: Best Interests of Creditors Test, Feasibility, Conversion, and Liquidation	<i>Law of Debtors and Creditors</i> p. 623-31	11 U.S.C. §§ 1112, 1129(a)(11)
23. Tues., Nov. 11	Plans: Valuation in Bankruptcy, Cramming Up, Indubitable Equivalent	<i>Law of Debtors and Creditors</i> p. 665-85 <i>In re Exide Confirmation Denial</i>	11 U.S.C. §§ 1129(a)
24. Thurs., Nov. 13	Chief Restructuring Officer/Trustee/Examiner <u>Guest:</u> <i>Loretta Cross, Sr. Managing Director, Stout Risius Ross</i>	<i>Law of Debtors and Creditors</i> p. 741-62	11 U.S.C. §§ 1104
25. Tues., Nov. 18	Bankruptcy Jurisdiction and Appeals <u>Guest:</u> <i>Hon. Gregg Costa, U.S. Court of Appeals, 5th Circuit</i>	<i>Law of Debtors and Creditors</i> p. 853-83	28 U.S.C. § 157, 1334, 1408, 1412 Fed. R. Bankr. P. 8001-20
26. Thurs., Nov. 20	Equitable Subordination & Recharacterization Substantive Consolidation	<i>Law of Debtors and Creditors</i> p. 501-08	11 U.S.C. §§ 510(c)
27. Tues., Nov. 25	Ch. 15 and Brazilian Insolvency Law	<i>Law of Debtors and Creditors</i> p. 885-915 <i>Pitfalls in Brazilian Bankruptcy Law for International Bond Investors</i>	11 U.S.C. §§ 1501-1531 Fed. R. Bankr. P. 1004.2
28. Tues., Dec. 9	Review Session: TBD		
29. Thurs., Dec. 11	Final Exam: 9-noon		

VI. ACADEMIC INTEGRITY

Matters of academic dishonesty by law students are governed by the Honor Code. That Code is enforced by the Honor Board. Law students are responsible for knowing the Code, complying with its requirements, and reporting known violations to the Honor Board by notifying the Professor Barbara Stalder, Faculty Advisor. Although it may be difficult, it is essential that you accept the responsibility for reporting violations, both here at the Law Center and later on in your practice. As students and attorneys you will be on your honor to behave ethically and to ensure that others do so as well. For more information, visit: <http://www.law.uh.edu/student/HONOR-CODE-AND-PROCEDURES-2012.pdf>

VII. SPECIAL NEEDS

Students should bring any special needs to the attention of the instructor as soon as possible, but not later than the second week of class. The University of Houston Law Center strives to assure equal access and full participation by people with disabilities. If you require services because of a disability, you may notify Sharon Nellums-Goosby, Academic Records Coordinator in the Office of Student Services, in person in room 44A TU II, by e-mail at SNellums@central.uh.edu, or by phone at 713-743-2187. This voluntary self-identification allows the University to prepare any necessary and appropriate support services to facilitate your learning. Any requests for exam accommodations should be directed to Linda Lee at LLee@central.uh.edu or 713-743-1751 and should be made as soon as possible to allow adequate time to document and process the request.