

FALL 2020 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, K. Porter & J. Pottow, The Law of Debtors and Creditors (7th Ed. Aspen 2014) (the Casebook or CB); (2) Bankruptcy Code, Rules, and Official Forms (West Law School Edition 2020)(the Statutory Supplement or SS); and (3) materials supplied by the Instructor.

The SS includes **selected provisions** of UCC Articles 1, 2, & 9, the Uniform Fraudulent Transfer Act (UFTA) and its official replacement the Uniform Voidable Transactions Act (UVTA), the federal Bankruptcy Code (BC) as amended, selected Bankruptcy Rules (BR), and selected Official Bankruptcy Forms (OF). Be sure to look at the OFs in the SS. If you compare the OFs in the SS with those on the Bankruptcy Court for the Northern District of TX website, the URL for which is provided later in this Syllabus, you will see that website precedes each form number with a capital B for bankruptcy. The website use of “B” is followed in this Syllabus.

Among the more important OFs in the SS are B106 and B107, which must be filed by all individuals that file bankruptcy. OFs B106A-H include schedules of prepetition property, creditors, and codebtors. OFs B106I and B106J are schedules of monthly income and expenses. OF B107, is a Statement of Financial Affairs (SOFA) for individuals that

lists prepetition sources of income, payments to creditors, lawsuits, administrative proceedings, garnishments, repossessions, gifts, and losses. There also is a set of OF for nonindividuals that file B. E.g. OF 201, voluntary petition for nonindividuals that file B.

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.

OF B122 epitomizes the 2005 amendments. OF B122A-1 is used in determining an individual's Current Monthly Income (CMI) for purposes of the Ch. 7 Means Test. OF B122A-1Supp must be filed in order to claim an exemption from filing the calculations otherwise required by OF B122A-2.

Every three years on April 1, Section 104(b)(1) requires automatic adjustment of the dollar amounts in specified BC provisions to reflect changes in the Urban Consumer Price Index. The most recent automatic adjustment became effective on **4/1/19**. See the SS for the 4/1/19 revised dollar amounts. 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. As explained on CB

p.xxvii, the CB is designed to be taught primarily through the problems highlighting BC provisions. You are expected to study the BC provisions mentioned in cases, CB text, and the assigned CB problems. Handouts summarizing the CB explanatory material will be distributed that include Hypotheticals and Questions to be discussed in class. The Handouts also designate the CB Problems that will be discussed in class. 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 corresponding CB Assignment. Answers for the Hypotheticals, Questions, and assigned CB Problems discussed in class will be distributed following their discussion in class.

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 must be used in applying the Ch. 7 and Ch. 13 Means Tests imposed by the 2005 BC Amendments. You should use the Census Data for **cases filed on or after 5/1/20, which will be distributed.**

The national UST website URL is www.justice.gov/ust/means-testing

The Bankruptcy Court for the Northern District of TX has a useful website that includes links to all the Bankruptcy Rules (BR) and the Official Bankruptcy Forms (OF).

The URL is www.txnb.uscourts.gov

4. **Assignment for the First Class Session:** Discussion of: (1) the FALL Syllabus; (2) the Barney's Story Handout; (3) the Debt Relief Agencies Handout; (4) Bankruptcy Rule 9011 on SS pp.506-507; (5) Milavetz, Gallop, & Milavetz, P.A. v. U.S., 559 U.S. 229 (2010); (6) In re Humphries, 453 B.R. 261 (E.D. Mich. 2011); (7) the Chart of State Median Family Income for cases filed on or after 5/1/20; (8) the List of Bankruptcy Filing Fees on SS pp.497-499; and (9) commencement of discussion of the Assignment One Handout, which deals with the material on CB pp.1-18.
5. **Assignment for the Second Class Session:** Concluding discussion of the Assignment One Handout, and discussion of the Assignment 2 Handout, which deals with the material on CB pp. 23-48.
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 FALL Syllabus; (2) the Barney's Story Handout; (3) the Debt Relief Agencies Handout; (4) Bankruptcy Rule 9011 on SS pp.812-814; (5) Milavetz, Gallop, & Milavetz, P.A. v. U.S., 559 U.S. 229 (2010); (6) In re Humphries, 453 B.R. 261 (E.D. Mich. 2011); (7) the Chart of State Median Family Income for cases filed on or after 5/1/20; (8) the List of Bankruptcy Filing Fees on SS 506-507; (9) the Assignment One Handout; and (10) the Assignment 2 Handout. **These materials, other than BR 9011 and the list of Bankruptcy Filing Fees which are in the SS, can be obtained by e-mailing my Secretary Lillian White from a U of H E-Mail Account and requesting that Lillian e-mail the materials to your U of H E-Mail Account. NonU of H E-Mail Accounts can not be used; Lillian's E-Mail address is lawwhite@central.uh.edu**

7. **Future Assignments:** Following CB Assignment 2, absent a special announcement, the standing assignment is to prepare two Assignments ahead of the last Assignment discussed in class.
8. **Attendance Policy:** Under the Law Center 80% attendance rule, each student can take up to 6 unexcused cuts. Additional cuts will be excused for good cause. Attendance is taken by Zoom.
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 Articles 1 & 9 and the Uniform Fraudulent Transfer Act in the SS, which have been enacted in TX, 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. **Counseling:** Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html
14. **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 My Secretary Lillian White's telephone number is (713) 743-7674. Lillian's E-Mail address is lawwhite@central.uh.edu. Lillian's desk is in the first floor BLB secretarial suite.