

SYLLABUS
APPLIED BANKRUPTCY (Spring 2022)

PROFESSOR: Joseph A. Pack

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CLASSROOM: Holland 355A

CLASS TIME: Friday: 10:00am to Noon (Followed by Lunch)

OFFICE HOURS: Tuesday: 12:00pm to 1:00 pm or by Appointment
Zoom or telephone call only

FINAL EXAM: None

TEXTBOOKS

Weekly Case Studies Presented by Prominent, Leading Insolvency Professionals

COURSE DESCRIPTION

Applied Bankruptcy (LAW [6930]): Applied Bankruptcy is a corporate business class focused on the intricacies and real-life issues that arise in the context of “mega” restructuring cases and those restructuring matters handled by major law firms in Florida and throughout the country. Each week, a renowned industry leader, including the Chief Bankruptcy Judge for the Southern District of Florida and partners from top law and consulting firms share case studies to round out topics on the never-slow industry: distressed M&A. No prior bankruptcy experience is required.

You do not need to know anything about bankruptcy to enjoy this course.

Applied Bankruptcy will help you tremendously in your practice. Many transactions and much litigation involve companies in financial trouble. Opportunistic investors: they prey on businesses and companies that need liquidity (i.e., cash to fund the business). Many plaintiffs: they need money, and often times a party involved in litigation is bankrupt, requiring strategic work arounds.

This course is not designed to make you a bankruptcy expert. Bankruptcy is a process more than a body of law existing in a vacuum. It is always an option (particularly in the United States, where insolvency is not required to initiate bankruptcy proceedings) and can be used as a sword instead of the proverbial white flag.

The presentations in Applied Bankruptcy will walk you through the life cycle of a company in financial distress (or that could be in financial distress in the future) and you will come away from this class understanding what “corporate restructuring” truly means.

Along the way, I and the visiting practitioners will provide a number of tips, not only for being a strong and competent attorney, but also a strong associate.

STUDENT LEARNING OUTCOMES

After completing this course, students should be able to:

1. Understand when bankruptcy should be considered by corporate entities.

2. Consider issues related to advising the debtor or creditors arising under federal bankruptcy law, including issues related to the acquisition and sales of distressed companies and/or assets from distressed companies.
3. Know and apply basic business concepts in accounting, finance, and economics specifically relevant and related to the understanding of bankruptcy.

GRADING AND EXAMINATION

Each week, an impressive, prominent bankruptcy practitioner will present a short, ½ page case study that presents a set of facts, for which a “right answer” does not necessarily exist. In practice, reasonable minds differ as to go-forward strategy every day.

The case study will ask a few questions and point you to specific cases to read for the different perspectives on the issue.

For example: Chief Bankruptcy Judge Isicoff will be presenting on section 506 of the Bankruptcy Code. The section number is not as relevant as what is implicated: Fees owed to a lender in litigation against a borrower and whether those fees must get paid in the context of bankruptcy.

Why is this relevant in the real world? Well, in today’s market, commercial foreclosures are rampant. The news won’t cover this. And that’s because the messaging is: the economy is great. Interest rates are low, unemployment is low and real estate values are skyrocketing. But guess what: predatory lenders are foreclosing on valuable commercial properties because there are “technical defaults” occurring under the loans. In layman’s terms, a technical default is a default in a loan other than a payment default (these are referred to as covenants (e.g., a monthly operations reporting covenant). A default is still a default.

A client comes to you that they received a letter from their lender that they are in default because they forgot to provide the lender with a financial report from the month prior. The property is much more valuable than the debt – what can the Borrower do, not do, how empowered is the lender here?

Grading will be weighted as follows:

25% Class Participation/Preparation

50% on Memo written as an answer for one of the topics of your choosing.

- 2 pages, single-spaced, exclusive of footnotes (cases will be provided).

25% on Single Page “Reflections” writings – at least six during course of semester – summarizing your personal takeaway from the case topic.

The law school policy on exam delays and accommodations can be found [here](#).

GRADING INFORMATION

The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent	Letter Grade	Point Equivalent
A (Excellent)	4.00	C (Satisfactory)	2.00
A-	3.67	C-	1.67
B+	3.33	D+	1.33
B	3.00	D (Poor)	1.00
B-	2.67	D-	0.67
C+	2.33	E (Failure)	0.00

WORKLOAD AND CLASS PREPARATION

It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class.

ATTENDANCE

Per ABA requirements, please attend all classes, unless you e-mail me in advance with a legitimate excuse. Requirements for class attendance and make-up exams, assignments, and other work in this course are consistent with university policies that can be found at: <https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>.

The single best thing that a student can do to maximize the possibility of doing well in the course in terms of a grade is to actively participate and keep up with the class reading assignments. Your grade will directly correlate to engagement in class discussion, and your written work product.

ACCOMMODATIONS

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

Also, with prior notification to the professor, students are entitled to be excused from class or other scheduled academic activity to observe a religious holy day of their faith. Students are entitled to have a reasonable amount of time to make up the material or activities covered in their absence. Students will not be penalized due to absence from class or other scheduled academic activity because of religious observances.

ACADEMIC HONESTY

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

ONLINE COURSE EVALUATIONS

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner can be found here: <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens, and can complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via ufl.bluera.com/ufl/. Summaries of course evaluation results are available to students can be found here: <https://gatorevals.aa.ufl.edu/public-results/>.

ONLINE (ZOOM) CLASS SESSIONS

Per law school policy, our course must have a majority of in-person class sessions. Consistent with this policy, we will try to have more in-person class sessions during the early part of the course, thus permitting us to “bank” the possibility of online sessions during the latter part of this course. Zoom class sessions will be announced ahead of time.

Case Studies / Topics

Class		Topics, Issues, and Materials
1	1/21	<p>Speaker: Brett Amron, Founder of BastAmron (Miami, FL)</p> <p>Fiduciary Duties</p> <ul style="list-style-type: none"> • Pre-Bankruptcy Considerations • Duties of Company Management • When and Why Lawsuits Are Filed Against Management
2	1/28	<p>Speaker: Patricia Redmond, Stearns Weaver (Miami, FL)</p> <p>Cash Collateral</p> <ul style="list-style-type: none"> • What is it? • What party “controls” an entity’s cash? • Does <i>anyone</i> control “unencumbered” cash and what is unencumbered cash?
3	2/04	<p>Speaker: Joseph Pack and Jessey Krehl, Pack Law (Miami, FL)</p> <p>The “First Day Hearing”</p> <ul style="list-style-type: none"> • Commencing the Case • Emergency First Day Relief • Contested vs. “Smooth Landing”
4	2/11	<p>Speakers: Honorable Michael Williamson, Bankruptcy Judge (Tampa, FL) Michael Moecker Founder of Moecker & Associates (Fort Lauderdale, FL)</p> <p>Assignment for the Benefit of Creditors</p> <ul style="list-style-type: none"> • Non-Bankruptcy Options for Insolvent Businesses • Liquidation vs Reorganization: “Can this dog hunt?” • ABCs compared to Bankruptcy
5	2/18	<p>Speaker: Mark Bloom, Baker McKenzie (Miami, FL)</p> <p>Investing in Distressed Companies</p> <ul style="list-style-type: none"> • Bonds/Debentures/ “Funded Debt” vs. Collateralized Debt • Special Issues That Arise in International Investment / Other Jurisdictions
6	2/25	<p>Speaker: Honorable Laurel Isicoff, Chief Bankruptcy Judge (Miami, FL)</p> <p>Power Held by a Secured Debt Holder</p> <ul style="list-style-type: none"> • How do such payments get applied in the context of chapter 11? • Are provisions (i.e., fee provisions) in secured loan documents sacrosanct? • What rights do borrowers have to defeat these provisions?
7	3/4	<p>Speaker: Leyza Blanco, Sequor Law (Miami, FL)</p> <p>Chapter 15 Bankruptcies</p> <ul style="list-style-type: none"> • Cross-Border Insolvency Proceedings • Authority to File and Procedural Matters • Alternatives to Chapter 15

8	3/18	<p>Speakers: Cori Lopez-Castro and David Samole, Kozyak Tropin & Throckmorton (Miami, FL)</p> <p>Litigation in the Context of Bankruptcy/Bankrupt Parties</p> <ul style="list-style-type: none"> • What claims are special when in front of a Bankruptcy Judge? • Strategies that are often overlooked. • What makes a fine litigator?
9	3/25	<p>Speaker: Michelle Miller, AlixPartners (New York, NY)</p> <p>Unique Aspects of Retail Chapter 11 Cases</p> <ul style="list-style-type: none"> • Determining Whether Chapter 11 is Viable • First Day Motions and Special Considerations • Managing Over-Extended Companies
10	4/1	<p>Speakers: Honorable Roberta Colton, Bankruptcy Judge (Orlando, FL) Harley Riedel, Stichter, Riedel, Blain & Postler (Tampa, FL) Lynn Sherman, Trenam Law (St. Petersburg, FL)</p> <p>363 Sales</p> <ul style="list-style-type: none"> • Bankruptcy Sales vs. Plans • The Bidding Process and Stalking Horse Bidders • Requirements for Sales Free and Clear
11	4/8	<p>Speaker: Jeffrey Davis, Former UF Law Bankruptcy Professor (Gainesville, FL)</p> <p>Wallowing In Your License</p> <ul style="list-style-type: none"> • Section 327 Retention Issues • Disclosure Issues/Disinterestedness • Attorney Disqualification
12	4/15	<p>Speaker: Scott Shuker, Shuker & Dorris, P.A. (Miami, FL)</p> <p>Confirmation Issues in Chapter 11</p> <ul style="list-style-type: none"> • The Plan as a Contract • Potential Areas of Contest in Confirmation • Fair and Equitable Treatment
13	4/22	<p>Speaker: Joseph Pack and Jessey Krehl, Pack Law (Miami, FL)</p> <p>The "Deal"</p> <ul style="list-style-type: none"> • Prepackaged vs. Prearranged vs. "Free Fall" Bankruptcies • The Power of Holding the "Fulcrom Security" • Bringing It All Together....