

PACK LAW DRAFT

SYLLABUS APPLIED BANKRUPTCY (Spring 2023)

PROFESSOR:	Joseph A. Pack
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CLASSROOM:	ZOOM Details to Follow
CLASS TIME:	Friday: 10:00am to Noon (Followed by Lunch) (Anticipated to be Three (3) Live Classes)
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.

I believe 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.

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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.

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.

- 5 pages, single-spaced (exclusive of footnotes), to be turned in any time during the semester. Citations must include case law and refer to class discussions.

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

The course is graded to a curve.

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. Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link: <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>.

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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.

Visiting professionals will call on you and ask you what you believe (1) the law provides or (2) the “right answer” should be. Students who don’t read in advance of the class cannot hide.

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/>.

RECORDINGS OF CLASS

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will work with faculty to determine when students may have access to these recordings, and the recordings will be password protected. It is the student’s responsibility to contact the Office of Student Affairs as soon as possible after an absence..

Case Studies / Topics

Class		Topics, Issues, and Materials
1	1/20	<p>Speaker: Joseph Pack and Jessey Krehl, Pack Law (Miami, FL)</p> <p>Chapter 11 as a “Deal”</p> <ul style="list-style-type: none"> • The Process • The Goal of Confirming a Plan • Intro to Fiduciary Duties – The “Walk In” / The Board Room
2	1/27	<p>Speaker: Patricia Redmond, Stearns Weaver (Miami, FL)</p> <p>Cash Collateral / DIP Financing (How do we pay for this case?)</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	2/03	<p>Speaker: John Hutton, Greenberg Traurig (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
4	2/10	<p>Speakers: TBD: Slated, Michael Moecker Founder of Moecker & Associates (Fort Lauderdale, FL), Mark Healy (Orlando, 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	2/17	<p>Speaker: Mark Bloom, Baker McKenzie (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
6	2/24	<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?

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7	3/3	Speaker: Eyal Berger, Andrea Hartley, Akerman (Miami, FL) Strategies Employed by Debtors (Close Quick and “Shift” Value) <ul style="list-style-type: none">• Substantive vs. Administrative Consolidation• Bar Orders (i.e., Third Party Injunctions)• Statutory and Equitable Mootness
8	3/10	Speakers: Cori Lopez-Castro and David Samole, Kozyak Tropin & Throckmorton (Miami, FL) Litigation in the Context of Bankruptcy/Bankrupt Parties <ul style="list-style-type: none">• What claims are special when in front of a Bankruptcy Judge?• Strategies that are often overlooked.• Discovery and Expert Witness Lists• What makes a fine litigator?
9	3/24	Speaker: Terrence Grossman, Eva Anderson, AlixPartners (New York, NY) Unique Aspects of Retail Chapter 11 Cases <ul style="list-style-type: none">• Determining Whether Chapter 11 is Viable• First Day Motions and Special Considerations• Managing Over-Extended Companies
10	3/31	Speakers: Honorable Roberta Colton, Bankruptcy Judge (Orlando, FL) Harley Riedel, Stichter, Riedel, Blain & Postler (Tampa, FL) Matt Hale, SRBP (Orlando, FL) Lynn Sherman, Trenam Law (St. Petersburg, FL) 363 Sales <ul style="list-style-type: none">• Bankruptcy Sales vs. Plans• The Bidding Process and Stalking Horse Bidders• Requirements for Sales Free and Clear
11	4/07	Speaker: TBD: Jeffrey Davis, Former UF Law Bankruptcy Professor (Gainesville, FL) Wallowing In Your License <ul style="list-style-type: none">• Section 327 Retention Issues• Disclosure Issues/Disinterestedness• Attorney Disqualification
12	4/14	Speaker: Marianne Dorris, Shuker & Dorris, P.A. (Miami, FL) Confirmation Issues in Chapter 11 <ul style="list-style-type: none">• The Plan as a Contract• Potential Areas of Contest in Confirmation• Fair and Equitable Treatment

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13	4/21	Speaker: Joseph Pack and Jessey Krehl, Pack Law (Miami, FL) The "Deal" <ul style="list-style-type: none">• Restructuring Support Agreements• Prepack/Prearranged/Free Fall• Bringing It All Together....