**SYLLABUS**

**BANKRUPTCY (Spring 2021)**

PROFESSOR: Robert J. Rhee

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CLASSROOM: Holland 382

CLASS TIME: Thursday & Friday: 10:30am to 11:55am

OFFICE HOURS: Thursday & Friday: 12:00pm to 1:00 pm

 Zoom or telephone call only

FINAL EXAM: TBD

**TEXTBOOKS**

Daniel J. Bussel & David A. Skeel, Bankruptcy (10th ed. Foundation Press 2015)

I do not assign a statutory supplement. I see no need to require students to purchase a statutory supplement when the statute is freely available online. Students are required to review all statutory materials as presented in the textbook and the syllabus. The U.S. Bankruptcy Code is available at: <https://www.law.cornell.edu/uscode/text/11>.

**COURSE DESCRIPTION**

Creditors’ Remedies and Bankruptcy (LAW 6052): This course is a study of individual collection of monetary judgments and administration of insolvent estates under the Bankruptcy Code and state law.

**STUDENT LEARNING OUTCOMES**

After completing this course, students should be able to:

1. Know and analyze the laws applicable to creditors’ rights and bankruptcy in general.
2. Consider issues related to advising the debtor or creditors arising under federal bankruptcy law, including issues related to bankruptcy claims, making claims under bankruptcy, avoidance, and chapter 11 reorganization.
3. Know the basic transactional processes involved in the pursuit of creditors’ claims and bankruptcy.
4. Know and apply basic business concepts in accounting, finance, and economics specifically relevant and related to the understanding of bankruptcy.

**GRADING**

Grading will be consistent with College of Law policy. Your grade will be based on a final exam (100% of the final grade). Exam grades are done on a blind basis. All grades are final. There will be no regrading or revisions from me, except to correct any mathematical or clerical errors in computing the final score.

**FINAL EXAM FORMAT**

The final exam will be **open casebook**. There are no restrictions on what you can write into the book. You will also be permitted to bring **any personal notes or outlines**, **written by you as your or your study group’s workproduct** (i.e., no commercial outlines or any other published materials other than your textbook). There is no limitation on page count. Your notes and outline may include the statutory provisions that you believe will be necessary for the exam. The assembly of statutory materials, which is at your discretion, is recommended since this course is statute based.

The final exam may have essay, short answer, and multiple choice questions. Essay questions will be an issue-spotting, analysis, or problem-solving format typically seen in most law school exams. The issues and topics for exam questions will come from the course readings and class discussions. The exam will fairly reflect the work that is done in the course. This means that the best way to prepare for the exam is to do the class readings and to attend class. There are no prior exams.

*Makeup Exam Policy*: The law school policy on exam delays and accommodations can be found at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

## **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 |

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

**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 keep up with the class reading assignments and to attend class regularly. The final exam will draw from the work done in course and the class discussion.

**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/](file:///C%3A%5CUsers%5Crmcilhenny%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CINetCache%5CContent.Outlook%5CQH37XRU4%5Cufl.bluera.com%5Cufl%5C). Summaries of course evaluation results are available to students can be found here: <https://gatorevals.aa.ufl.edu/public-results/>.

**COVID POLICY**

Many students will have face-to-face instructional sessions to accomplish the student learning objectives of this course. In response to COVID-19, the following policies and requirements are in place to maintain your learning environment and to enhance the safety of our in-classroom interactions. I may take noncompliance into account when grading students or determining if a student may remain in the course.

* You are required to wear approved face coverings at all times during class and within buildings. Following and enforcing these policies and requirements are all of our responsibility. Failure to do so will lead to a report to the Office of Student Conduct and Conflict Resolution. You also will no longer be permitted on the UF Law campus. Finally, Dean Inman will also report your noncompliance to the relevant state board of bar examiners.
* This course has been assigned a physical classroom with enough capacity to maintain physical distancing (6 feet between individuals) requirements. Please utilize designated seats and maintain appropriate spacing between students. Please do not move desks or stations.
* Sanitizing supplies are available in the classroom if you wish to wipe down your desks prior to sitting down and at the end of the class.
* Be mindful of how to properly enter and exit the classroom.  Practice physical distancing to the extent possible when entering and exiting the classroom.
* If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), please do not come to campus or, if you are already on campus, please immediately leave campus. Please use the UF Health screening system and follow the instructions about when you are able to return to campus.  <https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>.
* Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up work.<https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/>.”

**CLASS DISCUSSION AND RECORDING**

Students may not take, circulate, or post photos or videos of classroom discussions, whether they are in-person, hybrid, or completely online. Students failing to follow this rule will be referred to the College of Law Honor Code Council and the University’s Office of Student Conduct and Conflict Resolution.

**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.

**ASSIGNMENTS**

|  |  |  |
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| **Class #** | **Topics, Issues, and Cases** | **Text pages** |
| 1 | CHAPTER 1: INTRODUCTION* Consensual liens
* Judicial liens
* Overview of bankruptcy

Bankruptcy Code (11 U.S.C.): § 362(a) | 1-25Skim read: Section B on pp. 16-17 |
| 2 | CHAPTER 2: BANKRUPTCY ESTATE * Butner doctrine
* Defining property of the estate
	+ *United States v. Whiting Pools, Inc.*
* Exempt properties
	+ *In re Silveira*

Bankruptcy Code (11 U.S.C.): § 522(b), (f), (p), (q)  | 29-57 |
| 3 | * Exempt properties
	+ *Norwest Bank Nebraska v. Tveten*

CHAPTER 3: CLAIMS* Rights to payments

Bankruptcy Code (11 U.S.C.): § 522(o), § 101(5), § 726(a), § 727(b), §1141(d)  | 58-70, 73-87 |
| 4 | * Rights to payment
	+ *United States v. Apex Oil Co*.
* Determining the amount of a claim
* Secured claims
	+ *Associates Commercial Corp. v. Rash*

Bankruptcy Code (11 U.S.C.): § 502(a),(b),(c), § 506(a)(1),(b), (d), § 1325(a)(5)  | 87-110 |
| 5 | * Priority claims
	+ *In re Jartran*

CHAPTER 4: DISCHARGE * Denial of discharge because of debtor’s misconduct
* Nondischargeable debts
	+ *In re Madaj*
	+ *In re Werthen*
	+ *Kawaauhau v. Geiger*

Bankruptcy Code (11 U.S.C.): § 523(a), § 727(a)-(c)  | 110-139 |
| 6 | * Nondischargeable debts
	+ *American Express Travel V. Hashemi*
* Protection of the discharge
* Discrimination against debtors
	+ *In re Majewski*
	+ *Toth v. Michigan State Housing Dev. Auth.*

CHAPTER 5: STAYS AND INJUNCTIONS * Applicability of the stay
* Effect of violation of stay

Bankruptcy Code (11 U.S.C.): § 362(b)  | 140-168 |
| 7 | * Effect of violation of stay
	+ *In re Soares*
* Secured claims
	+ *Johnson v. First National Bank*
* Actions against nondebtors
	+ *A.H. Robins v. Piccinin*
	+ *Credit Alliance Corp. v. Williams*
* Relief from automatic stay for cause
	+ *In re Holtkamp*

Bankruptcy Code (11 U.S.C.):  | 168-199 |
| 8 | * Relief from stay and adequate protection rights for undersecured creditors
	+ *United States Savings Assoc. of Tex. V. Timbers of Inwood Forest Assoc.*
* Prepetition waiver of stay

CHAPTER 6: EXECUTORY CONTRACTS AND LEASES * Executory contracts
	+ *Lubrizol Enterprises v. Richmond Metal Finishers*
	+ *In re Catapult Entertainment*

Bankruptcy Code (11 U.S.C.):  | 199-238 |
| 9 | * Executory contracts
	+ *In re Pioneer Ford Sales*
	+ *Matter of Whitcomb & Keller Mortgage Co.*
* Leases
	+ *Precision Industries v. Qualitech Steel SBQ*
 | 238-267 |
| 10 | * Leases
	+ *In re Trak Auto Corp.*
	+ *Matter of U.L. Radio Corp.*
	+ *In re Standor Jewelers West*

CHAPTER 7: AVOIDING POWERS * Preferences
	+ *Union Bank v. Wolas*

Bankruptcy Code (11 U.S.C.): § 547(c)  | 267-300 |
| 11 | * Preferences
	+ *In re National Gas Distributors*
	+ *In re Powerine Oil Co.*
* Setoffs
	+ *Citizens Bank of Maryland v. Strumpf*

Bankruptcy Code (11 U.S.C.):  | 300-327 |
| 12 | * Fraudulent transfer
	+ *BFP v. Resolution Trust Co.*
	+ *Robinson v. Wangemann*
	+ *In re Northern Merchandise*

Bankruptcy Code (11 U.S.C.):  | 327-354 |
| 13 | * Fraudulent transfer
	+ *Bay Plastics v. BT Commercial Corp.*
* Strong-arm clause
	+ *McCannon v. Marston*

Bankruptcy Code (11 U.S.C.): § 544(a)  | 354-382 |
| 14 | CHAPTER 8: EQUITABLE SUBORDINATION AND SUBSTANTIVE CONSOLIDATION * Equitable subordination
	+ *Matter of SI Restructuring*
	+ *Matter of Clark Pipe & Supply Co.*
* Substantive consolidation
	+ *In re Owens Corning*
	+ *In re LTV Steel Co.*

Bankruptcy Code (11 U.S.C.):  | 383-421 |
| 15 | CHAPTER 9: THE CONSUMER DEBTOR IN CHAPTERS 7 AND 13 * Introduction to consumer bankruptcy
* The consumer debtor in Chapter 7 before BAPCPA
* BAPCPA
	+ *Ransom v. FIA Card Services*

Bankruptcy Code (11 U.S.C.):  | 423-456 |
| 16 | * BAPCPA
* Chapter 13 as an alternative for the consumer debtor
	+ *Hamilton v. Lanning*
	+ *In re Crawford*

Bankruptcy Code (11 U.S.C.):  | 457-488 |
| 17 | * Discharge
* Reaffirmation of discharged debts
* Secured claims in personal property
	+ *In re Jones*
	+ *In re Wright*
* Secured claims in debtor’s residence
	+ *Nobelman v. American Savings Bank*

Bankruptcy Code (11 U.S.C.):  | 488-521 |
| 18 | CHAPTER 10: OPERATING THE DEBTOR AND PRPOSING A PLAN* Management and control
* Operating the business from petition to confirmation
	+ *Matter of Kmart Corp.*

Bankruptcy Code (11 U.S.C.):  | 523-524529-550Skip: Subsection 3 on pp. 525-29 |
| 19 | * Operating the business from petition to confirmation
	+ *General Electric Credit Corp. v. Levin & Weintraub*
	+ *Hartford Underwriters Ins. Co. v. Union Planters Bank*
	+ *Matter of Saybrook Manufacturing Co.*
* Proposing the plan
	+ *Century Glove v. First American Bank of New York*

Bankruptcy Code (11 U.S.C.):  | 550-577 |
| 20 | * Proposing the plan
	+ *In re Figter Limited*
	+ *In re U.S. Truck Co.*
	+ *Matter of Greystone III Joint Venture*

Bankruptcy Code (11 U.S.C.):  | 577-605 |
| 21 | CHAPTER 11: CONFIRMING A CHAPTER 11 PLAN * Feasibility
	+ *In re Orfa Corp. of Philadelphia*
* Treatment of priority claims
* Treatment of secured claims
	+ *Till v. SCS Credit Corp.*
	+ *RadLAX Gateway Hotel v. Amalgamated Bank*

Bankruptcy Code (11 U.S.C.): § 1129(b)  | 607-641 |
| 22 | * Treatment of secured claims
	+ *In re Arnold & Baker Farms*
	+ *Great Western Bank v. Sierra Woods Group*
* Treatment of unsecured claims and ownership interests
	+ *In re DBSD North America*

Bankruptcy Code (11 U.S.C.): § 1111(b)  | 641-675 |
| 23 | * Treatment of unsecured claims and ownership interests
	+ *Bank of America v. 203 North LaSalle Street P’ship*
* Future of Chapter 11 reorganizations
* Effect of confirmation of plan
* Modification of plan

Bankruptcy Code (11 U.S.C.):  | 675-703 |
| 24 |  CHAPTER 12: SALE ALTERNATIVE UNDER SECTION 363 * Sale or lease of property in ordinary course
* Going concern sales under section 363
	+ *In re Chrysler LLC*
* Selling free and clear under section 363(f)
	+ *In re PW*

Bankruptcy Code (11 U.S.C.): § 363 | 705-735 |
| 25 | * Selling free and clear under section 363(f)
	+ *In re Trans World Airlines*
* Break-up fees and bidding procedures
* Critiquing the sale alternative

Bankruptcy Code (11 U.S.C.):  | 735-750 |
| 26 | OPEN CLASS |  |
|  | **FINAL EXAM** |  |