

**WESTERN STATE UNIVERSITY
COLLEGE OF LAW**

**INTRODUCTION TO BANKRUPTCY LAW
SECTION 414A**

FALL 2010

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COURSE SYLLABUS AND POLICIES

I. COURSE DESCRIPTION AND OBJECTIVES.

This course is an introductory survey of bankruptcy law. The course will familiarize students with liquidation (Chapter 7), debt adjustment (Chapter 13) and reorganization (Chapter 11) proceedings. The course will approach bankruptcy as a part of the larger picture of debtor-creditor relationships, and will address the intersection of bankruptcy law and other practice areas (including commercial, family and criminal law). Students will examine the historical, economic and social development of the current Bankruptcy Code, as well as the ethical obligations of the parties and their attorneys in a bankruptcy proceeding.

II. COURSE MATERIALS AND REQUIREMENTS.

A. Required Texts:

Casebook:	<i>The Law of Debtors and Creditors</i> , by Warren and Westbrook Sixth Edition Aspen Publishers, ISBN 978-0-7355-7626-1.
Statutory Pamphlet:	<i>Bankruptcy Code, Rules and Official Forms</i> 2010 Law School Edition Thomson/West, ISBN-13: 9780314911582.

B. Ancillary Materials:

I will assign law review articles, cases and other materials from time to time. The materials will be posted on the WebCourse site. Unless marked as "optional", students are expected to read these materials in preparation for class.

C. Assignments:

A separate Course Schedule will be posted on the WebCourse site which will detail the material to be covered, and the assignments for each class. The Course Schedule may be modified based upon the needs and progress of the class; students are expected to watch for updates.

The assignment for the first class will be a separate packet of materials relating to the debtor-creditor relationship outside of bankruptcy. The packet will be available from the WebCourse site at least a week before class begins. If you have difficulty accessing the packet, please e-mail me.

D. Website:

There will be a course website on LexisNexis WebCourses. It will be up and running at least a week before class begins. *You are required to enroll on the website as soon as possible.* I will post the Course Schedule and any updates, required ancillary materials, study materials, practice problems and links of interest throughout the semester. *You are responsible for checking the website regularly, and you will be responsible for all materials posted on it.* If you have any difficulty accessing the WebCourse, contact the school's Lexis representative or me as soon as possible.

E. Supplemental Resources:

There is no shortage of commercial materials available to "assist" law students. A major problem with them from the perspective of a professor is that my primary objective is to help you start to "think like a lawyer", and you cannot do that if all you know about a subject comes from a canned outline. There is no substitute for reading the assigned materials, working through problems, and engaging in discussion about those materials in class. Therefore, I would prefer that students focus their time and energy on the required materials, rather than chasing after other volumes. I would suggest that you refer to other materials only for specific topics that are not clear to you – and only after *re-reading* the required materials.

Having said that, I am a realist. I know that you are looking for that magic volume with all of the answers. I know that however much time I spend telling you that it does not exist, you will still search for it. I also recognize that there are different learning styles. If you feel that you need something more, or need to "get there" by a different route, the following may be helpful:

Elements of Bankruptcy (Fifth Edition) by Douglas G. Baird (Foundation Press): This is a fairly concise treatise which focuses on major topics in bankruptcy law.

Collier's on Bankruptcy (Sixteenth Edition): This is a multi-volume work which is one of the most authoritative sources for in-depth bankruptcy law research. It is available on Lexis, as well as in "hard copy" in the library.

Bankruptcy and Debtor/Creditor Examples & Explanations (Fifth Edition) by Brian A. Blum: You may be familiar with this series from other classes. The text gives a brief synopsis of a topic, then provides sample problems (generally derived from case law) and their solutions.

A word of warning: Bankruptcy law changed dramatically as of October 2005. Any materials published prior to that date will be out of date, and possibly dangerously misleading. Do not accept any prior editions of the required materials, and do not use any ancillary materials published prior to that date.

III. EXPECTATIONS.

A. Preparation for Class.

Students are expected to have read any assigned materials, worked through any assigned problems, and completed any assigned projects. Assignments include any statutory references within the reading, even if the statutes are not assigned independently. If you are not prepared, you must submit to me a note which says "unprepared", with your name and the date. This will prevent me from calling on you, causing you public humiliation and wasting class time. The first "unprepared" note will not result in a penalty; you are allowed one "free pass". Failure to prepare for subsequent classes will impact your grade.

B. Attendance and Participation.

The School's attendance policy will be enforced. Please familiarize yourself with it, so that there are no surprises if you exceed the maximum number of allowable absences.

Tardiness is a serious problem for the aspiring lawyer. If you arrive at court late for a hearing, your client may suffer an adverse ruling, and you may be faced with the question, "Do you have malpractice insurance?" I will treat tardiness harshly. If you believe that you will be tardy, contact me in advance. If you have a compelling reason (I am the final arbiter of what is "compelling"), a single tardy will not count against you. Without a compelling reason, a tardy will count as an "F" for the day. Three unexcused tardies will be treated as an absence.

Your class participation will form a component of your grade. Each student will arrive in class with a presumptive "C". No grade will be assigned for assigned absences. Unprepared students, or students who are absent without excuse, will receive an "F" (see exception above). Students who contribute more to the class will earn a higher grade for that class. Thus, it is in your best interests to arrive prepared, and to participate actively.

C. Integrity and Professionalism.

Along with the course substance, your professors are attempting to teach you to think and act like lawyers. The profession suffers from a poor reputation due to the conduct of a very small segment of the population. I believe strongly that this is an honorable profession, and I hope to train and influence students to exhibit the highest standards of professional conduct. I will not tolerate unethical and/or dishonest conduct or attitudes in my class, to include the violation of any school regulation or policy, any applicable law, and basic concepts of decency or propriety.

One area of concern is cheating. Any student caught cheating on an exam, paper, exercise, activity or assignment will receive a "zero" grade, and will be reported immediately for further disciplinary action. Plagiarism is cheating. I give you fair warning that your professors now have access to "SafeAssign", Lexis-sponsored software that allows us to screen student papers for plagiarism. By your submission of any work in connection with this class, you consent to the screening of that work through SafeAssign and/or any other method for the detection of plagiarism. If you have any questions

concerning the parameters of plagiarism, or the proper methods of citation, quotation or attribution, please ask me or your Legal Writing advisors prior to submission of an assignment.

IV. GRADING.

Your grade will be calculated as follows:

- 85% Final Exam
- 10% Experiential requirement
- 5% Preparation, Attendance and Participation (see description above)

Additional points will be available through "Opportunity Quizzes". These quizzes will be given at the beginning of selected classes, based upon the reading assignment for the class. They will be worth between 5 and 10 points each, and a total of 50 points will be available over the course of the semester. For each 10 points earned, one point will be added to your final exam grade. Thus, if you earn all of the available points, 5 points would be added to your exam score. For example, if you received a 75 on the exam, the grade would be recorded as an 80. No points will be added to the exam score until the requisite 10-point threshold is reached. For instance, if you receive 9 points on OQ's, no points will be added to your exam score; if you earn 29 OQ points, 2 points will be added to your exam score. There will be no "make-up quizzes" due to absence or late arrival. These are in the nature of "bonus points", and are intended to reward you for class preparation and attendance.

V. EXPERIENTIAL REQUIREMENT.

A part of your survey will be an opportunity to witness bankruptcy in action. You will be expected to attend at least one hour of a bankruptcy-related proceeding, and to write an account of that experience, responding to certain prompts. A more thorough review of the options, and a rubric for the writing assignment, will be provided separately. By way of example, you might:

- Attend at least one hour of 341(a) meetings.
- Attend at least one hour of an active motion calendar in Bankruptcy Court.
- Attend at least one hour of a *pro bono* bankruptcy clinic.
- Attend at least one hour of a contested Chapter 11 confirmation hearing.

This component of your bankruptcy survey will require time outside of class. Most of the opportunities will occur during "regular business hours", but they will be available throughout the semester, affording you plenty of time to make appropriate arrangements. Please see me if you have scheduling difficulties, or if you need guidance concerning the proceeding that would be of the greatest interest or benefit to you.

VI. OFFICE HOURS.

My office hours are by appointment only. To make an appointment, contact me at (714) 454-5603, or by e-mail at emoriarty@epmesg.com. I am willing to discuss questions that you have about the substantive law of the course. I will not discuss the specifics of the exam, except to clarify the

instructions. No appointments will be scheduled during Reading Week. If you are having difficulty with the subject matter that you cannot resolve by rereading the assigned materials, please let me know as soon as the issue arises. I cannot “reteach” the entire course to you during the week before finals!

VII. AMERICAN BANKRUPTCY INSTITUTE MEDAL OF EXCELLENCE.

Each year, the student who receives the highest grade in this course is nominated for the American Bankruptcy Institute’s Medal of Excellence. The ABI is the nation’s preeminent college of bankruptcy judges, lawyers, scholars and professionals. It awards its Medal of Excellence to top bankruptcy law students only on a law professor’s nomination. It is recognized in the bankruptcy community as a high mark of distinction for a law student to attain. I hope the prospect of this award will encourage each of you to excel in this course.