

Bankruptcy Spring 2024

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Syllabus & Course Outline

Course Overview:

This course is designed to expose you to the world of creditors' rights and bankruptcy law. The course material will focus on the U.S. Bankruptcy Code and Rules, but you will also be exposed to state and federal laws regarding collection of debts, proceedings in aid of judgment, and the intersection of the Uniform Commercial Code (Art. 9) and bankruptcy law (primarily consumer bankruptcy law). In addition, the course will introduce you to the world of credit, credit reporting, and debt collection.

Learning Objectives:

- Students who successfully complete this course should be able to complete the following tasks:
- Students will learn the language and structure of the bankruptcy system in the United States, and they will have a basic understanding of the rights, responsibilities, and remedies under Chapters 7, 11, and 13 of the U.S. Bankruptcy Code.
- Students will be able to recognize potential bankruptcy and bankruptcy-related issues that may affect their future clients' decisions.
- Students will learn how the credit-reporting system, and commercial law in general, interface with the American bankruptcy system.
- Students will engage in discussions and solve problems to help them form a professional identity and increase their awareness of bias, cross-cultural difference, and/or anti-racism.

Required Texts:

Howard & Lupica, Bankruptcy Cases and Materials (7th ed. 2023)

In addition, students must have access to statutes including the UCC Article 9, the U.S. Bankruptcy Code, and several federal and Illinois consumer statutes that will be assigned each week.

Attendance:

Our class meets twice a week on Monday and Wednesday afternoons. As specified in the Rules of the Southern Illinois University School of Law, “regular attendance to class meetings in all courses is expected and required of all students in accordance with the rule to be announced by the professor at the beginning of each course. Attendance will be taken in class and attendance records will be kept. Violation of this rule shall subject the student to penalties”

It is your responsibility to ensure that you sign the attendance sheet during class. You should also note that the School of Law Honor Code states that it is academic misconduct to sign another student’s name to an attendance sheet for a class that the other student did not attend. Students may have no more than a maximum of four absences (partial or total) for any reason (other than jury duty, the student’s hospitalization, military service, religious observances, birth or adoption of the student’s child, or a death in the student’s immediate family – any of which shall be proven by documentation). Students with more than four absences will be referred to the Associate Dean and will be given the lowest possible grade – a failing grade – for the course.

Office Hours:

My door is always open to you and I am available to meet with you anytime I am in the building; however, I have set aside Wednesdays from 1:30-2:30pm just for the purpose of meeting with Bankruptcy students. I am also available to meet with students by appointment. We can meet in person or via Teams. Please arrange to meet with me during my office hours or suggest another time if my office hours are not convenient for you.

Class Participation:

As a law student, I expect that you will come to class having read the material for the day and ready to participate in class discussion. Students will be assigned (in advance) to be principally-responsible for helping me explain bankruptcy concepts, but everyone is expected to participate in class discussion. You are always free to raise your hand and volunteer an answer, offer a helpful observation, or ask a question. Law school is a learning laboratory, and we can all learn from each other.

Grading/Scoring of Assignments:

To successfully complete this course, you will have to complete a quiz, a mid-term, and a final exam. The Quiz is worth 10% of your final grade; the Mid-Term is worth 30%; and the final is worth 60%. All assessments in this course are open-book, open-note exercises.

- Quiz

You will be quizzed on the material that we will cover before starting our exploration of Bankruptcy. The quiz will be a take-home assessment in the form of a letter to a client, which should discuss what legal rights the recipient of the letter may have under Illinois or federal law. This assignment will also satisfy the law school's "Writing Across the Curriculum" requirement. Students will have the opportunity to rewrite their papers and improve their scores.

- Midterm

You will have a midterm exam that will require you to perform a Chapter 7 Liquidation Analysis of a bankruptcy debtor. A Liquidation Analysis is the basis for all bankruptcy calculations and computations, so it is important that you understand how to complete one before continuing deeper into the bankruptcy portion of the course.

- Final Exam

You will be required to take a final exam during the final-exam period. The exam will consist of two essay questions, equally weighted. You will not have to know any of the concepts that we studied prior to the Bankruptcy unit; the final exam will cover only Bankruptcy topics.

Class Recording: For the benefit of students who are unable to attend a particular class due to an unavoidable circumstance, and for students who wish to review a particular class to better facilitate comprehension of the learning objectives, it is my hope that class sessions will be recorded and made available for viewing. I will post the class PowerPoint slides each week to D2L.

Emergency Procedures: We ask that you become familiar with Emergency Preparedness @ SIU. Emergency response information is available on posters in buildings on campus, on the "Emergency Preparedness @ SIU" website, and through text and email alerts. To register for alerts, visit <http://emergency.siu.edu>.

Disability Policy: SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval, please contact DSS immediately at 618-453-5738 or disabilityservices.siu.edu. You may request accommodations at any time, but timely requests help to ensure accommodations are in place when needed. Accommodations and services are

determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty. Please send approved accommodations to your faculty through the DSS online portal.

Saluki Cares and Counseling & Psychological Services (CAPS): The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students, and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-2461, or siucares@siu.edu, <https://salukicare.siu.edu>. Associate Dean Angela Upchurch (aupchurch@siu.edu or (618) 536-8314) is available at the School of Law to help students access university resources. Additionally, counseling services are available through CAPS (*Counseling and Psychological Services (CAPS) / Student Health Services / SIU*). A counselor is at the law school every Wednesday from noon until 4:30pm in Rm. 268 for drop-in appointments.

Safety Awareness Facts and Education: Title IX makes it clear that violence and harassment based on sex and gender is a Civil Rights offense subject to the same kinds of accountability and the same kinds of support applied to offenses against other protected categories such as race, national origin, etc. If you or someone you know has been harassed or assaulted, you can find the appropriate resources here: <http://safe.siu.edu>.

Assignments:

Week #1 – January 15

1/15 Martin Luther King, Jr. Day – No class!

1/17 The Credit System and Equal Credit Opportunity Act

Reading: Review the handout posted to D2L (as Week 1-Class #2) for this class and skim the Equal Credit Opportunity Act [15 U.S.C. Sec. 1691 *et seq.*] and the Fair Credit Reporting Act [15 U.S.C. Sec. 1681 *et seq.*].

Week #2 – January 22

1/22 Fair Debt Collection Practices Act

Reading: Review the handout posted to D2L (as Week #2-Class #1) for this class and skim the Fair Debt Collection Practices Act [15 U.S.C. Sec. 1692 *et seq.*] and Texas Debt Collection Act, Tex. Fin. Code § 360, *et seq.*

1/24 Creditors' Remedies

Reading: Review the handout posted to D2L (as Week #2-Class #2) for this class and read pp. 1-12 in our textbook.

Week #3 – January 29

1/29 Intro to Bankruptcy (**Quiz Assigned-Quiz is due in class on 2/5/2024**)

Reading: pp. 12-34

Statutes: 28 U.S.C. §157, 28 U.S.C. §1334, 28 U.S.C. §§1408 and 1409

Code Sections: 101, 341

Bankruptcy Rule: 2003(a), 2004

1/31 Consequences of Bankruptcy

Reading: pp. 35-52 (not *Phoenix Piccadilly, Ltd.*) and pp. 55-70 and answer Problems 1-5 on pp. 50-51 and Problems 2 and 3 on p. 65.

Code Sections: 109, 301, 302, 303, 526, 527, 528

Week #4 – February 5

2/5 The Means Test

Reading: pp. 70-83 and Problem 1 on p.p. 82-83 and Problem 3 and 4 on p. 84.

2/7 Consequences of Bankruptcy

Reading: pp. 83 (beginning with Note 6) - 100 and answer Questions 1-3 98-100.

Code Sections: 706(a), 1307(a) and (c), 707(a), 707(b), 1325(b)

Week #5 – February 12

2/12 The Automatic Stay

Reading: pp. 142-168, Note 1 On p. 147, and Note 3 on p. 148 and answer Problem 1 on p. 149 and Problem 1 on p. 152.

Code Sections: 362(a) and (b)

2/14 Creditors' Relief from the Automatic Stay

Reading: pp. 168-171 and answer Problems 1-5 on p. 171.

Code Sections: 362(c)-(k)

Bankruptcy Rules: 4001, 4004, 4005, 4006, 4007, 7001

Week #6 – February 19

2/19 Property of the Estate

Reading: pp. 100-120 and answer Problems 1-5 on pp. 102-103.

Code Sections: 541(a)-(d), 1306(a)

Bankruptcy Rule: 4003(b)(2)

2/21 Property of the Estate

Reading: pp. 120-142 and answer Problems 1, 2, and 4 on pp. 121-122 and Problem 8 and 12 on p. 123.

Code Sections: 522(a), (b), (d), (l), (m)

Week #7 – February 26

2/26 Discharge/Dischargeability

Reading: pp. 595-617 and answer Question 2 on p. 613.

Code Sections: 727(a)

Bankruptcy Rules: 4004(a), 4005, 4006

2/28 **Midterm** (in-class)

Week #8 – March 4

3/4 Discharge/Dischargeability

Reading: pp. 617-646 and answer Problem 2 on p. 619 and Problem 5 on p. 620.

Code Sections: 523(a)

Bankruptcy Rules: 4004(a), 4005, 4006

3/6 Discharge/Dischargeability

Reading: pp. 646-664 and answer Questions 1-3 on p. 664.

Code Sections: 523(a)

Bankruptcy Rules: 4004(a), 4005, 4006

Spring Break (March 11-March 15)

Week #9 – March 18

3/18 Discharge/Dischargeability

Reading: pp. 664-685 and handout to be posted to D2L.

Code Section: 523(a)

Bankruptcy Rule: 4007

3/20 Dischargeability, Reaffirmation, and Post-Discharge Protection.

Reading: pp. 685-694 and answer Problems 1 and 3 on p. 689.

Code Section: 524, 525

Week #10 – March 25

3/25 Claims

Reading: 173-205 and answer Problems 1-7 on pp. 176-177.

Code Sections: 502(a) and (b)

3/27 Claims

Reading: pp. 205-216; 217-228; 234-247 and answer Problems 1, 2 & 6 on p. 227.

Code Sections: 303(b), 502(c), 507(a), 704(1), 726, 1325(a) and (b)

Week #11 – April 1

4/1 Claims

Reading: pp. 248-257; 267-278; 295-301; 311-315; 333-345

Code Sections: 506(a) and (c), 554, 1322(b)(2), (b)(3), and (b)(5), 1325(a)(5)

4/3 Trustee Avoidance Powers

Reading: pp. 351-362; 382-398 and answer Problems 1-6 on p. 385.

Code Sections: 541, 542, 547, 548

Week #12 – April 8

4/8 **No Class – Eclipse Day**

Trustee Avoidance Powers (this class will be recorded and posted to D2L)

Reading: pp. 398-430 and answer Problem 1-7 on p. 413 and Problems 1-2 on p. 415.

Code Sections: 542, 550

4/10 Trustee Avoidance Powers

Reading: pp. 442-464 and answer Problems 1-3 on p. 443 and Problem 1 on p. 464.

Code Sections: 522(f), 542, 544, and UCC §9-317(a)

Week #13 – April 15

4/15 Trustee Avoidance Powers

Reading: pp. 465-484

Code Sections: 541, 545, 549, 553

4/17 Executory Contracts

Reading: pp. 505-530 and answer Problem 1 on p. 546 and Problem 3 on p. 556.

Code Section: 365

Week #14 – April 22

4/22 Executory Contracts

Reading: pp. 540-576

Code Section: 365, 524(c), (d), (k)-(m), 525

4/24 The Practice of Bankruptcy Law

We will spend time in class looking at a bankruptcy petition and learning what it takes to represent debtors in bankruptcy.

In addition, I will post a review session that takes the place of our missed class because of the Martin Luther King, Jr. Holiday. It will be available the entire last week of the semester.