

Syllabus - Fall 2009
BANKRUPTCY
Prof. Steven H. Resnicoff

Getting in Touch With me:

You can contact me by phone, at 312-362-8137 (office) or 773-973-2335 (home). My office is 800-A (turn left as you exit the 8th-floor elevators). My “official” office hours will be announced at the first class. Nevertheless, I am often in my office and you are invited to stop by at any time. In addition, you can call me to schedule a mutually convenient time to meet. I know that many students may find it easier to communicate between classes by e-mail than in person or by phone. Consequently, I also invite you to e-mail me at sresnico@depaul.edu. When you do, however, please type “**DePaul Bankruptcy Course**” in the subject heading of your messages.

BLACKBOARD WEB SITE:

There is a blackboard web site for this course. I intend to use this site as an important way to communicate with you and to provide materials to you. If you have any trouble *finding* the Blackboard site for this course, please contact DePaul’s Technology Assistance Help Desk.

Because you will be responsible for all I send via Blackboard, it is *imperative* that *you* make sure that the Blackboard site has your correct e-mail address. Blackboard uses the e-mail address that was entered for you in CampusConnect. Here’s how you may check and, if necessary, correct that e-mail address:

1. Go to <http://campusconnect.depaul.edu>
2. Click on "demographic portfolio"
3. Click on e-mail addresses
4. Update the e-mail address and hit "save."

You should check the blackboard web site at least once between every two of our classes.

A NOTE ABOUT LEARNING DISABILITIES

Students with learning disabilities may be entitled to certain accommodations. But to ensure that these accommodations are provided, students must disclose their disabilities to, and request accommodations from, Assistant Dean Charlotte Taylor (312-362-8183; e-mail ctaylor@depaul.edu), as early in the term as possible. Alternatively, you may disclose learning disabilities and request accommodations from DePaul’s Office for Students with Disabilities (773-325-7290; <http://studentaffairs.depaul.edu/studentswithdisabilities/>) or from the PluS Program (773-325-1677; <http://studentaffairs.depaul.edu/plus/>). Law school grades are important. If you have a learning disability, please make sure to disclose them and request accommodations BEFORE you undertake graded assignments or tests rather than afterwards, when it may be too late to provide such accommodations.

IF PERSONAL PROBLEMS ARISE DURING THE SEMESTER

Life is complex. At any given time, something might happen that could substantially interfere with a student’s law school performance. When this happens, some students fail to notify the proper law school officials and merely plod ahead. There are many reasons why someone might

act this way (*e.g.*, overconfidence, embarrassment, etc.). Nevertheless, whatever the reason, this course of conduct is a mistake. Students who follow it imperil their professional careers, because once poor grades are received, their impact is permanent. Consequently, if something arises in your life that affects your ability to perform at DePaul, you should promptly contact Diana White (312-362-8537; dwhite@depaul.edu), Assistant Dean for Student Affairs, to explore the alternatives available to you. (Of course, you may in addition seek guidance from your professors.) Do NOT wait until after an exam is given or after a paper (in those classes requiring a paper) is due. (Note: Look out for your friends as well. If something happens to one of them that detrimentally affects his or her academic performance, encourage that friend to contact Dean White.)

TEXTS:

1. REQUIRED:

- a. Charles J. Tabb & Ralph Brubaker, *Bankruptcy Law: Principles, Policies & Practice* (2nd edition), ISBN 0-8205-7039-7
- b. Selected Commercial Statutes (2009 edition), with the Bankruptcy Code & Bankruptcy Rules

2. **MATERIALS** available on the “Course Documents” page of the Blackboard web site for this course. Such materials are referred to in this Syllabus as “**HANDOUTS.**” **Whenever such materials are assigned, you must print them out, read them before class, and bring them to class.**

In addition, one document available on the web site is a SUPPLEMENT to the casebook.

SCOPE OF COURSE:

We will focus substantially on federal bankruptcy law. However, because experience tells me that most students have not taken secured transactions and because secured transactions is important to the course, we will spend the first week or so learning the basics of secured transactions law. **MUCH, but not all, OF THIS MATERIAL IS COVERED IN THE ASSIGNMENT FOR THE FIRST CLASS - PLEASE MAKE SURE YOU READ IT BEFORE CLASS.**

GRADING:

Your final grade will be based primarily on the **final examination**. Nevertheless, it may also be affected by class participation, as set forth below. Furthermore, the final grade distribution, and the specific rules set forth herein, are limited by any applicable Law School rules, including rules regarding grading curves.

FINAL EXAM:

Your final grade will be determined on the basis of a 3-hour final exam. The final exam will be **ESSENTIALLY OPEN BOOK**. You may bring into the exam your notes, your casebook and supplement, any handouts distributed during the semester and any outlines prepared by you. You may NOT bring into the exam any other materials, such as hornbooks, commercial outlines,

nutshells, and the like. A word of caution: DO NOT count on being able to look up many things in the materials you are allowed to bring. There simply will not be time for that. Prepare as if the exam were NOT open book exam and use your materials only as a last resort. The "basic grade" will be your grade on the final exam.

CLASS PARTICIPATION:

To the extent allowed by applicable Law School rules, I reserve the right to raise a student's "basic grade" for **outstanding** class participation and to lower a student's "basic grade" for **poor** classroom performance. Lack of participation or preparation, however, may be the basis for subtracting points from your score on the final exam - even if a student attends every class.

SEATING CHART:

Each student **MUST** print his or her name on the seating chart by the end of the drop-add period.

CLASS ASSIGNMENTS:

The following symbols are used below:

1. **T** = Tabb & Brubaker casebook
2. **P#** = Problem number in the Casebook
3. **S** = The Supplement to the Tabb & Brubaker casebook. This Supplement is available on our Blackboard site.

COMPLETE ASSIGNMENTS PRIOR TO CLASS.

NOTE: Although the assignments are set forth on a class-by-class basis, the truth is that in any given semester we may spend more time on one topic and less on another. Consequently, our precise pace is not really entirely predictable.

Consequently, try to keep at least one-half assignment *ahead* of that which is indicated on the Syllabus.

Class #1:

Topic #1 - Secured transactions primer

1. Go to the Blackboard web site, print out **Handout - Primer on Liens**, read it, prepare answers to all of the Problems set forth therein, and bring the handout and your answers to class.
2. Special discussion of purchase money security interests and statutory liens – no specific reading assignment

Class #2:

Topic #2 – Debt Collection Outside of Bankruptcy Law

1. Read T, pp. 1-13.
2. Go to the Blackboard web site, print out **Handout - FFDCPA**, read it, and bring it to class. You will be asked questions about the FFDCPA in class.

Topic #3 - Introduction to Bankruptcy

1. Go to the Blackboard web site, print out Handout- Shanker article and read it.

2. Read T, pp. 57-77
Read S p. 2 (Remember “S” stands for the Supplement to the Tabb book) as to
T p. 57-58
3. Go to the Blackboard web site, print out **Handout - Basic Bankruptcy Concepts**,
read it, and bring it to class.

Class #3:

Topic #4 - Invoking Bankruptcy Relief Voluntarily

1. Read Code Section 109 *carefully* - especially all parts of 109(h)
2. Read T, pp. 79-101.
Read S p. 3 as to T p. 92
3. Be prepared with answers to P#2.1 and 2.2.

Class #4:

Topics #5 & #6: Effects of Filing & Commencement of an Involuntary Case

1. Read Code Section 108 carefully
2. Read Code Section 303 carefully
3. Read T, pp. 102-112
Read S p. 3 as to T p. 106
4. Be prepared with answers to the questions on p. 20 and to P#2.3, 2.4 & 2.5

Class #5:

Topic #7 - Dismissal

1. Read Section 707
2. Read T, pp. 114-121
Read S, pp. 3-6 as to T p. 114
3. Be prepared with answers to P#2.6 & 2.7.

Class #6:

1. Go to the Blackboard web site, print out **Handout - the Means Test**, read it, and
bring it to class
2. Read T, pp. 121-143, plus Section “E. Conversion” on p. 154.
Read S, pp. 6-12 as to the reading assignment in T.
3. Be prepared with answers to P#2.8(a), (b), (c), (d), 2.10, and 2.12(1).

Class #7:

Topic #8 - The Bankruptcy Estate (Introduction)

1. Go to the Blackboard web site, print out **Handout - Property of the Estate**, read it, and
bring it to class.

Class #8:

Topic #8 - The Bankruptcy Estate (continued)

1. Read T, pp. 163-172; 180-192
Read S, p. 14 as to T, p. 185

2. Be prepared with answers to P#3.1

Class #9:

Topic #9 - The Automatic Stay

1. Read 362(a), (b)(1)-(b)(8),(c),(d) and (e)
2. Read T, pp. 193-218
3. Be prepared with answers to P#4.1 & 4.2

Class #10:

Topic #9 (continued)

4. Interaction between dismissals and automatic stay

Topic #10 - Claims (introduction)

1. Go to the Blackboard web site, print out **Handout - Claims**, read it, and bring it to class.

Class #11:

Topic #10 - Claims (continued)

2. Read T, pp. 229-266,283-288
Read S, p. 16 as to T, pp, 258, 284 and 287
3. Be prepared with answers to P#5.1 & 5.2

Class #12:

Topic #11 - Secured Claims

1. Go to the Blackboard web site, print out **Handout - Secured Claims**, read it, and bring it to class.
2. Read T, pp. 293-314
3. Be prepared with answers to P#6.1, 6.2 & 6.3

Class #13:

Topic #11 – Secured Claims (continued)

4. Go to the Blackboard web site, print out **Handout - Setoffs**, read it, and bring it to class.
5. Read T, pp. 314-330
Read S, pp. 17-21, as to T, p. 315
6. Be prepared with answers to P#6.4

Class #14:

Topic #11 - Secured Claims (continued again)

Topic #12 - Relief from Automatic Stay

1. Read Section 362(d)(1) & (2), (e)
2. Go to the Blackboard web site, print out **Handout - Automatic Stay**, read it, and bring it to class.
3. Read T, pp. 331-360, 364-367
4. Be prepared with answers to P#7.1, 7.2 & 7.3

Class #15:

Topic #13 - Executory Contracts and unexpired leases

1. Read T, pp. 369-383, 406-408, 413-418, 425-432, 453-460
2. Be prepared with answers to P#8.1, 8.2 & 8.3

Class #16:

Topic #13 – Executory Contracts and unexpired leases (continued)

Topic #14 – Avoidance Powers

1. Go to the Blackboard web site, print out **Handout - Avoidance Powers - Timing**, read it, and bring it to class.
2. Read T, pp. 461-476, 485-487; 509-510
3. Be prepared with answers to P#9.1 & 9.3

Class #17:

Topic #14 – Avoidance Powers (continued)

4. Go to the Blackboard web site, print out **Handout - RFRA**, read it, and bring it to class.
5. Go to the Blackboard web site, print out **Handout - Strong Arm Power**, read it, and bring it to class.
6. Read T, pp. 511-516
7. Be prepared with answers to P#9.7 & 9.8

Class #18:

Ungraded, in-class test (about 1 hour)

Class #19:

Review the ungraded, in-class test

Class #20:

Topic #14 - Avoidance Powers (continued)

1. Go to the Blackboard web site, print out **Handout - Preferences**, read it, and bring it to class.
2. Read T, pp. 523-527, 528-530, 545-550
Read S, p. 24, as to T, p. 529
3. Be prepared with answers to P#9.9, 9.10, 9.11

Class #21:

Topic #14 - Avoidance Powers (continued)

Topic #15 - Setoff and recoupment

1. Go to the Blackboard web site, print out **Handout - Section 553**, read it, and bring it to class.
2. Read T, pp. 556-564

Class #22:

Topic #16 - Discharge (Introduction)

1. Go to the Blackboard web site, print out **Handout - Discharge**, read it, and bring it

- to class.
2. Read Section 524(a)
 3. Read T, pp. 565-596
Read S, p. 25 as to T, p. 572
 4. Be prepared with answers to P#10.1

Class #23:

Topic #16 - Discharge (continued)

5. Read T, pp. 596-612, 628-634, 636-642, 650-651
Read S, p. 25 as to T, p. 598
6. Be prepared with answers to P# 10.2 & 10.3

Topic #17 – Exemptions and Exemption Planning

1. Read T, pp. 653-671, 676-690
Read S, pp. 26-27 as to T, pp. 685, 689

Class #24:

Topic #17 – Exemptions and Exemption Planning (Continued)

2. Go to the Blackboard web site, print out **Handout - Exemptions from Property of the Estate**, read it, and bring it to class.
3. Be prepared with answers to P#11.3, 11.4, 11.5 & 11.6

Class #25:

Topic #18 - Chapter 13 reorganizations

1. Go to the Blackboard web site, print out **Handout - Chapter 13 reorganizations**, read it, **follow its directions** and bring it to class.

Class #26:

Topic #19 - Chapter 11 Reorganizations (Introduction)

1. Go to the Blackboard web site, print out **Handout - Chapter 11 Introduction**, read it, print it out and bring it to class.
2. Read T, pp. 707-721, 747-766
3. Go to the Blackboard web site, print out **Handout - Chapter 11 Plan confirmation**, print it out, read it, **follow its directions**, and bring it to class.

Class #27:

Topic #19 - Chapter 11 Reorganizations (continued)

Topic #20 - Running the debtor's business after the filing of a bankruptcy

Class #28:

Catch-up and Review