

ANTONIN SCALIA LAW SCHOOL
at
GEORGE MASON UNIVERSITY

BANKRUPTCY LAW: 167-001
Fall 2022

SYLLABUS

Craig B. Young, Adjunct Professor

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Course Schedule: This course will meet on Mondays and Wednesdays from 8:10 PM until 9:35 PM.

Office Hours: Professor Young is available to meet before or after classes or to schedule a telephone or Zoom conference with individual students upon request. You may request a conference by email or text. Students also may send questions or comments by email or text at any time. You should receive a response within 24 hours. Professor Young reserves the right to share with the entire class any individual questions or discussions he deems will be helpful to everyone.

Text: ***Bankruptcy Law – Principles, Policies, and Practice*** (“*Bankruptcy Law*”) Charles J. Tabb, Ralph Brubaker. 2021 Lexis-Nexis. (*5th Edition*). (ISBN 978-1-5310-1362-2; e-ISBN 978-1-5310-1363-9), 2022 Supplement (“Supplement” to be provided by Professor Young); **U.S. Bankruptcy Code** (“*Bankruptcy Code*” or “*BC*”) and **Federal Rules of Bankruptcy Procedure** (“*Bankruptcy Rules*” or “*BR*”) (dated 2021 or later). (The Bankruptcy Code and Bankruptcy Rules can be accessed online; but beware – many sites are not up to date). **Internet** access to <http://www.vaeb.uscourts.gov>

Course Overview: This course covers the basics of bankruptcy for individuals and entities including liquidation under chapter 7 of the Bankruptcy Code and reorganization for individuals under chapter 13 and for entities under chapter 11.

Learning Outcomes: By the end of this course students will:

- Understand the philosophy of bankruptcy as applied to individuals and entities facing serious financial hardships
- Understand the relationship between bankruptcy law and other laws related to financial transactions and issues such as real estate law or the Uniform Commercial Code

- Be able to identify when and why an individual or an entity should consider using bankruptcy as a solution to financial hardships
- Know how to use bankruptcy to resolve financial hardships encountered by individuals and entities
- Know how to use the Bankruptcy Code and Bankruptcy Rules to protect the rights of creditors

Instructor Expectations and Course Structure:

- Students are expected to read assigned Text materials in advance of each class and are encouraged to participate during class by way of discussion and questions.
- This is an advanced course and not taught using the Socratic Method. Students will not be called on specifically but will be encouraged to volunteer their participation.
- Additional materials will be shared during the course by way of TWEN and email. Students are encouraged to use their MasonLive email accounts but may request email communications using other email addresses.

Attendance: Regular and punctual attendance is required to earn academic credit. Attendance requirements for academic credit will follow the policies set forth in Academic Regulation 4-1. Should a student anticipate missing a substantial number of class sessions (*e.g.* a serious illness), the student should immediately contact the Assistant Dean, Student Academic Affairs.

Professor Young will keep attendance during the course and will mark a student as absent if not seen visually or known to be properly participating through Zoom. In accordance with Academic Regulation 4-1.1, “A student who is not present for at least 75 percent of a session of the course is absent from that session.” If a student misses more than four class sessions, Professor Young is obligated to report such absence to the Assistant Dean, Student Academic Affairs.

Class Recordings Prohibited: Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device or camera. Any exceptions to this policy must be expressly permitted in writing by Professor Young.

- There is no plan or expectation at this time for this course to be recorded.

COVID Health & Safety Requirements: All classes will be in-person. Masks are now optional.

Exam: The exam for this course is take-home with open book. Any resource – except other students, friends, colleagues or other persons – may be used during the taking of the exam. Students may take the exam at any time during the exam period (November 30 – December 12, 2022) provided (i) each student must pick up the exam from and return the exam and answer to the Records Office within a 24-hour period; and (ii) the exam must be returned before the end of the exam period (COB December 12). The exam will be two fact patterns with three or four questions for each fact pattern. In accordance with

Academic Regulation 4-4.1, excuses and requests for permission not to sit for an examination when scheduled must be presented, with appropriate documentation, to the Assistant Dean, Student Academic Affairs. Except in emergencies, such requests should be presented no later than two weeks before the date of the examination.

University Life provides student support resources such as Counseling and Psychological Services (<https://caps.gmu.edu/>), Student Health Services (<https://shs.gmu.edu/>), and the Student Support and Advocacy Center (<https://ssac.gmu.edu/>). For more information about University Life on the Arlington Campus, please visit: <https://ularlington.gmu.edu/>

COURSE SCHEDULE AND ASSIGNMENTS:

Class 1 August 22, 2022 – Introduction. What is Bankruptcy? Read: *Bankruptcy Law* Chap. 1, pgs. 1-77; You may **SKIP:** *Vitale v. Hotel California*, pg. 25; *Illi, Inc. v. Margolis*, pg. 29; *U.S. v. McDermott*, pg. 36; *Grupo Mexicano v. Alliance Bond Fund, Inc.*, pg. 48; (You may skip Introduction to Bankruptcy, pg. 56, but you are encouraged to read the history of bankruptcy, pg. 59, at some point); read *Henson v. Santander Consumer USA Inc.*, 582 U.S. ___, 137 S. Ct 1718 (2017) (TWEN); review *Bankruptcy Code* §§ 101, 109.

Class 2 August 24, 2022 – Commencement of Bankruptcy. Read: *Bankruptcy Law* Chap. 2 pgs. 79-94, skim 161-170 (involuntary bankruptcy); You may **SKIP** *In Re SGL Carbon Corporation*, pg. 94-105; Supplement pgs. 3-23; read *In re: National Rifle Association et al.*, Case No. 21-30085 (HDH) Order dated May 11, 2021 (go to TWEN); review *Bankruptcy Code* §§ 101, 109, 301, 303, 521, 522; 28 U.S.C. §157; 28 U.S.C. §§ 1408, 1409; *Bankruptcy Rules* 1002, 1004, 1007, 4003.

Class 3 August 29, 2022 – “Good Faith” and the “Means Test”. Read: *Bankruptcy Law* Chap. 2, pgs. 109 -161; review *Bankruptcy Code* §§ 305, 707, 1112, 1208, 1307; *Bankruptcy Rule* 1017; see *Bankruptcy Form B-122 A-2* (go to TWEN).

Class 4 August 31, 2022 – Property of the Bankruptcy Estate. Read: *Bankruptcy Law* Chap. 3, pgs. 171-199; Supplement pg. 24; review *Bankruptcy Code* §§ 541, 542, 543.

September 5, 2022 – Labor Day. No Class.

Class 5 September 7, 2022 – The Automatic Stay. Read: *Bankruptcy Law* Chap. 4, pgs. 201-237; *Bankruptcy Code* §§ 362; *Bankruptcy Rule* 4001.

Classes 6, 7 & 8 September 12, 14 & 19, 2022 – Unsecured Claims. Read: *Bankruptcy Law* Chap. 5, pgs. 239-300; Supplement pg. 25; *Bankruptcy Code* §§ 101(5), 726, 727, 501, 502, 503, 507; 28 U.S.C. § 959(a) and (b). You may **SKIP** *Alabama Surface Mining Comm. v. N.P. Mining Co. (In re: N.P. Mining Co.)*, text pg. 286. For Class 6 read through page. 255; for Class 7 read to page 274; for Class 8 finish chapter.

Class 9 & 10 – September 21 & 26, 2022 -- Secured Claims. Read: *Bankruptcy Law* chap. 6, pgs. 301-350; You may **SKIP** *Hartford Underwriters Ins. Co. v. Union Planters Bank*, pg. 345; review *Bankruptcy Code* §§ 506(a), (c), (d), 362(c), (d), 363, 554, 521, 101, 102(2). For Class 9 read through page 329.

Class 11 – September 28, 2022 -- Relief from Stay and Adequate Protection. Read: *Bankruptcy Law* Chap. 7, pgs. 351-386; *Bankruptcy Code* §§ 361, 362.

Class 12, 13 & 14 – October 3, 5 & 11* – Executory Contracts & Unexpired Leases. Read: *Bankruptcy Law* Chap. 8, pgs. 387-470; You may **SKIP** *In re Enron Corp.*, pg. 401, *In re Klein Sleep Products*, pg. 436; review *Bankruptcy Code* §365. For Class 12 read through pg. 397; for Class 13 read through 427; finish chapter for Class 14.

*** October 10 meets on October 11.**

Class 15, 16 & 17 – October 12, 17 & 19, 2022 - Avoiding Powers. Read: *Bankruptcy Law* Chap. 9, pgs. 471-596; Supplement pg. 26; review *Bankruptcy Code* §§ 544, 545, 546, 547, 548, 550. For Class 15 read through pg. 485; for Class 16 read through 514; finish chapter for Class 17.

Class 18 – October 24, 2022 – Discharge. Read: *Bankruptcy Law* Chap. 10, pgs. 597-668; Supplement pg. 27; review *Bankruptcy Code* §§ 101(5), 101(12), 523, 524, 525, 552, 727, 1141, 1328.

Class 19 & 20 – October 26 & 31, 2022 – Exemptions. Read: *Bankruptcy Law* Chap. 11, pgs. 669-716; Supplement pg. 28; *Bankruptcy Code* §§ 522, 727. For Class 19 read to pg. 684; for Class 20, finish the chapter.

Class 21, 22 & 23 – November 2, 7 & 9, 2022 – Chapter 11 Reorganization. Read: *Bankruptcy Law* Chap. 12, pgs. 717-852; Supplement pg. 29; review *Bankruptcy Code* §§ 105(a), 363, 364, 1102, 1103, 1104, 1106, 1107, 1108, 1121, 1122, 1123, 1124, 1125, 1126, 1128, 1141; *Bankruptcy Rule* 9019.

Class 24 – November 14, 2022 - Jurisdiction & Procedure. Read: *Bankruptcy Law* Chap. 13, pgs. 853-970.

Class 25 – November 16, 2022 – Transnational Bankruptcy Cases. Read: *Bankruptcy Law* Chap. 14, pgs. 971-1048.

Class 26 – November 21, 2022 – FINAL CLASS: Review.