
Preface to the Abridged Edition

This book evolved from a need to develop a nuts-and-bolts description of the bankruptcy system written in a manner that could be easily understood by nonlawyers.

Our primary intent has been to design this text as a basic primer for legal assistants or paralegal students to help them grasp the practical aspects of representing debtors or creditors within the bankruptcy system. To meet this challenge, we have explained practice and theory together in as concise a format as possible. We have chosen this approach because practice is almost always dictated by underlying theory, and it is easier to learn a practice when one has been provided with the basic theory behind it.

This Abridged Edition of *Basic Bankruptcy Law for Paralegals* reflects the many thoughtful comments of paralegal instructors and students from all over the country, some of whom have gone to exceptional effort to make sure their thoughts were heard, to enhance the practical nature of the text, and to further simplify the subtleties and nuances of the Bankruptcy Code and system. This edition focuses primarily upon consumer bankruptcy since the vast majority of bankruptcy cases are filed as consumer Chapter 7 or Chapter 13 cases. The generally Chapter 11 business related material has been significantly edited to provide just enough material to expose a consumer practitioner to the basic terms and concepts since they occasionally do appear in consumer practice.

Along with the now standard Practice Pointers and Practice Exercises features, this Sixth Abridged Edition continues the unique innovations introduced in the last edition, as well as utilizing the most up-to-date revisions to the Official Bankruptcy Forms and the most current dollar amount adjustments. In August 2019, a new subchapter was added to Chapter 11, the “Small Business Reorganization Act of 2019,” and we have been able to incorporate discussion of these new provisions in the text. This edition again focuses on chapter 3, Understanding the Client, where we introduce client interview skills and the interview process. In this chapter, we also present a detailed

fact pattern designed almost like a short story to both develop the interview concept and also to provide a reference basis for the instruction to come. In conjunction with this “story,” throughout the book we have included “Fact Pattern” references to tie the material on a given page back to the fact pattern presented in chapter 3. The hope is that this design will help to facilitate the learning process for the students, as they can tie the new material presented in each subsequent chapter back to the underlying fact pattern. This revised edition includes the most up-to-date statutory adjustment of dollar amounts, as revised triennially, most recently on April 1, 2022, to the exemption amounts and other provisions in the Code. Combined, these innovations and revisions represent the cutting edge in bankruptcy education.

Paralegals are invaluable in the bankruptcy system. Under proper legal supervision, paralegals can efficiently perform various tasks for clients at a substantial savings. Because much of bankruptcy practice is routine, presenting these routines and the reasons for them will help a paralegal be properly prepared to assist in a debtor or creditor bankruptcy practice. The introduction describes the role of paralegals in the bankruptcy system. The student should read the introduction twice, once at the beginning of the course and again at the end. In this way, the material will act as both an introduction and final review of the course.

It has not been our intent to analyze the complex subtleties of the Bankruptcy Code and its attendant case law interpretation, but rather to describe the routine events that occur in all bankruptcy proceedings, events that normally occur without dispute or litigation. These events account for a majority of bankruptcy practice, much of which is not problematic. Thus, law students and nonbankruptcy attorneys may also find this text a useful reference tool for finding answers to common bankruptcy questions.

For example, by reading chapter 5 of the Abridged Edition, the forms accompanying chapter 5 in the forms materials, and Appendix 1, any student or practitioner can quickly learn the basic principles of providing notices to creditors or parties in interest in bankruptcy proceedings, and learn about the documents and the timing involved, while receiving some guidance as to the existence of applicable local rules in a given district.

Our philosophical goal in undertaking this work has been to describe the Bankruptcy Code as a comprehensive system of debtor relief and debt system. We are honored to have been given the opportunity to evolve the original work from the laboratory of actual use.

Upon completing this undertaking we have reached the inescapable conclusion that the Bankruptcy Code exists first and foremost as a tool of debt collection and not of debtor relief. Conversely, the debtor relief afforded by the Bankruptcy Code is among the most liberal relief ever provided in the evolution of bankruptcy laws in Western civilization. Nonetheless, the 2005 BAPCPA legislation has been perceived by many to restrict debtor relief while enhancing the debt collection aspects of the Code.

This edition has also been prepared with the secondary purpose of aiding creditor representatives in understanding how the bankruptcy system may be properly utilized as a debt collection device to increase overall recovery rates. We are optimistic that having described the Bankruptcy Code in this manner we may aid, however slightly, in enhancing the efficiency of the system.

We hope you find the text useful and practical as the teaching device it is intended to be.

Finally, please note that the text occasionally refers to forms materials. The forms are available for download. All forms can be accessed at the publisher's website that accompanies this text: www.AspenPublishing.com/Buchbinder-BankruptcyAbridged6.

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