Table of Contents

Preface xxvii Acknowledgements xxxi



Chapter One: Introduction to Consumer Bankruptcy	3
A. Consumer Debt and the Rise of Consumer Bankruptcy	3
In re Hlavin	6
B. Brief Profile of Consumers Who File for Bankruptcy Relief	14
Chapter Summary	16
Applying the Concepts	17
Chapter Two: Secured and Unsecured Consumer Debt	19
A. Consensual Security Interests in the Debtor's Property	20
1. Consensual Security Interests in Personal Property of the Debtor	21
Giles v. First Virginia Credit Services, Inc.	23
2. Consensual Security Interests in Real Property of the Debtor	31
Power of Sale Foreclosure	34
Judicial Foreclosure	37
Alternatives to Foreclosure	39
B. Consensual Suretyship and Guaranty Arrangements as a Form	
of Security	40
C. Non-Consensual Liens in the Debtor's Property	43
1. Possessory Liens on Personal Property	43
The Artisan's Lien	43
The Landlord's Lien	45

xii

The Warehouseman's Lien	46
The Article 2 Buyer's Lien	47
The Attorney or Accountant's Retaining Lien	48
The Vendor's Lien	48
Priority of Possessory Liens	48
Charter One Auto Finance v. Inkas Coffee Distributors Realty	49
2. The Attorney's Charging Lien	54
3. The Healthcare Services Lien	54
4. Mechanics' and Materialman's Liens on Real Property	55
5. Lien Lis Pendens	60
6. Tax Liens	62
The Federal Tax Lien	62
State and Local Tax Liens	63
7. The Lien for Unpaid Child Support	64
8. The Judicial Lien	64
Muggli Dental Studio v. Taylor	65
9. The Vendor's Lien on Real Property	68
D. Predatory Lending to Consumer Debtors	69
Chapter Summary	73
Applying the Concepts	75
Chapter Three Collection of Concumer Dobt Prior	
Chapter Three: Collection of Consumer Debt Prior to Bankruptcy	70
to baliki uptcy	79
A. Non-Judicial Debt Collection	80
1. The Fair Debt Collection Practices Act	80
Whom the FDCPA Regulates	80
Heintz v. Jenkins	82
Activities Regulated by the FDCPA	85
Crawford v. LVNV Funding LLC	88
The "Initial Communication" and Section 809 Demand Letter	94
Penalties for Violating the FDCPA	97
2. State Statutory Regulation of Debt Collection Practices	99
3. Tort, Criminal, and Ethical Considerations in Debt Collection	99
4. The Debt Collection Settlement Industry	101

B. The Judicial Collection Process and Execution on a Final Judgment	102
 Postjudgment Motions or Right to Appeal as Delaying Execution on a Final Judgment 	104
2. Discovery in Aid of Execution (Postjudgment Asset Discovery)	104
3. Property Exempt from Execution	105
	103
The Homestead Exemption Personal Property/Income Source Exemptions	100
Applicability of Property Exemptions to Government Claims	107
The Effect of Concurrent Ownership of Property on Creditor Execution Efforts	100
Property Owned by a Married Couple	110
Tenancy in Common	110
Joint Tenancy	110
5. Trust Arrangements That May Defeat Creditor Execution Efforts	111
Spendthrift Trust	111
Domestic Asset Protection Trust	112
6. Methods of Executing on a Final Judgment	113
The Judgment Lien	113
Currier v. First Resolution Investment Corp.	117
The Writ of Execution	120
The Writ of Garnishment	124
7. Priority Among Competing Judicial Liens Created by	
Execution on the Debtor's Property	128
8. Continuing Execution on a Final Judgment	130
9. The Inclusion of Prejudgment Interest in Final Judgments and	
the Creditor's Entitlement to Postjudgment Interest	131
Prejudgment Interest	131
Postjudgment Interest	134
C. Fraudulent Transfers of a Debtor's Property	135
1. Transfers Made with Intent to Defraud	135
2. Transfers Made with Constructive Fraud	136
3. Remedies for Fraudulent Transfer	137
Chapter Summary	138
Anniving the Concents	130



Cl	napter Four: Introduction to Consumer	
Ba	Bankruptcy Practice	
A.	A Brief History of Debt Relief and Bankruptcy Laws	146
В.	An Overview of the Bankruptcy Code and the Types of Authorized Bankruptcy Proceedings	150
C.	The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005	153
D.	Important Sources of Law for Bankruptcy Practice	154
	1. The Federal Rules of Bankruptcy Procedure	154
	2. The Official Bankruptcy Forms	154
	3. The Federal Rules of Civil Procedure	155
	4. The Federal Rules of Evidence	155
	5. Local Court Rules	156
	6. Miscellaneous Provisions of the U.S. Code	156
	7. State Law	157
	Butner v. United States	158
E.	Number and Location of the U.S. Bankruptcy Courts	163
F.	11	
	Decision-Making Procedures in Bankruptcy Court	163
	1. Subject Matter Jurisdiction of the Bankruptcy Courts	163
	2. Appellate Process in a Bankruptcy Case	167
	3. Decision-Making Procedures in Bankruptcy Court	167
	Other Important Players in a Bankruptcy Case	169
	Electronic Filing in Bankruptcy Court	171
	Bankruptcy Software	172
	Web-Based Resources for Learning About Bankruptcy	173
	Introduction to the Bankruptcy Case Studies	174
L.	Alternatives to Bankruptcy for the Consumer Debtor	174
Ch	apter Summary	178
Ap	Applying the Concepts	

	napter Five: The Chapter 7 Case: The Means Test and Other Qualifications to File	181
A.	The Basic §109 Qualifications	182
В.	The §727(a) Prior Discharge Limitations	182
C.	The \$707(b) Means Test and Presumption of Abuse Limitation	
	for Individual Consumer Debtors	183
	1. Introduction to the Means Test and the Presumption of Abuse	183
	2. Step 1 of the Means Test: Comparing the Debtor's Annualized Monthly Income to the State Median Family Income Using OBF 22A-1	185
	In re Herbert	191
	3. Step 2 of the Means Test for the Above Median Debtor: Determining that Debtor's Disposable Monthly Income to Determine the Feasibility of Funding a Chapter 13 Plan Using OBF 22A-2	195
	Part 1 of OBF 22A-2: The Marital Adjustment	198
	Part 2 of OBF 22A-2: Deductions from the Debtor's	190
	Annualized Monthly Income	199
	In re Rivers	215
	In re Fredman	218
	Part 3 of OBF 22A-2: Determination of the Presumption	222
	4. Rebutting the Presumption of Abuse by Showing Special Circumstances	224
	5. Claiming Exemption from the Presumption of Abuse:	225
	OBF 22A-1 Supp	225
	6. The Right to Challenge the Debtor's Conclusion that the Presumption of Abuse Does Not Arise in His Case	225
	7. The U.S. Trustee's Duty to Notify the Court Whether the	223
	Presumption of Abuse Arises	226
	8. The Right to Seek Dismissal of a Chapter 7 Case for Abuse Arising from Bad Faith Filing or Evident from the Totality of the	
	Circumstances of the Debtor's Financial Situation	226
_	9. Final Thoughts on the BAPCPA Means Test	226
D.	The Prepetition Credit Counseling Requirement for All Individual Debtors	227
Րե		
	apter Summary	228

Chapter Six: The Chapter 7 Case: The Petition, Supporting Schedules, and Statements 23		
Α.	The Petition Commencing the Case	231
	1. The Voluntary Petition	231
	2. The Joint Petition, Consolidation, and Joint Administration	232
	3. Proper Venue for Filing the Petition	233
	4. Signatures on the Petition	233
	The Debtor's Signature	233
	The Signature and Certification of the Attorney for the Debtor	234
	In re Dean	235
	The Debtor's Attorney as a Debt Relief Agency	240
	Milavetz, Gallop & Milavetz v. United States	241
	The Signature of the Non-Attorney Petition Preparer	248
	5. The Filing Fee	249
	6. The Involuntary Petition	249
В.	Schedules, Statements, and Other Documents That	0.51
	Accompany the Petition	251
	1. The List of Creditors	252
	2. Schedule A, Real Property (OBF 6A)	252
	3. Schedule B, Personal Property (OBF 6B)	252
	4. Schedule C, Exempt Property (OBF 6C)	252
	How Exemptions Work	252
	The Federal Exemptions and Right of States to Opt Out	254
	Limitations on the Homestead Exemption: The 1,215-Day Rule	258
	Valuing Property Claimed as Exempt	259
	The Right to Object to a Claimed Exemption	260
	The Right to Avoid a Judicial Lien in Property Claimed as Exempt	261
	5. Schedule D, Creditors Holding Secured Claims (OBF 6D)	262
	6. Schedule E, Creditors Holding Unsecured Priority Claims (OBF 6E)	263
	7. Schedule F, Creditors Holding Unsecured Non-Priority Claims (OBF 6F)	263
	8. Schedule G, Executory Contracts and Unexpired Leases (OBF 6G)	264
	9. Schedule H, Codebtors (OBF 6H)	264
	10. Schedule I, Your Income (OBF 6I)	265
	11. Schedule J, Your Expenses (OBF 6J)	265
	12. Summary of Schedules (OBF 6-Summary)	266
	13 Declaration Concerning Debtor's Schedules (ORE 6 Declaration)	266

	Table of Contents	xvii
14. Statement of Financial Affairs (OBF 7)	266	
15. Statement of Intent by Individual Debtor (OBF 8)	267	
 Chapter 7 Statement of Your Current Monthly Income (OBF 22A-1) and Chapter 7 Means Test Calculation (OBF 22A-2 for the Above Median Debtor) 	267	
17. Statement of Social Security Number (OBF 21)	268	
18. Statement Disclosing Reasonably Anticipated Increase in Income or Expenditures over the 12-Month Period Followin the Date of Filing the Petition		
19. Statement Disclosing Compensation Paid or to Be Paid to th Attorney for the Debtor (OBF 203)		
20. Statement Disclosing Compensation Paid or to Be Paid to Non-Attorney Bankruptcy Petition Preparer (OBF 280)	269	
21. Copies of All Payment Advices or Other Evidence of Paymer Received from Any Employer Within 60 Days Before the Filing of the Petition	nt 269	
22. Record of Any Ownership Interest in an Education IRA or State Tuition Program	269	
23. Copy of the Debtor's Last Federal Income Tax Return	269	
24. Certification and Signature of Non-Attorney Bankruptcy Petition Preparer (OBF 19)	270	
25. Notice to Debtor by Non-Attorney Bankruptcy Petition Preparer (OBF 201B)	270	
26. Other Required Filings Mandated by Local Court Rules	270	
C. The Time Frame for Filing the Supporting Schedules, Stateme and Lists and FRBP 9006 for Computing Time Deadlines	ents, 270	
D. The Importance of Reporting Accurate and Complete Information and of Employing Well-Qualified Assistants	271	
Chapter Summary	273	
Applying the Concepts	274	
Chapter Seven: The Chapter 7 Case: The Order for Relief, Bankruptcy Trustee, First Meeting of		
Creditors, and Automatic Stay	277	
A. The Order for Relief	277	
B. The Chapter 7 Bankruptcy Trustee	278	
1. Duties of the Bankruptcy Trustee	279	
2. Compensation of the Bankruptcy Trustee	280	
3. Hiring Professional Persons to Assist the Bankruptcy Trustee	e 280	

xviii Table of Contents

281
282
282
285
285
287
289
298
304
305
306
306
307
308
308
308
310
313
313
314
319
326
329
330
330
331
332
333

XIX	

Cł	napter Nine: The Chapter 7 Case: Property	
of the Estate		335
A.	Property of the Estate Defined	335
В.	Challenging the Debtor's Claimed Exemptions in Order to	
	Increase Property of the Estate	338
	Schwab v. Reilly	340
C.	The Trustee's Powers to Compel Turnover of Property of the Estate	347
	1. The Debtor's Duty to Turn Over Property to the Bankruptcy Trustee	347
	2. The Duty of Third Persons to Turn Over Property of the Estate	347
	3. The Duty of Custodians to Turn Over Property of the Estate	348
D.	The Trustee's Avoidance Powers Regarding Property of the Estate	348
	1. The Power to Avoid Unperfected Security Interests in the	2.10
	Debtor's Property	349
	2. The Power to Avoid Statutory Liens in Property of the Estate	350
	3. The Power to Avoid a Fraudulent Transfer of Property of the Estate	351
	4. The Power to Avoid Preferential Transfers of Property of the Estate	353
	The §547(c)(1) Equivalent Value Exception to the Trustee's Right to Avoid Preferential Transfers	356
	The §547(c)(2) Ordinary Course of Business Exception to the Trustee's Right to Avoid Preferential Transfers	357
	The \$547(c)(3) Enabling Loan Exception to the Trustee's Right to Avoid Preferential Transfers	359
	In re Carpenter	361
	5. Avoidance of Postpetition transfers	366
	6. Recovery of Avoided Transfer from the Party for Whose	
	Benefit It Was Made	366
	7. Time Limitations on the Trustee's Right to Bring an	2 -
	Avoidance Action	367
	apter Summary	367
Ap	plying the Concepts	368
Cł	napter Ten: The Chapter 7 Case: Liquidation,	
	stribution, and the Debtor's Right to Reaffirm	
	ebt or Redeem Property	371
A.	Liquidating Property of the Estate	371
	1. Abandonment of Property of the Estate	372
	Abandonment of Secured Property	372

Procedure for Abandonment	372
Procedure for Abandonment	373
2. The Sale of Property Free and Clear of Liens	373
3. The Sale of Other Property of the Estate	375
4. Continuing Operation of a Business Debtor as Part of the	
Liquidation	376
B. Distribution of the Estate to Creditors and Their Order of Priority	377
C. The Debtor's Right to Retain Property in a Chapter 7 Case: Reaffirmation, Redemption, Exemption, Ride Through,	200
and Lien Stripping	380
1. The Reaffirmation Agreement	380
2. The Right to Redeem Personal Property	390
3. Debtor's Right to Avoid Liens Impairing an Exemption	391
4. The Ride-Through Option	392
In re Waller	394
5. The Lien Stripping Option	398
Bank of America, N.A. v. Caulkett	401
Chapter Summary	405
Applying the Concepts	406
Chanter Flouen, The Chanter 7 Case	
Chapter Eleven: The Chapter 7 Case: Non-Dischargeable Debts, Objections to Discharge, Dismissed or Conversion, and the Final Discharge	400
	409
Non-Dischargeable Debts, Objections to Discharge,	409
Non-Dischargeable Debts, Objections to Discharge, Dismissal or Conversion, and the Final Discharge	
Non-Dischargeable Debts, Objections to Discharge, Dismissal or Conversion, and the Final Discharge A. Non-Dischargeable Debts	409
Non-Dischargeable Debts, Objections to Discharge, Dismissal or Conversion, and the Final Discharge A. Non-Dischargeable Debts 1. Taxes [§523(a)(1)] 2. Debts Created by Fraudulent Pretenses or False Financial	409 410
Non-Dischargeable Debts, Objections to Discharge, Dismissal or Conversion, and the Final Discharge A. Non-Dischargeable Debts 1. Taxes [§523(a)(1)] 2. Debts Created by Fraudulent Pretenses or False Financial Statement [§523(a)(2)(A)(B)] 3. Presumption of Fraud in "Last-Minute" Consumer Purchases	409 410
Non-Dischargeable Debts, Objections to Discharge, Dismissal or Conversion, and the Final Discharge A. Non-Dischargeable Debts 1. Taxes [§523(a)(1)] 2. Debts Created by Fraudulent Pretenses or False Financial Statement [§523(a)(2)(A)(B)] 3. Presumption of Fraud in "Last-Minute" Consumer Purchases of Luxury Goods or Services [§523(a)(2)(C)] 4. Debts Arising from Fraud or Defalcation in a Fiduciary	409 410 411
Non-Dischargeable Debts, Objections to Discharge, Dismissal or Conversion, and the Final Discharge A. Non-Dischargeable Debts 1. Taxes [§523(a)(1)] 2. Debts Created by Fraudulent Pretenses or False Financial Statement [§523(a)(2)(A)(B)] 3. Presumption of Fraud in "Last-Minute" Consumer Purchases of Luxury Goods or Services [§523(a)(2)(C)] 4. Debts Arising from Fraud or Defalcation in a Fiduciary Capacity [§523(a)(4)] 5. Debts Arising from Embezzlement or Larceny [§523(a)(4)]	409 410 411 411 412
Non-Dischargeable Debts, Objections to Discharge, Dismissal or Conversion, and the Final Discharge A. Non-Dischargeable Debts 1. Taxes [§523(a)(1)] 2. Debts Created by Fraudulent Pretenses or False Financial Statement [§523(a)(2)(A)(B)] 3. Presumption of Fraud in "Last-Minute" Consumer Purchases of Luxury Goods or Services [§523(a)(2)(C)] 4. Debts Arising from Fraud or Defalcation in a Fiduciary Capacity [§523(a)(4)] 5. Debts Arising from Embezzlement or Larceny [§523(a)(4)] 6. Domestic Support Obligations [§523(a)(5)] 7. Debts Arising from Willful or Malicious Injury to the Person	409 410 411 411 412 412
Non-Dischargeable Debts, Objections to Discharge, Dismissal or Conversion, and the Final Discharge A. Non-Dischargeable Debts 1. Taxes [§523(a)(1)] 2. Debts Created by Fraudulent Pretenses or False Financial Statement [§523(a)(2)(A)(B)] 3. Presumption of Fraud in "Last-Minute" Consumer Purchases of Luxury Goods or Services [§523(a)(2)(C)] 4. Debts Arising from Fraud or Defalcation in a Fiduciary Capacity [§523(a)(4)] 5. Debts Arising from Embezzlement or Larceny [§523(a)(4)] 6. Domestic Support Obligations [§523(a)(5)]	409 410 411 411 412 412 413
Non-Dischargeable Debts, Objections to Discharge, Dismissal or Conversion, and the Final Discharge A. Non-Dischargeable Debts 1. Taxes [§523(a)(1)] 2. Debts Created by Fraudulent Pretenses or False Financial Statement [§523(a)(2)(A)(B)] 3. Presumption of Fraud in "Last-Minute" Consumer Purchases of Luxury Goods or Services [§523(a)(2)(C)] 4. Debts Arising from Fraud or Defalcation in a Fiduciary Capacity [§523(a)(4)] 5. Debts Arising from Embezzlement or Larceny [§523(a)(4)] 6. Domestic Support Obligations [§523(a)(5)] 7. Debts Arising from Willful or Malicious Injury to the Person or Property of Another [§523(a)(6)]	409 410 411 411 412 412 413

	9.	Fines, Penalties, and Forfeitures Owed to the Government [\$523(a)(7)]	428
	10.	Personal Injury and Wrongful Death Claims Arising from DUI [§523(a)(9)]	428
	11.	Unlisted Debts [\$523(a)(3)]	428
В.	Ob	ojections to Discharge	429
		Dealing with Property for the Purpose of Hindering, Delaying, or Defrauding a Creditor [\$727(a)(2)]	430
	2.	Concealing, Destroying, Falsifying, or Not Keeping Books and Records [§727(a)(3) & (4)(D)]	430
	3.	Making a False Oath or Account or Using a False Claim [§727(a)(4)]	430
	4.	Lack of Satisfactory Explanation of Loss of or Inadequate Assets [§727(a)(5)]	430
	5.	Failure to Obey a Lawful Court Order or to Answer When Asked [§727(a)(6)]	431
	6.	A Prior Discharge [§727(a)(8)(9)]	431
	7.	Failure to Complete the Postpetition Financial Management Course [§727(a)(11)]	431
C.	Inv	voluntary Dismissal of a Chapter 7 Case	432
	1.	"For Cause" Dismissal for Unreasonable Delay, Nonpayment of Fees, or Failure to File Schedules	432
	2.	Dismissal for Abuse by Reason of Bad-Faith Filing or as Evident from the Totality of the Debtor's Financial Circumstances	433
		Calhoun v. U.S. Trustee	435
D.	De	ebtor's Right to Convert a Chapter 7 Case	442
Ε.		e Final Discharge, Closing the Case, and Prohibition on	
	Di	scrimination	443
	- 1	er Summary er Summary	445
Ap	plyi	ng the Concepts	446
CI	han	ter Twelve: The Chapter 13 Case: Debt	
		stment for an Individual with Regular	
	_	me—Filing the Case	449
Α.	Int	troduction to the Chapter 13 Case	450
	1.	The Purpose of Chapter 13	450
	2.	Eligibility to File a Chapter 13 Case	451
		In re Murphy	452
		In re Brown	458

Table of Contents

xxi

xxii Table of Contents

B. Filing a Chapter 13 Case	462
1. The Petition, Schedules, and Other Documents	462
2. Attorney's Fees in a Chapter 13 Case	463
3. The Standing Chapter 13 Trustee	464
C. The Order for Relief, Notice to Creditors, and Automatic Stay	
Under Chapter 13	465
D. Property of the Estate in a Chapter 13 Case	466
Cable v. Ivy Tech State College	470
E. The First Meeting of Creditors and Filing Proofs of Claim in a Chapter 13 Case	475
Chapter Summary	476
Applying the Assets	477
Chapter Thirteen: The Chapter 13 Case: Determining the Applicable Commitment Period and Debtor's Disposable Income	479
A. Determining the Applicable Commitment Period for a	
Chapter 13 Plan	480
Hamilton v. Lanning	486
B. Determining the Projected Disposable Income for a Chapter 13 Plan	495
1. Calculating Disposable Income for the Below Median Debtor	496
2. Calculating Disposable Income for the Above Median Debtor	500
Darrohn v Hildebrand	513
Musselman v. eCast Settlement Corp.	522
Chapter Summary	527
Applying the Concepts	527
Chapter Fourteen: The Chapter 13 Case: The Plan: Treatment of Priority and Secured Claims	52 9
A. Treatment of Priority Claims in the Chapter 13 Plan	529
B. Treatment of Secured Claims in the Chapter 13 Plan	530
Payment of the Secured Claim in Full and Retention of the Lien: The Pay Through Proposal	530
2. Avoiding a Lien That Impairs an Exemption in Property	
of the Debtor	530
3. Curing of Arrearages Created by Default	531

	Table of Contents	xxiii
In re Medaglia	533	
4. Reducing an Undersecured Claim to Present Value: Strip Dow	yn 537	
How Strip Down Works in General	537	
Exclusion of the Debtor's Principal Residence from the Strip Down Option—and Some Exceptions	p 538	
In re Zimmer	540	
In re Scantling	543	
In re Paschen	549	
Strip Down of Purchase Money Claim Secured by a Motor Vehicle: The 910-Day Rule of the §1325(a) "Hanging Parago	raph" 553	
Strip Down of Purchase Money Claim Secured by Property Than a Motor Vehicle: The Hanging Paragraph Strikes Agai		
How the Strip Down Value of Collateral Is Determined	555	
Determining the "Present Value" of the Collateral for Purposes of Plan Payments	556	
In re Wright	558	
5. Modifying a Secured Claim by Adjusting Payments	562	
6. Surrender of Secured Property	563	
In re Wright	564	
7. Sale of Property Free and Clear of Liens	568	
Chapter Summary	568	
Applying the Concepts	569	
Chapter Fifteen: The Chapter 13 Case: The Plan:		
Treatment of Non-Priority Unsecured Claims	571	
A. Treatment of Non-Priority (General) Unsecured Claims		
in the Chapter 13 Plan	571	
1. Curing Arrearages and Modifying the Obligation of Unsecured		
2. Classes of Unsecured Creditors in a Chapter 13 Plan	572	
B. Payment of Non-Priority (General) Unsecured Debt: The Less Than 100 Percent Plan	572	
	573	
The Liquidation Analysis Requirement The Liquidation Analysis Requirement	574 576	
2. The Liquidation Analysis Requirement C. Payments Outside the Chapter 13 Plan and the Wage Order	576	
C. Payments Outside the Chapter 13 Plan and the Wage Order D. Analysis of the Matthews' Chapter 13 Plan	579 582	
•		
Chapter Summary	584	
Applying the Concepts	585	

XXIV Table of Contents

	napter Sixteen: The Chapter 13 Case: Plan onfirmation, Modification, and Discharge	587
A.	Timing of the Chapter 13 Plan and Initial Payments	587
B.	Confirmation of the Chapter 13 Plan	588
	In re Montoya	590
	In re Hatem	594
C.	Living with the Confirmed Chapter 13 Plan	600
D.	Modifying a Confirmed Chapter 13 Plan	602
	In re Meeks	603
	In re Mellors	605
E.	The Chapter 13 Discharge	611
	1. Timing of the Discharge	611
	In re Edwards	612
	2. Requirements for Receiving a Chapter 13 Discharge	616
	3. Scope of the Chapter 13 Discharge: Non-Dischargeable Debts	617
F.	Conversion or Dismissal of a Chapter 13 Case	619
	1. Voluntary Conversion or Dismissal	619
	2. Involuntary Conversion or Dismissal	621
Ch	apter Summary	623
	plying the Concepts	624
Re	napter Seventeen: The Chapter 12 Case: eorganization for a Family Farmer or Family sherman with Regular Annual Income	627
A.	The Chapter 12 Reorganization for a Family Farmer or Family Fisherman with Regular Annual Income	628
В.	History, Purpose, and Qualifications to File Under Chapter 12	628
	Filing the Chapter 12 Case	630
	The Chapter 12 Trustee and the Debtor as "Debtor in Possession"	631
	In re Jessen	632
Ε.	The Automatic Stay, First Meeting of Creditors, and Filing	
_,	Proofs of Claim in a Chapter 12 Case	637
F.	Property of the Estate and the Debtor's Turnover and	
	Avoidance Powers	638
G.	The Chapter 12 Plan	638

H. Confirming the Chapter 12 Plan 639 I. Living with a Chapter 12 Plan 640 J. Conversion or Dismissal of a Chapter 12 Case 641
I. Living with a Chapter 12 Plan 640
j. Conversion of Dismissur of a Chapter 12 Case
K. The Chapter 12 Discharge 641
one, and a second of the secon
Applying the Concepts 643
Chapter Eighteen: Jurisdictional and Procedural
Issues in Bankruptcy Practice 645
A. Subject Matter Jurisdiction of the Bankruptcy Courts 645
1. Distinguishing Between Article III and Article I Courts,
Public and Private Rights, and the Need for Referral Jurisdiction 645
The "Arising Under," "Arising In," or "Related To" Jurisdiction of the District Courts 647
Referral Jurisdiction to the Bankruptcy Courts 648
2. Core and Non-Core Proceedings 649
In re Atwood 652
3. The Right to a Jury Trial in Bankruptcy Court 657
B. Constitutional Limits on the Power of Bankruptcy Courts
to Enter Final Judgments in Core Proceedings: Constitutional
Jurisdiction 657
Stern v. Marshall 659
Wellness International Network, Ltd. v. Sharif 667
C. The Effect of a Prepetition Arbitration Agreement on the Bankruptcy Court's Power to Decide a Dispute 674
D. Personal Jurisdiction of the Bankruptcy Courts 678
In re Tandycrafts, Inc. 681
E. Appeal of a Bankruptcy Court Order 683
F. Procedures for Resolving Disputes in a Bankruptcy Case 686
1. Contested Matters 687
By Motion 688
By Objection 688
By Notice of Intended Action 688
Ex Parte Practice in Bankruptcy Court 692
2. Adversary Proceedings 692
Chapter Summary 694
Applying the Concepts 695

xxvi Table of Contents

Appendix A: In re Marta Rinaldi Carlson Chapter 7 Bankruptcy [Inactive File]	699
Appendix B: In re Roger H. and Susan J. Matthews Chapter 13 Bankruptcy [Inactive File]	705
Appendix C: In re Abelard R. Mendoza Chapter 7 Bankruptcy [Active File]	709
Appendix D: In re Nicholas W. and Pearl E. Murphy Chapter 13 Bankruptcy [Active File]	737

Glossary 751
Table of Cases 771
Index 775