



# Preface

## Approach

There are two fundamental premises underlying this book. The first is that the specialized study of bankruptcy requires an adequate foundation in other aspects of debtor/creditor relations that are too often ignored or treated only superficially in bankruptcy texts. Grasping bankruptcy concepts and procedures is challenging enough for those who understand loans, lines of credit, installment sales, consensual security arrangements involving real and personal property, surety and guarantor arrangements, statutory and equitable liens, and the priority issues that arise in all those debtor/creditor relationships. Without that foundation, the student undertaking the study of bankruptcy is at a serious disadvantage. Debt collection is another fundamental aspect of debtor/creditor relations that deserves much more attention than it usually receives in texts for this field. This book is unique in that it comprehensively addresses the topics of how consumer and business debt is created and collected (Part A) preparatory to the in-depth study of the consumer bankruptcy case under Chapter 7 or Chapter 13 of the Code (Part B) and the business bankruptcy under Chapter 11 of the Code (Part C).

The second fundamental premise of this book is that bankruptcy and related areas of debtor/creditor law are best taught using a realistic, **case-study** approach. While most current bankruptcy texts avoid the error of teaching too much theory, many err in utilizing a piecemeal approach, in which topics such as the automatic stay, adequate protection, turnover and avoidance powers, cramdown and impairment options, postpetition debt, the use of cash collateral, the assumption or rejection of executory contracts, etc., are presented in isolation, making it difficult for the student to understand when and how such concepts come into play in a particular bankruptcy case. This book is unique in that it uses realistic, current case studies to introduce, explain, and illustrate bankruptcy law and procedure. Students see how a bankruptcy case unfolds, from the moment a debtor makes contact with a lawyer until the case is closed. That chronological, step-by-step approach is used to study cases filed under Chapter 7, Chapter 13, and Chapter 11. This book aspires not just to teach students “about” bankruptcy, but to teach them how to “do” bankruptcy.

## Organization of the Book

The text is divided into three parts:

- Part A:** The Creation and Collection of Debt Prior to Bankruptcy (Chapters Two through Five)
- Part B:** Consumer Bankruptcy under Chapter 7 and Chapter 13 of the Code (Chapters Six through Sixteen)
- Part C:** Business Bankruptcy under Chapter 11 of the Code (Chapters Seventeen through Twenty)

Following an introductory chapter that explains the learning approach to be used and debuts the three case studies utilized throughout Parts A and B of the text, Part A addresses the important distinctions between consumer and business debt and between secured and unsecured debt. Emphasis is placed on the creation, perfection, and enforcement of consensual security interests in real and personal property as well as the personal guaranty as a form of security for debt. An entire chapter is devoted to the often-neglected subject of nonconsensual liens, both possessory and nonpossessory. Prelitigation efforts to collect delinquent debt are considered in Part A including comprehensive coverage of the Fair Debt Collection Practices Act as well as state legislative and tort remedies for abusive collection tactics. Part A concludes with a thorough examination of the judicial collection process and methods of executing on a final judgment and includes a discussion of the role of exemptions, jointly owned property, and trust arrangements as they impact on execution.

Part B of the text focuses on the consumer bankruptcy case including the Chapter 7 liquidation proceeding for a consumer debtor and the Chapter 13 debt adjustment case for an individual with regular income. We begin with an overview of the Bankruptcy Code, modern bankruptcy practice, and the organization and jurisdiction of the U.S. bankruptcy courts. Two realistic bankruptcy case studies are introduced and used throughout Part B, one a case under Chapter 7 and the other a case under Chapter 13. Complete **Case Files** for both case studies are provided for students on the website to the textbook at <https://www.aspenpublishing.com/Parsons-ABCsDebt6> and referred to throughout the chapters that make up Part B. The case studies utilized in Part B illustrate how consumer cases under Chapters 7 and 13 of the Code are handled from beginning to end. Bankruptcy concepts and procedures are addressed as they actually arise in real cases. The case files accessible on the textbook's website allow students to actually see completed petitions, schedules, statements, motions, objections, notices, and orders, all of which are routinely drafted by paralegals for review by an attorney and filed in bankruptcy cases.

Part C of the text focuses on the business bankruptcy case under Chapter 11 of the Code, including the new Subchapter V proceeding for the small business debtor. It also utilizes a realistic business bankruptcy case study with complete case files accessible to students on the textbook's website. As with the Chapter 7 and 13 cases in Part B, the Chapter 11 case in Part C is studied step-by-step from filing of the petition through order closing the case.

The **Instructor's Manual (IM)** contains material that the instructor can use to assign optional **Drafting Exercises** to students as well. There are four optional exercises to accompany Part A of the text relating to the pre-bankruptcy creation and collection of debt and ten to accompany Parts B and C of the text, including five for a Chapter 7 consumer bankruptcy case, two for a Chapter 13 case, and three for a Chapter 11 business reorganization case.

## Key Features

As noted, the book utilizes realistic, current case studies. The first three case studies are introduced in Chapter One and are used throughout Part A. The characters in each case study are given sufficient history, personality, and context that they become real people for students, not just names on a page. Debt-related problems happen to real people in the real world, and students should

be taught to see clients as real people with unique stories and circumstances. Following the same three case studies throughout Part A enables students to get to know these clients and their financial circumstances. Three additional case studies with case files are utilized in Parts B and C of the text to illustrate bankruptcy concepts and procedures studied there. The website to the textbook contains exhaustive case files to accompany all three bankruptcy case studies utilized in Parts B and C.

Each chapter begins with a short list of **Key Concepts**. Numerous **Examples** are provided throughout each chapter, along with timely and relevant **Illustrations**. In addition, a number of **Problem-Hypothetical (P-H)** activities appear throughout each chapter, presenting the student with the opportunity to immediately apply what is being read in the text. Similarly, a number of **Ethical Considerations (EC)** appear periodically, drawing the student's attention to a relevant ethical or professional challenge presented by the topic under discussion. More than twenty **View from the Bench** features, sprinkled through the text, highlight selected cases and give students the opportunity to see how courts have applied the concepts being studied in actual cases. Each highlighted case is followed by **Applying the Law** exercises challenging students to apply the analysis and rule announced in the highlighted case. Sprinkled throughout the chapters of the text are references to **Sidenotes** that can be accessed from the book's website. The Sidenotes provide interesting additional information on select topics discussed in the text that may be of interest to the student wanting to know more or that may be used by instructors to enrich class discussion. At the end of each chapter is a comprehensive **Chapter Summary**, 10 to 15 open-ended **Review Questions**, and a list of **Words and Phrases to Remember**.

In addition to the Drafting Exercises previously mentioned, the IM contains suggested approaches to teaching with the text including testing and grading, suggested answers to the P-H and Applying the Law exercises that follow the View from the Bench cases, answers to the end of chapter review questions, and a comprehensive test bank with answer key.

**A note on the dates used in the text:** To keep the dates as current as possible, the illustrations and case file documents utilize a dating system in which YR00 is always the current year. YR-1 is last year, YR-2 is two years ago, YR+1 is next year, YR+2 is two years from now, and so on.

## New for the Sixth Edition

Since the last edition, the U.S. Supreme Court has issued no fewer than six decisions involving various bankruptcy and debtor/creditor issues. These include: *Rotkiske v. Klemm*, which rejected the discovery rule except in cases of fraud in determining when the statute of limitations begins to run in actions under the Fair Debt Collection Practices Act; *Rodriguez v. Fed. Deposit Ins. Corp.*, which limited the use of federal common law and reaffirmed the primacy of state law in determining most disputes over property interests; *TransUnion v. Ramirez*, which limited a consumer's right to sue credit reporting agencies under the Fair Credit Reporting Act for including inaccurate information in a consumer's credit report unless that inaccurate information is communicated to third parties; *City of Chicago, Illinois v. Fulton*, which held that an entity's mere retention of estate property after the filing of a bankruptcy petition does

not constitute a violation of the automatic stay; *Ritzen Group, Inc. v. Jackson Masonry*, which held that a bankruptcy court's order denying relief from the automatic stay constitutes a final order that must be appealed within the time limits set by Code §158(a); and *Taggart v. Lorrenzen*, holding that the subjective belief of a creditor that its debt was not discharged in the debtor's bankruptcy is no defense to a charge of contempt for violating the order of discharge by continuing efforts to collect the debt. All six of these as well as a number of significant decisions coming from lower courts have been incorporated into the current edition and supporting materials.

Since the last edition, Congress has passed two major pieces of legislation that impact bankruptcy practice. The Small Business Reorganization Act of 2019 (SBRA) dramatically amended Chapter 11 bankruptcy by adding the Subchapter V proceeding for the small business debtor. It also added new elements to an action seeking to set aside a prepetition transfer of property as preferential under Code §547. The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 temporarily excludes federal COVID-related payments from the definition of income under Chapter 7 and disposable income under Chapter 13, making it easier for debtors to qualify to file under either chapter. It also temporarily allows modification of Chapter 13 plans for pandemic-related hardships and raises the maximum debt limits for Chapter 11 filers to qualify as small business debtors. All these legislative changes are addressed and illustrated in the text.

Numerous Examples and Problem-Hypotheticals have been freshened and updated for this edition. The new Sidenotes feature that appears periodically throughout the text provides the opportunity for curious students to learn more about a topic that interests them or for an instructor to enrich class discussion of a topic.

## Textbook Resources

Resources to accompany this text include a comprehensive Instructor's Manual, Test Bank, PowerPoint slides, and sample exercises for use with the official bankruptcy forms. All of these materials are available for download from the book's website: <https://www.aspenpublishing.com/Parsons-ABCsDebt6>.

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*Stephen P. Parsons*  
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