

CUYAMACA COLLEGE
COURSE OUTLINE OF RECORD

Paralegal Studies 135 – Bankruptcy Law

3 hour lecture, 3 units

Catalog Description

The United States Federal Bankruptcy Code (as amended) and the Federal Rules of Bankruptcy Procedure will be the foundation of this examination of bankruptcy law and practice. Students will be exposed to the fundamentals of bankruptcy law, jurisdictional and filing requirements for bankruptcy cases under Chapters 7, 11 and 13 of the Bankruptcy Code, and will learn to recognize the different forms of relief available for consumers and businesses under bankruptcy law. The focus will be on “consumer” Chapters 7 and 13 while highlighting the differences between the available bankruptcy relief for consumers and businesses.

Prerequisite

“C” grade or higher or “Pass” in PARA 100 or equivalent

Entrance Skills

This course will deal with a major area of substantive law and how it interrelates with other areas of the law. An understanding of substantive and procedural law is critical. Without the following skills, competencies and/or knowledge, students entering this course will be highly unlikely to succeed:

- 1) Have a basic understanding of the legal system.
- 2) Be familiar with basic legal concepts and basic legal language.
- 3) Knowledge of state and federal court systems.
- 4) Understand administrative law and the administrative legal system.

Course Content

- 1) Alternatives to bankruptcy
 - a. Voluntary creditor’s compromise
 - b. Contact with creditors
 - c. Informal plan of reorganization
 - d. Debt Management Plans
- 2) U.S. Bankruptcy Code
 - a. Understanding the type of debtor and the available relief through the bankruptcy system.
 - b. Review and analysis of the difference between Chapters and the advantages and disadvantages between Chapters.
 - c. Jurisdiction (Power of the Bankruptcy Court, judges and trustees.
- 3) Voluntary versus Involuntary petitions
- 4) Pre-Bankruptcy Considerations
 - a. Applicability of available exemptions
 - b. Bankruptcy eligibility and restrictions
 - c. Income considerations in Chapter selection
 - d. Effect of a Discharge Order
- 5) Filing bankruptcy under chapters:
 - a. 7 – Liquidation
 - b. 11 –Reorganization
 - c. 12 – Family Farmer or Fisherman
 - d. 13 – Repayment
- 6) Procedures during administration

- a. Stay of secured /unsecured claims
- b. Meeting of creditors
- c. Trustee's role
- d. Effect of dismissal/discharge
 - 1. Debtor's credit profile after filing and ability to re-establish credit
 - 2. Violations of stay/discharge
- 7) Impact of the recent changes to the Bankruptcy Code on ability to eliminate/reorganize debt
- 8) The paralegal's role and ethical responsibilities

Course Objectives

Students will be able to:

- 1) Identify the proper court in which to file bankruptcy action(s).
- 2) Identify necessary information for drafting schedules to accompany bankruptcy petitions for all applicable bankruptcy chapter proceedings.
- 3) Prepare the required form of creditor's claim for filing in bankruptcy court cases.
- 4) Describe the nature and duration of automatic stays available from the bankruptcy court on filing petition.
- 5) Distinguish between the legal effects of and reasons for filing under Chapters 7, 11 and 13 of the Bankruptcy Code.
- 6) Prepare Motions for Relief from the Automatic Stay and understand the basis for doing so.
- 7) Describe and distinguish the nature of each of the regular hearings in a bankruptcy action, including the first meeting of creditors and special hearings and motions customarily applicable to bankruptcy proceedings.
- 8) Compare and contrast dischargeable and non-dischargeable debts.
- 9) Identify and discuss ethical issues commonly encountered in bankruptcy matters.
- 10) Prepare motions alleging a breach of the Adequate Protection Orders related to a Relief from Stay Proceeding.
- 11) Prepare a complete Chapter 7 Petition.
- 12) Analyze issues relating to bankruptcy proceedings and demonstrate the ability to present the analysis to creditors, debtors, or attorneys.
- 13) Identify selected bankruptcy code sections and terminology unique to bankruptcy petitions.

Method of Evaluation

A grading system will be established by the instructor and implemented uniformly. Grades will be based on demonstrated proficiency in subject matter determined by multiple measurements for evaluation, one of which must be essay exams, skills demonstration or, where appropriate, the symbol system.

- 1) In-class participation in which students will engage interactively with their peers and instructor to demonstrate their ability to describe various procedures necessary to file the appropriate legal documents.
- 2) Written exams and quizzes designed to measure students' ability to use legal terminology, code sections and correctly identify legal concepts, and apply them to the appropriate pleadings.
- 3) Homework assignments that measure students' ability to produce various bankruptcy documents commonly used in a bankruptcy setting.
- 4) In-class activities in which students confront and discuss ethical situations.
- 5) Class project designed to measure students' ability to apply facts to a particular bankruptcy petition and determine the relevant and non-relevant facts necessary for the preparation of a bankruptcy petition.

Special Materials Required of Student

None

Minimum Instructional Facilities

Smart classroom

Method of Instruction

- 1) Lecture, case study, and referencing statutory authorities.
- 2) Written assignments designed to assess student's understanding of basic bankruptcy principles, how the code is applied, and presenting written assignments demonstrating student's proficiency in the fundamentals.
- 3) Preparation of pertinent forms, motion drafts and creditor claims within closed universe factual scenarios.

Out-of-Class Assignments

- 1) **Reading:** Students will read from the assigned textbook, accompanied by selected excerpts from the United States Bankruptcy Code, Federal Rules of Bankruptcy Procedure, District of California Local Bankruptcy Rules, California Code of Civil Procedure, pertinent case law, and articles or videos assigned by instructor.
- 2) **Writing:** Preparation of legal forms, various motions, creditor claims, and written assessments designed to assess student's understanding of the basic bankruptcy principles, and how the Bankruptcy Code is applied to be completed by students individually.
- 3) **Other:** Group Project to prepare a closed universe bankruptcy petition draft; this is typically done in 3 person groups, but students may elect to complete this assignment individually.

Texts and References

- 1) Required (representative example): BASIC BANKRUPTCY LAW FOR PARALEGALS, 12th Edition, David Buchbinder, Walters Kluwer, 2023.
- 2) Supplemental: As appropriate

Student Learning Outcomes

Upon successful completion of this course, students will be able to:

- 1) Prepare a client file by gathering and organizing factual data for use in completing various bankruptcy forms.
- 2) Determine the type of debtor (or creditor) and the relief and rights available to each type.
- 3) Distinguish between the legal effects of and reasons for filing under Chapters 7, 11 and 13 of the Bankruptcy Code.
- 4) Describe the nature of and distinguish between each of the regular hearings in a bankruptcy action, including the first meeting of creditors and special hearings and motions customarily applicable to bankruptcy proceedings.
- 5) Explain the legal structure of bankruptcy law as a court of equity with supervision by the Department of Justice's United States Trustee Program.
- 6) Identify and discuss ethical issues commonly encountered in bankruptcy matters.