Course Overview

When individuals and businesses are unable to pay their debts as they come due, society requires an organized means of determining the order, amount, and method through which creditors will be satisfied. In the United States, the federal bankruptcy code serves as the mechanism through which these determinations are made. Bankruptcy law is applicable not only to would-be practitioners in bankruptcy, but also to students who anticipate serving clients or making policy in the general commercial marketplace, where bankruptcy laws play an indelible role in business practices, contract-making, and the use and extension of credit. Whether a client must file bankruptcy, participate as a creditor in bankruptcy, or simply plan for the possibility of a bankruptcy filed by others, that client’s attorney should be prepared to advise on the laws and policies applicable in this field.

In this course, you will:

- Gain a working knowledge of the general provisions of the Bankruptcy Code;
- Learn the requirements associated with filing bankruptcy and the consequences for failing to meet those requirements;
- Develop an understanding of the bankruptcy process from the perspectives of both debtor and creditor; and
- Explore the policy rationale behind key bankruptcy provisions.

Bankruptcy is a rich and fascinating field, highly associated with issues of social justice, business relationships, and economic policy. As an introductory course, this class will touch on many of these issues, but leave ample opportunity for further exploration. This class will provide the basic building blocks for understanding and evaluating bankruptcy principles, and encourage students to continue in their study moving forward.

Course Materials:

The following materials are required for the course:

- **Casebook:** E. Warren, et al., The Law of Debtors and Creditors (7th ed. 2014), Wolters Kluwer;

- **Statutory Supplement:** E. Warren, Bankruptcy and Article 9, Wolters Kluwer – 2016 version or later.
I recommend keeping the Statute close at hand during your readings, so that you can refer directly to the Bankruptcy Code when applicable. You might also consider coming up with your own tabbing system to facilitate your access to different sections of the Code during class, and in preparation for the final, when quick reference to various Code sections will be valuable.

At various times during the semester, additional reading may be assigned. Depending on length, these materials will be handed out in class or available as a course packet at the Mizzou Bookstore. You may also be expected to look up and review cases (you may use any reliable search engine to do so, including Westlaw or Lexis).

**Attendance:**

Regular and punctual class attendance is required of all law students as a matter of school policy. I strongly encourage you to make every effort to attend all classes. I will send around an attendance sheet at the beginning of every regularly scheduled class. (Attendance will not be taken at makeup classes.) Unexpected absences are sometimes necessary; accordingly, every student will have four automatically excused absences during the semester. This means that you are not required and should not feel obligated to explain these absences or to notify me in advance. More than four absences – for whatever reason – will result in the reduction of your grade, as explained below in the grading section.

I expect to be out of town multiple times this semester for a series of previously scheduled work obligations. I expect to *cancel* class on the following days:

- February 15 – Makeup scheduled for 1:00 on February 13, Room 4.
- April 17 – Makeup schedule for 1:00 on April 19, Room 5

On March 22, Hulston Hall will be fortunate to host the Bankruptcy Court for the Western District of Missouri, Jefferson City Division, in the Courtroom. Students will be expected to attend the hearings during the normally scheduled class period. More information will be forthcoming.

**Class Participation:**

I will use the Socratic Method and group discussion as the primary means of teaching this class. In my experience, students get the most of the classroom experience when everyone is engaged in a structured dialogue. Each student should anticipate being called on at least once every class to give thoughts, explain a case, or interpret and apply a statutory provision. You should come to class prepared, attentive, alert, and ready to answer questions pertaining to the discussion. Every assignment will include problem sets intended to encourage thoughtful analysis of the topics at hand, and to help prepare students for the final exam. This form of participation may be more demanding than simply sitting and listening to a lecture, but it will also provide a bigger educational payout for you and your fellow students.

If you are not prepared to participate in class discussion, (i.e., because you have not done the reading, have developed laryngitis, or intend to spend the class pretending to listen while you answer emails) you may sign a sheet in the front of the class and take a “pass” for the day. You may sign the pass sheet twice without it affecting your grade, as explained below in the grading section. Please note that in some classes we may not make it through all the assigned reading for that day. This information will be covered at the beginning of the next class period. Accordingly, if our class discussion does not cover all the material that has been assigned for a particular day, you should review the remaining material for the following class period (in addition to that day’s assigned reading) so that you are prepared to discuss it. If you do not sign the pass sheet and are not prepared in class, your grade may be affected.

Final Exam:

There will be a written three-hour exam at the end of the semester. The exam will be “open book,” such that you will have access to your casebook, the statutory supplement, and any of your own notes. You may not use commercial outlines or materials prepared by other students. I will adjust grades to account for the attendance policy stated above with the reduction of one grade point per absence for four or more absences, and for class participation with the reduction of one grade point per “pass” after two freebies. I also reserve the right to adjust grades to reflect extremely poor or extremely good classroom participation.

Preliminary Class Schedule:

A tentative schedule for reading and discussion is below. Each listed assignment is designed to be covered in class on that date. However, reading assignments may change as a consequence of how far we get in the class discussion. The first priority is to understand the information in each lesson; getting through all the material is a secondary concern. If dramatic adjustments are required, a new reading schedule will be printed and distributed in class as well as posted online. Please also read the Problem Sets associated with each assigned reading and be prepared to discuss them in class.

In addition to reading from the Casebook, you should refer to the Bankruptcy Code and become generally familiar with its provisions in preparation for the final exam.

| January 16 | Assignment 1: Fighting Over Money; Problem Set 1.1, 1.2, 1.3 |
| January 18 | Assignment 2: Collecting from Consumer Debtors; 2.2, 2.3, 2.4, 2.5, 2.6 |
| January 23 | Assignment 3: The Bankruptcy Estate and the Automatic Stay; 3.1, 3.2, 3.3, 3.4, 3.5 |
| January 25 | Assignment 4: Property Exempt from Seizure; 4.1, 4.2, 4.3, 4.4 |
| January 30 | Assignment 5: Exemption Planning; 5.3, 5.4 |
| February 1 | Assignment 6 & 7: Claims and Distributions & Priority Among Unsecured Creditors; 6.1, 6.2, 6.3, 6.4, 7 |
February 6: Assignment 8: Discharge; 8.1, 8.2, 8.3, 8.4, 8.5, 8.6.


February 13: Assignment 10: Secured Creditors in Chapter 13; 10.1, 10.2, 10.3, 10.5, 10.6

February 13: (Makeup for Feb. 15) - Assignment 11: Unsecured Creditors in Chapter 13; 11.1, 11.2, 11.4, 11.5

February 15: No Class

February 20: Assignment 12: The Means Test; 12.1, 12.2, 12.3, 12.5

February 22: Assignment 13: Chapter Choice; 13.2, 13.3, 13.4

February 27: Assignment 15: Recovering from Business Debtors; 15.1, 15.2, 15.3, 15.4

March 1: Assignment 16: Reorganizing Businesses; 16.1, 16.2, 16.3

March 6: Assignment 17: Getting Started; 17.1, 17.2, 17.3, 17.4, 17.5

March 8: Assignment 18: Running the Business; 18.1, 18.3, 18.4


March 15: Assignment 20: Avoiding Liens; 20.1, 20.2, 20.3, 20.4


March 22: Bankruptcy Court to be held on Campus: Students should attend in place of class


April 5: Assignment 23: Fraudulent Conveyances I; 23.1, 23.2, 23.3, 23.4, 23.5, 23.6

April 10: Assignment 24: Fraudulent Conveyances II; 24.1, 24.2

April 12: Assignment 25: Executory Contracts I; 25.1, 25.2, 25.3, 25.4

April 17: No Class

April 19: Assignment 27: Negotiating the Plan; 27.1, 27.2, 27.3
April 19: (Makeup for April 17) Assignment 28: Confirming the Plan; 28.1, 28.3, 28.4

April 24: Assignment 29: Cramming Down Unsecured Creditors; 29.1; Assignment 30: Cramming Down Secured Creditors; 30.2 (skim cases – we will discuss in class)

April 26: Guest Speaker on Chapter 11

Office Hours:

Because I have small children, my time in the office can be unpredictable. Accordingly, rather than assign set office hours, I will maintain an open door policy, meaning I will be generally available to visit with students while in the office. (Even if my door is shut.) On occasion, I may be tied up and unable to entertain student questions, in which case I will try to schedule an alternative time. It is always a good idea to contact me in advance if you would like to drop by with questions or thoughts. My office phone number is (573) 882-3914. My email address is gotbergb@missouri.edu.

Information Regarding Disabilities:

If you anticipate barriers related to the format or requirements of this course, if you have emergency medical information to share, or if you need to make arrangements in case the building must be evacuated, please contact Associate Dean David Mitchell as soon as possible.

If disability related accommodations are necessary (for example, a note taker, captioning), please register with the Disability Center (http://disabilitycenter.missouri.edu), S5 Memorial Union, 573.882.4696, and then notify Dean Mitchell or Law School Registrar Denise Boessen of your eligibility for reasonable accommodations. Please do not discuss examination accommodations with me. Notice of special accommodations may impair the “blind grading” policy we use at the law school. For other MU resources for persons with disabilities, click on “Disability Resources” on the MU homepage.