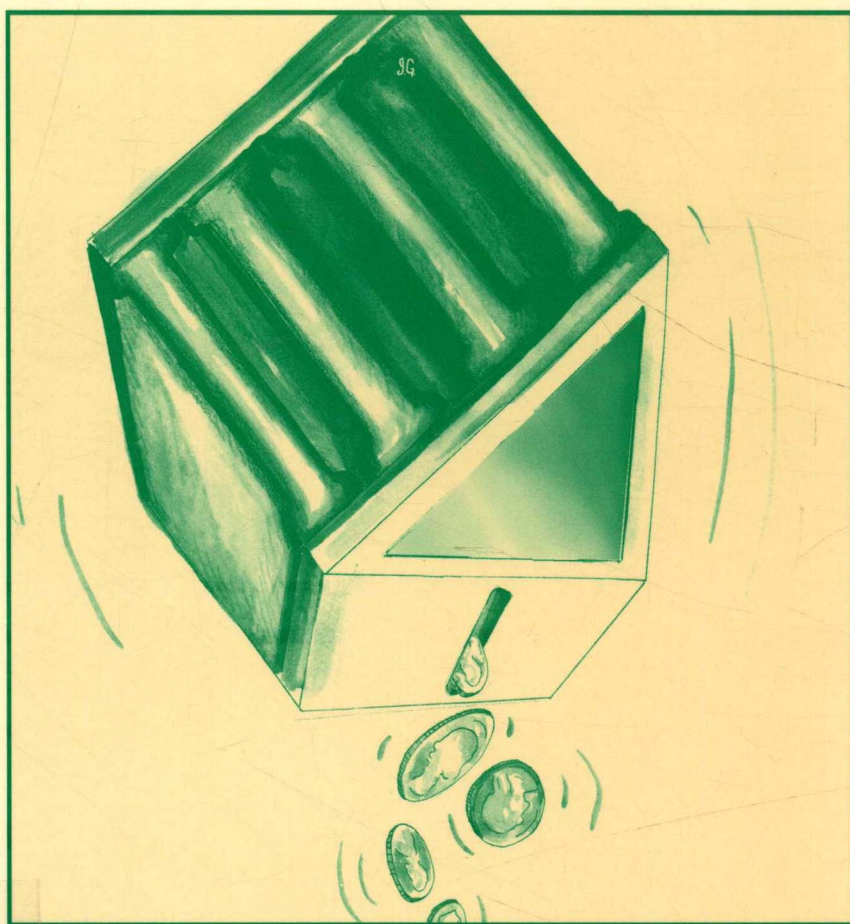


# Bankruptcy and Debtor/Creditor

Sixth Edition

**Brian A. Blum**



**Wolters Kluwer**  
Law & Business

# Bankruptcy and Debtor/Creditor

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*Sixth Edition*

**Brian A. Blum**

Professor of Law  
Lewis & Clark Law School



**Wolters Kluwer**

Law & Business

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Published by Wolters Kluwer Law & Business in New York.

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Wolters Kluwer Law & Business  
Attn: Order Department  
PO Box 990  
Frederick, MD 21705

Printed in the United States of America.

1 2 3 4 5 6 7 8 9 0

ISBN 978-1-4548-3391-8

#### Library of Congress Cataloging-in-Publication Data

Blum, Brian A., author.

Bankruptcy and debtor/creditor : examples & explanations / Brian A. Blum, Professor of Law, Lewis & Clark Law School. — Sixth edition.

p. cm. — (Examples & explanations)

Includes bibliographical references and index.

ISBN-13: 978-1-4548-3391-8 (alk. paper)

ISBN-10: 1-4548-3391-2 (alk. paper)

1. Bankruptcy—United States. 2. Debtor and creditor—United States. I. Title.

KF1524.85.B58 2014

346.7307'8—dc23

2013045074



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## BANKRUPTCY AND DEBTOR/CREDITOR, SIXTH EDITION

This book begins with a basic overview of debt collection under state law and an introduction to concepts and principles that underlie both state debtor/creditor law and bankruptcy. It then undertakes a systematic coverage of bankruptcy law and principles, dealt with at a level of depth and complexity appropriate to a basic bankruptcy and debtor/creditor course. In deciding on the most suitable scope and depth of coverage, I have been guided by my own experience in teaching this course over many years and by the content of published casebooks and other course materials.

In this edition, I have made some refinements to the text and to the Examples and Explanations, I have updated the case law throughout the book, and I have added discussion on issues that have become prominent since the last edition. I have not made significant changes to the organization, approach, coverage, and structure of the book. However, I have made organizational changes in some chapters to improve coherence and readability. The most significant of these is a tighter discussion of jurisdiction and sovereign immunity in Chapter 7 and an expansion of the treatment of the Ch. 11 plan in Chapter 21, including a set of new Examples and Explanations. I have also made some changes to the endmatter. I have eliminated the appendix summarizing the differences between Chs. 7, 11, 12, and 13, and have integrated this material into the body of Chapter 8. I have added tables of statutes and cases.

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## STATE LAW AND FEDERAL BANKRUPTCY LAW

Debtor/creditor law encompasses both state debt collection law and federal bankruptcy law. Some law school courses omit the state law component in favor of more extensive bankruptcy coverage, while others cover debt collection under state law as well. Some exposure to state collection law is helpful, not only because knowledge of general principles of state debtor/creditor law is useful in itself, but also because it contains fundamental concepts and principles that play an important role in bankruptcy. For this reason, the first three chapters of this book cover general principles of state

debtor/creditor law. The treatment is broad and condensed. It emphasizes general themes and key concepts, and it sets the stage for the later discussion of the connections and distinctions between state law and bankruptcy law. This level of detail should be sufficient for most courses that include a component on state debtor/creditor law. It should also make the concepts and procedures of state law accessible to students whose course omits state law but who would like to do some background reading on the subject. Chapter 4 also deals with state law. It covers the avoidance of fraudulent transfers under state law, and ties in with the trustee's power to avoid such transfers in bankruptcy, which is discussed in Chapter 16.

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## THE ORGANIZATION AND APPROACH OF THIS BOOK

Although legal rules are important, a full appreciation of the subject requires an understanding of the policy behind the rules, their efficacy, and their transactional impact. *Bankruptcy and Debtor/Creditor: Examples & Explanations* is not simply an outline of legal rules. It discusses the reasons behind the rules and the impact of their operation.

This book combines expository text with Examples and Explanations. The textual portion provides a clear and readable exposition of the topic, beginning with the basics and moving to more intricate and advanced issues. It focuses on material that is likely to be covered in a bankruptcy or debtor/creditor course. I have tried to ensure that basic assumptions are clearly articulated, that the transactional context is clear, and that technical language is explained. To assist you in remembering terminology, I have included a lengthy glossary at the end of the book that provides ready definitions of technical terms and terms of art that are commonly encountered in the bankruptcy context.

The Examples and Explanations are based on the textual discussion. Their purpose is to provide concrete illustrations of how the principles discussed in the text apply. They are also intended to allow you to test your knowledge and understanding of the topic. If you try to resolve the questions asked in the Examples before reading the Explanations you will derive the greatest benefit from this feature of the book.

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## CITATIONS IN THIS BOOK

Sections of the Bankruptcy Code, Title 11 U.S.C., are simply cited by a section symbol (§) followed by the section number. Code chapters are cited by the abbreviation "Ch." followed by the chapter number.

## **Preface**

Bankruptcy law generates a large volume of reported cases. Decisions of courts at all levels, from the bankruptcy courts to the U.S. Supreme Court, are reported, and one can find contrary decisions on almost every issue that arises under the Bankruptcy Code. This book cites and discusses many cases, but case citations are necessarily selective. In choosing cases, I look for those that contain helpful discussion and good illustrative facts. I keep the citations simple, and do not use extended captions or citations to multiple sets of law reports. I do not cite secondary sources.

# Acknowledgments

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I owe thanks to many people who have helped me over the years with successive editions of this book. My work on the original edition and on several of the revisions has been supported by summer research grants from Lewis & Clark Law School. I have had able research assistance from a number of Lewis & Clark students who have helped me to find and update material. In every edition of this book, I have benefited from the guidance and thorough editorial work of many members of the staff of Wolters Kluwer Law and Business. Finally, I am grateful to the many students and professors who have used this book and who have offered suggestions for changes or corrections.



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