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MATERIALS AND CASES

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Steve H. Nickles & Elizabeth L. Perris

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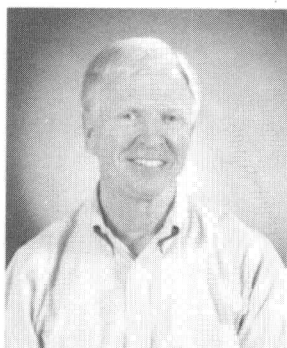
To Louis Higgins,

Whom faculty everywhere know as a genuine friend
and a real mensch

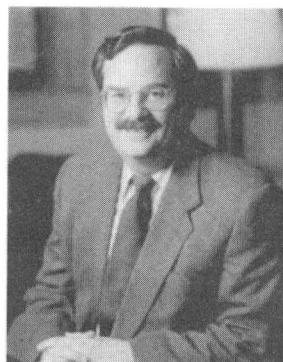
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PREFACE TO THE THIRD EDITION

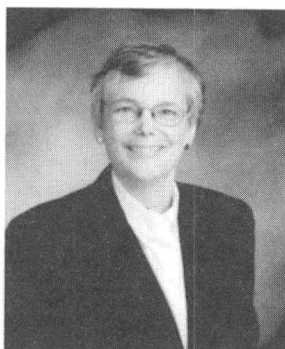
1. *Who We Are*



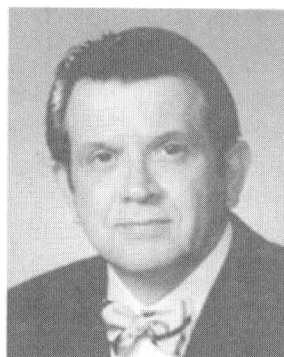
David G. Epstein



Bruce A. Markell



Elizabeth L. Perris



Steve H. Nickles

Obviously, all of us are prime candidates for one of the reality-television “makeover” shows. Two of us—David and Steve—are now law professors; two of us—Liz and Bruce—are now bankruptcy judges. Among the four of us, we have taught bankruptcy courses at more than 20 different law schools.

2. *Why We Wrote this Book*

While we have had different professional experiences, we have a common understanding about how to learn and how to “do” bankruptcy law. There are a handful of basic bankruptcy building blocks. Learn the building blocks; see the relationship among the building blocks; find how these building blocks affect the legal issues that arise in consumer bankruptcy cases and in business bankruptcy cases.

3. *How the Book Works (And How You Will Work with this Book)*

In a sense, this book starts in the middle of a story. It is a story that had a happy beginning. C thought well enough of D to extend credit to D. Now there are problems with D and C's debtor-creditor relationship: D is not paying C, or C is concerned about whether D will be able to continue paying it. This book is about what lawyers can do to fix the problems.

In the "real world," these problems are typically fixed without litigation or other formal recourse to the legal process, and without lawyers. D pays C or D and C work out some sort of alternative payment plan. Sometimes, however, lawyers' help is needed. But lawyers can be helpful in resolving debtor-creditor problems, with or without recourse to bankruptcy and other legal process, only if they know the legal rights and remedies of debtors and creditors.

And, except for the "lawyers" on *The Good Wife* (or whatever lawyers show is currently popular) or a John Grisham novel, most lawyers spend most of their time in the office working on their clients' problems. So, you will spend most of your time in this book working on your clients' problems.

All of the problems in the book can be understood and discussed from materials already considered in the book. We have made a special effort to design problems that could be discussed on the basis of the materials surrounding them.

Bankruptcy impacts so many aspects of what lawyers do, from business transactions to consumer protection to litigation of domestic relations matters. Understanding bankruptcy is thus critically important for almost every lawyer. To meet this challenge, we want you to learn the basics of debtor-creditor law, to become familiar with the issues of debtor-creditor law that you are likely to encounter in practice, and to think about the policy questions that underlie those issues. While policy questions are consistently and constantly raised, the book does not espouse any particular theory or philosophy of debtor-creditor law. You are left to develop your own opinions on these policy issues. The only "message" that we are trying to convey is that this stuff is important, interesting and intellectually challenging.

A couple of notes before we get to the "fun stuff." Bankruptcy law is largely statutory law; to be more precise, it is largely federal statutory law. The main text of statutes is the "Bankruptcy Code," found in title 11 of the United States Code. When we refer to the "Code" in this book, it is to the Bankruptcy Code as found in title 11. In addition, there are rules that govern the day-to-day practice and procedure in bankruptcy courts. They are the Federal Rules of Bankruptcy Procedure, which should be in your statutory supplement. We refer to them as the "Rules" or cite to them as "Bankr. R. XXX."

We do think bankruptcy law is fun. Fun because it can be intellectually challenging; fun because it can be helpful in solving problems that really matter to the people involved. We had fun working together on this book. We hope you'll have fun working through it.

DGE
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June 2010

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