
SEPTTIMOUS & HAWES, P.S.

2101 FOURTH AVENUE

SUITE 900

PHOENIX, ARIZONA 85003

602-222-2222 (phone)

602-222-2223 (facsimile)

TSepttimousIV@septtimoushawes.com

December 9, 2014

VIA FACSIMILE TRANSMISSION AND U.S. MAIL

Evan E. Eager, Esquire
Spreng Law Offices, PSC
One North Central Avenue
Suite 1885
Phoenix, Arizona 85003

RE: *In re Philip Plan*, case no. 14-8675309; filing date December 5, 2014

Dear Mr. Eager:

Our firm has been retained to represent Bank of America, N.A. in this bankruptcy proceeding. Based upon an initial review of this account and our recommendation, our client is considering filing an adversary proceeding pursuant to 11 U.S.C. § 523 objecting to discharge of this debt.

A brief review of this account reveals the following:

- Between August 1, 2014 and the filing date, your client accumulated \$2,110.44 in retail charges.
- Between August 1, 2014 and the filing date, your client accumulated \$2,700.00 in cash advance and/or convenience check charges.

We believe that there is evidence and a sufficient basis to object to the discharge of our client's claim in this matter. As you are aware, once we bring a successful nondischargeability action against your client, all or a portion of your client's debt may survive the bankruptcy.

Before the parties incur the costs of fully pursuing a section 523 action, our client is willing to provide your client the option of settling the account pursuant to one of the following alternatives:

- Reaffirmation of the sum of \$4,810.44; or
- One-time cash settlement in the sum of \$3,900

Please convey this offer to your client and contact me at your earliest convenience to convey your client's intentions. I trust we will be able to resolve this matter without unnecessary expense and delay. However, we are prepared to and will take all appropriate action.

Finally, we recognize that there are instances in which there may be a satisfactory explanation for evidence that otherwise appears to constitute misuse of a credit card. If you disagree with our conclusion based upon the evidence, please provide us with sufficient evidence or an explanation concerning the transactions to alter our view.

This letter is to be used for settlement purposes only.

Very truly yours,

Taylor X. Septtimous IV

Taylor X. Septtimous IV

TXS/rm

Enclosure

**SPRING 2015
BANKRUPTCY
SYLLABUS**

ARIZONA SUMMIT LAW SCHOOL

BANKRUPTCY

SPRING 2015
PL764 – 3 credits

JENNIFER E. SPRENG
Associate Professor of Law

Mondays/Wednesdays
7:50 p.m. – 9:20 p.m.
Room: TBA

Jspreng@phoenixlaw.org and jespreng@aol.com

Office phone: 602-682-6826

Office hours: 1:00 p.m. – 7:00 p.m. Wednesdays and by appointment

Please try to set an appointment if possible

Once you enter “Bankruptcy World” your life will never be the same. The courts are different. The rules are different. Everything you thought made sense suddenly flies out the window: you are better off not paying your debts; you are a better credit risk; and your property is better protected. Many legal practitioners in domestic relations, estate planning, and corporate law must understand bankruptcy law, however, and when they do not, the consequences to their clients can be severe. Welcome to “Bankruptcy World” and one of the wildest rides you will ever take!

WHAT YOU WILL DO IN THIS CLASS

1. You will learn the fundamental principles of Bankruptcy law and their application to prepare you for practice and citizenship.
2. You will explore white hot legal and policy disputes in consumer bankruptcy.
3. You will get to see “how the sausage is made,” such as preparation of bankruptcy petitions, claims, exemption planning, and drafting motions and debtor-creditor contracts.

4. You will learn about the “culture” of bankruptcy practice: the institutions and conduct that can get your clients either into financial trouble or make debts difficult to collect and how attorneys act in that culture.

ANTICIPATE CHANGES TO THIS SYLLABUS PRIOR TO THE FIRST CLASS.

CLASS INFORMATION AND POLICIES

1. Books and materials. We will use the following books and materials in this class:
 - *Douglas J. Whaley, Problems and Materials on Debtor and Creditor Law* (Wolters Kluwer Law & Business 5th ed. 2013) (ISBN: 978-1-4548-2248-6)
 - Bankruptcy Code, Rules, and Official Forms, 2014 Edition (West Academic Publishing 2014) (ISBN: 987-1-62810-101-0)

This is a partly laptop-free class; you must purchase paper copies of both books.

I would require that you purchase paper anyway, and as you will see, I recommend that you copy and paste the Arizona exemptions into a Word document and print it out. We will skip from Code section to Code section very quickly – too quickly for you to keep up on Westlaw.

- BestCase Bankruptcy software. Please download from <http://www.bestcase.com/index.htm>. Make sure to get the practitioner’s, not the educational edition. Go ahead and set it up if you can prior to the first day of class. Just answer the questions and make up your own law firm and accept the common creditors list. You can change it all later!
 - Supplementary materials to be distributed throughout the term.
2. Course prerequisites. First year courses.
 3. Catalog course description. “An overview of Chapters 7, 11, and 13 of the U.S Bankruptcy Code with emphasis on consumer bankruptcy including the rights of creditors and debtors, exemptions, stays, secured interests and discharge.”
 4. The “inside skinny.” O . . . Kay. And that meant, *what?*

In English, we will study the problems facing both consumers whose debt situations compel or encourage them to file for bankruptcy protection and the creditors to whom they owe money. We will start by identifying some of the ethical and professional challenges facing attorneys practicing in this area in light of recent Bankruptcy Code changes. Then we will practice determining whether a person is eligible to file for Chapter 7 or 13 bankruptcy, a skill

more complicated than you might think. Next, we will define a concept known as “the estate”: all of the property interests a debtor holds on the date of the bankruptcy filing. There are more “property interests” than you knew existed and a surprising number of what you may have thought were “property interests” that are not considered part of the estate. The importance of the estate? In Chapter 7 bankruptcy, for example, it is the set of property interests that a person called “the trustee” will ultimately sell creating proceeds to pay creditors. We will also consider the power of “the automatic stay” which eliminates creditor collection activity as of the date of the bankruptcy filing.

So we are in bankruptcy court. We will consider the many debtors’ many strategies for retaining property after they receive the discharge of their debts: lien avoidance, lien stripping, reaffirmation and redemption. We will not weep long for those who try to keep too much via “preferential” and “fraudulent transfers.” We will then consider the benefits and disadvantages of a Chapter 7 debtor’s global discharge as well as the debtor’s eligibility to receive one.

The name of the game in Chapter 13 bankruptcy is the “plan.” The debtor proposes her “plan” to the Court to pay some or all of her debts in return either for eligibility for any bankruptcy relief at all or to receive the additional protections Chapter 13 bankruptcy offers. We will spend a loooooong time with Chapter 13 plans.

During this class, you will work problems, draft documents and prepare petitions and plans. We will use the same computer software that most bankruptcy practitioners use.

More than anything, you will learn a vital skill for your legal “toolkit”: statutory construction. What you will see from the casebook is that there are not that many cases. What you will see from the codebook is that there is a very long and detailed code. You will learn to manipulate that code, decipher its terms, and follow it from section to section with ease. In other words, you will conquer it, so that in the future, you will conquer many others.

5. Attendance. All school policies related to attendance will be followed meticulously. Those school policies are as follows:

Each student is obligated to attend and participate in every class. Arizona Summit Law School requires that every student attend at least 85% of all class meetings for each class in which the student is enrolled. Any student whose absences exceed 15% of the total number of class meetings will be dismissed from the course with an “F” grade. Within the bounds of this policy, each professor is free to maintain class-specific attendance policies and may include an attendance component in student evaluation. The professor will inform the Registrar when a student has violated the attendance policy. The Registrar will inform the student, the professor, and the Associate Dean for Academic Affairs in writing that the student has been dismissed from the course, and the professor will no longer allow the student to attend classes. For the purposes of this policy, neither Arizona Summit Law School nor the ABA distinguishes between excused or unexcused absences. However, if extraordinary circumstances have

caused a student's absences to exceed the limit, the student may appeal the dismissal in writing to the Associate Dean and continue to attend classes pending the Associate Dean's decision, which shall conclude the matter.

If a student has not attended any classes for 30 calendar days, and has not been officially approved for a Leave of Absence or Withdrawal, he or she will be deemed to have withdrawn from Arizona Summit Law School.

Courses meeting twice per week have a maximum allowable absence of 4 classes and courses that meet once per week have a maximum allowable absence of 2 classes.

6. Grading. The final course grade will be determined as follows:

5+ percent ³	=	Participation and simulation activities
5 percent	=	Report from Meetings of Creditors
20 percent	=	Quizzes
20 percent	=	Chapter Seven petition and schedules
50 percent	=	Final project (see next page for further details)

I grade examinations and other assignments based on the correctness of the legal principles applied, the quality of your analysis and the elegance of your solutions to the problems presented.

The logistics of your assignments are as follows:

a. Final Project. The Final Project will be due one week after classes end. It will probably involve preparation of a Chapter 13 plan and responding to other related questions, depending on our precise coverage in the course. Though it is not an in-class examination, your likelihood of success will increase if you have ordered and outlined your notes

b. Chapter Seven Petition (DUE ONE WEEK AFTER WE FINISH UNIT EIGHTEEN). The structure of our course is rooted in a set of Major Problems arising from representation of a client in the Chapter Seven case. You will receive an "Initial Client Questionnaire" that is very similar one a debtor's attorney would use in practice. Throughout the term you should prepare a Chapter Seven petition based on information and analysis you do related to the Major Problems. If you keep up with the petition throughout the term, at the end of the Chapter Seven portion of the course, you will have all of the information you need to finalize the petition, schedules and other attachments.

c. Report from Meetings of Creditors (DUE MARCH 2 BEFORE CLASS ON TWEN AND PAPER). During the course of the term, you must attend one hour of meetings of creditors

³³ If appropriate, I will allocate additional points to this category so that the total points for the class might turn out to be 102 or 104. Forewarned is forearmed!!

("341 meetings"), which are held in the Bankruptcy Court building downtown. Use the court's website to find out the schedule.

Prepare a report no longer than 500 words some or all the following to the extent relevant to what you saw.

- Type of matter and substance of hearing (e.g., motion for relief from the stay)
- Who attended the hearing and what roles those persons played
- How did the judge rule and conduct both the hearing and his/her court
- Which side persuaded you based on your knowledge of the law and the credibility of any arguments/evidence
- Any other matters of interest to you

It is not necessary to write about all meetings you saw and you may make general observations or discuss a specific hearing. You will receive most if not all of the available points if you attend and make meaningful observations in good faith.

If work commitments make this assignment impossible to complete, let me know, and we will identify an appropriate substitute.

d. Simulation activities. There may be opportunities to participate in simulations of a problem common to bankruptcy practice for additional participation points. I will explain the circumstances more completely at the beginning of the term.

e. Quizzes. Quizzes will occur at unannounced times during the term. They will test basic principles from the materials such as the primary code sections, cases and problems found in the casebook that you have prepared for the class. Most will be multiple choice questions, but not necessarily all. I would pay attention to the questions indicated with each unit and the casebook problems if I was trying to maximize the points I earned on quizzes.

f. Participation. You will receive most if not all of the participation points allocated strictly for in-class participation if you are faithfully prepared, regularly add to the discussion, listen actively, contribute usefully when I call on you, either as a volunteer or as a "cold call," and otherwise show a good attitude and respect for both your colleagues and I. Students who regularly participate orally and voluntarily may receive more points than others. I will award and subtract essay/participation points based on my sole discretion.

7. TWEN. Our course management system will be a traditional TWEN site. Please familiarize yourself with it early in the term. It contains important links to outside websites and resources we will need in several units.

8. Electronic devices.

This is a partly laptop-free class!!

Please **do** bring your laptops to class. Laptops are advantageous for some activities and they detract significantly from others. I will indicate prior to class if it will be appropriate to use laptops that evening. The volume of our online material is such that using laptops often may be appropriate, but please print out course materials just in case.

9. Statement on the Socratic method. The primary teaching method for the course will be a “modified” Socratic method. I will ask you questions, and you will respond. Sometimes we will discuss material more informally. The Socratic method requires meticulous preparation and frequent class participation by each student.

The Socratic method is different from other forms of teaching/learning. Individual learning can be self-study and independent reading. Sometimes classes are solely one-on-one teacher-student interaction. A Socratic course is different, because the student teaches himself by studying; the professor teaches the student through their interaction; and each student teaches other because all observe interactions with the professor. **Again, full participation, careful class preparation and appropriate humility** are necessary to take advantage of the richness of this methodology.

I will take appropriate steps if some students take advantage of the system without giving back in return, including “cold calling,” extra quizzes, and deduction of participation points.

I RESERVE FULL RIGHTS TO TAKE STEPS TO MAXIMIZE THE POTENTIAL OF
THE SOCRATIC METHOD IN THIS CLASS.

THIS SYLLABUS IS SUBJECT TO CHANGE AT MY
SOLE DISCRETION

TENTATIVE READING ASSIGNMENTS

This is an outline of anticipated readings. ***Assume there will be changes.*** That way, when (not “if”) change occurs, you will all be prepared and marvel at the orderliness with which I have fulfilled your expectations!!

Units are NOT the equivalent of one class. They are simply bite-sized chunks of material based on a single topic. In numerous cases, the material in a unit is unlikely to require an entire class period to cover. If you are unclear how far ahead to read, I recommend staying one unit ahead.

Start watching for changes on August 25, 2014

Advice for class preparation:

- All students should be prepared to discuss all class readings and problems at any time.
- If a Code section or Rule is boldfaced and italicized, you should have construed the section, determined its meaning and application, and be prepared to explain both in class.
- The organizing feature of many classes will be our “Major Problems,” which will also inform our Chapter Seven petition assignment. After the first week of class, I will divide the class into two groups: the “red” group and the “blue” group. You will see those colors on the syllabus below. All members of the red group must be ready to explain the solution to the “Major Problem” for units shaded in red if called upon in class. All members of the blue group must be ready to explain the solution to the “Major Problem” for units shaded in blue if called upon in class. If the blocks for the unit are shaded both red and blue, the entire class should be prepared to explain the Major Problem if called upon in class.

The Major Problems are designed so that you will use many of the Code sections, cases, problems and other readings assigned to solve them. You should be sure to actively engage those readings prior to attacking a Major Problem.

- “Major Problems” are located on TWEN. “Problems” are in your casebook.
- Regardless of whether your group is assigned for the Major Problem that day, you will want to give each Major Problem attention as that may be the form through which much of our reading material is presented. There are suggested sources to assist with developing solutions to the problems that are not assigned as required class reading. You may want to have at least some familiarity with those additional sources.

UNIT	ASSIGNMENT	OTHER INFORMATION
INTRODUCTION TO BANKRUPTCY WORLD		
1	<p><u>Welcome to Bankruptcy World</u></p> <ul style="list-style-type: none"> ✓ Casebook 1-11 ✓ Lendol Calder, <i>The Meaning of Consumer Credit in the United States</i>, 20 Am. Bankr. Inst. J. 52 (2002) (please download from Westlaw) ✓ Code §§ 101, 102 – definitions of words – “after notice and a hearing,” “claim,” “claim against the debtor,” “consumer debt,” “creditor,” “debt,” “debtor,” “entity,” “individual with regular income,” “insolvent,” “judicial lien,” “lien,” “person,” “petition,” “security agreement,” “security interest,” “statutory lien,” “transfer” ✓ Code §§ 103, 104, 109(a), (b), (e), 301, 302, 303, 307, 341, 343, 362(a), 501(a-c), 502(a), (b)(1-5), 506(a), 507(a)(1)(A), (8)(A-D), 521(a)(1), (b), 522(d), 523(a), 524(a), (c) (“reaffirmation agreement”), 541(a), 542(a), 701, 704(a), 706, 707(b)(1), (2)A(i) (the rest of 707(b)(2) is the “means test”), (7)(A)(i) (“safe harbor”), 722, 726, 727(a), 1302, 1306, 1321, 1322(a), (b), 1324, 1325(a), (b)(1), 1326, 1327, 1328 ✓ 28 U.S.C. §§ 152, 157, 158 ✓ Rules 1001, 1002, 1007(b), 2002(a), (e), (a), 2003(b)(1), 3001(a-e), 3007(a-b), 4002, 7001, 9011, 9014, 9029 ✓ www.azb.uscourts.gov ✓ www.usdoj.gov/ust ✓ www.bestcase.com 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ The legal structure of the bankruptcy process, based on both the Casebook reading and your review of the Code sections and rules noted. ✓ The role of consumer credit in our history and recent changes. ✓ The information available from the Bankruptcy Court and United States Trustee’s office – including the role of the United States Trustee and interim trustees in the bankruptcy process (see also §§ 307, 701, 1302). <p>It is very important to “touch” all Code sections and rules assigned prior to each class. Take this opportunity to familiarize yourself with the structure, content and vocabulary of the Code as it presents the substance and process of bankruptcy law by paging through the code and stopping at each section indicated to read.</p>
2	<p><u>The Debtor’s Attorney</u></p> <ul style="list-style-type: none"> ✓ Casebook 52-67 (<i>Milavetz, Gallop & Milavetz v. United States</i>) ✓ Casebook 213-17 (<i>Bethea v. Robert J. Adams & Assocs</i>) ✓ Code §§ 101(12A), 521(a), (b), (d), (e), (h), 526(a), (b), (c)(1-2), 527, 528 ✓ Rule 1007(a)(1), (b), 4002 ✓ Problem 2-7 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ What are “debt relief agencies” and what does the Code require of them? ✓ Just how burdensome are the professional requirements and ethical obligations for representing debtors in bankruptcy.

PLANNING, PREPARING AND FILING THE CASE		
3	<u>Eligibility to Be a Debtor</u> <ul style="list-style-type: none"> ✓ Casebook 35-37, 79-82 ✓ Casebook 82-91 (<i>Montgomery v. Ryan, In re Sole</i>) ✓ Code §§ 109(a), (b), (e), 109(g), (h), 111(c), 301, 302, 362(a), (c), 727(a)(11), 1328(g) ✓ Rule 1007(b)(7) ✓ Problems 2-1, 2-11, 2-12, 2-13, 2-14, 2-15 	Questions: Please come to class prepared to discuss the following: <ul style="list-style-type: none"> ✓ What are the eligibility requirements to “be a debtor” in a Chapter Seven bankruptcy case? ✓ Under what circumstances may a person be a debtor if that person had been a debtor in a recent case.
4	<u>Abuse: Current Monthly Income, the Means Test and Bad Faith Filings</u> <ul style="list-style-type: none"> ✓ MAJOR PROBLEM – on TWEN ✓ Casebook 37-40 ✓ 47-51 (<i>In re James</i>) ✓ Code §§ 101(10A), 707(b)(1), (2)(A)(i), (2)(A)(ii-iv), (2)(B), (3) 4(A), (B), (5)(A), (6), (7)(A) ✓ Rule 5008, 9011 ✓ Problems 2-3, 2-4, 2-5 	Questions: Please come to class prepared to discuss the following: <ul style="list-style-type: none"> ✓ What is “current monthly income,” how do you calculate it, and why does it matter? ✓ Assuming you know someone’s CMI and the amount of their debts, how do you determine if the person passes the means test. Make sure you understand the test in § 707(b)(2)(A)(i) and significance of § 707(b)(7).
5	<u>The Iron Curtain: The Automatic Stay</u> <ul style="list-style-type: none"> ✓ MAJOR PROBLEM – on TWEN ✓ Casebook 151-62 (<i>In re Cordle, In re Siciliano</i>) ✓ Casebook 165-68 (Lifting the Stay) ✓ Code §§ 361, 362(a), (b)(1), (2), (21), (c), (d)(1), (2), (f), (g), (h), (j), (k), 521(a)(2), (6), 554 ✓ Rule 4001(a), (d), 9014(a), (b), (c), (d-e) ✓ Problems 2-15, 4-4, 4-5(a), 4-6 	Questions: Please come to class prepared to discuss the following: <ul style="list-style-type: none"> ✓ What acts or omissions may cause you to violate the automatic stay? What are the consequences even of good faith errors? ✓ How does one obtain relief from the stay?
6	<u>The Iron Curtain: Property of the Estate</u> <ul style="list-style-type: none"> ✓ MAJOR PROBLEM – on TWEN ✓ Casebook 93-101 (<i>In re Whiting Pools</i>) ✓ Casebook 108-10 (Post Petition Earnings and Limits to Property of the Estate) ✓ Casebook 120 (Exclusions) ✓ Code §§ 541(a), (c), (d), 542(a), (c), 543(a), (b), 704(a) ✓ Problems 3-1, 3-3, 3-4, 3-5, 3-10 	Questions: Please come to class prepared to discuss the following: <ul style="list-style-type: none"> ✓ Is a debtor’s income tax refund property of the estate? Would that influence how you should advise a client who is being over-withheld?

<p style="text-align: center;">7</p>	<p><u>Exemptions I – The Basics</u></p> <ul style="list-style-type: none"> ✓ MAJOR PROBLEM – on TWEN ✓ Casebook 129-32 (Exemptions) ✓ Casebook 142-46 (<i>Taylor v. Freeland & Kronz</i>) ✓ Code §§ 105, 522(a), (b)(1-3), (d), (l), (m), (o), (p), 544 ✓ Rule 4003 ✓ Ariz. Rev. Stat. §§ 33-964, 33-1101, 33-1103, 33-1121 to 33-1133 (I would copy and paste these into a Word document to use in class) ✓ Problems 3-12, 3-13, 4-5(b) 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ Items of property that are exempt from property of the estate under the Code and Arizona law and which applies in Arizona. ✓ Determining what items of property to exempt to maximize the value of property the debtor may retain after the bankruptcy. ✓ The process of claiming and objecting to exemptions.
<p style="text-align: center;">8</p>	<p><u>Exemptions II – Lien Avoidance</u></p> <ul style="list-style-type: none"> ✓ MAJOR PROBLEM – on TWEN ✓ Casebook 131-42 (<i>In re Short</i>) ✓ Code §§ 522(f) (not (f)(3)) ✓ Ariz. Rev. Stat §§ 33-1132 ✓ Problem 3-14 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ The conditions that permit avoiding a lien. ✓ Whether a lien may be avoided if the loan they secure has been refinanced.
<p style="text-align: center;">9</p>	<p><u>Exemptions III – Tension Between Exemptions and Other Federal Policies</u></p> <p>✓ MAJOR PROBLEM – on TWEN</p> <p><i>Inherited Individual Retirement Accounts:</i></p> <ul style="list-style-type: none"> ✓ <i>Clark v. Rameker</i>, 134 S.Ct. 2242 (2014) ✓ Statutory provisions relevant to inherited IRAs: § 522(d)(12), 26 U.S.C. § 408(d)(3)(C); Ariz. Rev. Stat. § 33-1126(13) <p><i>Earned Income Tax Credit:</i></p> <ul style="list-style-type: none"> ✓ <i>In re Builder</i>, 364 B.R. 10 (D. Ariz. 2007) ✓ <i>Flanery v. Mathison</i>, 289 B.R. 624 (W.D. Ky. 2003) ✓ Statutory provisions relevant to Earned Income Tax Credit: § 522(d)(10), 26 U.S.C. §§ 32, 32A, 6401, Ariz. Rev. Stat § 46-208 	<p>Question: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ NOTE that there is a problem for EVERYONE for this unit. <p>It is possible the material in this Unit will not require an entire class period to cover.</p>
TRUSTEES, CREDITORS AND CLAIMS		
<p style="text-align: center;">10</p>	<p><u>Trustees, Creditors and Claims</u></p> <ul style="list-style-type: none"> ✓ Casebook 169-78 (<i>In re Miller</i>) ✓ Code §§ 323, 326(a), 501, 502(a), (b)(1-5), (9), 509, 701, 704 ✓ Rules 3001, 3002, 3004, 3007(a), (b), 9014 ✓ Thomas E. Springer, <i>Administering, Monitoring, and Facilitating the Consumer Bankruptcy Process from the Perspective of the Chapter 7 Trustee</i>, Aspatore, Jul. 2012, 2012 WL 2166795 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ How does a creditor “get on the list” to be paid in a bankruptcy case? ✓ If any interested party in a case disagrees with the amount a creditor should be paid, what should that party do? ✓ How do trustees get paid? What incentives does that create? <p>It is possible the material in this Unit will not require an entire class period to cover.</p>

<p style="text-align: center;">11</p>	<p><u>Intentions and the Three “R”s of Keeping Collateral – Reaffirmation, Redemption, and Ride Through</u></p> <ul style="list-style-type: none"> ✓ MAJOR PROBLEM – on TWEN ✓ Casebook 240-53 (Reaffirmation – <i>In re Jamo</i>) ✓ <i>In re Alvarez</i>, 2012 WL 441257 (Bankr. N.D. Ill 2012) (Intentions and Redemption) ✓ <i>In re Jones</i>, 591 F.3d 308 (4th Cir. 2010) (Ride-Through) ✓ Code §§ 362(h), 506, 521(a)(2), (6), 524(c), (k-m), 554, 722 ✓ Rule 4002, 4008, 6008 ✓ Ariz. Rev. Stat. §§ 12-1281, 47-9623 ✓ Problems 6-14, 6-15, 6-16, 6-17 ✓ Dennise L. McCann & Jane E. Penley, <i>A Beginners’ Guide to Secured Debt in Chapter 7 Bankruptcy Cases: Surrender, Redemption and Reaffirmation</i>, 26 D.C. Bar Ass’n Brief 26, Jan. 2014 	<p>Questions: Please come to class prepared to demonstrate using the Code and Rules how to do the following:</p> <ul style="list-style-type: none"> ✓ NOTE that there is a problem for EVERYONE for this unit. ✓ The attorney’s role in the reaffirmation process and why many debtors’ attorneys refuse to sign the accompanying affidavits. ✓ The process of complying with the debtor’s duty to file the Statement of Intention and perform afterwards (Code and Rules) ✓ How to negotiate and make a reaffirmation agreement legally binding on both parties. ✓ What a “ride-through” is and how the Code has apparently eliminated legal protections for this option to retain collateral.
<p style="text-align: center;">12</p>	<p><u>The Problem of Vehicles: Valuation</u></p> <ul style="list-style-type: none"> ✓ MAJOR PROBLEM – on TWEN ✓ <i>Associates v. Rash</i>, 520 U.S. 953 (1997) ✓ Code § 506 ✓ Kelley: www.kbb.com ✓ NADA: www.nadaguides.com ✓ Edmunds: www.edmunds.com 	<p>Questions: Please come to class prepared to explain the following about your assigned case:</p> <ul style="list-style-type: none"> ✓ NOTE that there is a problem for EVERYONE for this unit.
<p style="text-align: center;">13</p>	<p><u>The Problem of Vehicles: The Three “R”s and Market Realities</u></p> <ul style="list-style-type: none"> ✓ MAJOR PROBLEM – on TWEN ✓ Code §§, 506, 722 ✓ Rules 3012, 6008 ✓ 722Redemption.com ✓ Loan calculator 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ NOTE that there is a MAJOR PROBLEM for EVERYONE for this unit. ✓ How collateral valuation has changed since BAPCPA. ✓ The policy goals of the pre- and post-BAPCPA valuation standards and their merits. ✓ The impact of these changes on the debtor’s redemption right. ✓ How you might expect attorneys for debtors and holders of claims secured by personal property to advise their clients to achieve their own financial goals in light of the law and other market incentives. <p>It is possible the material in this Unit will not require an entire class period to cover.</p>

14	<p><u>The “Allowed Secured Claim” and Lien Stripping</u></p> <ul style="list-style-type: none"> ✓ Casebook 255-65 (<i>Dewsnup v. Timm</i>) ✓ Code § 506 	<p>Note: I may delay this Unit. Two consolidated cases, <i>Bank of America v. Caulkett</i> and <i>Bank of America v. Toledo-Cardona</i> are before the Supreme Court this term. These cases raise a vital issue in Chapter Seven: May debtors strip wholly unsecured mortgages? I would like us to review the briefs as a significant part of this Unit, but they are not due until mid-February.</p> <p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ What it means to “strip” a lien and the difference between “stripping down” and “stripping off” a lien. ✓ Who should win in <i>Caulkett</i> and <i>Toledo-Cardona</i> and why?
15	<p><u>Collecting Property to Pay Claims: The Trustee’s Avoidance Powers</u></p> <ul style="list-style-type: none"> ✓ MAJOR PROBLEM – on TWEN ✓ Casebook 265-67 (Strong-Arm Clause) ✓ Casebook 271-78, 293-94 (Preferences) ✓ Casebook 312-14 (Trustee as Successor, Post Petition Transfers) ✓ Code §§ 101(32), 544, 545, 546(b), 547(a), (b)(1-4), 548(a), 549, 550(a-b) ✓ Rule 2002(e) ✓ Problems: 7-5, 7-6, 7-9, 7-14, 7-22, 7-34, 7-36 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ What it means to “avoid a transfer.” ✓ What transfers the trustee may avoid. ✓ What § 544 permits trustees to do. ✓ What “preferences” and “fraudulent transfers” are and how they are different. <p>It is possible the material in this Unit will not require an entire class period to cover.</p>
16	<p><u>Paying Creditors</u></p> <ul style="list-style-type: none"> ✓ Casebook 181-84, 190-91, 198-99 (Priority Claims, Future Claims) ✓ Code §§ 101(14)(A), 326, 361, 503, 507, 523, 726 ✓ Problems 5-9(1), (2), (4), (6), 5-10 	<p>Question: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ In what order a trustee should pay claims. ✓ Compare § 507 to § 523. What similarities and differences do you see? ✓ How do trustees get paid for their work? What incentives do you see in the compensation structure? <p>It is possible the material in this Unit will not require an entire class period to cover.</p>
CHAPTER SEVEN DISCHARGE		
17	<p><u>Exceptions to Discharge</u></p> <ul style="list-style-type: none"> ✓ MAJOR PROBLEM – on TWEN ✓ Casebook 228-40 (<i>Barratt v. Educational Credit Management Corp.</i>) ✓ Code § 523(a)(1), (2), (5), (8), (9), (14), (15), (18), (c) ✓ Rule 4007 ✓ Problems 6-6, 6-7, 6-8, 6-9, 6-12 	<p>Question: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ NOTE that there is a problem for EVERYONE for this unit. ✓ What are the non-dischargeable debts that are most relevant to “the average” consumer debtor? ✓ When are student loans dischargeable and what must be done procedurally to get a student loan discharged?

18	<u>Global Denial of Discharge</u> <ul style="list-style-type: none"> ✓ Casebook 201-13 (<i>Norwest Bank v. Tveten</i>) ✓ Code § 727 ✓ Problems 6-1, 6-2, 6-3, 6-4 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ What did Tveten and his lawyer do wrong? Seriously – how were they supposed to know that what he was doing was wrong? <p>It is possible the material in this Unit will not require an entire class period to cover.</p>
CHAPTER THIRTEEN		
19	<u>Introduction to Chapter 13 and Eligibility of Debtors</u> <ul style="list-style-type: none"> ✓ Casebook 327-36 (<i>Hamilton v. Lanning</i>) ✓ Casebook 317-23 (Eligibility) ✓ Code §§ 101(30), 109(e), 1301, 1302(a-b), 1306, 1307, 1321, 1322(a), (b), 1324, 1325(a)(1-3), (4), (5), (6), (7-9), (b), 1326(a), (b), 1327. ✓ Problems 2-5, 8-4, 8-5, 8-6, 8-8 ✓ Bret Nason, <i>Filing Your First Chapter 13 Case</i>, Aspatore, 2013 WL 9262 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ What would be the practical result – both for this particular Debtor and in Chapter 13 practice generally – if the Court had come to the opposite conclusion in <i>Hamilton v. Lanning</i>?
20	<u>The Means Test Redux: Disposable Income and the Applicable Commitment Period (or, How Long the Blasted Thing Has to Last!)</u> <ul style="list-style-type: none"> ✓ Casebook 37-47 (<i>Ransom v. FIA Card Services, N.A.</i>) ✓ Casebook 337-43 (<i>In re Cleary</i>) ✓ Code §§ 1322(d), (f), 1325(b) ✓ Problem 8-8, 8-17 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ How are the means test and § 1325(b) the same or different? ✓ How long does a plan last and how much does the debtor have to pay under the “disposable income test?” ✓ What is the “applicable commitment period”
21	<u>What a Plan Must Do and What It May Do: Plan Classifications</u> <ul style="list-style-type: none"> ✓ Casebook 322-27 ✓ Code §§ 1322(a), (b), (e), (f), 1325(a)(1-4), (6), (7-8), (9) ✓ Problems 8-7, 8-8, 8-9, 8-10, 8-11, 8-12, 8-13 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ What are plan classifications and how can they be used to fulfill your clients’ interests, such as keeping property, especially collateral; paying priority and non-dischargeable debts; protecting co-debtors, and others? ✓ What are the “tests for confirmation?” How do they influence plan drafting? ✓ If you aren’t assigned the Major Problem – you need to know all of the “problems” for the class! It just works a lot better.

<p style="text-align: center;">22</p>	<p><u>Cramdown: The Chapter 13 Solution to Security Interests in Personal Property</u></p> <ul style="list-style-type: none"> ✓ MAJOR PROBLEM ON TWEN ✓ Casebook 343-56 (<i>In re Penrod</i> (dissent from denial of rehearing en banc), <i>Tidewater Finance v. Kenney</i>) ✓ <i>In re Penrod</i>, 611 F.3d 1158 (9th Cir. 2010) ✓ Code §§ 506, 1322(a), (b), (e), 1325(a)(4-5). Make sure to internalize the paragraph after § 1325(a)(9), which is not part of that subsection at all and actually refers to (a)(5)! ✓ Problems 8-20, 8-21 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ How to do a cramdown and fit it into a confirmable plan that meets client goals and expectations. ✓ How would the Supreme Court decide <i>Penrod</i>?
<p style="text-align: center;">23</p>	<p><u>Lien-Stripping and Curing Arrearages: Chapter 13 Solutions and Complications for Real Property Mortgages</u></p> <ul style="list-style-type: none"> ✓ MAJOR PROBLEM ON TWEN ✓ Casebook 357-68 (<i>Nobelman v. American Savings Bank, In re Guilbert</i>) ✓ Code §§ 506(a), 1322(b)(2), (e) ✓ Problems 8-23, 8-26 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ How to use Chapter 13 to help clients keep their homes. ✓ How lien stripping is different in Chapter 7 and 13.
<p style="text-align: center;">24</p>	<p><u>Plan Preparation</u></p> <ul style="list-style-type: none"> ✓ PROBLEM – on TWEN 	<p>Questions: Please come to class prepared to discuss the following:</p> <ul style="list-style-type: none"> ✓ NOTE that there is a problem for EVERYONE for this unit.

Exploring the Use of Technology in the Law School Classroom.

Workshop 2C

Clicking through the Classroom

Peter Sankoff
University of Alberta, Canada

Peter Sankoff is a Professor at the University of Alberta, Faculty of Law. He is the author, co-author or co-editor of eight books including *Witnesses, Manning, Mewett and Sankoff: Criminal Law*, 5th ed. (2015), a treatise on the Canadian criminal law, *Animal Law in Australasia: A New Dialogue* (2009), the first book on animal law published in the Southern Hemisphere, and *Canadian Perspectives on Animals and the Law* (2015). He is currently working on two new books: *Why Animal Protection Law Fails to Protect Animals* and *The Law of Witnesses and Evidence in Canada*, the latter a complete assessment of the law of evidence in Canada. Peter has published numerous peer-reviewed articles on the substantive criminal law, criminal procedure, animal law, evidence and legal education.

In addition to his work on substantive legal issues, Peter is an award-winning educator who in 2016 received the Brightspace Innovation Award in Teaching and Learning from the Society for Teaching and Learning in Higher Education, primarily for his work on the flipped classroom model of teaching. In addition to his work at the Faculty of Law, Peter litigates part-time on criminal and animal law issues with Bottos Law Group in Edmonton, and has appeared before the Supreme Court of Canada on three occasions. To learn more about his work, go to www.petersankoff.com.