

Preface

This book has evolved from a need to develop a nuts-and-bolts description of the bankruptcy system written to be understood by nonlawyers.

My primary intent has been to design this text as a basic primer for legal assistants or paralegal students to help them grasp the practical aspects of representing debtors or creditors within the bankruptcy system. To meet this challenge, I have explained practice and theory together in as concise a format as possible. I have chosen this approach because practice is almost always dictated by the underlying theory, and it is easier to learn a practice when one has been provided with the basic theory behind the practice.

In subsequent editions I have listened to the many thoughtful comments of paralegal instructors and students from all over the country, some of whom have gone to exceptional effort to hunt me down, to enhance the practical nature of the text, and to further simplify the subtleties and nuances of the Bankruptcy Code and system. Each new edition updates and revises the text to keep abreast of all statutory, case law, and rule changes that regularly take place.

Paralegals are invaluable in the bankruptcy system. Under proper legal supervision, paralegals can efficiently perform various tasks for clients at a substantial savings. Because much of bankruptcy practice is routine, presenting these routines and the reasons for them will help a paralegal be properly prepared to assist in a debtor or creditor bankruptcy practice. The introduction describes the role of paralegals in the bankruptcy system. The student should read the introduction twice, once at the beginning of the course and again at the end. In this way, the material will act as both an introduction and final review of the course.

It has not been my intent to analyze the complex subtleties of the Bankruptcy Code and its attendant case law interpretation, but rather to describe the routine events that occur in all bankruptcy proceedings, events that normally occur without dispute or litigation. These events account for a majority of bankruptcy practice, much of which is not problematic. Thus, law students and nonbankruptcy attorneys may also find this text a useful reference tool for finding the answers to common bankruptcy questions.

For example, by reading chapter 4 of the text and the forms accompanying chapter 4 in the forms disk, any student or practitioner can quickly learn the basic principles of providing notices to creditors or parties in interest in bankruptcy proceedings, and learn about the documents and timing involved.

My philosophical goal in undertaking this work has been to describe the Bankruptcy Code as a comprehensive system of debtor relief and debt collection, as well as the organization and practical functioning of this system. I am honored to have been given the opportunity to evolve the original work from the laboratory of time and use.

Upon completing this undertaking I have reached the inescapable conclusion that the Bankruptcy Code exists first and foremost as a tool of debt collection and not of debtor relief. Conversely, the debtor relief provided by the Bankruptcy Code is among the most liberal relief that has existed in the evolution of bankruptcy laws through Western history. The 2005 legislation will be perceived by many to restrict debtor relief while enhancing the debt collection aspects of the Code, particularly in consumer bankruptcy cases.

This book has also been prepared with the secondary purpose of aiding creditor representatives in understanding how the bankruptcy system may be properly utilized as a debt collection device to

increase overall recovery rates.

Finally, I am optimistic that having described the Bankruptcy Code in this manner I may aid, however slightly, in enhancing the efficiency of the system.

David L. Buchbinder

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