Index

ABI REPORT

Chapter 11, 23:7

ABSTENTION FROM EXERCISE OF JURISDICTION

Generally, 3:34

Core proceedings, 3:38

Entire case, abstention from,

distinguished

Under section 305 of Bankruptcy Code, **3:35**

Involuntary petition, responding to, **4:32**

Mandatory abstention, 3:36

Permissive abstention, 3:37

ACCRUAL OF CLAIMS

Environmental law, 14:8

ADEQUATE PROTECTION

Debtor Financing and Cash Collateral, this index

Relief from stay

Grounds, lack of adequate protection, **6:46**

Undersecured creditor, 6:53 ADMINISTRATION OF ESTATE

Subject matter jurisdiction, 3:21

ADMINISTRATIVE AGENCIES

Limitations on bankruptcy jurisdiction, **3:17**

ADMINISTRATIVE CLAIMS

Intellectual property, debtor's post-petition use of, **15:23**

ADVERSARY PROCEEDINGS

Generally, 2:2 to 2:15 Class actions, 2:9

ADVERSARY PROCEEDINGS

-Cont'd

Commencement, 2:4

Counterclaims, 2:7

Court trials, 2:15

Cross-claims, 2:7

Defenses, 2:6

Defined, 2:3

Discovery, 2:11 to 2:13

Injunctions, 2:14

Intervention, 2:10

Joinder of parties, 2:8

Judgment, 2:15

New trial, 2:15

Pleadings, 2:6

Service of process, 2:5

AFFILIATES

Venue, 3:48

AFFIRMATIVE DEFENSES

Relief from stay, 6:68

AFTER-ACQUIRED PROPERTY

Debtor financing and cash collateral, **5:28**, **5:29**

Preferential transfers, afteracquired inventory and receivables, 11:25

AGREEMENTS

Contracts and Agreements, this index

AIRCRAFT

Exceptions to automatic stay, aircraft and financiers, **6:23**

ANSWER

Involuntary petition, answer to, 4:31

ANTITRUST MATTERS	APPEALS—Cont'd
Generally, 16:1 to 16:20	Core proceedings, appellate proce
Collective creditor actions	dure
Generally, 16:12 to 16:19	Generally, 12:6 to 12:9
Debtor in bankruptcy remedies,	Manner of appeal, 12:7
16:17 to 16:19	Prosecution of appeal, 12:9
Pre-bankruptcy remedies, 16:14	Standing, 12:7
to 16:16	Time for appeal, 12:8
Protective measures available, 16:13	Court of Appeals jurisdiction, 12:4, 12:5
Remedies, generally, 16:14 to 16:19	De novo review, noncore proceed ings, 12:12
Creditor rights, impact of antitrust	District courts
principles on, 16:2	Jurisdiction, below
Debtor in bankruptcy remedies,	Stay of judgment, 12:11
collective creditor actions,	Executory contract, assumption of
16:17 to 16:19	rejection, 8:36
Group boycotts, 16:5	Final judgment rule, 12:2
Noerr-Pennington doctrine, 16:11	Interlocutory appeals, 12:3
Per se illegal restraints, 16:4, 16:7	Jurisdiction
Pre-bankruptcy remedies, collec-	Court of appeals
tive creditor actions, 16:14 to 16:16	Under 28 U.S.C.A. Section
	158(d), 12:4
Rule of reason, 16:4, 16:8	Under 28 U.S.C.A. Sections
Safety zones, U.S. Department of Justice and Federal Trade	1291 and 1292, 12:5
Commission Guidelines,	Generally, 12:4
16:10	District court and Bankruptcy
Sherman Act, 16:3	Appellate Panel
U.S. Department of Justice and	Generally, 12:1 to 12:3
Federal Trade Commission	Final judgment rule, 12:2
Guidelines	Interlocutory appeals, 12:3
Generally, 16:6 to 16:10	Final judgment rule, 12:2
Examples of potentially	Interlocutory appeals, 12:3
anticompetitive collaborations, 16:9	Noncore proceedings, de novo review, 12:12
Per se test, 16:7	Prosecution of appeal, 12:9
Rule of reason, 16:8	Sale of estate property outside
Safety zones, 16:10	ordinary course of business,
APPEALS	appeal of order authorizing, 7:10
Generally, 12:1 to 12:12	Standing, core proceedings, 12:7
Automatic Stay, this index	Stay pending appeal
Bankruptcy Appellate Panel	Generally, 12:10
Jurisdiction, below	Bankruptcy court's judgment,
Stay of judgment, 12:11	12:10

APPEALS—Cont'd

Stay pending appeal—Cont'd
District court or Appellate Panel
judgment, 12:11

Time for appeal, core proceedings, 12:8

Use, sale, or lease of collateral, 7:10, 7:14

ARBITRATION

Relief from stay, 6:59

ARISING IN JURISDICTION

Generally, **3:13**Intellectual property, **15:4**

ARISING UNDER JURISDICTION

Generally, **3:13**Intellectual property, **15:4**

ARTICLE 9

UCC Article 9, this index

ASSIGNMENT

Executory Contracts, this index Intellectual property law and bankruptcy law, intersection of, **15:19**

UCC Article 9, perfection after assignment, **17:14**

ASSUMPTION OF LEASES

Intellectual property leases, 15:18, 15:20

ATTORNEYS' FEES

Claims for services under Section 502(b)(4), **9:23**

Intercreditor agreements, 19:10

AUTOMATIC STAY

Generally, **6:1 to 6:76**

Acts against property. Property, acts against, below

Acts prohibited by Section 362(a)

Generally, **6:6 to 6:15**

Control over property of estate, acts to exercise, **6:12**

AUTOMATIC STAY—Cont'd

Acts prohibited by Section 362(a)
—Cont'd

Debtor, acts against, **6:15**Expiration of contractual rights, stay does not prevent, **6:14**

Judicial extension of stay, **6:13** Litigation against debtor, **6:7**

Prepetition claims, stay applies only to litigation of, **6:9**

Property, acts against, below Setoff v. recoupment, acts

against property, **6:11**Third parties, claims against, **6:8**

Adequate protection

Lack of, relief from stay, **6:46** Undersecured creditor, **6:52**

Affirmative defenses, relief from stay, **6:68**

Aircraft lessors and financiers, exceptions to stay, **6:23**

Appeals. Relief from stay, below Arbitration, relief from stay, **6:59**

Burden of proof

Relief from stay, 6:43

Remedies for violations, **6:37**

Contempt, enforcement of stay, **6:32, 6:33**

Control over property of estate, acts to exercise, **6:12**

Counterclaims, relief from stay, **6:68**

Debtor, prohibited acts against, **6:15**

Declaratory relief, **6:38**

Discovery, relief from stay, 6:69

Discovery in nonbankruptcy

forum, permitting, relief from stay, **6:60**

Duration, 6:4

Enforcement

Generally, **6:31 to 6:39**

Contempt, **6:32**, **6:33**

Declaratory relief, 6:38

AUTOMATIC STAY—Cont'd AUTOMATIC STAY—Cont'd Lien enforcement, relief from stay Enforcement—Cont'd Government, enforcement —Cont'd against, **6:39** Fully secured creditor Injunctions, 6:38 Generally, 6:48 Equity cushion, 6:49 Jurisdiction to enforce, **6:5** Multiple lien creditors, 6:50 Lien enforcement, relief from Postpetition interest, 6:51 stay, below Remedies for violations, below Single-asset real estate, 6:56 Undersecured creditor Environmental laws, exceptions to Generally, 6:52 stay, **6:19 Exceptions-stay** Adequate protection, 6:53 No equity and not necessary Generally, 6:16 to 6:30 for effective reorganiza-Property, acts against, this index tion, 6:54 Exceptions to stay Valuation of collateral, 6:55 Environmental laws, 6:19 Litigation Other exceptions, 6:20 Against debtor, prohibited acts, Pecuniary purpose test, 6:18 6:7 Police power exception, 6:17 Relief from stay, below Expiration of contractual rights, Negotiable instruments, presentastay does not prevent, 6:14 tion and protest of dishonor, Extension of stay, judicial, 6:13 exceptions to stay, **6:26** Government Overview of litigation to enforce Enforcement of stay against the automatic stay government, 6:39 Generally, 6:2 Exceptions to stay, miscel-Pecuniary purpose test, exceptions laneous government to stay, **6:18** actions and investigations, Perfection of security interests 6:28 Exceptions to stay, 6:22 Hearing. Relief from stay, this Relief from stay, hearing prepaindex ration and discovery, 6:72 Injunctions, 6:38 Police power exception, 6:17 Intellectual Property, this index Prepetition claims, stay applies Judicial extension of stay, 6:13 only to litigation of, **6:9** Jurisdiction to determine Prior filings, property involved applicability of stay to litigawith, exceptions to stay, **6:30** tion, **6:61** Prohibited acts. Acts prohibited by Lease terminations, relief from Section 362(a), above stay, **6:62** Property, acts against Lessors of nonresidential and resi-Generally, 6:10 to 6:14 dential real property, excep-Aircraft lessors and financiers, tions to stay, **6:24**, **6:25** exceptions to stay, **6:23** Lien enforcement, relief from stay Control over property of estate, Generally, 6:47 to 6:56 acts to exercise, 6:12

AUTOMATIC STAY—Cont'd AUTOMATIC STAY—Cont'd Property, acts against—Cont'd Property, acts against—Cont'd Exceptions to stay tions to stay, **6:27** Generally, **6:21 to 6:30** Tax issues, exceptions to stay, 6:29 Aircraft lessors and financiers, 6:23 Relief from stav Government actions and Generally, 6:40 to 6:62 investigations, miscel-Adequate protection, lack of, laneous, **6:28** 6:46 Lessors of nonresidential and Affirmative defenses, 6:68 residential real property, Appeals 6:24, 6:25 Generally, 6:74 Negotiable instruments, pre-Finality for appeal purposes, sentation and protest of 6:74 dishonor, 6:26 Relief available on appeal, Perfection of certain security 6:76 interests, 6:22 Standard of review, 6:75 Prior filings, property Arbitration, 6:59 involved with, 6:30 Burden of proof, 6:43 Swaps, derivatives and other Cause, 6:45, 6:46 financial contracts, 6:27 Continuing litigation in non-Tax issues, 6:29 bankruptcy forum, factors, Expiration of contractual rights, 6:58 stay does not prevent, 6:14 Counterclaims, 6:68 Government actions and Deciding whether to request investigations, miscelrelief, **6:63** laneous, exceptions to stay, Discovery, **6:60**, **6:69** 6:28 Finality for appeal purposes, Judicial extension of stay, **6:13** 6:74 Lessors of nonresidential and Grounds residential real property, Generally, 6:44 exceptions to stay, 6:24, Adequate protection, lack of, 6:25 6:46 Negotiable instruments, presen-Cause, **6:45**, **6:46** tation and protest of dis-Hearing honor, exceptions to stay, Generally, **6:73** 6:26 Preparation and discovery, Perfection of certain security 6:69 to 6:72 interests, exceptions to Relief without hearing, 6:67 stay, **6:22** Time for hearing, **6:42**, **6:66** Prior filings, property involved with, exceptions to stay, Initiating request for relief, **6:64** 6:30 Jurisdiction to determine Setoff v. recoupment, **6:11** applicability of stay to litigation, **6:61** Swaps, derivatives and other Lease terminations, 6:62 financial contracts, excep-

AVOIDABLE PREFERENCES

Preferential Transfers, this index

AUTOMATIC STAY—Cont'd AUTOMATIC STAY—Cont'd Relief from stay-Cont'd Relief from stay-Cont'd Lien enforcement, above Time for hearing, **6:42**, **6:66** Litigation Valuation of collateral, hearing preparation and discovery, Generally, 6:57 to 6:61 6:71 Arbitration, 6:59 Venue, 6:65 Continuing litigation in non-Without hearing, 6:67 bankruptcy forum, fac-Remedies for violations tors, 6:58 Discovery in nonbankruptcy Generally, 6:34 forum, permitting, 6:60 Burden of proof, 6:37 Jurisdiction to determine Construction of term individual, applicability of stay to 6:35 litigation, 6:61 Declaratory relief, 6:38 Relief against litigation, 6:57 Definition of willful violation, Perfection of security interests, 6:36 hearing preparation and Injunctions, 6:38 discovery, **6:72** Scope of stay, **6:3 to 6:30** Practice and procedure Set-off Generally, 6:63 to 6:76 Versus recoupment, prohibited Affirmative defenses, **6:68** acts against property, 6:11 Appeals, above this group UCC Article 9, 17:2, 17:3 Counterclaims, 6:68 Single-asset real estate, lien Deciding whether to request enforcement, 6:56 relief. **6:63** Swaps, derivatives and other financial contracts, excep-Hearing, above this group tions to stay, **6:27** Initiating request for relief, Tax issues, exceptions to stay, 6:64 6:29 Perfection of security interests, hearing prepa-Third parties, claims against, ration and discovery, prohibited acts, 6:8 6:72 Time for hearing, relief from stay, 6:42, 6:66 Relief without hearing, 6:67 UCC Article 9, 17:2, 17:3 Reorganization, prospects for, hearing preparation and Valuation of collateral discovery, **6:70** Lien enforcement, 6:55 Valuation of collateral, hear-Relief from stay, hearing prepaing preparation and ration and discovery, 6:71 discovery, 6:71 Venue, relief from stay, 6:65 Venue, 6:65 Violations. Remedies for viola-Procedure, 6:41 tions, above Reorganization, prospects for, Willful violation, defined, 6:36 hearing preparation and

discovery, **6:70**

Standard of review, **6:75**

AVOIDANCE ACTIONS

Subject matter jurisdiction, 3:23

BANKRUPTCY APPELLATE PANEL

Jurisdiction over appeals, **12:1 to 12:3**

BANKRUPTCY CODE

Debtor financing and cash collateral, applicable Code provisions, **5:2**

Notice and hearing under Code, 2:17, 2:18

Structure, 1:7

BANKRUPTCY COURT

Forum to avoid need for litigation, 1:4

Reference of bankruptcy cases and civil proceedings

Generally, 3:18

Withdrawal of reference, procedure, **3:33**

Withdrawal of proceeding from bankruptcy court

Generally, 3:29 to 3:33

Mandatory withdrawal, 3:32

Permissive withdrawal, 3:31

Reference, procedure for withdrawal, **3:33**

Timeliness, 3:30

BANKRUPTCY RULES

Rules, this index

BOYCOTTS

Antitrust matters, group boycotts, **16:5**

BURDEN OF PROOF

Automatic Stay, this index Avoidance actions, 11:44 Claims objections, 9:12

BUSINESS ENTITIES

Venue, 3:47

CAPITAL MAINTENANCE COMMITMENTS

Mandatory assumption, 8:22

CASH COLLATERAL

Debtor Financing and Cash Collateral, this index

CHAPTER 5

Liens on causes of action, 5:21

CHAPTER 7

Discharge and dischargeability, 13:12

CHAPTER 11

Generally, 23:1 to 23:8

ABI report, 23:7

Carve-outs

Generally, 23:2 to 23:6

"Free access" approach, 23:6

Professional fees, 23:2, 23:3

"Toll charge" approach, 23:5

Unsecured creditors' claims,

23:4

Commencing Chapter 11 case, 1:11

Confirmation of plan, 1:15

Discharge and dischargeability, 13:12

Free access and toll charges, generally, 23:1 to 23:8

Operating business as debtor in Chapter 11, **1:12**

Players, 1:9

Process of Chapter 11 case, 1:10

Professional fees, carve-outs,

23:2, 23:3

Toll charges or free access, generally, 23:1 to 23:8

Unsecured creditors' claims, carve outs. 23:4

CHAPTER 12

Discharge and dischargeability, 13:13

CHAPTER 13

Discharge and dischargeability, 13:13

CLAIMS

Generally, **9:1 to 9:55**Amended proofs of claim, **9:32**

Attorney, claims for services under Section 502(b)(4), **9:23**

Burden of proof, objections, 9:12

Codebtors, sureties, and guarantors, Section 502(e) disallowance of claims

Generally, 9:39 to 9:42

Co-liability requirement, 9:42

Elements of disallowance, 9:40 to 9:42

Reimbursement or contribution, claim for, **9:41**

Contingent and unliquidated claims under Section 502(c), estimation of

Generally, 9:33 to 9:37

Effect of estimation, 9:37

Estimation procedures, 9:35

Personal injury claims, estimation of, **9:36**

Prerequisites for estimation, 9:34

Contingent and unmatured claims, exception for, **9:16**

Contract-based claims, 9:3

Contractual subordination.
Subordination of claims,
below

Disallowance, grounds for

Generally, **9:14 to 9:47**

Attorney, claims for services under Section 502(b)(4), 9:23

Codebtors, sureties, and guarantors under Section 502(e), claims of, 9:39 to 9:42

Contingent and unliquidated claims under Section

CLAIMS—Cont'd

Disallowance, grounds for
—Cont'd
502(c), estimation of, 9:33
to 9:37

Employment contracts, terminated, claims under Section 502(b)(7), **9:28**

Employment tax credit claims under Section 502(b)(8), 9:29

Equitable disallowance, **9:55**Executory contracts, rejection of, claims arising under Section 502(g), **9:44**

Insider, claims for services under Section 502(b)(4), 9:23

Involuntary petitions, below Landlord claims under Section 502(b)(6), **9:25 to 9:27**

Late-filed claims under Section 502(b)(9), **9:30 to 9:32**

Reconsideration of claims under Section 502(j), **9:47**

Recovery of property under Section 502(h), claims arising from, **9:45**

Tax claim in excess of property value under Section 502(b)(3), 9:22

Tax claims arising postpetition under Section 502(i), **9:46**

Transferees of property under Section 502(d), claims of, 9:38

Unenforceable claims under Section 502(b)(1), **9:15 to 9:17**

Unmatured debts excepted from discharge under Sections 502(b)(5) and 523(a)(5), 9:24

Unmatured interest under Section 502(b)(2), claims for, 9:18 to 9:21

CLAIMS—Cont'd CLAIMS—Cont'd Employment contracts, Involuntary petitions—Cont'd terminated, claims under Sec-Transfer of qualified claims, tion 502(b)(7), **9:28** 4:29 Employment tax credit claims Landlord claims under Section under Section 502(b)(8), **9:29** 502(b)(6)Generally, 9:25 to 9:27 Equitable disallowance, 9:55 Equitable subordination. Application of statutory cap, Subordination of claims, 9:27 below Calculation of statutory cap, Estimation of claims. Contingent 9:26 and unliquidated claims Late-filed claims under Section under Section 502(c), estima-502(b)(9)tion of, above Generally, 9:30 to 9:32 Evidentiary effect, proof of claim, Amended proofs of claim, 9:32 9:9 Exceptions to general rule, 9:31 Exceptions to proof of claim Make whole provisions, 9:20 requirement, 9:8 Nonbankruptcy law, valid claims Executory contracts, rejection of, generally allowable, 9:17 claims arising under Section Objections 502(g), **9:44** Generally, 9:9 to 9:13 Filing objections, 9:11 Burden of proof, 9:12 Guarantors. Codebtors, sureties. Filing, service, and opportunity and guarantors under Section for hearing, 9:11 502(e), disallowance of Formal requirements, 9:11, 9:12 claims, above Omnibus objections, 9:13 Hearing on objections, opportunity Proof of claim, evidentiary for, 9:11 effect. 9:9 Informal proofs of claim, 9:7 Standing to object, 9:10 Insiders Omnibus objections, 9:13 Claims for services under Sec-Personal injury claims, estimation tion 502(b)(4), **9:23** of, 9:36 Equitable subordination of Postconfirmation litigation, retenclaims, 9:53 tion of claims, 11:2 Interest. Unmatured interest under Prepayment premiums, 9:20 Section 502(b)(2), claims for, Proof of claim below Generally, 9:5 Involuntary petitions Amended proofs, 9:32 Amount of claims, 4:27 Evidentiary effect, 9:9 Contingent and disputed claims, Exceptions to requirement, 9:8 4:28 Formal requirements, 9:6 Disallowance of claims arising Informal proofs, 9:7 between involuntary peti-Reconsideration of claims under tion and order for relief under Section 502(g), 9:43 Section 502(j), 9:47

CLAIMS—Cont'd

Recovery of property under Section 502(h), disallowance of claims, **9:45**

Rejection of executory contracts, claims arising under Section 502(g), **9:44**

Satisfying creditors' claims, overview, 1:13

Securities-related claims under Section 510(b), subordination of, **9:51**

Service of objections, 9:11

Standing to object, 9:10

Subordination of claims

Generally, 9:48 to 9:55

Contractual subordination under Section 510(a)

Generally, 9:48

Analysis of X-Clause and turnover provisions in subordination agreements, **9:50**

Postpetition interest, treatment of, **9:49**

Equitable disallowance, **9:55** Equitable subordination under Section 510(c)

Generally, 9:52 to 9:54

Insiders, 9:53

Noninsiders, 9:54

Recharacterization of debt to equity, distinguished, 20:3

Securities-related claims under Section 510(b), subordination of, **9:51**

Sureties. Codebtors, sureties, and guarantors under Section 502(e), disallowance of claims, above

Tax claims

Arising postpetition under Section 502(i), disallowance, **9:46**

CLAIMS—Cont'd

Tax claims—Cont'd In excess of property value under Section 502(b)(3), 9:22

Tort-based claims, 9:4

Transferees of property under Section 502(d), disallowance of claims, **9:38**

Unenforceable claims under Section 502(b)(1)

Generally, 9:15 to 9:17

Contingent and unmatured claims, exception for, **9:16**

Valid claims under nonbankruptcy law generally allowable, 9:17

Unliquidated claims. Contingent and unliquidated claims under Section 502(c), estimation of, above

Unmatured claims, exception for, **9:16**

Unmatured debts excepted from discharge under Sections 502(b)(5) and 523(a)(5), **9:24**

Unmatured interest under Section 502(b)(2), claims for

Generally, 9:18 to 9:21

Exceptions to general rule disallowing, **9:21**

Make whole provisions, 9:20

Prepayment premiums, 9:20

Zero coupon bonds, 9:19

What is claim, 9:2

Zero coupon bonds, 9:19

CLASS ACTIONS

Adversary proceedings, 2:9

CLEAN-UP

Environmental law, contaminated sites, **14:4 to 14:8**

CODEBTORS

Claims, this index

COLLECTIVE BARGAINING AGREEMENTS

Modification of retiree benefits, 8:32

COLLECTIVE CREDITOR ACTIONS

Antitrust Matters, this index

COMMENCEMENT OF CASE

Adversary proceedings, **2:4** Chapter 11 case, **1:11**

COMMERCIAL REASONABLENESS

UCC Article 9, this index

COMMINGLING

Debtor financing and cash collateral, commingled proceeds, 5:27

Preferential transfers, commingled proceeds and preferences, 11:27

COMPROMISE AND SETTLEMENT

Generally, 2:20
Court approval
Procedure, 2:22
Standards governing, 2:21
Discharge and dischargeability,
13:24

CONFIRMATION

Generally, 10:1 to 10:29
Chapter 11 plan, 1:15
Committees, statements of support or disagreement, 10:3
Cramdown
Generally, 10:17 to 10:21

Generally, 10:17 to 10:21
Absolute priority rule, 10:20
Artificial impairment, 10:21
Class gerrymandering, 10:21
Fair and equitable treatment, secured and unsecured claims, 10:19, 10:20
Impaired classes, 10:18

CONFIRMATION—Cont'd

Cramdown—Cont'd
Unfair discrimination, 10:18
Creditors, approval by, 10:11
Disclosure, adequate, 10:2
Effect of confirmation
Generally, 10:23 to 10:27
Mootness, 10:27

Postpetition claims and actions, adequacy of description, 10:25

Property free and clear of claims and interests, **10:24** Substantial consummation, **10:27**

Successor entities, 10:26
Vesting of property, 10:23
Exclusivity, debtor's periods, 10:1
Expert witnesses, 10:13, 10:14
Feasibility, 10:16
Good faith, proposed in, 10:9
Intercreditor Agreements, this index
Mootness, 10:27

Officers and directors, identification of, **10:10**Postpetition claims and actions,

Postpetition claims and actions, adequacy of description, 10:25

Prepackaged plans, **10:6**Property free and clear of claims and interests, **10:24**Releases, **10:22**

Revocation of confirmation
Effect of revocation, **10:29**Section 1144 standards, **10:28**Securities laws not applicable,

10:4 Solicitation

Generally, **10:5**Prepackaged plans, **10:6**

Standards for confirmation Generally, **10:7 to 10:11** Creditors, approval by, **10:11** Good faith, proposed in, **10:9**

CONFIRMATION—Cont'd

Standards for confirmation
—Cont'd
Officers and directors,
identification of, 10:10

Substantive consolidation, **10:8** Title 11, compliance with, **10:7**

Statements of support or disagreement by official and ad hoc committees, **10:3**

Substantial consummation, **10:27** Substantive consolidation, **10:8**

Successor entities, 10:26

Title 11, compliance with, 10:7

Valuation disputes

Generally, 10:12

Common valuation methodologies, **10:15**

Expert witnesses

Bias, 10:14

Qualifications, 10:13

Vesting of property, **10:23**

CONSENT FORECLOSURES

UCC Article 9, 17:28

CONSIGNMENTS

UCC Article 9, 17:18

CONTEMPT

Enforcement of stay Motion, **6:32** Proof, **6:33**

CONTESTED MATTERS

Generally, 2:16

CONTRACTS AND AGREEMENTS

Collective bargaining agreements and modification of retiree benefits, **8:32**

Executory Contracts, this index Farmout agreements, **8:31** Intercreditor Agreements, this

index

Lock-up agreements, 5:20

CONTRACTS AND

AGREEMENTS—Cont'd

Subordination agreement, analysis of X-Clause and turnover provisions, **9:50**

CONTRIBUTION

Codebtors, sureties, and guarantors, disallowance of Section 502(e) claim for contribution, 9:41

Environmental law, 14:9 to 14:11

CONVERSION

Involuntary petition, disposition of, **4:38**

CONVEYANCES

Fraudulent Conveyances, this index

COPYRIGHTS

Intellectual Property, this index

CORE PROCEEDINGS

Appeals, this index
Subject Matter Jurisdiction, this index

COUNTERCLAIMS

Adversary proceedings, 2:7
Relief from stay, 6:68
Subject matter jurisdiction,
counterclaims against estate,
3:22

COURTS

Court of Appeals, jurisdiction over bankruptcy appeals, **12:4**, **12:5**

COVID-19

UCC Article 9 litigation, 17:29

CRAMDOWN

Confirmation, this index Credit bidding in plan sales, Section 1129, **18:2**, **18:3**

CREDIT BIDDING IN PLAN SALES

Generally, 18:1 to 18:7

Conclusion, 18:7

Cramdown provisions of Section 1129, **18:2**, **18:3**

Fifth, Third and Seventh Circuit opinions, **18:4**

Hurdles to credit bidding, 18:6

RadLax case, 18:5, 18:6

River Road Hotel Partners, LLC, In re, **18:4**

Supreme Court opinion, 18:5, 18:6

CROSS-CLAIMS

Adversary proceedings, 2:7

DAMAGES

Rejection of executory contract. Executory Contracts, this index

DE NOVO REVIEW

Noncore proceedings, 12:12

DEBT-EQUITY, RECHARACTERIZATION OF

Recharacterization of Debt-Equity, this index

DEBTOR FINANCING AND CASH COLLATERAL

Generally, **5:1 to 5:30**

Adequate protection issues for lenders

Generally, 5:4 to 5:12

Cash collateral, proposed use, **5:11**

Cash payments, periodic, 5:10

Determining whether proposed means of adequate protection protect against risks, 5:8

Equity cushion, 5:12

DEBTOR FINANCING AND CASH COLLATERAL

—Cont'd

Adequate protection issues for lenders—Cont'd

Methods of providing adequate protection

Generally, **5:9 to 5:12**

Cash collateral, proposed use, **5:11**

Cash payments, periodic, 5:10

Equity cushion, 5:12

Replacement liens, 5:9

Periodic cash payments, 5:10

Replacement liens, **5:9**

Risks resulting from debtor's use, identifying, **5:7**

Standard for evaluating adequate protection

Generally, 5:5 to 5:8

Determining whether proposed means of adequate protection protect against risks, **5:8**

Risks resulting from debtor's use, identifying, **5:7**

Value of secured creditor's interest, establishing, **5:6**

Value of secured creditor's interest, establishing, **5:6**

Advantages of Section 364 financing over agreements for use of cash collateral, **5:25**

After-acquired property

Generally, 5:28

Proceeds, 5:29

Agreement for use of cash collateral, terms, **5:16**

Approval of cash collateral agreements and/or DIP loans, **5:24**

Bankruptcy Code provisions, applicable, **5:2**

—Cont'd

5:19

5:22

5:19

Cash payments, periodic, 5:10

Cross-collateralization clause and

issues, postpetition exten-

Commingled proceeds, **5:27**

and issues, 5:23

causes of action, 5:21

covenants to protect,

covenants to protect,

DEBTOR FINANCING AND DEBTOR FINANCING AND **CASH COLLATERAL CASH COLLATERAL** —Cont'd -Cont'd Cash collateral and/or postpetition Cash collateral disputes, resolving financing, motions for authoby financing debtor's busirization ness—Cont'd Generally, 5:13 to 5:15 Postpetition extensions of credit Cash collateral hearing, 5:14 —Cont'd Notice and hearing require-Agreement, terms of ments, 5:13 priority, 5:18 Value of collateral, 5:15 Cash collateral and postpetition rolling up prepetition debt, financing disputes, resolving Advantages of Section 364 secured lender, additional financing over agreements for use of cash collateral, 5:25 Cross-collateralization clause Approval of cash collateral agreements and/or DIP Interest. 5:18 loans, 5:24 Liens on debtor's Chapter 5 Cash collateral disputes, resolving by financing debtor's busi-Lock-up agreements, 5:20 ness Priming liens, 5:18 Generally, **5:16 to 5:23** Priority, 5:18 Cross-collateralization clause Rolling up prepetition debt, and issues, postpetition extensions of credit, 5:23 Secured lender, additional Interest, postpetition extensions of credit, 5:18 Liens on debtor's Chapter 5 Priming liens, postpetition causes of action, 5:21 extensions of credit, 5:18 Lock-up agreements, postpeti-Priority, postpetition extensions tion extensions of credit. of credit, 5:18 5:20 Rolling up prepetition debt, Postpetition extensions of credit postpetition extensions of Generally, 5:17 credit, 5:22 Agreement, terms of Secured lender, additional covegenerally, 5:18 to 5:23 nants to protect, postpetition extensions of credit, cross-collateralization clause and issues, 5:19 5:23 Terms of agreement interest, 5:18 Use of cash collateral, 5:16

liens on debtor's Chapter 5

lock-up agreements, **5:20**

priming liens, 5:18

causes of action, 5:21

INDEX DEBTOR FINANCING AND **CASH COLLATERAL** -Cont'd sions of credit, 5:23 DIP loans, approval, 5:24 Equity cushion, 5:12 Extensions of credit, postpetition. Cash collateral disputes, resolving by financing debtor's business, above Financing debtor's business. Cash collateral disputes, resolving by financing debtor's business, above Hotel revenue, 5:30 Interest, postpetition extensions of credit, **5:18** Liens Debtor's Chapter 5 causes of action, liens on, 5:21 Priming liens, 5:18

Second lien financing, 5:26 Lock-up agreements, 5:20 Periodic cash payments, 5:10 Postpetition extensions of credit. Cash collateral disputes, resolving by financing debtor's business, above Postpetition financing. Cash collateral and/or postpetition financing, motions for authorization, above

Priming liens, postpetition extensions of credit, 5:18

Priority, postpetition extensions of credit, **5:18**

Proposed use of cash collateral, 5:11

Rents, 5:30

Risks resulting from debtor's use Determining whether proposed means of adequate protection protect against risks, 5:8

Identifying, 5:7

DEBTOR FINANCING AND **CASH COLLATERAL** —Cont'd

Rolling up prepetition debt, postpetition extensions of credit, 5:22

Second lien financing, 5:26

Section 364 financing, advantages over agreements for use of cash collateral, 5:25

Secured lender and debtor

Generally, 5:3

Postpetition extension of credit, additional covenants to protect secured lender, 5:19

Value of secured creditor's interest, establishing, 5:6

DECLARATORY RELIEF

Enforcement of automatic stay, 6:38

DEFAULT

Executory Contracts, this index

DEFENSES

Adversary proceedings, 2:6 Affirmative defenses, relief from stay, **6:68**

DEPARTMENT OF JUSTICE

Antitrust Matters, this index

DERIVATIVES

Swaps, derivatives and other financial contracts, exceptions to stay, 6:27

DISALLOWANCE

Claims, this index

DISCHARGE AND **DISCHARGEABILITY**

Generally, 13:1 to 13:24

Actions to determine dischargeability of debts, 13:22

Assets, failure to explain loss of, 13:7

DISCHARGE AND DISCHARGEABILITY —Cont'd

Chapter 7 cases, **13:12**

Chapter 11 cases, **13:12**

Chapter 12 and 13 cases, 13:13

Compromise and settlement of dischargeability complaints, 13:24

Concealment, destruction, or failure to maintain books and records, 13:5

Concealment of property and fraudulent transfers, **13:4**

Depository institutions, debts arising out of misconduct involving, 13:20

Destruction, concealment, or failure to maintain books and records, **13:5**

Disallowance of claims, unmatured debts excepted from discharge under Sections 502(b)(5) and 523(a)(5), 9:24

Environmental cleanup obligations, **13:21**

Evaluating the decision to oppose discharge, **13:10**

Failure to explain loss of assets, 13:7

Failure to maintain books and records, 13:5

Fiduciary conduct, debts based upon, **13:17**

Fraud, debts incurred by, **13:16** Fraudulent actions, **13:6**

Fraudulent transfers and concealment of property, **13:4**

General discharge, 13:2 to 13:10

Grounds for objecting to discharge, **13:3**

Litigation over discharge and dischargeability. Confirmation, this index

DISCHARGE AND DISCHARGEABILITY —Cont'd

Loss of assets, failure to explain, 13:7

Nondischargeable debts

Generally, **13:15 to 13:20**

Depository institutions, debts arising out of misconduct involving, 13:20

Fiduciary conduct, debts based upon, 13:17

Fraud, debts incurred by, **13:16** Unscheduled debts, **13:19**

Willful and malicious conduct, debts arising out of, **13:18**

Objections, procedure for objecting to discharge, 13:8

Opposing, evaluating the decision to oppose discharge, 13:10

Particular debts, 13:11 to 13:24

Procedure for objecting to discharge, 13:8

Records, concealment, destruction, or failure to maintain books, 13:5

Revocation of discharge, 13:9 Special res judicata and collateral estoppel issues, 13:23

Unscheduled debts, 13:19

Willful and malicious conduct, debts arising out of, 13:18

DISCLOSURES

Environmental law, **14:13**Plan formulation and disclosure statement, **1:14**

DISCOVERY

Adversary proceedings

Generally, 2:11

Prelitigation, 2:12

Privileges, 2:13

Relief from stay

Hearing preparation and discovery, **6:69**

INDEX

DISCOVERY—Cont'd

Relief from stay—Cont'd
Permitting discovery in non-bankruptcy forum, **6:60**

DISMISSAL

Involuntary petition, 4:39, 4:40

DISTRICT COURTS

Bankruptcy jurisdiction Generally, **3:12** Appeals, **12:1 to 12:3** Scope of district court review, **3:12**

EMPLOYMENT CONTRACTS

Terminated contracts, claims under Section 502(b)(7), 9:28

ENVIRONMENTAL LAW

Generally, **14:1 to 14:14**Accrual of claims, **14:8**Claims based on clean-up orders, **14:6**

Clean-up of contaminated sites, **14:4 to 14:8**

Contaminated non-owned sites, clean-up of, **14:5**, **14:6**

Contaminated owned sites, clean-up of, **14:4**

Contribution claims, 14:9 to 14:11

Discharge and dischargeability, environmental cleanup obligations, 13:21

Disclosures, 14:13

Estimation of claims, 14:8

Exceptions to stay, environmental laws. **6:19**

Jurisdiction, 14:12

Regulatory laws, obligations under, **14:3**

Section 363, use to avoid clean-up obligations, **14:7**

EQUITY CUSHION

Adequate protection, methods of providing, **5:12**

EQUITY CUSHION—Cont'd

Lien enforcement, fully secured creditor, **6:49**

ESTATE PROPERTY

Circumstances giving rise to litigation, **7:1**Use, Sale or Lease of Estate Prop-

erty, this index ESTIMATION OF CLAIMS

Environmental law, 14:8

EVIDENCE

Burden of Proof, this index Discovery, this index Expert witnesses Bias, **10:14** Qualifications, **10:13**

EXCULPATION

Releases, 21:5 Res judicata, 21:6

EXECUTORY CONTRACTS

Generally, 8:1 to 8:43

Administrative expense and adequate protection, practice and procedure on motions for payment, 8:13

Appeals, assumption or rejection of contract, **8:36**

Assignment

Generally, 8:23 to 8:25

Nonassignable contracts under nonbankruptcy law, **8:23**

Right to assign, 8:23

Assumption or rejection

Assignment, above

Capital maintenance commitments, mandatory assumption, 8:22

Claims arising upon rejection under Section 502(g), disallowance, **9:44**

Collective bargaining agreements and modification of retiree benefits, **8:32**

EXECUTORY CONTRACTS —Cont'd

Assumption or rejection—Cont'd Consequences, **8:21**Contractual obligations prior to assumption or rejection,

below Court approval, obtaining Generally, 8:33 to 8:36 Appeals, 8:36

Assumption hearing, 8:34

Rejection hearing, **8:35** Cure requirements, below

Damages on rejection, below Default, below

Disallowance of claims arising upon rejection under Section 502(g), 9:44

Extending time to assume or reject, 8:7

Farmout agreements, 8:31

Fixing time to assume or reject, 8:8

Future performance, adequate assurance, **8:18**

Hearings, 8:34, 8:35

Intellectual property, debtor as licensor, rejection of contract, 8:30

Lessor, debtor as, rejection of contract, **8:27**

Practice and procedure, motion to fix time, **8:9**

Real property, debtor as seller, rejection of contract, **8:28**

Standards, 8:4, 8:14

Time within which to assume or reject

Generally, **8:6 to 8:9**

Extending time, 8:7

Fixing time, 8:8

Practice and procedure, motion to fix time, **8:9**

Timeshare interest, debtor as seller, rejection of contract, **8:29**

EXECUTORY CONTRACTS —Cont'd

Automatic termination clause, **8:3** Capital maintenance commitments, mandatory assumption, **8:22**

Collective bargaining agreements and modification of retiree benefits, **8:32**

Consequences of assumption, 8:21

Contractual obligations prior to assumption or rejection

Generally, 8:10 to 8:13

Administrative expense and adequate protection, practice and procedure on motions for payment, **8:13**

Lessee, debtor's obligations as, **8:11**

Obligations under executory contracts, **8:12**

Countryman definition, 8:2

Cross-default provisions, 8:16

Cure requirements

Generally, 8:15 to 8:16

Damages on rejection

Generally, 8:37 to 8:43

Asserting claim, practice and procedure, **8:41**

Hearing, practice and procedure, **8:42**

Lost profits, 8:39

Nonmonetary relief, 8:40

Oil and gas interests, 8:43

Statutory caps, 8:38

Default

Cross default provisions, 8:16

Existing defaults, 8:17

Nonmonetary defaults, cure of, 8:17

Shopping center leases, 8:19

Extending time to assume or reject, **8:7**

Farmout agreements, 8:31

EXECUTORY CONTRACTS

—Cont'd

Fixing time to assume or reject, **8:8**

Future performance, adequate assurance, **8:18**

Hearings on assumption or rejection, 8:34, 8:35

Intellectual property, debtor as licensor, rejection of contract, 8:30

Lessee, debtor's obligations as, **8:11**

Lessor, debtor as, rejection of executory contracts, **8:27**

Lost profits, damages on rejection, **8:39**

Motions

Fixing time for assumption or rejection, **8:9**

Payment of administrative expense and adequate protection, 8:13

Nonassignable contracts under nonbankruptcy law, **8:23**

Nonmonetary defaults, cure of, 8:17

Nonmonetary relief, damages on rejection of contract, **8:40**

Obligations under executory contracts, **8:12**

Overview of typical litigation, 8:5

Practice and procedure

Administrative expense and adequate protection, practice and procedure on motions for payment, 8:13

Court approval of assumption or rejection, obtaining, **8:33** to **8:36**

Fixing time for assumption or rejection, practice and procedure on motion, **8:9**

Rejection damages, 8:41, 8:42

Real property, debtor as seller, rejection of contract, **8:28**

EXECUTORY CONTRACTS

-Cont'd

Rejection

Generally, 8:26

Assumption or rejection, above Retiree benefits, modification of,

8:32

Shopping center leases, defaults in, **8:19**

Standards for assumption or rejection, **8:4**, **8:14**

Terminated contracts, 8:3

Time within which to assume or reject. Assumption or rejection, above

Timeshare interest, debtor as seller, rejection of contract, 8:29

Typical litigation, overview, 8:5

EXPERT WITNESSES

Bias, 10:14

Qualifications, 10:13

FEDERAL TRADE COMMISSION

Antitrust Matters, this index

FINANCIAL CONTRACTS

Swaps, derivatives and other financial contracts, exceptions to stay, **6:27**

FINANCING STATEMENTS

UCC Article 9, this index

FORECLOSURE

Petition filed to delay inevitable foreclosure, **4:7**

FOREIGN DEBTORS

Venue, 3:49

FRAUDULENT CONVEYANCES

Generally, 11:28 to 11:40

Actual intent to defraud, 11:32

Collapsing doctrine, 11:40

Covered entities, 22:7

FRAUDULENT CONVEYANCES —Cont'd

Debts, inability to pay in normal course of business, 11:36

Discharge and dischargeability, 13:4, 13:16

Good faith purchasers for value, protection of, **11:38**

Guarantees and pledges of security, intercorporate, as fraudulent conveyances, **11:39**

Insolvent debtor, 11:34

Intercorporate guarantees and pledges of security as fraudulent conveyances, 11:39

Interest payments, publicly traded debt. 22:6

Kinds of fraudulent transfers and obligations

Generally, 11:31 to 11:37

Actual intent to defraud, 11:32 Insolvent debtor, 11:34

Less than reasonably equivalent value, transfers for, 11:33 to 11:36

Partnership property, transfers of, 11:37

Undercapitalized debtor, 11:35

Law of fraudulent conveyances and preferences, relationship between, **11:30**

Less than reasonably equivalent value, transfers for

Generally, 11:33 to 11:36

Debts, inability to pay in normal course of business, 11:36

Insolvent debtor, 11:34

Undercapitalized debtor, 11:35

Leveraged buyouts, safe harbor provision, 22:4

Partnership property, transfers of, 11:37

Ponzi schemes, safe harbor provision, 22:5

Preferential transfers, 22:7

FRAUDULENT CONVEYANCES —Cont'd

Publicly traded debt, interest payments on, **22:6**

Redemption of commercial paper, safe harbor provision, **22:6**

Safe harbor provision

Generally, 22:1 to 22:7

Commercial paper, redemption of, **22:6**

Leveraged buyouts, 22:4

Merit Management Group., LP, v. FTI Consulting, Inc., 22:2

Ponzi schemes, 22:5

State law preemption, 22:3

Section 548 and state law, relationship between, **11:29**

Security contracts, 22:7

Settlement payments, 22:7

Undercapitalized debtor, 11:35

GAP PERIOD

Involuntary Petitions, this index

GAS

Oil and Gas, this index

GOOD FAITH

Confirmation standards, **10:9**Fraudulent conveyances, protection of good faith purchasers

for value, **11:38**

Voluntary Petitions, this index

GOVERNMENT

Automatic Stay, this index

GROUP BOYCOTTS

Antitrust matters, 16:5

GUARANTY

Guarantors. Claims, this index Intercorporate guarantees and pledges of security as fraudulent conveyances, 11:39

HARRINGTON V. PURDUE PHARMA L.P.

Third party releases, **21:4** Generally, **21:3**

HEARINGS

Notice and Hearing, this index

HOTELS

Debtor financing and cash collateral, hotel revenue, **5:30**

IN PARI DELICTO

Postconfirmation litigation, 11:4

INJUNCTIONS

Adversary proceedings, 2:14 Enforcement of automatic stay, 6:38

INSIDERS

Avoidable preferences, transfers to insiders, **11:18**

Claims for services under Section 502(b)(4), **9:23**

Equitable subordination of claims, 9:53

INTELLECTUAL PROPERTY

Generally, 15:1 to 15:27

Administrative claims and debtor's post-petition use of intellectual property, **15:23**

Arising in / arising under jurisdiction, **15:4**

Assignment in bankruptcy, **15:19**

Assumption of intellectual property leases in bankruptcy, 15:18, 15:20

Automatic stays

Generally, 15:8 to 15:16

Continuation of prepetition act, post-petition infringement as, 15:12, 15:13

Post-petition acts of debtor, effect on, **15:10 to 15:13**

Prepetition acts of debtor, effect on, 15:9

INTELLECTUAL PROPERTY —Cont'd

Automatic stays—Cont'd
Property of estate, infringement
as, 15:14 to 15:16

Separate and distinct act, postpetition infringement as, 15:11, 15:13

Continuation of prepetition act, post-petition infringement as, 15:12, 15:13

Debtor as licensor, rejection of contract, 8:30

Jurisdiction

Generally, 15:3 to 15:7

Arising in / arising under jurisdiction, **15:4**

Authority of bankruptcy courts, **15:6**

Related to establishing jurisdiction, **15:5**

Withdrawal of reference to bankruptcy courts, **15:7**

Licenses. Rejection of intellectual property licenses, this index

Patents, perfection of security interests, **15:25**

Perfection of security interests Generally, **15:24 to 15:27**

Copyrights, 15:27

Patents, 15:25

Trademarks, 15:26

Policy differences between bankruptcy and intellectual property law, 15:2

Property of estate, infringement as, 15:14 to 15:16

Rejection of intellectual property leases in bankruptcy, **15:18**, **15:20**

Related to establishing jurisdiction, **15:5**

Separate and distinct act, postpetition infringement as, 15:11, 15:13

INTELLECTUAL PROPERTY

—Cont'd

Trademarks

Bankruptcy Code definition, **15:22**

Perfection of security interest, 15:26

Withdrawal of reference to bankruptcy courts, **15:7**

INTERCREDITOR AGREEMENTS

Generally, 19:1 to 19:10

Applicable nonbankruptcy law, **19:3**

Attorney fees, 19:10

Jurisdiction of bankruptcy court, limitations on, **19:5 to 19:7**

Legal fees, 19:10

Other code provisions and cramdown, **19:4**

Persons against whom enforceable, **19:5 to 19:7**

Post-petition interest, **19:10** Waivers, **19:2, 19:8, 19:9**

INTEREST ON MONEY

Intercreditor agreements, postpetition interest, **19:10**

Postpetition extensions of credit, **5:18**

Unmatured interest, claims under Section 502(b)(2), **9:18 to 9:21**

INTERVENTION

Adversary proceedings, 2:10

INVENTORY

Preferential transfers, afteracquired inventory and receivables, 11:25

INVOLUNTARY PETITIONS

Generally, 4:19 to 4:40

Abstention doctrine, response to petition, **4:32**

Amount of claims, 4:27

INVOLUNTARY PETITIONS —Cont'd

Answer to petition, 4:31

Business, operation of, special issues in gap period, **4:33**

Claims

Amount of claims, 4:27

Contingent and disputed claims, 4:28

Disallowance, claims arising between involuntary petition and order for relief under Section 502(f), **9:43**

Qualified claims, transfer of, **4:29**

Contingent and disputed claims, 4:28

Conversion, 4:38

Creditors' liability upon dismissal of petition, **4:40**

Custodian, appointment of, 4:25

Dismissal

Generally, 4:39

Creditors' liability upon dismissal, **4:40**

Disposition of petition

Generally, 4:35 to 4:38

Conversion, 4:38

Entry of order for relief, procedures following, **4:37**

Jury trial, right to, 4:36

Pretrial procedures, 4:35

Trial procedures, 4:35

Eligibility to be involuntary debtor, **4:21**

Eligibility to be petitioning credi-

Generally, 4:26

Amount of claims, 4:27

Contingent and disputed claims, 4:28

Number and identity of petitioners, **4:26**

Qualified claims, transfer of, **4:29**

INVOLUNTARY PETITIONS

—Cont'd

Entry of order for relief, procedures following, 4:37

Failure to pay debts, 4:24

Gap period, special issues

Generally, 4:33

Business, operation of, 4:33

Restricting debtor and appointment of trustee, 4:34

Grounds for relief

Generally, 4:23

Custodian, appointment of, 4:25

Failure to pay debts, 4:24

Jury trial, right to, 4:36

Limitations on nature and identity of persons against whom involuntary relief may be sought, 4:22

Number and identity of petitioners, 4:26

Pretrial procedures, 4:35

Procedure for initiating involuntary case, **4:30**

Qualified claims, transfer of, 4:29

Reasons for pursuing relief through involuntary proceeding, **4:20**

Responding to petition

Abstention doctrine, 4:32

Answer, 4:31

Restricting debtor and appointment of trustee, special issues in gap period, 4:34

Trial procedures, 4:35 to 4:38

Trustee, appointment of, special issues in gap period, 4:34

Withdrawal, 4:39

JOINDER OF PARTIES

Adversary proceedings, 2:8

JUDGMENT

Adversary proceedings, 2:15

JURISDICTION

Abstention from Exercise of Jurisdiction, this index

Appeals, this index

Automatic stay, jurisdiction to enforce, 6:5

Environmental law, 14:12

Intellectual Property, this index

Intercreditor agreements, 19:5 to 19:7

Removal of Bankruptcy-Related Claims, this index

Stay, jurisdiction to determine applicability to litigation, 6:61

Subject Matter Jurisdiction, this index

JURISDICTION AND VENUE

Generally, 3:1 et seq.

JURY TRIAL

Avoidance actions, 11:42 Core proceedings, jury trial rights, 3:28

Involuntary petitions, 4:36 Practice and procedure, 2:19

LANDLORD CLAIMS

Grounds for disallowance, claims under Section 502(b)(6), 9:25 to 9:27

LEASE OF ESTATE PROPERTY

Use, Sale or Lease of Estate Property, this index

LEASES

Executory Contracts, this index

Relief from stay, lease termination, **6:62**

UCC Article 9, true lease versus disguised security agreement, 17:17

LEVERAGED BUYOUTS

Fraudulent conveyances, safe harbor provision, 22:4

LICENSES

Intellectual Property, this index

LIENS

Automatic Stay, this index Chapter 5 causes of action, liens on, **5:21**

Enforcement of liens, relief from stay. Automatic Stay, this index

Hypothetical judicial lien creditor, trustee as, 11:5

Invalidation of perfected liens, postconfirmation litigation, 11:9

Nonconsensual liens, special issues in postconfirmation litigation, 11:8, 11:10

Priming liens, postpetition extensions of credit, **5:18**

Reclamation, sellers' right, 11:10
Replacement liens, adequate

protection issues for lenders, **5:9**

Sales of estate property free and clear of liens, **7:8**Second lien financing, **5:26**

LIMITATION OF ACTIONS

Avoidance actions, 11:43

LIQUIDATION

Chapter 7, this index

LITIGATION AVOIDANCE

Bankruptcy court as forum to avoid need for litigation, **1:4**

LOANS

DIP loans, approval of, **5:24**Preferential transfers, enabling loans, **11:23**

LOCK-UP AGREEMENTS

Debtor financing and cash collateral, **5:20**

LOST PROFITS

Damages on rejection of executory contract, **8:39**

MONOPOLIES

Antitrust Matters, this index

MOOTNESS

Confirmation, 10:27

MOTIONS

Cash collateral and/or postpetition financing, motions for authorization, 5:13 to 5:15

Contempt, enforcement of stay, **6:32**

Executory Contracts, this index Noncash collateral, motions to prohibit or condition use, sale, or lease, **7:13**

NEGOTIABLE INSTRUMENTS

Fraudulent conveyances, safe harbor provision, **22:6**

Presentation and protest of dishonor, exceptions to stay, **6:26**

NEW TRIAL

Adversary proceedings, 2:15

NOERR-PENNINGTON DOCTRINE

Antitrust matters, 16:11

NOTICE AND HEARING

Automatic Stay, this index
Bankruptcy Code, under
Generally, 2:17
Form and manner of notice,
2:18

Cash collateral and/or postpetition financing, motion for authorization, 5:13, 5:14

Claim, objection to, opportunity for hearing, **9:11**

Executory contract, hearing on assumption or rejection, **8:34**, **8:35**

NOTICE AND HEARING —Cont'd

Form and manner of notice, 2:18

Relief from stay hearing.
Automatic Stay, this index
Sale of estate property outside
ordinary course of business,
7:3, 7:7

OATHS AND AFFIRMATIONS

Discharge and dischargeability, knowing and fraudulent actions, 13:6

OBJECTIONS

Claims, this index
Sale outside ordinary course of
business, 7:4 to 7:7

OIL AND GAS

Rejection damages, 8:43

OPERATING BUSINESS

Involuntary business, special issues in gap period, **4:33**

OPERATION OF DEBTOR'S BUSINESS

Chapter 11 case, 1:12

ORDINARY COURSE OF BUSINESS

Preferential transfers, ordinary course obligations and payments, 11:22

Use, Sale or Lease of Estate Property, this index

OVERVIEW

Bankruptcy court as forum to avoid need for litigation, 1:4 Disclosure statement, 1:14 Plan formulation and disclosure statement, 1:14

PARTIES

Joinder of parties; adversary proceedings, 2:8

PARTNERSHIPS

Fraudulent conveyances, transfers of partnership property, 11:37

PATENTS

Intellectual Property, this index Perfection of security interests, 15:25

PER SE ILLEGAL RESTRAINTS

Antitrust matters, 16:4, 16:7

PERFECTION OF SECURITY INTERESTS

Intellectual Property, this index UCC Article 9, this index

PERSONAL INJURY TORT CLAIMS

Estimation of claims, **9:36** Subject matter jurisdiction, **3:27**

PETITIONS

Involuntary Petitions, this index Voluntary Petitions, this index

PLAN

Confirmation, this index Plan formulation and disclosure statement, 1:14

PLEADINGS

Adversary proceedings, 2:6

PLEDGES

Intercorporate guarantees and pledges of security as fraudulent conveyances, 11:39

POLICE POWER

Automatic stay, police power exception, **6:17**

PONZI SCHEMES

Fraudulent conveyances, safe harbor provision, **22:5**

POST-PETITION INTEREST

Intercreditor agreements, 19:10 Legal Fees, 19:10

POSTCONFIRMATION LITIGATION

Generally, 1:17

Generally, 11:1 to 11:44

Avoidable preferences. Preferential transfers, below

Bona fide purchaser of real estate, hypothetical, status as, 11:6

Claims, retention of, 11:2

Fraudulent Conveyances, this index

Invalidation of perfected liens, **11:9**

Judicial lien creditor, hypothetical, trustee's status as, 11:5

Liens

Nonconsensual liens, 11:8, 11:10

Perfected liens, invalidation, 11:9

Reclamation, sellers' right, 11:10

In pari delicto, 11:4

Perfected liens, invalidation, 11:9

Preferential Transfers, this index

Reclamation of nonconsensual lien, sellers' right, **11:10**

Recovery of avoided transfers, 11:41

Retention of claims, 11:2

Standing, 11:3

Successor to actual creditors, trustee as, 11:7

Transfers. Preferential Transfers, this index

Trustee

Bona fide purchaser of real estate, hypothetical, status as, **11:6**

Judicial lien creditor, hypothetical, status as, **11:5**

Successor to actual creditors, trustee as, 11:7

POSTPETITION EXTENSIONS OF CREDIT

Debtor Financing and Cash Collateral, this index

PRACTICE AND PROCEDURE

Automatic Stay, this index

Bankruptcy

Generally, 2:1 et seq.

Contested matters, 2:16

Executory Contracts, this index

Involuntary case, procedure for initiating, **4:30**

Involuntary petitions, 4:35, 4:37

Jury trials, 2:19

Notice and hearing under Bankruptcy Code, 2:17, 2:18

Procedural rules, 2:1

Recent developments, 2:23

Rulemaking process, 2:23

Stay, relief from. Automatic Stay, this index

Voluntary petitions, 4:14, 4:18

PREFERENTIAL TRANSFERS

Generally, 11:11 to 11:27

After-acquired inventory and receivables, 11:25

Antecedent debt requirement, 11:15

Avoidable preferences, litigation over existence of

Generally, 11:12 to 11:19

Antecedent debt requirement,

11:15

Benefit of creditor, to or for, 11:14

Greater amount test, 11:19

Insiders, transfers to, 11:18

Insolvency requirement, 11:16

Occurrence of transfer, 11:12

Preference period, 11:17

Property of debtor, 11:13

Avoidable preferences, litigation

over statutory exceptions Generally, **11:20 to 11:25**

PREFERENTIAL TRANSFERS PREFERENTIAL TRANSFERS —Cont'd —Cont'd Avoidable preferences, litigation Safe harbor provisions, fraudulent over statutory exceptions transfer actions, 22:7 —Cont'd Special kinds of preference After-acquired inventory and transactions receivables, 11:25 Commingled proceeds and preferences, 11:27 Contemporaneous exchanges, 11:21 Indirect preferences, 11:26 Loans, enabling, 11:23 Subsequent new value, 11:24 Ordinary course obligations and UCC Article 9, 17:19 payments, 11:22 PREPACKAGED PLANS Subsequent new value, 11:24 Confirmation, 10:6 Avoidance actions, procedure for maintaining **PREPETITION** Generally, 11:42 to 11:44 Automatic stay, applicability only Burden of proof, 11:44 to litigation of prepetition Jury trial, right to, 11:42 claims, 6:9 Limitation of actions, 11:43 Recovering and avoiding prepeti-Avoided transfers, recovery of, tion payments, 1:16 11:41 Rolling up prepetition debt, Benefit of creditor, to or for, 11:14 postpetition extensions of Commingled proceeds and prefercredit, 5:22 ences, 11:27 Contemporaneous exchanges, **PRIORITIES** 11:21 Cramdown, absolute priority rule, Covered entities, 22:7 10:20 Fraudulent transfer actions, safe Extensions of credit, postpetition, harbor provisions, 22:7 5:18 Greater amount test, 11:19 **PRIVILEGES** Indirect preferences, 11:26 Adversary proceedings, discovery Insiders, transfers to, 11:18 in, 2:13 Insolvency requirement, 11:16 Law of fraudulent conveyances PROFESSIONAL FEES and preferences, relationship Chapter 11, carve-outs, 23:2, 23:3 between, 11:30 **PROFITS** Loans, enabling, 11:23 New value, subsequent, 11:24 Lost profits, damages on rejection of executory contract, 8:39 Occurrence of transfer, 11:12 Ordinary course obligations and PROOF OF CLAIM payments, 11:22 Claims, this index Preference period, 11:17

Property of debtor, **11:13** Recovery of avoided transfers,

11:41

RADLAX CASE

18:6

Credit bidding in plan sales, 18:5,

REAL PROPERTY

Bona fide purchaser, hypothetical, trustee's status as, 11:6

Debtor as seller, rejection of contract, **8:28**

Lessors of nonresidential and residential real property, exceptions to stay, **6:24**, **6:25**

Lien enforcement, single-asset real estate, **6:56**

Use, Sale or Lease of Estate Property, this index

RECEIVABLES

Preferential transfers, afteracquired inventory and receivables, 11:25

RECHARACTERIZATION OF DEBT-EQUITY

Generally, 20:1 to 20:8

Doctrine of recharacterization, **20:2**

Independent cause of action, recognition as, **20:4 to 20:6**

Not a separate cause of action, **20:5**

Separate cause of action, **20:6**

RECHARACTERIZATION OF DEBT TO EQUITY

Equitable subordination, distinguished, **20:3** Standard for evaluating claim, **20:7**

RECONSIDERATION

Claims, reconsideration under Section 502(j), **9:47**

REDEMPTION OF COMMERCIAL PAPER

Fraudulent conveyances, safe harbor provision, **22:6**

REFERENCE TO BANKRUPTCY COURT

Generally, 3:18

REFERENCE TO BANKRUPTCY COURT

—Cont'd

Withdrawal of reference, procedure, **3:33**

RELATED PROCEEDINGS

Subject matter jurisdiction and post-petition bankruptcy court jurisdiction over, **3:15**

RELATED TO JURISDICTION

Subject matter jurisdiction Generally, **3:14** Intellectual property, **15:5**

RELEASES

Generally, 21:1 to 21:6

Confirmation, 10:22

Plan exculpation, 21:5

Res judicata, 21:6

Standards for settlement or release of estate claims, 21:2

Third party

Harrington v. Purdue Pharma L.P., **21:4**

Third party releases prior to Harrington v. Purdue Pharma L.P., **21:3**

REMAND

Removed claims, 3:43

REMOVAL OF BANKRUPTCY-RELATED CLAIMS

Generally, **3:39 to 3:44**Postremoval procedure, **3:42**Procedure for removal, **3:40**Remand of removed claims, **3:43**Review of removed claims, **3:44**Time for removal, **3:41**

RENTS

Debtor financing and cash collateral, 5:30

INDEX

REORGANIZATION

Chapter 11, this index

RES JUDICATA

Plan exculpation, **21:6** Releases, **21:6**

RESTRAINTS OF TRADE

Antitrust Matters, this index

RETIREMENT

Collective bargaining agreements modification of retiree benefits. **8:32**

REVOCATION OF CONFIRMATION

Effect of revocation, **10:29** Section 1144 standards, **10:28**

RIVER ROAD HOTEL PARTNERS, LLC, IN RE

Credit bidding in plan sales, 18:4

RULE OF REASON

Antitrust matters, 16:4, 16:8

RULES

Bankruptcy Rules, structure, **1:8**Procedural rules, **2:1**Rules of engagement, **1:5**Voluntary petitions, applicability of Rule 9011. **4:10**

SAFE HARBOR

Fraudulent Conveyances, this index

SAFETY ZONES

Antitrust matters, U.S. Department of Justice and Federal Trade Commission Guidelines, **16:10**

SALE OF ESTATE PROPERTY

Use, Sale or Lease of Estate Property, this index

SECURED CREDITORS

Cramdown, fair and equitable treatment, 10:19
Intellectual Property, this index
Lien enforcement, relief from stay.
Automatic Stay, this index
Value of secured creditor's interest, establishing, 5:6

SECURITIES

Intercorporate guarantees and pledges of security as fraudulent conveyances, 11:39
Subordination of securities-related claims under Section 510(b), 9:51

SEPARATE AND DISTINCT ACT

Intellectual property, post-petition infringement, **15:11**, **15:13**

SERVICE OF PROCESS AND PAPERS

Adversary proceedings, 2:5

SET-OFF

Automatic stay, **6:11**, **17:3**

SETTLEMENT

Compromise and Settlement, this index

SHERMAN ACT

Antitrust matters, 16:3

SHOPPING CENTER LEASES

Defaults, 8:19

SMALL BUSINESS

Voluntary petitions, required documents in small business cases pursuant to 11 U.S.C.A. section 1116, **4:15**

SMALL CLAIMS

Venue, 3:51

STANDING

Appeals, core proceedings, 12:7 Claims, standing to object, 9:10

STANDING—Cont'd

Postconfirmation litigation, 11:3

STAY

Automatic Stay, this index Bankruptcy court, stay of judgment, 12:10

District court or Bankruptcy Appellate Panel, stay of judgment, 12:11

SUBJECT MATTER JURISDICTION

Generally, **3:1 to 3:33**

Administration of estate, 3:21

Administrative agencies, limitations on bankruptcy jurisdiction, 3:17

Arising in jurisdiction, 3:13

Arising under jurisdiction, 3:13

Avoidance actions, 3:23

Bankruptcy court jurisdiction, 3:1 Consent

Claim, core proceeding, 3:25

Other forms of consent, 3:26 Constitutional questions, linger-

ing, 3:7 Core proceedings

Generally, 3:20

Abstention, 3:38

Claim as consent, 3:25

Jury trial rights, 3:28

Noncore or core proceeding, determining, 3:20

Related proceedings, treating unconstitutionally core proceedings

Specific applications, 3:8

Related proceedings, treating unconstitutionally core proceedings as, 3:7

Counterclaims against estate, 3:22

District courts, 3:12

Granfinanciera decision, 3:4

Jury trial rights in core proceedings, 3:28

SUBJECT MATTER

JURISDICTION—Cont'd

Lagenkamp decision, 3:4

Limitations on bankruptcy jurisdiction, administrative agencies, 3:17

Marathon decision, 3:2

Legislative response, 3:3

Nonexclusive jurisdiction over civil proceedings, 3:18

Personal injury tort claims, 3:27

Reference of bankruptcy cases and civil proceedings to bankruptcy court, 3:18

Related proceedings, post-petition bankruptcy court jurisdiction over. 3:15

Related to jurisdiction

Generally, 3:14

Intellectual property, 15:5

Scope of jurisdiction, 3:19

Statutory jurisdictional overview, 3:11

Stern v. Marshall decision. 3:5 to 3:8

Broad vs. narrow interpretations, **3:6**

Supplemental jurisdiction, 3:16

Turnover actions, 3:24

Wellness decision. 3:9

Defining consent, 3:10

Withdrawal of proceeding from bankruptcy court. Bankruptcy Court, this index

SUBORDINATION

Claims, this index

SUPPLEMENTAL JURISDICTION

Subject matter jurisdiction, 3:16

SURETIES

Claims, this index

SWAPS

Swaps, derivatives and other financial contracts, excep-

SWAPS—Cont'd

tions to stay, 6:27

TAX ISSUES

Employment tax credit claims under Section 502(b)(8), 9:29

Exceptions to stay, acts against property, **6:29**

Tax claim in excess of property value under Section 502(b)(3), 9:22

Tax claims arising postpetition under Section 502(i), disallowance, 9:46

THIRD PARTY RELEASES

Generally, 21:3, 21:4

TIME

Appeal in core proceedings, 12:8
Assumption or rejection of executory contract. Executory
Contracts, this index

Relief from stay, time for hearing, **6:66**

Removal of bankruptcy related claims, **3:41**

Withdrawal of proceeding from bankruptcy court, timeliness, 3:30

TIMESHARES

Debtor as seller of interest, rejection of contract, **8:29**

TORT CLAIMS

Generally, 9:4

Personal injuries, subject matter jurisdiction, **3:27**

TRADEMARKS

Intellectual Property, this index

TRANSFERS

Disallowance of claims, transferees of property under Section 502(d), **9:38**

Fraudulent Conveyances, this index

TRANSFERS—Cont'd

Involuntary petitions, transfer of qualified claims, **4:29**Preferential Transfers, this index

TREATISE OVERVIEW

Generally, **1:1 et seq.**Bankruptcy, generally, **1:6**How this book is organized, **1:2**Valuation, **1:3**

TRIAL

Adversary proceedings, **2:15**Involuntary petitions, **4:35 to 4:38**Jury Trial, this index

TRUSTEE

Involuntary petition, special issues in gap period; appointment, 4:34

Postconfirmation Litigation, this index

Venue, postpetition claims by and against trustee, **3:53**, **3:54**

TURNOVER ACTIONS

Subject matter jurisdiction, 3:24

UCC ARTICLE 9

Generally, 17:1 to 17:32

Automatic stay

Generally, 17:2

Set-off rights, 17:3

Bankruptcy preparation, 17:21

Commercial reasonableness

Generally, 17:22 to 17:27

Marketing process, 17:24

Notice, 17:23

Price, 17:27

Repairing or cleaning collateral, 17:25

Sale of collateral, 17:26

Consent foreclosures, 17:28

Consignments, 17:18

COVID-19 litigation, 17:29

Determining between bankruptcy sale process and UCC Article

UCC ARTICLE 9—Cont'd

9 disposition, 17:30

Error or omissions, effect of, 17:9

Filing location of financing statement, **17:6**

Name debtor, 17:8

Other Bankruptcy-Related

Considerations and Issues, **17:31**

Other means of perfecting security interests, **17:20**

Other transactions governed by UCC Article 9, **17:16**

Perfection

Generally, **17:1 to 17:20**

Agent possession, 17:13

Assignments, 17:14

Attachment and, 17:5

Authorized filers, 17:10

Bailee possession, 17:13

Error or omissions, effect of, **17:9**

Filing location of financing statement, **17:6**

Name debtor, 17:8

Possession, 17:13

By possession, 17:11

Through control, 17:12

Preferences, 17:19

Preparing for bankruptcy, 17:21

Priority, 17:15

Purchase money security interest, 17:15

Sufficiency of financing statement, **17:7**

True lease versus disguised security agreement, 17:17

UCC Article 12 and perfection of security interests in digital assets, 17:32

Unperfected security interest, 17:4

USE, SALE OR LEASE OF ESTATE PROPERTY

Generally, 7:1 to 7:14

USE, SALE OR LEASE OF ESTATE PROPERTY —Cont'd

Appeals of orders

Generally, 7:14

Authorizing sales outside ordinary course of business, **7:10**

Cash and noncash collateral, distinction between in ordinary course transactions, 7:12

Circumstances giving rise to litigation, 7:1

Co-owner's interests, sale of, 7:9

Context of litigation, 7:11

Hearing on objections to sale outside ordinary course of business, 7:7

Liens, sales free and clear of, **7:8**Noncash collateral, motions to prohibit or condition use, sale, or lease, **7:13**

Notice of sale outside ordinary course of business, 7:3

Objections to sale outside ordinary course of business

Generally, 7:4

Hearing on objections, 7:7

Significant assets, sales of, 7:6

Terms of sale, 7:5

Ordinary course of business, sales outside of

Generally, 7:2

Appeals of orders authorizing sales, **7:10**

Notice of sale, 7:3

Procedure, 7:3

Significant assets, objections to sales of, **7:6**

VALUATION

Collateral, value of
Lien enforcement, **6:55**Motion to use cash collateral
and/or for postpetition

VALUATION—Cont'd

Collateral, value of—Cont'd financing, **5:15**Relief from stay, hearing preparation and discovery, **6:71**Common methodologies, **10:15**Expert witnesses, **10:13**, **10:14**Secured creditor's interest, establishing value, **5:6**

VENUE

Generally, 3:45 to 3:56 Affiliates, 3:48 Basic principles, 3:50 Business entities, 3:47 Change of venue, 3:56 Claims

Postpetition claims by and against trustee, 3:53, 3:54

Statutory successor claims, 3:52

Foreign debtors, **3:49**

Individuals, 3:46

Nonbankruptcy venue provisions, **3:55**

Postpetition claims by and against trustee, **3:53**, **3:54**

Relief from stay, 6:65

Small claims, 3:51

Statutory successor claims, 3:52

Trustee, postpetition claims by and against, **3:53**, **3:54**

VESTING OF PROPERTY

Confirmation, 10:23

VOLUNTARY PETITIONS

Generally, 4:1 to 4:18

Conversion, debtor's right, 4:4

Creditor challenging good faith, initial burden rests with, **4:11**

Delaying inevitable foreclosure, 4:7

Entitlement to relief, 4:2

Good faith requirement Generally, **4:2**

VOLUNTARY PETITIONS

—Cont'd

Good faith requirement—Cont'd
Initial burden rests with creditor
challenging, 4:11

Lack of good faith where indicia of bad faith found, 4:6

Subjective good faith, **4:5**Improperly motivated filings not expressly prohibited, **4:12**

Inevitable foreclosure, delaying, **4:7**

Insolvency generally not a prerequisite, **4:9**

Lack of good faith where indicia of bad faith found, **4:6**

Litigation tactic, filing as, 4:8

Overview, 4:1

Procedure

For filing, **4:14**

Following filing, 4:18

Restrictions on filing, 4:13

Rule 9011, applicability, 4:10

Small business cases pursuant to 11 U.S.C.A. section 1116, required documents, **4:15**

Small business debtors, elective or mandatory, **4:16**

Subchapter V cases, qualification, 4:17

Subjective good faith requirement, **4:5**

Who may be debtor, 4:3

WAIVERS

Intercreditor agreements, **19:2**, **19:8**, **19:9**

WITHDRAWAL

Intellectual property; withdrawal of reference, 15:7

Involuntary petition, withdrawal of, **4:39**

Proceeding, withdrawal of. Bankruptcy Court, this index

COMMERCIAL BANKRUPTCY LITIGATION 2D

WITNESSES
Expert witnesse

Expert witnesses Bias, 10:14

WITNESSES—Cont'd
Expert witnesses—Cont'd
Qualifications, 10:13