Table of Contents

Volume 1

CHAPTER 1 GENERAL PROVISIONS 1

§ 101 Definitions 6
§ 101:1 Applicability 36
§ 101:2 Terms not defined in Code 36
§ 101:3 Affiliate 36
§ 101:4 Attorney 37
§ 101:5 Claim 37
§ 101:6 Community Claim 40
§ 101:7 Consumer debt 40
§ 101:8 Corporation 40
§ 101:9 Creditor 41
§ 101:10 Current monthly income 41
§ 101:11 Custodian 43
§ 101:12 Debt 43
§ 101:13 Debt relief agency 43
§ 101:14 Debtor 44
§ 101:15 Debtor's principal residence 44
§ 101:16 Disinterested person 44
§ 101:17 Domestic Support Obligation 45
§ 101:18 Entity 46
§ 101:19 Equity security 46
§ 101:20 Family farmer 47
§ 101:21 Farming Operation 47
§ 101:22 Financial institution 47
§ 101:23 Foreign proceeding 48
§ 101:24 Foreign representative 48
§ 101:25 Forward Contract 48
§ 101:26 Forward contract merchant 49
§ 101:27 Governmental Unit 49
§ 101:28 Incidental property 49
§ 101:29 Individual with regular income 50
§ 101:30 Insider 50
§ 101:31 Insolvent 51
§ 101:32 Intellectual property 52
§ 101:33 Judicial lien 52
§ 101:34 Lien 52
§ 101:35 Median family income 53
§ 101:36 Person 53
§ 101:37 Personally identifiable information 54
§ 101:38 Repurchase agreement 54
§ 101:39 Security 54

§ 101:40 Security interest 54
§ 101:41 Single-asset real estate 55
§ 101:42 Small business debtor 55
§ 101:43 State 55
§ 101:44 Statutory lien 55
§ 101:45 Swap Agreements and Participants 56
§ 101:46 Transfer 57
§ 102 Rules of construction 57
§ 102:1 "Notice and hearing" 59
§ 102:2 "Claim against the debtor" 60
§ 102:3 "Includes" and "including" 60
§ 102:4 "May not" 60
§ 102:5 "Or" 61
§ 102:6 "Order for relief" 61
§ 102:7 Singular includes plural 61
§ 102:8 Incorporated or referred definitions 62
§ 102:9 "U.S. trustee" 62
§ 103 Applicability of chapters 62
§ 103:1 Section 103(a): core concept 64
§ 103:2 Chapter 9: relation to § 901 65
§ 103:3 Relation to § 1161 65
§ 103:4 Section 103(b): core concept 65
§ 103:5 Section 103(c): core concept 65
§ 103:6 Section 103(d): core concept 65
§ 103:7 Section 103(e): core concept 66
§ 103:8 Section 103(f): core concept 66
§ 103:9 Section 103(g): core concept 66
§ 103:10 Relation to § 901 66
§ 103:11 Section 103(h): core concept 66
§ 103:12 Section 103(i): core concept 67
§ 103:13 Section 103(j): core concept 67
§ 103:14 Relation to Chapter 12 67
§ 103:15 Section 103(k): core concept 67
§ 103:16 Section 103(l): core concept 67
§ 104 Adjustment of dollar amounts 67
§ 104:1 Section 104(a): core concept 69
§ 104:2 Automatic adjustments made 69
§ 104:3 Rounding off dollar amounts 69
§ 104:4 Section 104(b): core concept 69
§ 104:5 Publication notice 69
§ 104:6 Section 104(c): core concept 69
§ 104:7 Prospective application 69
§ 105 Power of court 69
§ 105:1 Section 105(a): core concept 71
§ 105:2 General authority: court's initiative 71
§ 105:3 Examples of actions permitted under § 105(a) 73
§ 105:4 Limitations on applicability: barred acts 77
§ 105:5 Contempt Powers 80

§ 105:6 Section 105(b): core concept 81
§ 105:7 Interference with trustee or debtor in possession... 81
§ 105:8 Receiver in ancillary proceedings 82
§ 105:9 Pre-existing receivers 82
§ 105:10 Section 105(c): core concept 82
§ 105:11 Contempt authority: "core" proceedings..... 83
§ 105:12 Interlocutory orders: "noncore" proceedings 83
§ 105:13 Section 105(d): core concept 83
§ 105:14 Status conference: on motion or sua sponte 83
§ 105:15 Other orders 83
§ 106 Waiver of sovereign immunity..... 84
§ 106:1 Section 106(a): core concept 86
§ 106:2 Comparison with § 106(b) and (c)..... 86
§ 106:3 Definition of "governmental unit"..... 86
§ 106:4 Constitution: Eleventh Amendment considerations 87
§ 106:5 Sections to which abrogation applies..... 88
§ 106:6 Jurisdiction..... 89
§ 106:7 Orders and judgments: costs and punitive damages..... 89
§ 106:8 Damages for emotional distress..... 90
§ 106:9 Process for payment..... 90
§ 106:10 Creating no substantive rights..... 90
§ 106:11 Foreign sovereigns 91
§ 106:12 Section 106(b): core concept 91
§ 106:13 Previously filed proof of claim..... 91
§ 106:14 Counterclaim on behalf of estate 92
§ 106:15 Same transaction or occurrence..... 92
§ 106:16 Eleventh Amendment considerations..... 93
§ 106:17 Limitations on counterclaim recovery..... 93
§ 106:18 No substantive rights created..... 94
§ 106:19 Unitary creditors 94
§ 106:20 Waiver not argued below 94
§ 106:21 Section 106(c): core concept 95
§ 106:22 Relationship of claims..... 95
§ 106:23 Eleventh Amendment considerations..... 95
§ 106:24 Limitations on counterclaim recovery..... 95
§ 107 Public access to papers 96
§ 107:1 Section 107(a): core concept 97
§ 107:2 Scope..... 97
§ 107:3 Public access 98
§ 107:4 Fees 98
§ 107:5 Privacy issues..... 98
§ 107:6 Section 107(b): core concept 98
§ 107:7 Standards for nondisclosure..... 98
§ 107:8 Initiating effort to seal document..... 100
§ 107:9 Judicial discretion 100
§ 107:10 Comparison: Federal Rule of Civil Procedure 26 ... 101

§ 107:11 Relation to § 105 101
§ 107:12 Section 107(c): core concept 101
§ 107:13 Court has discretion to determine appropriate protection 102
§ 107:14 No private cause of action for violation 102
§ 108 Extension of time 102
§ 108:1 Section 108(a): core concept 104
§ 108:2 Scope: prepetition claims, unexpired rights 104
§ 108:3 Determining expiration of rights 104
§ 108:4 Measuring period 105
§ 108:5 Standing 105
§ 108:6 Section 108(b): core concept 106
§ 108:7 Relation to § 108(a): applicability 107
§ 108:8 Scope: prepetition issues, unexpired rights 107
§ 108:9 Measuring period 107
§ 108:10 Relation to § 105 108
§ 108:11 Relation to § 365 108
§ 108:12 Relation to § 362 108
§ 108:13 Relationship to other Code provisions 109
§ 108:14 Section 108(c): core concept 109
§ 108:15 Scope: prepetition claims, unexpired rights 109
§ 108:16 Relation to § 362 109
§ 108:17 Measuring period 110
§ 108:18 Relation to § 524 111
§ 108:19 "Tolling" versus "extension" of limitations 111
§ 108:20 Special circumstances 112
§ 109 Who may be a debtor 113
§ 109:1 Section 109(a): core concept 118
§ 109:2 Person 118
§ 109:3 Residence or domicile 118
§ 109:4 Place of business 118
§ 109:5 Property in the U.S. 119
§ 109:6 Municipalities 119
§ 109:7 No "good faith" prerequisite 119
§ 109:8 No insolvency requirement 119
§ 109:9 Section 109(b): core concept 119
§ 109:10 Railroads 119
§ 109:11 Insurance companies, banks, other financial institutions 120
§ 109:12 Foreign insurance and financial institutions 121
§ 109:13 Section 109(c): core concept 121
§ 109:14 Municipalities 121
§ 109:15 Authorization to file 121
§ 109:16 Insolvency 122
§ 109:17 Plan to adjust debts 122
§ 109:18 Requirement to negotiate: futility 122
§ 109:19 Section 109(d): core concept 122
§ 109:20 Chapter 7 debtors: general rule 122

§ 109:21 Stockbrokers and commodity brokers 123
§ 109:22 Railroads 123
§ 109:23 Natural persons..... 123
§ 109:24 Section 109(e): core concept 123
§ 109:25 Individual or individual with spouse..... 123
§ 109:26 Individuals with regular income..... 124
§ 109:27 Noncontingent, liquidated, unsecured debt..... 124
§ 109:28 Noncontingent, liquidated, secured debt..... 125
§ 109:29 Valuation of liens under § 506(a): § 547..... 125
§ 109:30 Stockbrokers and commodity brokers 126
§ 109:31 Section 109(f): core concept..... 126
§ 109:32 Family farmers 126
§ 109:33 Regular annual income 126
§ 109:34 Debt limitations 126
§ 109:35 Section 109(g): core concept 127
§ 109:36 Applicability..... 127
§ 109:37 180-day time limit..... 127
§ 109:38 Dismissal: willful debtor misconduct..... 127
§ 109:39 Voluntary dismissal after lift-stay motion 127
§ 109:40 180 days: judicial discretion..... 128
§ 109:41 Filing in violation of § 109(g)..... 128
§ 109:42 Section 109(h): core concept 128
§ 109:43 Credit counseling required before filing..... 128
§ 109:44 Provider of credit counseling 128
§ 109:45 Exceptions to counseling requirement 129
§ 109:46 Court waiver of counseling following notice and hearing 129
§ 109:47 Failure to comply with § 109(h)..... 129
§ 110 Penalty for persons who negligently or fraudulently prepare bankruptcy petitions 130
§ 110:1 Section 110(a): core concept 138
§ 110:2 "Bankruptcy petition preparer" defined..... 138
§ 110:3 "Document for filing" defined..... 139
§ 110:4 Section 110(b): core concept 139
§ 110:5 Required notification 139
§ 110:6 Bankruptcy court's authority..... 139
§ 110:7 Section 110(c): core concept..... 139
§ 110:8 Privacy issues..... 140
§ 110:9 Section 110(d): core concept 140
§ 110:10 Timing 140
§ 110:11 Section 110(e): core concept 140
§ 110:12 Prohibition on legal advice 140
§ 110:13 Section 110(f): core concept..... 141
§ 110:14 Prohibited advertising 141
§ 110:15 Section 110(g): core concept 141
§ 110:16 Scope of prohibition 141
§ 110:17 Section 110(h): core concept 141
§ 110:18 Timing 142

§ 110:19 Disallowance of fees and turnover of funds..... 142
§ 110:20 Forfeiture of all fees..... 142
§ 110:21 Recovery of fees by debtor: § 522(b) 142
§ 110:22 Standing..... 142
§ 110:23 Fines for failure to turnover funds 142
§ 110:24 Section 110(i): core concept..... 142
§ 110:25 Scope: sanctionable activities 142
§ 110:26 Damages available to debtor 143
§ 110:27 Relationship of damages to fines 143
§ 110:28 Standing: damages to nondebtors 143
§ 110:29 Bankruptcy court's authority..... 143
§ 110:30 Section 110(j): core concept..... 143
§ 110:31 Standing..... 144
§ 110:32 Grounds for injunction..... 144
§ 110:33 Scope of injunction 144
§ 110:34 Bankruptcy court's authority..... 145
§ 110:35 Attorney's fees and costs..... 145
§ 110:36 Section 110(k): core concept 145
§ 110:37 Unauthorized practice of law..... 145
§ 110:38 Section 110(1): core concept 146
§ 110:39 Standard fine for violation..... 146
§ 110:40 Trebling of fines..... 146
§ 110:41 Standing/enforcement..... 146
§ 111 Nonprofit budget and credit counseling agencies; financial management instructional courses 147
§ 112 Prohibition on disclosure of name of minor children.... 151

CHAPTER 3 CASE ADMINISTRATION 153

SUBCHAPTER I COMMENCEMENT OF A CASE.... 172

§ 301 Voluntary cases..... 173
§ 301:1 Section 301(a): core concept 173
§ 301:2 Filing of petition..... 173
§ 301:3 Eligibility: relation to § 109 174
§ 301:4 Definition of "debtor"..... 174
§ 301:5 Section 301(b): core concept 174
§ 301:6 Designation of chapter..... 174
§ 301:7 Previous dismissal and effect of § 109(g)..... 174
§ 301:8 Remedy for ineligible filing..... 175
§ 301:9 Ineligible under particular chapter..... 175
§ 301:10 Eligibility to file and state law..... 175
§ 301:11 Relation to § 541..... 175
§ 301:12 Form of filing 175
§ 301:13 Number of copies 176
§ 302 Joint cases 176
§ 302:1 Section 302(a): core concept 177
§ 302:2 Eligibility for § 302..... 177
§ 302:3 Relation to § 109..... 177

§ 302:4 Consent to petition 177
§ 302:5 Order for relief 177
§ 302:6 Section 302(b): core concept 178
§ 302:7 Consolidation not automatic 178
§ 302:8 Importance of particular facts 178
§ 302:9 Factors to consider on consolidation 178
§ 302:10 Burden of proof 179
§ 302:11 Motion for consolidation 179
§ 303 Involuntary cases 179
§ 303:1 Section 303(a): core concept 184
§ 303:2 Chapter eligibility 184
§ 303:3 Filing limited to "persons" 185
§ 303:4 "Corporation" defined 185
§ 303:5 Nonbusiness trust ineligible 185
§ 303:6 Non-moneyed corporation ineligible 185
§ 303:7 Farmer and family farmer ineligible 185
§ 303:8 Involuntary joint petition prohibited 185
§ 303:9 Burden of proof on eligibility 186
§ 303:10 Effect of filing petition 186
§ 303:11 Form of involuntary petition 186
§ 303:12 Section 303(b): core concept 186
§ 303:13 Section 303(b) requirements and subject matter jurisdiction 187
§ 303:14 Limitation on right to file 187
§ 303:15 Creditor participation requirements 187
§ 303:16 Eligible claims 188
§ 303:17 Existence of counterclaim or affirmative defenses 189
§ 303:18 Appeal of judgment 189
§ 303:19 Burden of proof on claim validity 189
§ 303:20 Determining eligible holders 190
§ 303:21 Proceeding against a partnership 190
§ 303:22 Foreign proceeding 190
§ 303:23 Effect of debtor conversion 190
§ 303:24 Bad faith exception 190
§ 303:25 Section 303(c): core concept 191
§ 303:26 Timeliness 191
§ 303:27 Eligibility requirements 191
§ 303:28 Effect of additional creditor 191
§ 303:29 Section 303(d): core concept 191
§ 303:30 Answer to petition 191
§ 303:31 Section 303(e): core concept 192
§ 303:32 Amount of bond 192
§ 303:33 Failure to post bond 192
§ 303:34 Section 303(f): core concept 192
§ 303:35 Section 303(g): core concept 192
§ 303:36 Application and hearing required 192
§ 303:37 Required proof for appointment of trustee 192
§ 303:38 Trustee powers 193

§ 303:39 Debtor may regain property 193
§ 303:40 Debtor accounting requirements 193
§ 303:41 Section 303(h): core concept 193
§ 303:42 Failure of debtor to contest petition 193
§ 303:43 Procedure if petition contested 193
§ 303:44 Inquiry for court on contested petition 193
§ 303:45 Not paying debts when due 193
§ 303:46 Debts subject to bona fide dispute 194
§ 303:47 Effect of order for relief 194
§ 303:48 Section 303(i): core concept 194
§ 303:49 Recovery by general partners 194
§ 303:50 Petition dismissed without consent 194
§ 303:51 Failure of debtor to object to dismissal 195
§ 303:52 Discretion of court to award damages 195
§ 303:53 Bad faith and parties' liability 196
§ 303:54 Section 303(i): exclusive remedy 197
§ 303:55 Section 303(i): application to § 305(a) 197
§ 303:56 Section 303(j): core concept 197
§ 303:57 Section 303(l): core concept 197
§ 303:58 Debtor action required 198
§ 304 [Deleted.] 198
§ 305 Abstention 198
§ 305:1 Section 305(a): core concept 199
§ 305:2 Abstention rarely invoked 199
§ 305:3 Best interests of creditors and debtor 199
§ 305:4 Actual hearing not required 201
§ 305:5 No bad faith requirement 201
§ 305:6 Pending foreign proceeding 201
§ 305:7 Definition of foreign proceeding 201
§ 305:8 Abstention is for entire case 201
§ 305:9 Damages or awards under § 303(i) following abstention 202
§ 305:10 Section 305(b): core concept 202
§ 305:11 Definition of foreign representative 202
§ 305:12 Section 305(c): core concept 203
§ 305:13 Review limited to the district court 203
§ 305:14 Standard of review 203
§ 306 Limited appearance 203
§ 306:1 Applicability 204
§ 306:2 Policy rationale 204
§ 306:3 Effect of limited appearance 204
§ 306:4 Conditions on foreign representative 204
§ 307 United States trustee 204
§ 307:1 Function of U.S. Trustee 205
§ 307:2 Scope of § 307 206
§ 307:3 Not limited by 28 U.S.C.A. § 586 206
§ 307:4 Pecuniary interest not required 207
§ 307:5 Standing to appeal 207

§ 307:6 Discretion to act 207
§ 307:7 Standing with regard to plans 207
§ 307:8 Restrictions on U.S. Trustee's standing 208
§ 307:9 Intervention: Rule 24(a) 208
§ 308 Debtor Reporting Requirements 208
§ 308:1 Section 308(a): core concept 209
§ 308:2 Section 308(b): core concept 209
§ 308:3 Reporting intervals 210
§ 308:4 Consequences for failing to file 210

SUBCHAPTER II OFFICERS 210

§ 321 Eligibility to serve as trustee 210
§ 321:1 Section 321(a): core concept 211
§ 321:2 Definition of competence 211
§ 321:3 Selection by U.S. Trustee 211
§ 321:4 Determination of competence 212
§ 321:5 Residency requirements in Chapters 7, 12, and 13 212
§ 321:6 Corporation as trustee 212
§ 321:7 Section 321(b): core concept 212
§ 321:8 No exceptions to ineligibility 212
§ 321:9 Section 321(c): core concept 212
§ 321:10 Determination of necessity 212
§ 322 Qualification of trustee 213
§ 322:1 Section 322(a): core concept 214
§ 322:2 Applicability to chapters 214
§ 322:3 Requirement of filing bond 214
§ 322:4 Time deadline for filing bond 214
§ 322:5 Condition of bond 214
§ 322:6 Failure to timely file bond 215
§ 322:7 Section 322(b): core concept 215
§ 322:8 U.S. Trustee automatically qualifies 215
§ 322:9 Determination of bond and surety 215
§ 322:10 Use of blanket bond 215
§ 322:11 Automatic qualification after filing blanket bond 215
§ 322:12 Section 322(c): core concept 215
§ 322:13 Section 322(d): core concept 216
§ 322:14 Types of actions on bond 216
§ 322:15 Proceeding against trustee personally 216
§ 323 Role and capacity of trustee 216
§ 323:1 Section 323(a): core concept 217
§ 323:2 Filing of petition creates an estate 217
§ 323:3 Property of the estate 217
§ 323:4 Postpetition interests 218
§ 323:5 Independence of trustee 218
§ 323:6 Trustee not representative of government 218
§ 323:7 Trustee granted broad authority 218
§ 323:8 Ability to waive attorney-client privilege 219
§ 323:9 Powers of debtor in possession (DIP) 219

§ 323:10 Appointment of trustee eliminates DIP 219
§ 323:11 Section 323(b): core concept 219
§ 323:12 Trustee has ability to pursue assets 219
§ 323:13 Trustee decides whether to file suit 220
§ 323:14 Trustee has exclusive standing to bring suit 221
§ 323:15 Exception: Chapter 13 cases 221
§ 323:16 Options for trustee when pursuing claims not possible 221
§ 323:17 Discretion to settle claims 222
§ 323:18 Standing to sue for pre- and post-petition claims ... 222
§ 323:19 Trustee subject to defenses against debtor 222
§ 323:20 Suits against the trustee in other forums 223
§ 324 Removal of trustee or examiner 223
§ 324:1 Section 324(a): core concept 224
§ 324:2 Inapplicable to U.S. Trustee 224
§ 324:3 Court alone has power of removal 224
§ 324:4 Requirement of notice and hearing 225
§ 324:5 Interested parties may seek removal 225
§ 324:6 Considerations in seeking removal 226
§ 324:7 Cause for removal 226
§ 324:8 Intentional misconduct or negligence 226
§ 324:9 Unreasonable delay in completing job 226
§ 324:10 Lack of disinterest 226
§ 324:11 Mistake in judgment 227
§ 324:12 Requirement of actual injury or fraud 227
§ 324:13 Removal is extreme remedy 227
§ 324:14 Liability of removed trustee 227
§ 324:15 Section 324(b): core concept 227
§ 324:16 Discretion of court 227
§ 325 Effect of vacancy 228
§ 325:1 Lack of trustee not fatal to settlement 228
§ 325:2 New trustee automatically substituted as party 228
§ 326 Limitation on compensation of trustee 229
§ 326:1 Section 326(a): core concept 230
§ 326:2 Limit as percentage of moneys disbursed 231
§ 326:3 What constitutes moneys 231
§ 326:4 Credit bid 231
§ 326:5 Compensation is result oriented 231
§ 326:6 Presumed compensation and relation to § 330 232
§ 326:7 Fees for defending fee applications 232
§ 326:8 Fee limit is absolute 233
§ 326:9 Payments to paralegals 233
§ 326:10 Actual moneys disbursed and interim compensation 233
§ 326:11 Disbursements to debtor 234
§ 326:12 Disbursements to parties in interest and secured creditors 234
§ 326:13 Disbursements not by trustee 235

§ 326:14 Payments to secured creditors 235
§ 326:15 Cases converted or not fully administered..... 235
§ 326:16 Section 326(b): core concept 236
§ 326:17 No authority to compensate standing trustee..... 236
§ 326:18 Standing trustee's fees not under court purview.... 236
§ 326:19 Nonstanding trustee may receive fees 236
§ 326:20 Section 326(c): core concept 237
§ 326:21 Converted cases..... 237
§ 326:22 Section 326(d): core concept 237
§ 326:23 Breach of fiduciary duty 237
§ 326:24 Court has discretion to award fees 237
§ 327 Employment of professional persons..... 237
§ 327:1 Section 327(a): core concept 239
§ 327:2 Necessity of prior court approval 239
§ 327:3 Professionals represent estate, not debtor..... 240
§ 327:4 Relation to § 1107 240
§ 327:5 Retroactive approval 241
§ 327:6 Effect of approval..... 241
§ 327:7 Definition of professionals 242
§ 327:8 Holding or representing adverse interests..... 242
§ 327:9 Definition of adverse interests 242
§ 327:10 Disinterested persons 243
§ 327:11 Burden of disclosure of interests..... 243
§ 327:12 Vicarious disqualification 243
§ 327:13 Creditor of debtor..... 244
§ 327:14 Decision on disqualification and remedies..... 244
§ 327:15 Restrictions on employment due to § 101(14) 245
§ 327:16 No fee recovery for defense of fee applications..... 245
§ 327:17 Appealability of appointment or disqualification orders..... 245
§ 327:18 Employment without trustee approval..... 246
§ 327:19 Section 327(b): core concept 246
§ 327:20 Court approval not required..... 246
§ 327:21 Regularly employed on salary..... 246
§ 327:22 Section 327(c): core concept 246
§ 327:23 Standing to object 247
§ 327:24 Actual conflict of interest..... 247
§ 327:25 Conflict cannot be waived 247
§ 327:26 Section 327(d): core concept 247
§ 327:27 Self employment restricted..... 247
§ 327:28 Best interest of estate..... 248
§ 327:29 Burden of persuasion on trustee..... 248
§ 327:30 Section 327(e): core concept 248
§ 327:31 Best Interest of the Estate 248
§ 327:32 Employment must be for special purpose..... 248
§ 327:33 No adverse interest on retained matter..... 249
§ 327:34 Trustee retention of attorney for creditor..... 249

§ 327:35 Only attorney may be retained pursuant to this section 249
§ 327:36 Section 327(f): core concept 249
§ 328 Limitation on compensation of professional persons 250
§ 328:1 Section 328(a): core concept 251
§ 328:2 Relation to § 327 251
§ 328:3 Terms of employment 252
§ 328:4 Determination of reasonableness 252
§ 328:5 Order of retention 253
§ 328:6 Court power to alter compensation 254
§ 328:7 Unanticipated developments 254
§ 328:8 Compensation can be decreased or increased 255
§ 328:9 Reducing fees 255
§ 328:10 Increasing fees 255
§ 328:11 Relation to § 330 255
§ 328:12 Section 328(b): core concept 256
§ 328:13 Trustee services 256
§ 328:14 Conflict of interest 256
§ 328:15 Distinguishing services 257
§ 328:16 Section 328(c): core concept 257
§ 328:17 Definition of disinterested person 257
§ 328:18 Adverse interest not defined 257
§ 328:19 Exceptions to authority to deny compensation 257
§ 328:20 Discretionary power of court 257
§ 328:21 Time disqualifying interest arises 258
§ 328:22 Penalty for avoiding conflict of interest 259
§ 328:23 Standing to object 259
§ 328:24 Jurisdiction retained even after bankruptcy concludes 259
§ 329 Debtor's transaction with attorneys 259
§ 329:1 Section 329(a): core concept 260
§ 329:2 Full disclosure required 261
§ 329:3 Procedural requirements 261
§ 329:4 Filing of disclosure statement 261
§ 329:5 Effect of seeking compensation 261
§ 329:6 Disclosure for one year preceding filing 262
§ 329:7 Failure to disclose 262
§ 329:8 Matters related to bankruptcy 262
§ 329:9 Section 329(b): core concept 263
§ 329:10 Determination of reasonableness 263
§ 329:11 Relation to § 330 264
§ 329:12 Return of funds to estate 264
§ 329:13 Return of funds to third party 264
§ 329:14 Sanction intended to be severe 265
§ 329:15 Relation to §§ 362 and 524 265
§ 329:16 Relation to § 727 265
§ 329:17 Statute of limitations 266
§ 330 Compensation of officers 266

§ 330:1 Section 330(a): core concept 269
§ 330:2 Threshold requirement of employment 269
§ 330:3 Fee hearings 270
§ 330:4 Burden of proof 270
§ 330:5 Reimbursement for expenses 270
§ 330:6 No recovery for defense of fee applications 271
§ 330:7 Determining reasonable compensation 271
§ 330:8 Relationship to § 328 273
§ 330:9 Contingent-fee contracts 273
§ 330:10 Fee enhancements 274
§ 330:11 Interest awards 274
§ 330:12 Recovery under § 503 275
§ 330:13 Res judicata effect 275
§ 330:14 Funds must be derived from debtor's estate 275
§ 330:15 Court retains jurisdiction of fees after dismissal ... 276
§ 330:16 Section 330(a)(4)(A) and reasonableness standard .. 276
§ 330:17 Chapter 12 and 13 cases 276
§ 330:18 Denying or decreasing compensation 277
§ 330:19 Relation to Chapter 13 presumptive fee guidelines. 277
§ 330:20 Interim fee awards 277
§ 330:21 Compensation to trustee 278
§ 330:22 Section 330(b): core concept 279
§ 330:23 No-asset versus asset cases 279
§ 330:24 No fee cases 279
§ 330:25 Section 330(c): core concept 279
§ 330:26 Ordering other compensation 279
§ 330:27 Section 330(d): core concept 279
§ 331 Interim compensation 280
§ 331:1 Interim compensation 280
§ 331:2 Relation to § 330 281
§ 331:3 Notice and hearing requirement 281
§ 331:4 Limit on applications for interim compensation 281
§ 331:5 Interim awards are interlocutory 282
§ 332 Consumer privacy ombudsman 282
§ 333 Appointment of patient care ombudsman 283
§ 333:1 Section 333(a) core concept 285
§ 333:2 Must meet definition of § 101(27A) 285
§ 333:3 Opposition to the ombudsman appointment 286
§ 333:4 Factors to consider in appointment 286
§ 333:5 Compensation for ombudsman 286
§ 333:6 Availability of Legal Counsel 287

SUBCHAPTER III ADMINISTRATION 287

§ 341 Meetings of creditors and equity security holders 287
§ 341:1 Section 341(a): core concept 289
§ 341:2 Time of meeting 289
§ 341:3 Role of U.S. Trustee 289
§ 341:4 Conduct at meeting 289

§ 341:5 Conversion of case 290
§ 341:6 Necessity of meeting 290
§ 341:7 Providing adequate notice 290
§ 341:8 Relation to Bankruptcy Rule 4007 290
§ 341:9 Relation to Bankruptcy Rule 2003 291
§ 341:10 Adjournment and conclusion of meeting 291
§ 341:11 Section 341(b): core concept 291
§ 341:12 Section 341(c): core concept 292
§ 341:13 Creditor need not have counsel at § 341 hearing ... 292
§ 341:14 Relief from administrative duties 292
§ 341:15 Limiting potential conflict 292
§ 341:16 Section 341(d): core concept 292
§ 341:17 Type of oral examination 292
§ 341:18 Section 341(e): core concept 292
§ 342 Notice 292
§ 342:1 Section 342(a): core concept 296
§ 342:2 Appropriate notice 296
§ 342:3 Requirement of nexus between representative and creditor 297
§ 342:4 Conversion of case 297
§ 342:5 Definition of community claim 297
§ 342:6 Relation to Bankruptcy Rule 1007 297
§ 342:7 Section 342(b): core concept 297
§ 342:8 Clerk's notification 297
§ 342:9 Relation to Official Form 1 298
§ 342:10 Definition of consumer debts 298
§ 342:11 Clerk's duty 298
§ 342:12 Section 342(c): core concept 298
§ 342:13 Failure to comply 298
§ 342:14 Notice to creditors 299
§ 342:15 Section 342(d): core concept 299
§ 342:16 Section 342(e): core concept 299
§ 342:17 Section 342(f): core concept 299
§ 342:18 Section 342(g): core concept 299
§ 342:19 Relation to Bankruptcy Rule 7004 299
§ 342:20 Procedures for receiving notice 300
§ 343 Examination of the debtor 300
§ 343:1 Participants in examination 300
§ 343:2 Scope of examination 301
§ 343:3 Practical limits on examination 301
§ 343:4 Debtor's failure to cooperate 301
§ 343:5 Privilege against self-incrimination 301
§ 343:6 Debtor's inability to appear 302
§ 343:7 Proof of inability to appear 302
§ 344 Self-incrimination; immunity 302
§ 344:1 Immunity not automatically available 303
§ 344:2 Requesting immunity: the U.S. attorney 303
§ 344:3 Scope: use immunity 303

§ 344:4 Fifth Amendment rights 303
§ 344:5 Refusal to testify: discharge of debts 303
§ 344:6 Relation to Title 18 304
§ 345 Money of estates 304
§ 345:1 Section 345(a): core concept 305
§ 345:2 Investment by trustee expected 305
§ 345:3 Unusual circumstances 305
§ 345:4 Flexibility of investment 306
§ 345:5 Safety of investment 306
§ 345:6 Failure to invest 306
§ 345:7 Standing to object 306
§ 345:8 Section 345(b): core concept 306
§ 345:9 Posting of bond 306
§ 345:10 Mandatory requirements 307
§ 345:11 Approval of surety 307
§ 345:12 Section 345(c): core concept 307
§ 346 Special provisions related to the treatment of State and local taxes 307
§ 346:1 Section 346(a): core concept 311
§ 346:2 Separate estate responsible for taxes 311
§ 346:3 Effect of dismissal 312
§ 346:4 Filing returns 312
§ 346:5 Section 346(b): core concept 312
§ 346:6 Debtor responsible for taxes 312
§ 346:7 Corporations and partnerships 312
§ 346:8 Section 346(c): core concept 313
§ 346:9 Section 346(d): core concept 313
§ 346:10 Section 346(e): core concept 313
§ 346:11 Section 346(f): core concept 313
§ 346:12 Section 346(g): core concept 313
§ 346:13 Section 346(h): core concept 313
§ 346:14 Section 346(i): core concept 313
§ 346:15 Carryover of taxes 313
§ 346:16 Closure or dismissal of case 314
§ 346:17 Carry back of losses or taxes 314
§ 346:18 Section 346(j): core concept 314
§ 346:19 Discharge of debt not income 314
§ 346:20 Discharge impact on tax attributes 314
§ 346:21 Section 346(k): core concept 314
§ 346:22 Filing tax returns 314
§ 346:23 Limitations of § 346 314
§ 347 Unclaimed property 314
§ 347:1 Section 347(a): core concept 315
§ 347:2 Definition of final distribution 316
§ 347:3 Mandatory obligation of trustee 316
§ 347:4 Disposition of funds paid into court 316
§ 347:5 Payments not made as final distributions 316
§ 347:6 Section 347(b): core concept 317

§ 347:7 Expiration of time 317
§ 347:8 Plan confirmation required 317
§ 347:9 Disbursement of unclaimed property 317
§ 347:10 Determining if funds are unclaimed 318
§ 348 Effect of conversion 318
§ 348:1 Section 348(a): core concept 320
§ 348:2 Relating back 321
§ 348:3 Applicable law 321
§ 348:4 Date of order of relief not changed 321
§ 348:5 Creditors' meeting 321
§ 348:6 Effect of conversion on deadlines after creditors' meeting 322
§ 348:7 Automatic stay 322
§ 348:8 Section 348(b): core concept 323
§ 348:9 Application limited to sections enumerated 323
§ 348:10 Conversion and SubChapter V 323
§ 348:11 Section 348(c): core concept 323
§ 348:12 Notice requirements 323
§ 348:13 Executory contracts and unexpired leases 323
§ 348:14 Section 348(d): core concept 324
§ 348:15 Inapplicable to § 503(b) claims 324
§ 348:16 Effect of conversion 324
§ 348:17 Section 348(e): core concept 324
§ 348:18 Termination of authority 324
§ 348:19 No discretion for court 326
§ 348:20 Section 348(f): core concept 326
§ 348:21 Property of the estate 326
§ 348:22 Fraudulent disposal of property 327
§ 348:23 Collateral valuation 327
§ 348:24 Secured claims 328
§ 348:25 Disbursement of postpetition property 328
§ 348:26 Penalty for bad faith Chapter 13 filing 329
§ 348:27 Determination of bad faith 329
§ 349 Effect of dismissal 329
§ 349:1 Section 349(a): core concept 330
§ 349:2 Discharge of debts not prohibited 330
§ 349:3 Post-discharge dismissal 331
§ 349:4 Later refiling 331
§ 349:5 Discretion of court 331
§ 349:6 Extreme remedy of dismissal with prejudice 332
§ 349:7 Length of time court may prohibit refiling 332
§ 349:8 Section 349(b): core concept 332
§ 349:9 Undo effects of bankruptcy 332
§ 349:10 Reinstatement of custodian 333
§ 349:11 Restoring avoided transfers 333
§ 349:12 Limitation on restoring avoided transfers 333
§ 349:13 Reinstating voided liens 333
§ 349:14 Vacating orders, judgments, or transfers 333

§ 349:15 Revesting of property 334
§ 349:16 Altering dismissal effects and structured dismissals 334
§ 349:17 Retaining funds 335
§ 350 Closing and reopening cases 336
§ 350:1 Section 350(a): core concept 336
§ 350:2 Full administration of case 336
§ 350:3 Discharge of trustee 337
§ 350:4 Section 350(b): core concept 337
§ 350:5 Relation to Bankruptcy Rule 5010 337
§ 350:6 Notice and hearing not required 338
§ 350:7 Administering assets 338
§ 350:8 Relief to debtor v. prejudice to creditor 338
§ 350:9 Reopening for cause 338
§ 350:10 No "reopening" of dismissed case 339
§ 350:11 Standards for reviewing decisions 340
§ 350:12 Time from case closing 340
§ 350:13 Effect of reopening case 341
§ 351 Disposal of patient records 341

SUBCHAPTER IV ADMINISTRATIVE POWERS 342

§ 361 Adequate protection 342
§ 361:1 Definition of adequate protection 344
§ 361:2 When is adequate protection required 344
§ 361:3 Determination of adequate protection 345
§ 361:4 Commencement of adequate protection payments 345
§ 361:5 Duration of adequate protection payments 346
§ 361:6 Standard of review 346
§ 361:7 Relation to §§ 362, 363, and 364 346
§ 361:8 Relation to § 1326 346
§ 361:9 Relationship to chapter 12 347
§ 361:10 Application and burden of proof 347
§ 361:11 Section 361(1): cash payments 347
§ 361:12 Section 361(2): additional or replacement liens 347
§ 361:13 Section 361(3): indubitable equivalent 348
§ 361:14 Superpriority expense under § 507(b) 349
§ 361:15 Forms of indubitable equivalent interests 349
§ 361:16 Definition of equity cushion 349
§ 361:17 Determination of equity cushion 350
§ 361:18 Maintaining equity cushion for junior secured creditor 350
§ 361:19 Valuation 351
§ 361:20 Lack of adequate protection 351
§ 361:21 No realistic chance of reorganization 351
§ 362 Automatic stay 352
§ 362:1 Section 362(a): core concept 374
§ 362:2 Relation to § 362(b) 375
§ 362:3 Relationship to §§ 541, 542, 549 and 1306 375

§ 362:4 Relationship to § 108(b) 375
§ 362:5 Actions in violation of stay..... 375
§ 362:6 Section 362(a)(1): proceeding against debtor..... 376
§ 362:7 Section 362(a)(2): enforcement of judgments..... 379
§ 362:8 Section 362(a)(3): protecting property of estate.... 379
§ 362:9 Section 362(a)(4): lien against property of estate.. 381
§ 362:10 Section 362(a)(5): lien against property of debtor . 382
§ 362:11 Section 362(a)(6): collection of prepetition claims . 382
§ 362:12 Section 362(a)(7): setoff of debt..... 383
§ 362:13 Section 362(a)(8): tax court proceedings..... 384
§ 362:14 State determination of applicability of automatic stay..... 384
§ 362:15 Section 362(b): core concept..... 384
§ 362:16 Section 362(b)(1): criminal action or proceeding... 385
§ 362:17 Section 362(b)(2): Civil actions related to domestic relations 385
§ 362:18 Section 362(b)(3): perfection of interest in property..... 386
§ 362:19 Section 362(b)(4): governmental police power..... 387
§ 362:20 Section 362(b)(6): setoff by commodity broker 389
§ 362:21 Section 362(b)(7): setoff by repo participant 389
§ 362:22 Section 362(b)(8): certain HUD foreclosures 389
§ 362:23 Section 362(b)(9): tax assessments..... 389
§ 362:24 Section 362(b)(10): expired lease on nonresidential property..... 390
§ 362:25 Section 362(b)(11): presentment of negotiable instrument 390
§ 362:26 Section 362(b)(12): government maritime liens.... 391
§ 362:27 Section 362(b)(13): government fishing facility liens..... 391
§ 362:28 Section 362(b)(14): accreditation of educational institution 391
§ 362:29 Section 362(b)(15): licensing educational institution 391
§ 362:30 Section 362(b)(16): higher education act..... 391
§ 362:31 Section 362(b)(17): setoff by swap participant 391
§ 362:32 Section 362(b)(18): perfection of ad valorem property tax lien..... 391
§ 362:33 Section 362(b)(19): withholding of sums for repayment of retirement plan loans..... 392
§ 362:34 Section 362(b)(20): enforcement of lien or security interest following relief from stay 392
§ 362:35 Section 362(b)(21): enforcement of lien against ineligible debtor..... 392
§ 362:36 Section 362(b)(22): eviction proceeding under residential lease 392
§ 362:37 Section 362(b)(23): eviction based on endangerment..... 392

§ 362:38 Section 362(b)(24): transfers that are not avoidable 392
§ 362:39 Section 362(b)(25): securities regulatory power.... 392
§ 362:40 Section 362(b)(26): setoff of income tax refund 393
§ 362:41 Section 362(b)(27): master netting agreement 393
§ 362:42 Section 362(b)(28): exclusion from Medicare participation..... 393
§ 362:43 Section 362(c): core concept 393
§ 362:44 Relation to § 524 393
§ 362:45 Section 362(c)(1): termination as to property of the estate 393
§ 362:46 Section 362(c)(2): termination of stay as to other acts 394
§ 362:47 Section 362(c)(3): effect of dismissal of prior case . 395
§ 362:48 Section 362(c)(4): effect of dismissal of multiple prior cases 395
§ 362:49 Section 362(d): core concept..... 396
§ 362:50 Party in interest..... 396
§ 362:51 Notice and hearing..... 396
§ 362:52 Flexibility and scope of relief 396
§ 362:53 Retroactive relief..... 396
§ 362:54 Conditioning of automatic stay 397
§ 362:55 Factors in determining a lift-stay motion 397
§ 362:56 Standard of review..... 397
§ 362:57 Appealing lift-stay order 397
§ 362:58 Section 362(d)(1): cause and lack of adequate protection..... 398
§ 362:59 Section 362(d)(2): unneeded property with no equity 399
§ 362:60 Section 362(d)(3): single-asset real estate 400
§ 362:61 Section 362(d)(4): real property and fraud 401
§ 362:62 Section 362(e): core concept..... 401
§ 362:63 Notice and hearing..... 401
§ 362:64 Preliminary hearing 401
§ 362:65 Automatic termination 402
§ 362:66 Limited time for final hearing..... 402
§ 362:67 Section 362(e)(2): longer stay period for individual Chapter 7, 11, and 13 debtors 402
§ 362:68 Section 362(f): core concept 402
§ 362:69 Party in interest..... 402
§ 362:70 Serial filings 402
§ 362:71 Section 362(g): core concept..... 403
§ 362:72 Section 362(h): core concept..... 403
§ 362:73 Statement of intention..... 403
§ 362:74 Required action..... 403
§ 362:75 Property that is of consequential value to estate.. 404
§ 362:76 Section 362(i): core concept 404
§ 362:77 Section 362(j): core concept 404

§ 362:78 Section 362(k): core concept 404
§ 362:79 Requirements for recovery of damages 404
§ 362:80 Willfulness 404
§ 362:81 Standing: an "individual" 405
§ 362:82 Standing for creditors 406
§ 362:83 Burden of Proof 407
§ 362:84 Survival of action: postbankruptcy claims 407
§ 362:85 Actual damages: no discretion 407
§ 362:86 Costs and attorney's fees 408
§ 362:87 Punitive damages 408
§ 362:88 Relation to § 105 409
§ 362:89 Section 362(k)(2): limitation to actual damages ... 409
§ 362:90 Effect on Fair Debt Collection Practices Act ("FDCPA") claims 409
§ 362:91 Section 362(l): core concept 409
§ 362:92 Filing of certification 409
§ 362:93 Certification of cure 410
§ 362:94 Lessor objection 410
§ 362:95 Failure of debtor to file certification 410
§ 362:96 Information on petition and certification 410
§ 362:97 Section 362(m): core concept 410
§ 362:98 Lessor certification 410
§ 362:99 Debtor challenge to certification 410
§ 362:100 Section 362(n): core concept 410
§ 362:101 Inapplicability of 362(n) 410
§ 362:102 Section 362(o): core concept 411
§ 363 Use, sale, or lease of property 411
§ 363:1 Section 363(a): core concept 419
§ 363:2 Definition of "cash collateral" 419
§ 363:3 Cash equivalent 419
§ 363:4 Interest of estate and other entity 420
§ 363:5 Relation to § 552(b) 420
§ 363:6 Products and proceeds of property 420
§ 363:7 Hotels, motels, and other lodging properties 420
§ 363:8 State law determines perfection 420
§ 363:9 Failure to have perfected security interest 421
§ 363:10 Postpetition rent on real property of estate 421
§ 363:11 Section 363(b): core concept 421
§ 363:12 Compromise of claims constituting a sale 421
§ 363:13 Debtor in possession 422
§ 363:14 Limitation on trustee's actions 422
§ 363:15 Ordinary course of business 422
§ 363:16 Unauthorized sale 423
§ 363:17 Basis for court approval of sale 423
§ 363:18 Restrictions relating to personally identifiable information 424
§ 363:19 Special Clayton Act notification 424
§ 363:20 Sale of assets 424

§ 363:21 Section 363(c): core concept 424
§ 363:22 Continued operation of business 425
§ 363:23 Ordinary course of business 425
§ 363:24 Prepetition obligations..... 425
§ 363:25 Restricted use of cash collateral..... 425
§ 363:26 Consent of interested party 425
§ 363:27 Application for use of cash collateral 426
§ 363:28 Burden of proof: preliminary hearing..... 426
§ 363:29 Segregation of cash collateral..... 426
§ 363:30 No obligation to return cash collateral 426
§ 363:31 Penalty for failure to segregate cash collateral 426
§ 363:32 Section 363(d): core concept..... 427
§ 363:33 Relief from stay 427
§ 363:34 Section 363(e): core concept..... 427
§ 363:35 Secured creditor..... 427
§ 363:36 Protection of interest 427
§ 363:37 Request for adequate protection..... 428
§ 363:38 Court may grant prompt relief 428
§ 363:39 Leases of personal property..... 428
§ 363:40 Relation to § 361 428
§ 363:41 Adequate protection upon sale of property..... 428
§ 363:42 Limits on adequate protection..... 428
§ 363:43 Section 363(f): core concept 429
§ 363:44 Relation to § 363(e) 429
§ 363:45 Capacity to sell property 429
§ 363:46 Effect of sale..... 429
§ 363:47 Interest in property..... 430
§ 363:48 Section 363(f)(1): applicable nonbankruptcy law .. 431
§ 363:49 Section 363(f)(2): sale by consent..... 431
§ 363:50 Section 363(f)(3): aggregate value of liens..... 431
§ 363:51 Definition of aggregate value of liens..... 431
§ 363:52 Section 363(f)(4): bona fide dispute 432
§ 363:53 Nature of dispute 432
§ 363:54 Section 363(f)(5): money satisfaction..... 432
§ 363:55 Requirement of full payment 432
§ 363:56 Relation to § 365(h) 433
§ 363:57 Section 363(g): core concept..... 433
§ 363:58 Monetary compensation 433
§ 363:59 Section 363(h): core concept..... 433
§ 363:60 Debtor's ownership interest..... 433
§ 363:61 Sale of tenants by entireties property 433
§ 363:62 Required elements 434
§ 363:63 Consent of co-owner to sale 434
§ 363:64 Co-owner as debtor in bankruptcy 434
§ 363:65 Filing of adversary proceeding..... 434
§ 363:66 Section 363(h)(1): partition impracticable..... 434
§ 363:67 Section 363(h)(2): sale of undivided interest 435
§ 363:68 Section 363(h)(3): balancing test 435

§ 363:69 Benefit to estate 435
§ 363:70 Section 363(h)(4): utility service 435
§ 363:71 Proceeds from sale of entireties property 435
§ 363:72 Relationship to section 363(m) 436
§ 363:73 Section 363(i): core concept 436
§ 363:74 Community property of debtor and spouse 436
§ 363:75 Granting co-owner purchase option 436
§ 363:76 Section 363(j): core concept 436
§ 363:77 Expenses of sale 437
§ 363:78 Trustee compensation not deductible 437
§ 363:79 Sale of property to co-owner under § 363(i) 437
§ 363:80 Interests of spouse or co-owners 437
§ 363:81 Presumption of one-half interest of spouse 437
§ 363:82 Dispute as to ownership interest 438
§ 363:83 Filing of homestead deed by non debtor spouse ... 438
§ 363:84 Section 363(k): core concept 438
§ 363:85 Allowed claim 438
§ 363:86 Secured creditor 438
§ 363:87 Benefit to secured lienholder 438
§ 363:88 Court may prohibit credit bidding 439
§ 363:89 Credit bidding in reorganization plan 439
§ 363:90 Effect of credit bid on guarantor obligations 439
§ 363:91 Section 363(l): core concept 439
§ 363:92 Termination provisions 439
§ 363:93 Common carrier of freight 440
§ 363:94 Section 363(m): core concept 440
§ 363:95 Protection of good faith purchaser 440
§ 363:96 Defining good faith 441
§ 363:97 Evidence of bad faith 442
§ 363:98 Bad faith is narrow exception to finality 442
§ 363:99 Failure to obtain stay 442
§ 363:100 State law exception to mootness rule 443
§ 363:101 General mootness rule 443
§ 363:102 Sale of claims belonging to estate 444
§ 363:103 Assignment as constituting sale 444
§ 363:104 Transfer of causes of action as constituting sale .. 444
§ 363:105 Other relief 444
§ 363:106 Section 363(n): core concept 444
§ 363:107 Control of sales price 445
§ 363:108 Public and private sales 445
§ 363:109 Available remedies 445
§ 363:110 Willful disregard 445
§ 363:111 Right to jury trial 445
§ 363:112 Statute of limitations 445
§ 363:113 Section 363(o): core concept 445
§ 363:114 Section 363(p): core concept 446
§ 363:115 Trustee burden on adequate protection 446
§ 363:116 Entity asserting interest in property 446

§ 364 Obtaining credit 446
§ 364:1 Section 364(a): core concept 449
§ 364:2 Incentive to creditors 449
§ 364:3 Administrative expense priority 449
§ 364:4 Court approval not required 449
§ 364:5 Ordinary course of business not defined 449
§ 364:6 Determining ordinary course of business 449
§ 364:7 Section 364(b): core concept 450
§ 364:8 Ordinary course of business 450
§ 364:9 Notice and court approval required 450
§ 364:10 Effect of court approval 450
§ 364:11 Failure to obtain court approval 451
§ 364:12 Retroactive approval 451
§ 364:13 Effect on lender's pre-petition debt 451
§ 364:14 Section 364(c): core concept 451
§ 364:15 Inability to obtain unsecured credit 451
§ 364:16 Superpriority administrative expense status 452
§ 364:17 Security interest in property of estate 452
§ 364:18 Relation to superpriority interest 452
§ 364:19 Failure to obtain approval under § 364(c) 452
§ 364:20 Retroactive approval 452
§ 364:21 Additional security interests 453
§ 364:22 Cross collateralization 453
§ 364:23 Relation to § 726(b) 453
§ 364:24 Section 364(d): core concept 453
§ 364:25 Unavailability of other credit 454
§ 364:26 Need for adequate protection 454
§ 364:27 Burden of proof on adequate protection 454
§ 364:28 Nunc pro tunc order 454
§ 364:29 Postconfirmation borrowing 455
§ 364:30 Section 364(e): core concept 455
§ 364:31 Encourage extension of credit 455
§ 364:32 Court error in granting priority under § 364 455
§ 364:33 Creditor's good faith 455
§ 364:34 Appeal of order under § 364 456
§ 364:35 Mootness of appeal if stay not obtained 456
§ 364:36 Section 364(f): core concept 457
§ 364:37 Exemption from securities laws 457
§ 364:38 Section 364(g): core concept 457
§ 365 Executory contracts and unexpired leases 457
§ 365:1 Section 365(a): core concept 471
§ 365:2 Relation to other subsections 472
§ 365:3 Executory contract defined 472
§ 365:4 Unexpired lease defined 475
§ 365:5 Expired versus terminated leases 476
§ 365:6 Standard for assumption or rejection 476
§ 365:7 Scope of assumption 477
§ 365:8 Rights of nondebtor 477

§ 365:9 Judicial approval: hearing 477
§ 365:10 Effective date of assumption or rejection 478
§ 365:11 Effect of rejection 478
§ 365:12 Validity of lease or contract 479
§ 365:13 Relation to §§ 765 and 766 479
§ 365:14 Collective bargaining agreements: § 1113 479
§ 365:15 Energy Filed Rate Contracts 479
§ 365:16 Section 365(b): core concept 479
§ 365:17 Scope: agreements "terminated" by default 479
§ 365:18 Timing and nature of default 480
§ 365:19 Definition of default 480
§ 365:20 Cure of defaults: adequate assurance 480
§ 365:21 Compensation for loss: adequate assurance 481
§ 365:22 Future performance: adequate assurance 482
§ 365:23 Defaults that need not be cured 482
§ 365:24 Shopping centers: adequate assurance 483
§ 365:25 Shopping center defined 483
§ 365:26 Curing defaults: relation to § 547 484
§ 365:27 Curing defaults: relation to § 525 484
§ 365:28 Incidents of unexpired leases 484
§ 365:29 Section 365(c): core concept 485
§ 365:30 Contractual prohibitions on assignments 485
§ 365:31 Assignment prohibition: applicable law 485
§ 365:32 Hypothetical vs. actual assignee 486
§ 365:33 Contracts for loans to debtor 487
§ 365:34 Terminated nonresidential leases 488
§ 365:35 Leases of aircraft terminals or gates 488
§ 365:36 Relation to § 365(f) 489
§ 365:37 Section 365(d): core concept 489
§ 365:38 Chapter 7 cases 490
§ 365:39 Cases under Chapter 9, 11, 12, or 13 490
§ 365:40 Trustee's duties prior to assumption or rejection ... 491
§ 365:41 Nonresidential leases of real property 493
§ 365:42 Chapter 11: obligations on leases of personalty 494
§ 365:43 Relation to § 503(b) 494
§ 365:44 Section 365(e): core concept 494
§ 365:45 Contractual antibankruptcy clauses 495
§ 365:46 Antibankruptcy laws 495
§ 365:47 Other grounds for termination 495
§ 365:48 Enumerated exceptions 496
§ 365:49 Relation to § 365(c) 496
§ 365:50 Relationship to § 362 496
§ 365:51 Section 365(f): core concept 497
§ 365:52 Clauses and law prohibiting assignment 497
§ 365:53 Relation to § 365(c) 497
§ 365:54 Relation to § 365(d)(5) 497
§ 365:55 Requirements for assignment 498
§ 365:56 Clauses or laws terminating assigned agreements . 498

§ 365:57 Section 365(g): core concept 499
§ 365:58 Rejection of never-assumed agreements 499
§ 365:59 Rejection of previously-assumed agreements..... 500
§ 365:60 Relation to § 365(h)(2) and (i)(2)..... 501
§ 365:61 Measuring damages..... 501
§ 365:62 Agreement is not rescinded 501
§ 365:63 Section 365(h): core concept..... 502
§ 365:64 Alternative remedies for lessees 502
§ 365:65 Relationship with § 363(f) 503
§ 365:66 Shopping center lessees..... 503
§ 365:67 "Lessee" defined..... 503
§ 365:68 Alternative remedies for timeshare purchasers..... 503
§ 365:69 "Timeshare plan" defined..... 504
§ 365:70 Relationship to § 363(f) 504
§ 365:71 Effect on third parties when lease rejected..... 504
§ 365:72 Section 365(i): core concept..... 504
§ 365:73 Alternative remedies: termination or possession ... 504
§ 365:74 Remaining in possession: relation to § 365(g) 505
§ 365:75 Section 365(j): core concept..... 505
§ 365:76 Section 365(k): core concept 505
§ 365:77 Section 365(l): core concept..... 506
§ 365:78 Section 365(m): core concept 506
§ 365:79 Section 365(n): core concept..... 506
§ 365:80 "Intellectual property" defined 506
§ 365:81 Remedy of termination..... 506
§ 365:82 Alternative remedy: retention of contract rights.... 507
§ 365:83 Effect of retaining rights: trustee's duties 507
§ 365:84 Effect of retaining rights: licensee's duties 507
§ 365:85 Trustee's duties prior to rejection..... 508
§ 365:86 Section 365(o): core concept 508
§ 365:87 Limitation to Chapter 11 cases 508
§ 365:88 Mandatory assumption: absence of discretion..... 508
§ 365:89 Remedy for breach..... 509
§ 365:90 "Insured depository institution" defined 509
§ 365:91 Exception..... 509
§ 365:92 Section 365(p): core concept 509
§ 366 Utility service 510
§ 366:1 Section 366(a): core concept 512
§ 366:2 "Discrimination" defined..... 512
§ 366:3 Scope: prepetition debts 512
§ 366:4 Tampering or unauthorized use..... 513
§ 366:5 Cable provider not a utility 513
§ 366:6 Government Trash Pick Up Service is Utility..... 513
§ 366:7 Relation to § 366(b)..... 513
§ 366:8 Section 366(b): core concept 514
§ 366:9 Filing and the first 20 days 514
§ 366:10 Requirement of adequate assurance..... 514
§ 366:11 Postfiling default 515

§ 366:12 Modification of adequate assurance 515
§ 366:13 Debts exceeding deposit: administrative claims..... 515
§ 366:14 Procedure for termination 516
§ 366:15 Section 366(c): core concept 516

CHAPTER 5 CREDITORS, THE DEBTOR, AND THE ESTATE 519

SUBCHAPTER I CREDITORS AND CLAIMS 542

§ 501 Filing of proofs of claims or interests 542
§ 501:1 Section 501(a): core concept 544
§ 501:2 Applicability..... 544
§ 501:3 Equity interests..... 544
§ 501:4 Creditor defined 545
§ 501:5 Unenforceable claims and the FDCPA 545
§ 501:6 Indenture trustees..... 545
§ 501:7 Representatives in class actions 545
§ 501:8 Proof of claim: form 546
§ 501:9 Creditors who must file..... 546
§ 501:10 Effect of filing and burden of proof..... 548
§ 501:11 Late filings 548
§ 501:12 Amending a timely proof of claim 549
§ 501:13 Sovereign immunity..... 549
§ 501:14 Alternatives to § 501 549
§ 501:15 Relation to § 1111..... 550
§ 501:16 Relation to § 726: interest 550
§ 501:17 Section 501(b): core concept 550
§ 501:18 Form and effect of filing: need to file..... 550
§ 501:19 Timing 550
§ 501:20 Standing..... 551
§ 501:21 Section 501(c): core concept 551
§ 501:22 Nondischargeable claims and Chapter 7..... 551
§ 501:23 Applicability to Chapters 11 and 13..... 552
§ 501:24 Timing 552
§ 501:25 Alternative to § 501(c) 552
§ 501:26 Amending a proof of claim..... 552
§ 501:27 Form and effect of filing: need to file..... 553
§ 501:28 Sovereign immunity..... 553
§ 501:29 Section 501(d): core concept 553
§ 501:30 Applicability..... 553
§ 501:31 Claims arising subsequent to bankruptcy filing 553
§ 501:32 Section 501(e): core concept 554
§ 502 Allowance of claims or interests..... 554
§ 502:1 Section 502(a): core concept 560
§ 502:2 Parties in interest 561
§ 502:3 Form of objection 561
§ 502:4 Application of § 502(a) 561
§ 502:5 Burdens of proof and persuasion 562

§ 502:6 Timing of objections 563
§ 502:7 No-asset cases 563
§ 502:8 Administrative expenses 563
§ 502:9 Section 502(b): core concept 563
§ 502:10 Claim determined at filing of petition 564
§ 502:11 Nonbankruptcy law: unenforceable claims 564
§ 502:12 Exception: contingent/unmatured claims 564
§ 502:13 Scope of § 502(b) 565
§ 502:14 Claims for unmatured interest 566
§ 502:15 Tax assessments 569
§ 502:16 Claims by insiders or debtor's attorney 569
§ 502:17 Unmatured, nondischargeable claims 569
§ 502:18 Leases of real property 570
§ 502:19 Terminated employment contracts 571
§ 502:20 Lost tax credits 572
§ 502:21 Lack of timeliness 572
§ 502:22 Section 502(c): core concept 573
§ 502:23 Contingent or unliquidated claims 573
§ 502:24 Defining contingent claims 574
§ 502:25 Court's discretion 574
§ 502:26 Contingent claims of co-debtors 575
§ 502:27 Ripeness 575
§ 502:28 Equitable remedies: application 576
§ 502:29 Section 502(d): core concept 576
§ 502:30 Enforcing stale preferences 577
§ 502:31 Barring other rights of creditors 577
§ 502:32 Inapplicability to administrative expenses 577
§ 502:33 Effect of Securities Investor Protection Act 577
§ 502:34 Setoffs 578
§ 502:35 Section 502(e): core concept 578
§ 502:36 Relation to § 502(c)(1) 578
§ 502:37 Elements of § 502(e)(1)(B) 579
§ 502:38 Burden of proof for § 502(e)(1)(B) 579
§ 502:39 Torts and contracts 579
§ 502:40 Subrogation: relation to § 509 579
§ 502:41 When the contingency occurs 580
§ 502:42 Section 502(f): core concept 580
§ 502:43 Ordinary course of business 580
§ 502:44 Relation to § 503 580
§ 502:45 Relation to § 507 580
§ 502:46 Section 502(g): core concept 581
§ 502:47 Timing 581
§ 502:48 Priority status 581
§ 502:49 Collective bargaining agreements 581
§ 502:50 Section 502(h): core concept 582
§ 502:51 Timing 582
§ 502:52 Application 582
§ 502:53 Nondischargeable claims 582

§ 502:54 Proof of claim 583
§ 502:55 Section 502(i): core concept 583
§ 502:56 Section 502(j): core concept 583
§ 502:57 Standing 583
§ 502:58 Process and determining cause 583
§ 502:59 Timing 584
§ 502:60 Effect on similarly situated creditors 584
§ 502:61 Section 502(k): core concept 584
§ 503 Allowance of administrative expenses 585
§ 503:1 Section 503(a): core concept 590
§ 503:2 Administrative expenses: policy 590
§ 503:3 Administrative expenses: elements 591
§ 503:4 Timeliness requirement 591
§ 503:5 Prepetition expenses 592
§ 503:6 Priority Status v. Secured claim 592
§ 503:7 Proof of claim 593
§ 503:8 Disallowed administrative expenses 593
§ 503:9 Section 503(b): core concept 593
§ 503:10 Notice and hearing 593
§ 503:11 Elements of § 503(b)(1)(A) expenses 594
§ 503:12 Burden of proof 594
§ 503:13 Actual benefit 594
§ 503:14 Relation to § 502(d) 596
§ 503:15 Claims allowed under § 502(f) 596
§ 503:16 Expenses allowable under § 503(b)(1) 596
§ 503:17 Governmental exemption from § 503(a) 601
§ 503:18 Debtor's attorney and professionals retained by trustees 601
§ 503:19 Valuing benefits 601
§ 503:20 Expenses of trustee, trustee's professional staff, and debtor's attorney 602
§ 503:21 Involuntary bankruptcy: creditor's expenses 602
§ 503:22 Recovering concealed property 603
§ 503:23 Criminal cases: creditor's expenses 603
§ 503:24 Interested parties: substantial contributions 603
§ 503:25 Custodians 605
§ 503:26 Committees appointed under § 1102 605
§ 503:27 Creditors' attorneys and accountants 605
§ 503:28 Indenture trustees 606
§ 503:29 Fees and mileage 607
§ 503:30 Relation to § 365 and 363 607
§ 503:31 Comparison with § 506 608
§ 503:32 Relation to § 1114 608
§ 503:33 Expenses of closing health care business 608
§ 503:34 Sales to debtor immediately prior to filing 608
§ 503:35 Definition of goods 609
§ 503:36 Relation to § 547 and new value 609
§ 503:37 Post-petition tort claims 609

§ 503:38 Section 503(c): core concept 609
§ 503:39 Payments to retain insiders 610
§ 503:40 Severance pay to insiders 610
§ 503:41 Unusual, unjustified transfers 610
§ 504 Sharing of compensation 610
§ 504:1 Section 504(a): core concept 612
§ 504:2 Applications 612
§ 504:3 Relation to § 330 612
§ 504:4 Prepetition fee sharing 613
§ 504:5 Local counsel and state law 613
§ 504:6 Remedies 613
§ 504:7 Nonlawyers 613
§ 504:8 Practical consequences 614
§ 504:9 Section 504(b): core concept 614
§ 504:10 Applications 614
§ 504:11 Involuntary bankruptcies 615
§ 504:12 Section 504(c): core concept 615
§ 505 Determination of tax liability 615
§ 505:1 Section 505(a): core concept 617
§ 505:2 Standing to bring claims 618
§ 505:3 Sovereign immunity: § 106 618
§ 505:4 Tax courts' jurisdiction 619
§ 505:5 Priority 619
§ 505:6 Decided tax cases: res judicata 619
§ 505:7 Tax liabilities of nondebtors 620
§ 505:8 Determining refunds due estate 621
§ 505:9 Relation to Chapter 11 plan confirmation 621
§ 505:10 Applicable law 621
§ 505:11 Ad valorem taxes on real or personal property 621
§ 505:12 Internal revenue service audits 622
§ 505:13 Section 505(b): core concept 622
§ 505:14 Ways to establish contact with taxing authority 622
§ 505:15 Discharge 622
§ 505:16 Trustee's discretion 623
§ 505:17 Section 505(c): core concept 623
§ 506 Determination of secured status 623
§ 506:1 Section 506(a): core concept 626
§ 506:2 Value of creditor's interest: definition and determination 626
§ 506:3 Setoffs 627
§ 506:4 Relation to § 506(b) 627
§ 506:5 Value and proposed disposition and use of property 627
§ 506:6 Methods of valuation 628
§ 506:7 Measurement date for valuation 630
§ 506:8 Res judicata 631
§ 506:9 Notice of hearing 631
§ 506:10 Relation to § 106: sovereign immunity 631

§ 506:11 Relation to § 109 632
§ 506:12 Relation to § 502: undersecured liens 632
§ 506:13 Relation to §§ 506(d) and 1322(b)(2): "stripdown" ... 632
§ 506:14 Inapplicability to § 1325(a)(5)(C) in Chapter 13 cases 635
§ 506:15 Unsecured lienholders 636
§ 506:16 Letters of credit 636
§ 506:17 Section 506(b): core concept 636
§ 506:18 Creditors eligible for interest 636
§ 506:19 "Equity cushion" as source of interest 637
§ 506:20 Timing of interest 637
§ 506:21 Determining interest rates 638
§ 506:22 Reasonable fees, costs, or charges 639
§ 506:23 Standard of reasonableness 640
§ 506:24 Method of payment 640
§ 506:25 Treatment of "unreasonable" fees 641
§ 506:26 No private right of action 641
§ 506:27 Section 506(c): core concept 641
§ 506:28 Comparison with administrative expenses 641
§ 506:29 Elements and burden of proof 642
§ 506:30 Bankruptcy court's discretion 643
§ 506:31 What constitutes a benefit 643
§ 506:32 Consent 645
§ 506:33 Standing 646
§ 506:34 Relation to § 366 646
§ 506:35 Section 506(d): core concept 646
§ 506:36 Enumerated exceptions: § 502(b)(5) and (e) 647
§ 506:37 Enumerated exception: no proof of claim 647
§ 506:38 Time limit for challenges to unsecured liens 647
§ 506:39 Lien voidance and Chapter 20 debtors 648
§ 506:40 Consequences of void liens 648
§ 506:41 Relation to § 551 649
§ 507 Priorities 649
§ 507:1 Section 507(a): core 656
§ 507:2 Untimely filings of priority claims 656
§ 507:3 Relation to secured claims 656
§ 507:4 Relation to § 330 657
§ 507:5 Relation to § 365 657
§ 507:6 Relation to § 507(b) 657
§ 507:7 Relation to § 726(a) 658
§ 507:8 Section 726(b): claims with identical priorities 658
§ 507:9 Nondischargeability 659
§ 507:10 Plan confirmation 659
§ 507:11 Settlements and structured dismissals 660
§ 507:12 Domestic support obligations 660
§ 507:13 Determining what constitutes support 661
§ 507:14 Section 507(a)(2): administrative expenses 661
§ 507:15 Section 507(a)(3): involuntary cases 663

§ 507:16 Section 507(a)(4): wages, commissions, etc. 663
§ 507:17 Wages and salaries defined 664
§ 507:18 Timing of vacation pay 665
§ 507:19 Relation of § 507(a)(4) to § 507(a)(5) 665
§ 507:20 Relation between § 507(a)(4) and § 1113(f) 665
§ 507:21 Section 507(a)(5): employee benefit plans 666
§ 507:22 Scope of employee benefit plans 666
§ 507:23 Dollar limits on § 507(a)(5) 666
§ 507:24 Priority under § 507(a)(6) 666
§ 507:25 Priority for consumer purchases 667
§ 507:26 Section 507(a)(8): prebankruptcy tax claims 667
§ 507:27 Taxes: applicable law 667
§ 507:28 Taxes: elements 668
§ 507:29 Relation of § 507(a)(8) to § 507(a)(2) 669
§ 507:30 Relation of § 507(a)(8) to § 523 669
§ 507:31 Taxes on income/gross receipts: § 507(a)(8)(A) 670
§ 507:32 Property taxes: § 507(a)(8)(B) 672
§ 507:33 Withholding taxes: § 507(a)(8)(C) 672
§ 507:34 Employment taxes on wages under § 507(a)(4) 672
§ 507:35 Excise taxes: § 507(a)(8)(E) 672
§ 507:36 Excise taxes defined 673
§ 507:37 Customs duties: § 507(a)(8)(F) 674
§ 507:38 Penalties for pecuniary tax losses 674
§ 507:39 Actual pecuniary losses 674
§ 507:40 Tolling time limits: suspension paragraph 675
§ 507:41 Financial institutions: duty to maintain capital 675
§ 507:42 Injuries from driving under the influence of intoxicants 676
§ 507:43 Section 507(b): core concept 676
§ 507:44 Impact of §§ 362, 363 and 364 on secured claims 676
§ 507:45 Superpriority 676
§ 507:46 Elements of § 507(b) 677
§ 507:47 Actual Use v. Opportunity to use collateral 677
§ 507:48 Prior approval of adequate protection 677
§ 507:49 Amount of superpriority 678
§ 507:50 Section 507(c): core concept 678
§ 507:51 Section 507(d): core concept 678
§ 508 Effect of distribution other than under this title 678
§ 508:1 Section 508: core concept 679
§ 508:2 Secured creditors 680
§ 509 Claims of codebtors 680
§ 509:1 Section 509(a): core concept 681
§ 509:2 Co-debtor 681
§ 509:3 Elements of subrogation 682
§ 509:4 Scope of subrogation 682
§ 509:5 Limitations imposed by § 507(d) 683
§ 509:6 Payment defined 683
§ 509:7 Partial payment 683

§ 509:8 Co-debtor's obligation 684
§ 509:9 Relation to § 553..... 684
§ 509:10 Section 509(b): core concept 685
§ 509:11 Allowed claims..... 685
§ 509:12 Disallowed claims: § 502(e) exception 685
§ 509:13 Subordinated claims: § 510..... 685
§ 509:14 Co-debtors who receive benefit..... 685
§ 509:15 Section 509(c): core concept 685
§ 509:16 Relation to § 502..... 686
§ 509:17 Settled claims..... 686
§ 509:18 Subordination and disallowed claims 686
§ 510 Subordination 686
§ 510:1 Section 510(a): core concept 688
§ 510:2 Applicable law 688
§ 510:3 Chapter 11 cases..... 688
§ 510:4 Promissory estoppel: relation to § 510(c)..... 689
§ 510:5 Section 510(b): core concept 689
§ 510:6 Purpose: protecting absolute priority rule 689
§ 510:7 Applicability..... 690
§ 510:8 Standing under § 510(b) 691
§ 510:9 Mandatory subordination..... 691
§ 510:10 Scope..... 691
§ 510:11 No fraud requirement..... 691
§ 510:12 Section 510(c): core concept 691
§ 510:13 Definition: elements of equitable subordination 692
§ 510:14 Burden of proof and notice 694
§ 510:15 Claims based on penalties..... 695
§ 510:16 "Allowed claims" requirement..... 695
§ 510:17 Applicable nonbankruptcy federal law 696
§ 510:18 Relation to preferences: § 547..... 696
§ 510:19 Standing..... 697
§ 510:20 Limitations on equitable subordination..... 697
§ 510:21 Recharacterization distinguished from subordination..... 698
§ 511 Rate of interest on tax claims 698
§ 511:1 Section 511(a): core concept..... 699
§ 511:2 Defining "nonbankruptcy" law..... 699
§ 511:3 Modification of interest rate in Chapter 13 case 700
§ 511:4 Scope: Tax claims v. tax liens..... 700
§ 511:5 Section 511(b): core concept..... 700

SUBCHAPTER II DEBTOR'S DUTIES AND BENEFITS 700

§ 521 Debtor's duties 700
§ 521:1 Section 521(a): core concept 709
§ 521:2 Nonexclusive list of duties..... 709
§ 521:3 Debtor's duty to list creditors and assets 709
§ 521:4 Failure to list assets: consequences 710

§ 521:5 Additional duties under § 521(a) 710
§ 521:6 Asset description 711
§ 521:7 Consequence of listing: admissions 711
§ 521:8 Consequence of listing: Chapter 11 cases 712
§ 521:9 Relation to § 554: abandonment 712
§ 521:10 Secured consumer debts 712
§ 521:11 Exemption; redemption; reaffirmation 713
§ 521:12 Exemption: section 522 713
§ 521:13 Redemption 713
§ 521:14 Reaffirmation 713
§ 521:15 Surrendering the property 714
§ 521:16 Alternative to § 521(a)(2) for up-to-date payors 715
§ 521:17 Relation to § 704 715
§ 521:18 Cooperation with trustee 715
§ 521:19 Failure to cooperate 716
§ 521:20 Duty to surrender records 716
§ 521:21 Hearing: relation to § 524(d) 716
§ 521:22 Chapter 7, personal property, and secured creditors 716
§ 521:23 Duty to administer employee benefit plan 717
§ 521:24 Section 521(b): core concept 717
§ 521:25 Certificate of services provided 717
§ 521:26 Debt repayment plan 717
§ 521:27 Section 521(c): core concept 717
§ 521:28 Section 521(d): core concept 717
§ 521:29 Section 521(e): core concept 718
§ 521:30 Petition, schedules and financial statements 718
§ 521:31 Federal tax returns 718
§ 521:32 Sanction for failure to comply 718
§ 521:33 Obtaining copy of Chapter 13 plan 718
§ 521:34 Section 521(f): core concept 719
§ 521:35 Who may seek tax information 719
§ 521:36 Timing 719
§ 521:37 Applicability 719
§ 521:38 Amended tax returns 719
§ 521:39 Financial information in Chapter 13 cases 719
§ 521:40 Timing for § 521(f)(4) 719
§ 521:41 Criminal sanction 720
§ 521:42 Section 521(g): core concept 720
§ 521:43 Mandatory elements of statement under § 521(f)(4) 720
§ 521:44 Persons who may access debtor's disclosures 720
§ 521:45 Section 521(h): core concept 720
§ 521:46 Section 521(i): core concept 720
§ 521:47 Automatic dismissal 720
§ 521:48 Dismissal on interested party's motion 721
§ 521:49 Extension of time 721
§ 521:50 Forestalling dismissal 721

§ 521:51 Section 521(j): core concept 721
§ 522 Exemptions 722
§ 522:1 Section 522(a): core concept 736
§ 522:2 "Dependent" defined 736
§ 522:3 "Value" defined 737
§ 522:4 Defining "exemption": case law treatment 737
§ 522:5 Insolvency: relation to § 522 737
§ 522:6 Exemptions v. Exclusions: §§ 522 and 541 737
§ 522:7 Relation to § 542 738
§ 522:8 Relation to § 551 738
§ 522:9 Section 522(b): core concept 738
§ 522:10 Choice of exemption lists 739
§ 522:11 Debtors' right in claiming exemptions 740
§ 522:12 Joint cases, and husband and wife 740
§ 522:13 State lists: applicable federal law 740
§ 522:14 Formulating exemptions: state discretion 741
§ 522:15 Timing of state exemptions 741
§ 522:16 Choosing the applicable state 741
§ 522:17 Saving clause 742
§ 522:18 Tenancies by the entirety; joint tenancies 742
§ 522:19 Retirement funds 743
§ 522:20 Presumptions for retirement funds 743
§ 522:21 Direct transfers between retirement funds 744
§ 522:22 Rollover distributions 744
§ 522:23 Converting nonexempt property to exempt status 744
§ 522:24 Section 522(c): core concept 745
§ 522:25 General rule 745
§ 522:26 Exception: § 523(a)(1) or (5) 746
§ 522:27 Exception: enforceable secured claims 746
§ 522:28 Exception: § 523(a)(4) or (6) 747
§ 522:29 Exception: federal Mandatory Victims Restitution Act 747
§ 522:30 Section 522(d): core concept 748
§ 522:31 Applicability of § 522(d): limitations 748
§ 522:32 Exempting debtor's interest v. asset itself 748
§ 522:33 Section 522(d)(1): residence 748
§ 522:34 Section 522(d)(2): motor vehicle 749
§ 522:35 Section 522(d)(3): items of household use 749
§ 522:36 Section 522(d)(4): jewelry 749
§ 522:37 Section 522(d)(5): the "wildcard" 749
§ 522:38 Section 522(d)(6): tools of the trade 750
§ 522:39 Section 522(d)(7): life insurance contracts 750
§ 522:40 Section 522(d)(8): dividends of life insurance 750
§ 522:41 Section 522(d)(9): health aids 751
§ 522:42 Payments under social security, alimony, etc. 751
§ 522:43 Relation of § 522(d)(10) to § 541 751
§ 522:44 Section 522(d)(11): payments for losses 752
§ 522:45 Relation of § 522(d)(11) to § 541 752

§ 522:46 Tax exempt retirement funds 753
§ 522:47 Section 522(e): core concept 753
§ 522:48 Section 522(f): core concept..... 753
§ 522:49 Section 522(f)(1) generally..... 754
§ 522:50 Relation between § 522(f)(1) and (3)..... 754
§ 522:51 Avoiding judicial liens..... 754
§ 522:52 Judicial liens and state exemption lists..... 755
§ 522:53 Nonpossessory, nonpurchase-money liens..... 756
§ 522:54 Extent to which a lien may be avoided 758
§ 522:55 Timing of debtor's interest: timing of lien 758
§ 522:56 Trustee standing—Chapter 13 cases 759
§ 522:57 Relation to § 502..... 759
§ 522:58 Relation to § 523..... 759
§ 522:59 Liens "impairing" exemptions: § 522(f)(2)..... 759
§ 522:60 Judgments resulting from mortgage foreclosures... 759
§ 522:61 Section 522(f)(3): limiting avoidance 760
§ 522:62 Section 522(g): core concept 760
§ 522:63 Limitations on § 522(g) 761
§ 522:64 Relation to § 329..... 761
§ 522:65 Section 522(h): core concept..... 761
§ 522:66 Applicability: limitations 762
§ 522:67 Relation to § 502..... 762
§ 522:68 Section 522(i): core concept..... 762
§ 522:69 Relation to § 550..... 762
§ 522:70 Relation to § 551..... 762
§ 522:71 Section 522(j): core concept..... 762
§ 522:72 Section 522(k): core concept..... 763
§ 522:73 Exception: costs incident to avoiding transfers 763
§ 522:74 Exception: costs the debtor has not paid..... 763
§ 522:75 Section 522(l): core concept..... 763
§ 522:76 Relation to Bankruptcy Rule 4003 764
§ 522:77 Section 522(m): core concept 765
§ 522:78 Relation to § 522(b): state exemption lists..... 765
§ 522:79 Section 522(n): core concept..... 766
§ 522:80 Section 522(o): core concept 766
§ 522:81 Section 522(p): core concept..... 766
§ 522:82 Exception for family farmers..... 767
§ 522:83 Exception for homeowners buying another house .. 767
§ 522:84 Section 522(q): core concept 767
§ 523 Exceptions to discharge 767
§ 523:1 Section 523(a): core concept 775
§ 523:2 Applications generally 775
§ 523:3 Standard of proof..... 776
§ 523:4 Jurisdiction..... 776
§ 523:5 Effect of nondischargeability..... 776
§ 523:6 Relation to §§ 727, 1141, 1192, 1228 and 1328..... 777
§ 523:7 Relation to Bankruptcy Rule 4007 778
§ 523:8 Doctrine of unclean hands..... 778

§ 523:9 Collateral estoppel and nondischargeability 778
§ 523:10 Section 523(a)(1): unpaid taxes 779
§ 523:11 Section 523(a)(2): fraud 784
§ 523:12 Section 523(a)(3): unlisted debts 792
§ 523:13 Section 523(a)(4): fraud by fiduciaries; embezzlement or larceny 795
§ 523:14 Section 523(a)(5): domestic support obligations 799
§ 523:15 Section 523(a)(6): willful and malicious injury 801
§ 523:16 Section 523(a)(7): fines and penalties 805
§ 523:17 Section 523(a)(8): student loans 808
§ 523:18 Section 523(a)(9): driving while intoxicated 811
§ 523:19 Section 523(a)(10): waiver or denial of discharge ... 812
§ 523:20 Section 523(a)(11): fraud against depository institutions; judgments 812
§ 523:21 Section 523(a)(12): failure to maintain capital 812
§ 523:22 Section 523(a)(13): criminal restitution orders 812
§ 523:23 Section 523(a)(14): debts incurred to pay nondischargeable taxes 812
§ 523:24 Section 523(a)(15): divorce or separation debts to which § 523(a)(5) is not applicable 813
§ 523:25 Section 523(a)(16): condominium or cooperative fees 813
§ 523:26 Fees imposed for litigious acts 813
§ 523:27 Debts relating to pensions 813
§ 523:28 Violations of federal or state securities laws 814
§ 523:29 Compensation related to human trafficking 814
§ 523:30 Section 523(b): core concept 814
§ 523:31 Applications 815
§ 523:32 Limitation 815
§ 523:33 Section 523(c): core concept 815
§ 523:34 Affected provisions 815
§ 523:35 Relation to Federal Rule of Bankruptcy Procedure 4007(c) 815
§ 523:36 Exception: § 523(a)(3)(B) 816
§ 523:37 Exception: federal regulatory agencies 816
§ 523:38 Section 523(d): core concept 816
§ 523:39 Applications 817
§ 523:40 Judicial discretion 817
§ 523:41 Section 523(e): core concept 817
§ 524 Effect of discharge 817
§ 524:1 Section 524(a): core concept 838
§ 524:2 Relation to § 362 838
§ 524:3 Relation to § 553 839
§ 524:4 Section 524(a)(1): void judgments 839
§ 524:5 Section 524(a)(1): limitation 840
§ 524:6 Section 524(a)(2): injunction against collection 841
§ 524:7 Limits of injunction 842
§ 524:8 Scope of claims affected 843

§ 524:9 Persons protected by the injunction 843
§ 524:10 Modifying the injunction: insurors 844
§ 524:11 Section 524(a)(2): claims by guarantors..... 845
§ 524:12 Section 524(a)(3): community property..... 845
§ 524:13 Section 524(a)(3): "community claims" barred..... 845
§ 524:14 Section 524(a)(3): limits on injunction 845
§ 524:15 Remedy for violation of injunction..... 845
§ 524:16 Arbitration agreements 848
§ 524:17 Section 524(b): core concept 848
§ 524:18 Section 524(c): core concept 848
§ 524:19 Elements of reaffirmation 849
§ 524:20 Creditor's rights 850
§ 524:21 Relation to § 521..... 851
§ 524:22 Sections 524(c) and 365(p)..... 851
§ 524:23 Relation to § 722..... 852
§ 524:24 Section 524(d): core concept 852
§ 524:25 Court's discretion..... 852
§ 524:26 Reaffirming debts: court's obligations 852
§ 524:27 Reaffirmation hearing: failure to attend 853
§ 524:28 Section 524(e): core concept 853
§ 524:29 Debtor's insurors 854
§ 524:30 Chapter 11 cases..... 854
§ 524:31 Section 524(f): core concept..... 854
§ 524:32 Section 524(g): core concept 854
§ 524:33 Elements 855
§ 524:34 Jurisdiction..... 856
§ 524:35 Scope of injunction 856
§ 524:36 Appointment of legal representative 857
§ 524:37 Obligations arising out of injunction 857
§ 524:38 Fraudulent conveyances 857
§ 524:39 Retaining Chapter 11 powers 857
§ 524:40 Section 524(h): core concept 857
§ 524:41 Ratification of court's decision 857
§ 524:42 Additional provisions..... 858
§ 524:43 Section 524(i): core concept..... 858
§ 524:44 Section 524(j): core concept..... 858
§ 524:45 Section 524(k): core concept 858
§ 524:46 Section 524(l): core concept..... 859
§ 524:47 Section 524(m): core concept 859
§ 524:48 Exception to § 524(m) 859
§ 525 Protection against discriminatory treatment 859
§ 525:1 Section 525(a): core concept 861
§ 525:2 Federal laws relating to agriculture..... 861
§ 525:3 Jurisdiction..... 862
§ 525:4 Government activity..... 862
§ 525:5 Discrimination 863
§ 525:6 Persons protected..... 864
§ 525:7 Causation..... 864

§ 525:8 Debtors, past and present 864
§ 525:9 Nondischargeable debts..... 865
§ 525:10 Relation to § 365..... 865
§ 525:11 Relation to § 366..... 865
§ 525:12 Section 525(b): core concept 865
§ 525:13 Employment defined 865
§ 525:14 Causation..... 866
§ 525:15 Debtors, past and present 866
§ 525:16 Comparison with § 525(a) 867
§ 525:17 Damages..... 867
§ 525:18 Section 525(c): core concept 868
§ 525:19 Government and private lenders 868
§ 525:20 Causation..... 868
§ 526 Restrictions on debt relief agencies 868
§ 526:1 Section 526(a): core concept..... 871
§ 526:2 Section 526(b): core concept..... 873
§ 526:3 Section 526(c): core concept..... 873
§ 526:4 Notice requirements 874
§ 526:5 Section 526(d): core concept..... 874
§ 526:6 Assisted persons 874
§ 527 Disclosures..... 874
§ 527:1 Section 527(a): core concept..... 878
§ 527:2 Bifurcated fee agreements 878
§ 527:3 Section 527(b): core concept..... 878
§ 527:4 Section 527(c): core concept..... 879
§ 527:5 Section 527(d): core concept..... 879
§ 527:6 Assisted persons 879
§ 528 Requirements for debt relief agencies 879
§ 528:1 Section 528(a): core concept..... 881
§ 528:2 Section 528(b): core concept..... 882

SUBCHAPTER III THE ESTATE 882

§ 541 Property of the estate..... 882
§ 541:1 Section 541(a): core concept 890
§ 541:2 Scope..... 890
§ 541:3 State law and other nonbankruptcy law..... 891
§ 541:4 Relation to § 362..... 892
§ 541:5 Relation to § 522..... 893
§ 541:6 Avoidable transfers..... 893
§ 541:7 Relation to Chapter 11..... 894
§ 541:8 Relation to Chapter 12: § 1207..... 894
§ 541:9 Relation to Chapter 13: § 1306..... 894
§ 541:10 Legal or equitable interests of the debtor 895
§ 541:11 Assets belonging to third parties 901
§ 541:12 Limits on trustee's rights..... 902
§ 541:13 Community property: § 541(a)(2) 903
§ 541:14 Recovered property: § 541(a)(3) 903
§ 541:15 Liens preserved for the estate: § 541(a)(4)..... 904

§ 541:16 After-acquired property: § 541(a)(5) 904
§ 541:17 Proceeds: § 541(a)(6) 906
§ 541:18 Property acquired by the estate: § 541(a)(7)..... 907
§ 541:19 Section 541(b): core concept 907
§ 541:20 Powers exercised for the benefit of another 907
§ 541:21 Terminated nonresidential leases of realty 908
§ 541:22 Eligibility for certain federal aid: educational accreditation..... 908
§ 541:23 Debtor's interest in liquid or gas hydrocarbons 908
§ 541:24 Education individual retirement accounts..... 909
§ 541:25 Tuition credit accounts..... 909
§ 541:26 Contributions to pension and health benefit plans . 909
§ 541:27 Contributions to 401(k) plans 909
§ 541:28 Personal property as collateral for loans..... 910
§ 541:29 Debtor's sales of money orders..... 910
§ 541:30 Section 541(c): core concept 911
§ 541:31 General nonalienability provisions (§ 541(c)(1)(A)) . 911
§ 541:32 Insolvency provisions and forfeiture § 541(c)(1)(B) . 912
§ 541:33 Section 541(c)(2): spendthrift trusts..... 912
§ 541:34 Pension plans: federal pension law..... 913
§ 541:35 Income payments: relation to § 541(a)(5) 914
§ 541:36 Section 541(d): core concept 914
§ 541:37 Secondary mortgages..... 914
§ 541:38 Applicability..... 915
§ 541:39 Constructive trusts..... 915
§ 541:40 Section 541(e): core concept 916
§ 541:41 Section 541(f): core concept..... 916
§ 542 Turnover of property to the estate 917
§ 542:1 Section 542(a): core concept 919
§ 542:2 Elements 919
§ 542:3 Burden of proof and standard of evidence 919
§ 542:4 Relation to § 522..... 919
§ 542:5 Property defined: relation to § 541 920
§ 542:6 Relation to § 543..... 920
§ 542:7 Competing property interests 920
§ 542:8 Timing of obligation..... 921
§ 542:9 Requirement of possession 922
§ 542:10 Debtor's obligation..... 922
§ 542:11 Sovereign immunity..... 922
§ 542:12 Exceptions to § 542(a)..... 923
§ 542:13 Section 542(b): core concept 923
§ 542:14 Applicability..... 923
§ 542:15 Duties of entities holding property 923
§ 542:16 Exception for setoff..... 924
§ 542:17 Sovereign immunity..... 924
§ 542:18 Section 542(c): core concept 924
§ 542:19 Relation to § 362(a)(7)..... 925
§ 542:20 Relation to § 542(d)..... 925

§ 542:21 Good faith 925
§ 542:22 Section 542(d): core concept 925
§ 542:23 Elements 925
§ 542:24 Section 542(e): core concept 925
§ 542:25 Applicable privileges 926
§ 542:26 Notice and hearing 926
§ 542:27 Court's discretion 926
§ 543 Turnover of property by a custodian 926
§ 543:1 Section 543(a): core concept 928
§ 543:2 "Custodian" defined 929
§ 543:3 Relation to § 542 929
§ 543:4 Title transfers to custodian 929
§ 543:5 Section 543(b): core concept 930
§ 543:6 Rents and other proceeds 930
§ 543:7 Additional duties of custodian 930
§ 543:8 Section 543(c): core concept 931
§ 543:9 Notice and hearing 931
§ 543:10 Exceptions to surcharges against custodians 931
§ 543:11 Section 543(d): core concept 931
§ 543:12 Discretion to waive: § 543(d)(1) 932
§ 543:13 Discretionary factors 932
§ 543:14 Relation to § 362 932
§ 543:15 Notice and hearing 932
§ 543:16 Mandatory waiver 933
§ 544 Trustee as lien creditor and as successor to certain creditors and purchasers 933
§ 544:1 Section 544(a): core concept 935
§ 544:2 Property of the debtor 936
§ 544:3 Applicable law 936
§ 544:4 Actual knowledge 937
§ 544:5 Exception: statute of limitations 938
§ 544:6 Standing 938
§ 544:7 Relation to § 541(c): spendthrift trusts 939
§ 544:8 Relation to § 541(d): constructive trusts 939
§ 544:9 Comparison with § 545 941
§ 544:10 Relation to § 546(b)–(g) 941
§ 544:11 Comparison with § 547 941
§ 544:12 Comparison with § 548 941
§ 544:13 Relation to § 550 942
§ 544:14 Relation to § 551 942
§ 544:15 Relation to § 552(b) 942
§ 544:16 Liens that cannot be perfected 942
§ 544:17 "Hypothetical" lien creditors 943
§ 544:18 Section 544(a)(3): knowledge versus constructive notice 943
§ 544:19 Section 544(a)(3): Realty v. Personalty 944
§ 544:20 Section 544(a)(3): fixtures 944
§ 544:21 Perfected liens 945

§ 544:22 Good faith 945
§ 544:23 Scope of avoidance..... 945
§ 544:24 Section 544(b): core concept 946
§ 544:25 Applicable law 946
§ 544:26 Relation to § 106..... 946
§ 544:27 Standing..... 947
§ 544:28 No preemption of other actions 948
§ 544:29 Statutes of limitations 948
§ 544:30 Relation to § 546(e), (f) and (g)..... 949
§ 544:31 Comparison with § 548(a)(1); charitable contributions..... 949
§ 544:32 Relation to § 550..... 950
§ 544:33 Requirement of actual creditor..... 950
§ 544:34 Trustee's right to sell § 544(b) claim 951
§ 544:35 Trustee subject to defenses..... 952
§ 545 Statutory liens..... 952
§ 545:1 Section 545: core concept 953
§ 545:2 Liens based on financial distress: § 545(1)..... 953
§ 545:3 Bona fide purchasers: § 545(2) 954
§ 545:4 Contrasting sections 545(1) and 545(2) 955
§ 545:5 Section 545(2): applicable law..... 955
§ 545:6 Liens not requiring perfection 956
§ 545:7 Standing..... 956
§ 545:8 Relation to § 546..... 956
§ 545:9 Relation to § 547..... 957
§ 545:10 Limits on avoidance..... 957
§ 545:11 Secret liens..... 957
§ 545:12 Contractual liens 957
§ 545:13 Results of avoidance..... 958
§ 545:14 Statutory liens for rent 958
§ 545:15 Prerequisite: landlord-tenant relationship..... 958
§ 545:16 Statutory liens of distress for rent..... 958
§ 546 Limitations on avoiding powers 959
§ 546:1 Section 546(a): core concept 963
§ 546:2 Limitations periods..... 964
§ 546:3 Equitable tolling..... 965
§ 546:4 Debtors in possession 965
§ 546:5 Avoidance actions by government as creditor 965
§ 546:6 Formalities of trustee's appointment..... 965
§ 546:7 Relation to § 502(d)..... 966
§ 546:8 Waiver of Right of Trustee to Challenge 966
§ 546:9 Section 546(b): core concept 966
§ 546:10 Nonbankruptcy law 967
§ 546:11 Relation to §§ 547 and 548 967
§ 546:12 Relation to § 362..... 967
§ 546:13 Construction 968
§ 546:14 Rotating tax liens..... 968
§ 546:15 Perfection v. enforcement of lien..... 968

§ 546:16 Section 546(c): core concept 969
§ 546:17 Statutory elements of § 546(c) 969
§ 546:18 "Implicit" requirements 969
§ 546:19 Burden of proof 969
§ 546:20 Alternative remedy under § 503(b)(9) 969
§ 546:21 Relation to § 546(d) 970
§ 546:22 Prior rights of secured interest holders 970
§ 546:23 Section 546(d): core concept 970
§ 546:24 Comparison with § 546(c) 970
§ 546:25 Section 546(e): core concept 970
§ 546:26 Prerequisites: qualifying participant and transaction 971
§ 546:27 "In connection with" 972
§ 546:28 "Securities contract" 972
§ 546:29 Relation to §§ 101, 741, and 761 972
§ 546:30 Relation to § 548 973
§ 546:31 Section 546(f): core concept 973
§ 546:32 Relation to §§ 741 and 761 973
§ 546:33 Relation to § 548 973
§ 546:34 "Repo participant" defined 974
§ 546:35 "Repurchase agreement" defined 974
§ 546:36 Section 546(g): core concept 974
§ 546:37 Section 546(h): core concept 974
§ 546:38 Trustee's motion 974
§ 546:39 Timing 974
§ 546:40 Relation to §§ 544(b) and 548 974
§ 546:41 Chapter 11 cases 975
§ 546:42 Notice and hearing 975
§ 546:43 Creditor's approval 975
§ 546:44 Relation to § 553 975
§ 546:45 Section 546(i): core concept 975
§ 546:46 Section 546(j): core concept 975
§ 547 Preferences 975
§ 547:1 Section 547(a): core concept 982
§ 547:2 Definitions not terms of art 982
§ 547:3 Definition of "inventory" 982
§ 547:4 Definition of "new value" 982
§ 547:5 Exclusion from "new value" definition 982
§ 547:6 Examples of "new value" 983
§ 547:7 Definition of "receivable" 983
§ 547:8 Receivables not in ordinary course of business 983
§ 547:9 Tax debts: when the debt is incurred 984
§ 547:10 Estimated tax payments 984
§ 547:11 Section 547(b): core concept 984
§ 547:12 Common warning indicator 984
§ 547:13 Transactions that are "transfers" 985
§ 547:14 Standing 985
§ 547:15 Section 547(b)(1): "to or for the benefit of" 985

§ 547:16 Section 547(b)(2): "antecedent debt" 986
§ 547:17 Section 547(b)(3): insolvency 987
§ 547:18 Section 547(b)(4): insiders and outsiders 988
§ 547:19 Section 547(b)(5): gaining an advantage 990
§ 547:20 Property interest must be debtor's 991
§ 547:21 Nature of interest transferred 993
§ 547:22 "Creditor" defined 993
§ 547:23 Equitable claims 993
§ 547:24 "Debt" defined 994
§ 547:25 Involuntary transfers: judgment creditors 994
§ 547:26 Tactics 994
§ 547:27 Relationship with § 547(c) and (i) 994
§ 547:28 Relationship with § 547(f) and (g) 994
§ 547:29 Comparison with § 548 995
§ 547:30 Relationship with § 550(b) 995
§ 547:31 Relationship with § 553 996
§ 547:32 Relation to § 362 996
§ 547:33 Relation to § 546(e) 996
§ 547:34 Executory contracts and unexpired leases: § 365 ... 996
§ 547:35 Recoupment 996
§ 547:36 "Earmarking" doctrine 997
§ 547:37 "Diminution" requirement 998
§ 547:38 Section 547(c): core concept 998
§ 547:39 Relation to § 547(g) 998
§ 547:40 Section 547(c)(1): contemporaneous exchange 999
§ 547:41 Section 547(c)(2): repayment of ordinary debt 1001
§ 547:42 Section 547(c)(3): exception for perfected purchase money security interests 1004
§ 547:43 Section 547(c)(4): "subsequent-advance" rule 1005
§ 547:44 Section 547(c)(5): floating security interests 1007
§ 547:45 Section 547(c)(6): nonavoidable statutory liens 1008
§ 547:46 Section 547(c)(7): transfer of debt to spouses/dependents 1008
§ 547:47 Section 547(c)(8): minor individual consumer debts 1008
§ 547:48 Section 547(c)(9): small transfers in nonconsumer cases 1008
§ 547:49 Section 547(d): core concept 1009
§ 547:50 Section 547(e): core concept 1009
§ 547:51 Relationship with § 547(e)(1), (2) and (3) 1009
§ 547:52 "Perfection" and § 547(e) 1009
§ 547:53 Perfection of interest in real property 1009
§ 547:54 Exclusions and inclusions of § 547(e)(1)(A) 1010
§ 547:55 Perfection in fixtures or personalty 1010
§ 547:56 When a transfer "is made" 1010
§ 547:57 Floating liens: when a transfer "is made" 1011
§ 547:58 Relationship of § 547(e)(3) to § 547(c)(5) 1011
§ 547:59 Section 547(f): core concept 1012

§ 547:60 Purpose 1012
§ 547:61 Relationship with Federal Rule of Evidence 301.... 1012
§ 547:62 Rebutting the presumption 1012
§ 547:63 Limitation to 90 days 1013
§ 547:64 Section 547(g): core concept 1013
§ 547:65 Trustee's burden 1013
§ 547:66 Quantum of proof 1013
§ 547:67 Presumption of § 547(f) 1013
§ 547:68 Section 547(h): core concept 1014
§ 547:69 Section 547(i): core concept 1014
§ 547:70 Section 547(j): core concept 1014
§ 548 Fraudulent transfers and obligations 1014
§ 548:1 Jurisdiction of bankruptcy court 1019
§ 548:2 Pleading requirements: Fed. R. Civ. P. 8(a) and 9(b) 1020
§ 548:3 Section 548(a): core concept 1020
§ 548:4 General considerations 1020
§ 548:5 Timing 1021
§ 548:6 Standing: enforceability 1021
§ 548:7 Recovered property 1022
§ 548:8 Burden of proof 1022
§ 548:9 Transfers 1022
§ 548:10 Involuntary acts 1023
§ 548:11 Debtor's property 1023
§ 548:12 Transferees: persons liable 1024
§ 548:13 Relation to § 544(b) 1024
§ 548:14 Comparison with § 547 1025
§ 548:15 Relation to § 549 1025
§ 548:16 Relation to § 550 1025
§ 548:17 Relation to § 551 1025
§ 548:18 Section 548(a)(1)(A): actual fraud 1025
§ 548:19 Section 548(a)(1)(B): "constructive" fraud 1027
§ 548:20 Exception for religious or charitable contributions . 1033
§ 548:21 Section 548(b): core concept 1033
§ 548:22 Applicability 1034
§ 548:23 Enumerated elements 1034
§ 548:24 Reasonably equivalent value 1034
§ 548:25 Partnership requirement 1034
§ 548:26 Section 548(c): core concept 1034
§ 548:27 Overlap with other sections 1034
§ 548:28 For value 1035
§ 548:29 Good faith 1035
§ 548:30 Remedy 1036
§ 548:31 Section 548(d): core concept 1036
§ 548:32 Time: hypothetical bona fide purchaser 1036
§ 548:33 Applicable law 1037
§ 548:34 Failure to perfect: consequences 1037
§ 548:35 Value 1037

§ 548:36 Exception to value 1037
§ 548:37 Value: specific transactions 1037
§ 548:38 Charitable contributions and charities 1038
§ 548:39 Section 548(e): core concept 1038
§ 549 Postpetition transactions 1038
§ 549:1 Section 549(a): core concept 1040
§ 549:2 Elements 1040
§ 549:3 Definition of transfer 1041
§ 549:4 Timing of transfer 1041
§ 549:5 Property of the estate 1041
§ 549:6 Transfer by debtor 1042
§ 549:7 Unauthorized transfers 1042
§ 549:8 Authorization under § 303(f) or § 542(c) 1043
§ 549:9 Relation to § 362 1043
§ 549:10 Relation to §§ 547 and 544 1044
§ 549:11 Relation to § 550 1045
§ 549:12 Sovereign immunity 1045
§ 549:13 Good faith 1045
§ 549:14 Standing 1045
§ 549:15 Relation to § 546 1046
§ 549:16 Relation to § 553 1046
§ 549:17 Section 549(b): core concept 1046
§ 549:18 Timing of transfer 1046
§ 549:19 Value exchanged 1046
§ 549:20 Knowledge of bankruptcy: good faith 1047
§ 549:21 Section 549(c): core concept 1047
§ 549:22 Elements 1047
§ 549:23 Good faith 1048
§ 549:24 Notice of filing: perfection 1048
§ 549:25 Relation of § 549(c) to § 362 1049
§ 549:26 Section 549(d): core concept 1049
§ 549:27 Equitable tolling 1049
§ 550 Liability of transferee of avoided transfer 1049
§ 550:1 Section 550(a): core concept 1052
§ 550:2 Applicability 1053
§ 550:3 Property or value of property: court's discretion 1053
§ 550:4 Change in value 1054
§ 550:5 Amount of unsecured claims not relevant 1054
§ 550:6 Duty to return or pay: transferees obligated 1055
§ 550:7 Initial transferees 1056
§ 550:8 "Immediate or mediate transferees" 1057
§ 550:9 Corporate principals 1057
§ 550:10 Section 550(b): core concept 1058
§ 550:11 Initial transferees and § 550(b)(1) 1058
§ 550:12 "For value" 1059
§ 550:13 "Good faith" 1059
§ 550:14 "Without knowledge" 1059
§ 550:15 Transferees of § 550(b)(1) transferees 1060

§ 550:16 Section 550(c): core concept 1060
§ 550:17 Applicability: § 547 1061
§ 550:18 Section 550(d): core concept 1061
§ 550:19 Section 550(e): core concept 1062
§ 550:20 Good faith 1062
§ 550:21 Initial transferee and § 550(e) 1062
§ 550:22 Profit 1062
§ 550:23 Improvement 1062
§ 550:24 Relation to § 522 1063
§ 550:25 Section 550(f): core concept 1063
§ 551 Automatic preservation of avoided transfer 1063
§ 551:1 Applicability 1064
§ 551:2 Automatic preservation 1064
§ 551:3 Limitations 1065
§ 551:4 Relation to § 522 1065
§ 551:5 Relation to § 541 1066
§ 551:6 Relation to § 550 1066
§ 551:7 Relation to § 554(c) 1066
§ 552 Postpetition effect of security interest 1066
§ 552:1 Section 552(a): core concept 1068
§ 552:2 Section 552(b): core concept 1068
§ 552:3 Applicability 1069
§ 552:4 Exceptions to § 552(b) 1069
§ 552:5 Permissible scope of security agreement 1069
§ 552:6 Proceeds, product, offspring, rents or profits: definitions 1070
§ 552:7 Rents: § 552(b)(2) 1070
§ 552:8 Exception: "equities of the case" 1071
§ 552:9 Hearing 1071
§ 553 Setoff 1071
§ 553:1 Section 553(a): core concept 1074
§ 553:2 Authority for setoff 1074
§ 553:3 Requirement of mutuality 1074
§ 553:4 Timing of debts 1076
§ 553:5 Amount of setoff 1077
§ 553:6 Relation to § 362 1077
§ 553:7 Relation to § 363 1077
§ 553:8 Relation to § 542 1078
§ 553:9 Conflict between § 522 and § 553 1078
§ 553:10 Discretion of Court 1078
§ 553:11 Comparison with recoupment 1078
§ 553:12 Relation to § 506 1080
§ 553:13 Preferences and fraudulent transfers 1080
§ 553:14 Proof of claim 1080
§ 553:15 Setoff after debtor's discharge 1080
§ 553:16 Section 553 and perfected security interests 1081
§ 553:17 Section 553(a)(1): disallowed claims 1081
§ 553:18 Section 553(a)(2): transferring third-party claims .. 1082

§ 553:19 Section 553(a)(3): transfer of debtor's assets to create a setoff 1082
§ 553:20 Comparison with § 558 1082
§ 553:21 Section 553(b): core concept 1083
§ 553:22 Application 1083
§ 553:23 Exceptions to § 553(b) 1084
§ 553:24 Section 553(c): core concept 1084
§ 553:25 Defining insolvency 1084
§ 553:26 Rebutting the presumption 1084
§ 553:27 Relation to § 547(f) 1084
§ 554 Abandonment of property of the estate 1084
§ 554:1 Section 554(a): core concept 1086
§ 554:2 Value of abandoned property 1086
§ 554:3 Restrictions on abandonment 1086
§ 554:4 Judicial action: notice 1087
§ 554:5 Effect of abandonment 1087
§ 554:6 Judicial estoppel 1088
§ 554:7 Revoking abandonment 1088
§ 554:8 Section 554(b): core concept 1088
§ 554:9 Grounds for invoking § 554(b) 1089
§ 554:10 Judicial action 1089
§ 554:11 Section 554(c): core concept 1089
§ 554:12 "Scheduling" requirement 1090
§ 554:13 Judicial action 1090
§ 554:14 Overriding § 554(c) 1090
§ 554:15 Beneficiary of § 554(c) abandonment 1091
§ 554:16 Statutes of limitations 1091
§ 554:17 Section 554(d): core concept 1091
§ 554:18 Relation to § 349 1092
§ 555 Contractual right to liquidate, terminate, or accelerate a securities contract 1092
§ 555:1 Applicability 1093
§ 555:2 Reasons 1093
§ 555:3 Relation to federal securities laws 1094
§ 555:4 Procedure 1094
§ 555:5 Bylaws 1094
§ 556 Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract 1094
§ 556:1 Applicability 1095
§ 556:2 Reasons 1096
§ 556:3 Bylaws and common law 1096
§ 556:4 Parties eligible 1096
§ 557 Expedited determination of interests in, and abandonment or other disposition of grain assets 1096
§ 557:1 Section 557(a): core concept 1100
§ 557:2 Substantive law 1100
§ 557:3 Section 557(b): core concept 1101
§ 557:4 Relation to § 507(a)(5) 1101

§ 557:5 Section 557(c): core concept 1101
§ 557:6 Judicial discretion 1101
§ 557:7 Factors affecting timetable 1102
§ 557:8 Relation to § 557(f) 1102
§ 557:9 Section 557(d): core concept 1102
§ 557:10 Section 557(e): core concept 1102
§ 557:11 Section 557(f): core concept 1102
§ 557:12 Section 557(g): core concept 1102
§ 557:13 Section 557(h): core concept 1103
§ 557:14 Applicability 1103
§ 557:15 Relation to §§ 503(b) and 507(a)(1) 1103
§ 557:16 Obligations of nondebtors 1104
§ 557:17 Relation to § 326 1104
§ 557:18 Section 557(i): core concept 1104
§ 558 Defenses of the estate 1104
§ 558:1 Standing to assert defenses 1105
§ 558:2 Defenses available to estate 1106
§ 558:3 Waiving a defense: post-filing 1106
§ 558:4 Waiving a defense: pre-filing 1106
§ 558:5 Special problems of setoff and recoupment 1106
§ 558:6 Elementary setoff 1107
§ 558:7 Elementary recoupment 1107
§ 558:8 Setoff or recoupment as § 558 defenses 1107
§ 558:9 Section 558 and setoffs 1108
§ 559 Contractual right to liquidate, terminate, or accelerate a repurchase agreement 1108
§ 559:1 Repurchase agreement 1110
§ 559:2 Repo participant 1110
§ 559:3 Applicable nonbankruptcy law 1110
§ 559:4 Excess funds 1110
§ 559:5 "Contractual right" 1111
§ 559:6 Relation to § 362 1111
§ 559:7 Relation to § 365(e) 1111
§ 559:8 Relation to § 562 1111
§ 560 Contractual right to liquidate, terminate, or accelerate a swap agreement 1111
§ 560:1 Swap agreement defined 1113
§ 560:2 Swap participant 1113
§ 560:3 "Contractual right" 1113
§ 560:4 Applicability: § 365(e)(1) 1113
§ 560:5 Right to setoff 1113
§ 560:6 Liquidation 1113
§ 561 Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15 1114
§ 561:1 Section 561(a): core concept 1116
§ 561:2 Section 561(b): core concept 1117
§ 561:3 Section 561(c): core concept 1117

§ 561:4 Section 561(d): core concept..... 1117
§ 562 Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements 1118
§ 562:1 Section 562(a): core concept..... 1119
§ 562:2 Section 562(b): core concept..... 1120
§ 562:3 Section 562(c): core concept..... 1120
§ 562:4 Relation to § 559 1120

Volume 2

CHAPTER 7 LIQUIDATION..... 1

SUBCHAPTER I OFFICERS AND ADMINISTRATION 10

§ 701 Interim trustee 10
§ 701:1 Section 701(a): core concept 11
§ 701:2 Timing 11
§ 701:3 Trustees already serving..... 12
§ 701:4 Qualifications of interim trustee..... 12
§ 701:5 Removing an interim trustee..... 12
§ 701:6 Absence of willing trustees 12
§ 701:7 Section 701(b): core concept 12
§ 701:8 Carryover trustees..... 13
§ 701:9 Section 701(c): core concept 13
§ 701:10 Relation to § 546(a)(1)..... 13
§ 702 Election of trustee 14
§ 702:1 Section 702(a): core concept 15
§ 702:2 In general: relation to § 546(a)(1)..... 15
§ 702:3 Ineligible claims: § 702(a)(1) 16
§ 702:4 "Materially adverse" claims 17
§ 702:5 Insiders 17
§ 702:6 Section 702(b): core concept 17
§ 702:7 Meeting of creditors: § 341 18
§ 702:8 Percentage of total value of claims 18
§ 702:9 Proxy voting..... 18
§ 702:10 Relation to § 702(c)..... 18
§ 702:11 Section 702(c): core concept 18
§ 702:12 Percentage of total value of claims 18
§ 702:13 Majority of value of claims voted 19
§ 702:14 Proxy voting..... 19
§ 702:15 Section 702(d): core concept 19
§ 703 Successor trustee..... 19
§ 703:1 Section 703(a): core concept..... 20
§ 703:2 Relation to § 546 20

§ 703:3 Relation to § 702 21
§ 703:4 Section 703(b): core concept 21
§ 703:5 Section 703(c): core concept 21
§ 703:6 Eligible appointees 21
§ 703:7 Unavailability of eligible appointees 21
§ 703:8 Failure to elect or appoint successor trustee 21
§ 704 Duties of trustee 21
§ 704:1 Section 704(a): core concept 26
§ 704:2 Breach of duty: trustee's liability 26
§ 704:3 Duty of care: standard 27
§ 704:4 Collect assets and close the estate 28
§ 704:5 Retention of counsel by trustee 29
§ 704:6 Maximizing the estate 29
§ 704:7 Abandoning assets 30
§ 704:8 Parties in interest: shareholders 30
§ 704:9 Nonexempt property 30
§ 704:10 Creditors' claims 30
§ 704:11 Business judgment 30
§ 704:12 Expeditious timing 31
§ 704:13 Relation to § 721 31
§ 704:14 Compliance with nonbankruptcy law 31
§ 704:15 Trustee's accountability 32
§ 704:16 Section 521(a)(2)(B): supervision of debtor 32
§ 704:17 Duty to investigate 32
§ 704:18 Examine and/or challenge proofs of claim 32
§ 704:19 Opposing discharge 33
§ 704:20 Furnish information 33
§ 704:21 Financial and tax reports 33
§ 704:22 Final report and accounting 33
§ 704:23 Domestic support obligation notice requirement 34
§ 704:24 Duties as ERISA administrator 34
§ 704:25 Section 704(b): core concept 34
§ 704:26 Section 704(c): core concept 35
§ 705 Creditors' committee 35
§ 705:1 Section 705(a): core concept 36
§ 705:2 Election procedure 36
§ 705:3 Committee membership: numbers and eligibility 36
§ 705:4 Section 705(b): core concept 36
§ 705:5 Relation to Federal Rules of Bankruptcy Procedure 37
§ 705:6 Standing 37
§ 705:7 Compensation for committee counsel 37
§ 706 Conversion 37
§ 706:1 Section 706(a): core concept 39
§ 706:2 Debtor's right not absolute 39
§ 706:3 Timing 40
§ 706:4 Waiver 40
§ 706:5 Effect of conversion: § 348(e) 40
§ 706:6 Finality of order 40

§ 706:7 Re-conversion under § 706(a) 41
§ 706:8 Section 706(b): core concept 41
§ 706:9 Relation to § 706(a) 41
§ 706:10 Request from party in interest 41
§ 706:11 Notice and hearing 41
§ 706:12 Judicial discretion 42
§ 706:13 Limitation: conversion to Chapter 11 only 42
§ 706:14 Re-conversion under § 706(b) 43
§ 706:15 Timing under § 706(b) 43
§ 706:16 Section 706(c): core concept 43
§ 706:17 Re-conversion under § 706(c) 43
§ 706:18 Section 706(d): core concept 44
§ 707 Dismissal of a case or conversion to a case under Chapter 11 or 13 44
§ 707:1 Section 707(a): core concept 54
§ 707:2 List not exhaustive 54
§ 707:3 Notice and hearing 55
§ 707:4 "For cause": enumerated grounds 55
§ 707:5 Unenumerated grounds for dismissal 55
§ 707:6 Relation to § 305 57
§ 707:7 Relation to § 727 57
§ 707:8 Section 707(b): core concept 58
§ 707:9 Notice and hearing 58
§ 707:10 Initiating dismissal under § 707(b) 58
§ 707:11 Section 707(b): the presumption of abuse 58
§ 707:12 Rebutting the presumption of abuse 63
§ 707:13 Totality of the circumstances 63
§ 707:14 Attorney sanctions 64
§ 707:15 Creditor sanctions 64
§ 707:16 Safe harbor 65
§ 707:17 Limitation on means test 65
§ 707:18 Crimes of violence and drug trafficking 65
§ 707:19 Presumption 65
§ 707:20 Religious or charitable contributions 65
§ 707:21 Appealing order denying motion to dismiss 66

SUBCHAPTER II COLLECTION, LIQUIDATION, AND DISTRIBUTION OF THE ESTATE 66

§ 721 Authorization to operate business 66
§ 721:1 Court's authority and discretion 67
§ 721:2 Trustee's authority 67
§ 721:3 Relation to § 327 68
§ 721:4 Relation to § 363 68
§ 721:5 Relation to § 364 68
§ 721:6 Relation to § 704 68
§ 721:7 Comparison with §§ 1108 and 1304 69
§ 722 Redemption 69
§ 722:1 Elements to qualify for redemption 70

§ 722:2 Waiver 72
§ 722:3 Chapter 7 cases only 72
§ 722:4 Relation to § 521(a)(2): time limit 72
§ 722:5 Relation to § 522(f) 72
§ 722:6 Relation to § 524(c) 73
§ 722:7 Sections 524(c) and 722: exclusive or not? 73
§ 722:8 Relation to discharge injunction: Section 524(a)(2) 74
§ 723 Rights of partnership trustee against general partners 74
§ 723:1 Section 723(a): core concept 76
§ 723:2 General partners only 76
§ 723:3 Standing 76
§ 723:4 Applicability of nonbankruptcy law 77
§ 723:5 Applicability: partnership obligations only 78
§ 723:6 Relation to § 541 78
§ 723:7 Relation to §§ 544 and 546: limitations period 78
§ 723:8 Relation to § 553: setoff 78
§ 723:9 Relation to Chapter 11: § 1129 78
§ 723:10 Section 723(b): core concept 79
§ 723:11 Order of priority 79
§ 723:12 Dissipation of assets 80
§ 723:13 Section 723(c): core concept 80
§ 723:14 Nominally contrary bankruptcy provisions 80
§ 723:15 Relation to § 726(c) 81
§ 723:16 Section 723(d): core concept 81
§ 723:17 Notice and hearing 81
§ 723:18 Equitable distribution 81
§ 723:19 Applicability 81
§ 724 Treatment of certain liens 82
§ 724:1 Section 724(a): core concept 84
§ 724:2 Applicability 84
§ 724:3 Relation to § 551 85
§ 724:4 Effect on underlying claim 85
§ 724:5 Section 724(b): core concept 85
§ 724:6 Applicability 86
§ 724:7 Order of distribution 86
§ 724:8 Relation to § 363(f): sale of estate property free and clear of liens 87
§ 724:9 Relation to § 554(b): abandonment of fully encumbered assets 88
§ 724:10 Competing tax liens: relation to § 724(c) 88
§ 724:11 Relation to Chapter 11 89
§ 724:12 Administrative expenses are understood broadly 89
§ 724:13 Postpetition taxes 90
§ 724:14 Section 724(c): core concept 90
§ 724:15 Competing priority claims; competing secured tax claims 90
§ 724:16 Section 724(d): core concept 90

§ 724:17 Section 724(e): core concept 90
§ 724:18 Section 724(f): core concept..... 90
§ 725 Disposition of certain property 91
§ 725:1 Notice and hearing..... 91
§ 725:2 Timing: relation to §§ 507 and 726..... 92
§ 725:3 Duty imposed..... 92
§ 725:4 Standing 92
§ 725:5 "Interests" affected..... 93
§ 725:6 Relation to other sections affecting property 93
§ 725:7 Relation to § 704 93
§ 726 Distribution of property of the estate..... 94
§ 726:1 Section 726(a): core concept 97
§ 726:2 Relation to § 510: subordination 97
§ 726:3 Relation to secured claims..... 98
§ 726:4 Allowed claims only 98
§ 726:5 Priority unsecured claims: the first category..... 98
§ 726:6 General unsecured creditors: the second category.. 99
§ 726:7 Untimely filings: the third category 100
§ 726:8 Fines, penalties, etc.: the fourth category 101
§ 726:9 Interest payments: the fifth category 102
§ 726:10 Payments to debtor: the sixth category 104
§ 726:11 Relation to Chapter 11..... 105
§ 726:12 Section 726(b): core concept 105
§ 726:13 Converted cases and superseded custodians 105
§ 726:14 Exceptions created by § 724..... 106
§ 726:15 Payments to debtor partnerships..... 106
§ 726:16 Timing of pro rata payments..... 106
§ 726:17 Section 726(c): core concept 107
§ 726:18 Administrative expense claims..... 107
§ 726:19 Other claims against community property 107
§ 727 Discharge 107
§ 727:1 Section 727(a): core concept 112
§ 727:2 Judicial discretion 112
§ 727:3 Construction and burden of proof..... 113
§ 727:4 Standard of proof..... 113
§ 727:5 Statutory violation versus injury to party..... 114
§ 727:6 Alternative violations 114
§ 727:7 Timing of objection: Rule 4004..... 114
§ 727:8 Effect of denial of discharge..... 115
§ 727:9 Relation to § 523..... 115
§ 727:10 Relation to Chapter 11..... 116
§ 727:11 Individuals versus entities 116
§ 727:12 Transfer, destruction, concealment, etc..... 117
§ 727:13 Unjustified failure to maintain records 122
§ 727:14 Fraudulent misrepresentations: bribes, etc..... 124
§ 727:15 Mysterious depletion or disappearance of assets ... 127
§ 727:16 Failure to cooperate with court 128
§ 727:17 Misconduct in related cases 128

§ 727:18 Serial filings: Chapters 7 and 11 129
§ 727:19 Serial filings: Chapters 12 and 13 129
§ 727:20 Waiver of discharge 130
§ 727:21 Debtor education requirement 131
§ 727:22 Denial of discharge for debtor's fraud 131
§ 727:23 Relation to § 707 131
§ 727:24 Section 727(b): core concept 132
§ 727:25 Debts discharged 132
§ 727:26 Postpetition debts 132
§ 727:27 Relation to § 523 133
§ 727:28 Relation to § 524 133
§ 727:29 Case law exception to discharge 133
§ 727:30 Section 727(c): core concept 133
§ 727:31 Standing 133
§ 727:32 Trustee investigations 134
§ 727:33 Section 727(d): core concept 134
§ 727:34 Grounds for revocation 134
§ 727:35 Standing 136
§ 727:36 Burden of proof 136
§ 727:37 Modification of discharge 136
§ 727:38 Section 727(e): core concept 136
§ 727:39 Revocation under § 727(d)(1) 136
§ 727:40 Revocation under § 727(d)(2) or (3) 137
§ 727:41 Comparison with § 1144 137
§ 727:42 Comparison with § 105 137
§ 727:43 Settlements of 727 actions 137
§ 728 [Deleted.] 137

SUBCHAPTER III STOCKBROKER LIQUIDATION 137

§ 741 Definitions for this subchapter 137
§ 741:1 "Customer" defined 142
§ 741:2 "Customer name security" defined 143
§ 741:3 "Customer property" defined 143
§ 741:4 "Margin payment" defined 144
§ 741:5 "Net equity" defined 144
§ 741:6 "Securities contract" defined 144
§ 741:7 "Settlement payment" defined 145
§ 742 Effect of section 362 of this title in this subchapter 146
§ 742:1 "Stockbroker" defined 146
§ 742:2 SIPA: role of SIPC 146
§ 742:3 Liquidation of stockbroker debtor: § 349 147
§ 743 Notice 147
§ 743:1 "Stockbroker" defined 147
§ 743:2 The commission 147
§ 743:3 Relation to § 342 147
§ 744 Executory contracts 148
§ 744:1 "Stockbroker" defined 148

§ 744:2 Executory contracts 148
§ 744:3 Scope 149
§ 744:4 Assumption or rejection: time limits 149
§ 744:5 Relation to § 365 149
§ 744:6 Failure to assume: consequence 149
§ 745 Treatment of accounts 149
§ 745:1 Section 745(a): core concept 150
§ 745:2 Section 745(b): core concept 150
§ 745:3 Relation to § 745(a) 151
§ 745:4 Section 745(c): core concept 151
§ 746 Extent of customer claims 151
§ 746:1 Section 746(a): core concept 152
§ 746:2 Eligibility: involuntary cases 152
§ 746:3 Effect: relation to §§ 751 and 752 152
§ 746:4 "Stockbroker" defined 152
§ 746:5 "Customer" defined 152
§ 746:6 Section 746(b): core concept 153
§ 746:7 Applicability 153
§ 747 Subordination of certain customer claims 153
§ 747:1 "Stockbroker" defined 154
§ 747:2 "Net equity" defined 154
§ 747:3 "Customer" defined 154
§ 747:4 "Insider" defined 154
§ 747:5 Customers affected 154
§ 747:6 Timing of influence 154
§ 747:7 Effect of subordination 155
§ 747:8 Relation to § 510 155
§ 748 Reduction of securities to money 155
§ 748:1 "Stockbroker" defined 155
§ 748:2 Exception: customer named securities 155
§ 748:3 Limitation: "good market practice" 156
§ 749 Voidable transfers 156
§ 749:1 Section 749(a): core concept 157
§ 749:2 Relation to §§ 544, 545, 547, 548 and 549 157
§ 749:3 "Stockbroker" defined 157
§ 749:4 "Customer property" defined 157
§ 749:5 Recovered customer property 157
§ 749:6 Property recovered from customer 157
§ 749:7 Section 749(b): core concept 158
§ 749:8 Elements of transfer excepted from avoidance 158
§ 750 Distribution of securities 158
§ 750:1 "Stockbroker" defined 159
§ 750:2 "Customer name security" defined 159
§ 750:3 Distribution 159
§ 750:4 Relation to § 751 159
§ 750:5 Relation to §§ 507 and 752 159
§ 751 Customer name securities 159
§ 751:1 "Stockbroker" defined 160

§ 751:2 "Customer name security" defined 160
§ 751:3 Customers in debt 160
§ 751:4 Relation to § 750 160
§ 752 Customer property 160
§ 752:1 Section 752(a): core concept 161
§ 752:2 "Stockbroker" defined 161
§ 752:3 "Customer property" defined 161
§ 752:4 Relation to § 507(a)(2) 161
§ 752:5 Distribution among customers 162
§ 752:6 Section 752(b): core concept 162
§ 752:7 Surplus customer property: § 726 162
§ 752:8 Shortages of customer property: §§ 510 and 726 162
§ 752:9 Section 752(c): core concept 162
§ 752:10 Pro rata distribution 162
§ 752:11 Relation to § 741(4)(B) 162
§ 753 Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants 163
§ 753:1 Section 753: core concept 163
§ 753:2 Definitions 163

SUBCHAPTER IV COMMODITY BROKER LIQUIDATION 163

§ 761 Definitions for this subchapter 164
§ 761:1 "Commodity contract" defined 171
§ 761:2 "Futures commission merchant" defined 171
§ 761:3 "Customer" defined 171
§ 761:4 "Margin payment" defined 172
§ 761:5 "Net equity" defined 172
§ 762 Notice to the Commission and right to be heard 172
§ 762:1 Section 762(a): core concept 173
§ 762:2 "Commodity broker" defined 173
§ 762:3 Relation to § 342 173
§ 762:4 Section 762(b): core concept 173
§ 763 Treatment of accounts 173
§ 763:1 Section 763(a): core concept 174
§ 763:2 Effect: relation to § 763(c) 174
§ 763:3 Comparison with § 745 174
§ 763:4 Section 763(b): core concept 174
§ 763:5 Section 763(c): core concept 174
§ 764 Voidable transfers 175
§ 764:1 Section 764(a): core concept 176
§ 764:2 Relation to trustee's power to avoid transfers and liens 176
§ 764:3 Effect of avoidance 176
§ 764:4 Avoidable transfers to customers 176

§ 764:5 Section 764(b): core concept 176
§ 764:6 Elements of excepted transfers 176
§ 765 Customer instructions 177
§ 765:1 Section 765(a): core concept 178
§ 765:2 Proof of claim: timing 178
§ 765:3 Instructions to trustee 178
§ 765:4 Relation to § 342 178
§ 765:5 Section 765(b): core concept 178
§ 765:6 Practical compliance 179
§ 765:7 Transferred commodity contracts 179
§ 765:8 Relation to § 365 179
§ 766 Treatment of customer property 179
§ 766:1 Section 766(a): core concept 183
§ 766:2 Trustee duty 183
§ 766:3 Relation to § 365 184
§ 766:4 Section 766(b): core concept 184
§ 766:5 Commodity contracts affected 184
§ 766:6 Means of protection 184
§ 766:7 Section 766(c): core concept 184
§ 766:8 Timing 184
§ 766:9 Limitations 184
§ 766:10 Section 766(d): core concept 185
§ 766:11 Cash deposit 185
§ 766:12 Trustee's duty 185
§ 766:13 Section 766(e): core concept 185
§ 766:14 Mandatory liquidation: circumstances 185
§ 766:15 Section 766(f): core concept 185
§ 766:16 Trustee's discretion 185
§ 766:17 Exceptions 186
§ 766:18 Section 766(g): core concept 186
§ 766:19 Section 766(h): core concept 186
§ 766:20 Pro rata distribution 186
§ 766:21 Relation to § 507 186
§ 766:22 Form of distribution 186
§ 766:23 Proprietary accounts 186
§ 766:24 Section 766(i): core concept 187
§ 766:25 Customer property 187
§ 766:26 Member property 187
§ 766:27 Section 766(j): core concept 187
§ 766:28 Surplus customer property: § 726 187
§ 766:29 Claims in excess of customer property: § 726 188
§ 766:30 Exception: subordinated claims and § 510 188
§ 767 Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants 188
§ 767:1 Core concept 189

§ 767:2 Definitions 189

SUBCHAPTER V CLEARING BANK LIQUIDATION 189

§ 781 Definitions 189
§ 781:1 "Board" defined 190
§ 781:2 "Depository institution" defined 190
§ 781:3 "Clearing bank" defined 190
§ 782 Selection of trustee 190
§ 782:1 Section 782(a): core concept 191
§ 782:2 Role of the conservator or receiver 191
§ 782:3 Action by the board 191
§ 782:4 Successor trustees 191
§ 782:5 Section 782(b): core concept 191
§ 783 Additional powers of trustee 191
§ 783:1 Section 783(a): core concept 193
§ 783:2 Section 783(b): core concept 193
§ 783:3 Notice and hearing 193
§ 783:4 Selling the bank 193
§ 783:5 Merging the bank 193
§ 783:6 Transferring contracts 193
§ 783:7 Transferring assets and liabilities to a depository institution 193
§ 783:8 Transferring assets and liabilities to a bridge bank 193
§ 783:9 Bridge bank equated with clearing bank 194
§ 783:10 Eliminating references 194
§ 783:11 Core concept 194
§ 784 Right to be heard 194
§ 784:1 Standing for board 194
§ 784:2 Standing for particular federal reserve banks 194

CHAPTER 9 ADJUSTMENT OF DEBTS OF A MUNICIPALITY 195

SUBCHAPTER I GENERAL PROVISIONS 198

§ 901 Applicability of other sections of this title 198
§ 901:1 Section 901(a): core concept 199
§ 901:2 Relation to § 103 199
§ 901:3 "Excluded" sections: invariably inapplicable? 199
§ 901:4 Section 901(b): core concept 200
§ 901:5 Terms in incorporated sections 200
§ 901:6 Relation to § 902 200
§ 901:7 Making "excluded" sections applicable 201
§ 901:8 Section 901(c): core concept 201
§ 902 Definitions for this chapter 201
§ 902:1 Property of the estate 203

§ 902:2 Special revenues 203
§ 902:3 Special taxpayer 203
§ 902:4 Special taxpayer affected by the plan 204
§ 902:5 Trustee 204
§ 903 Reservation of State power to control municipalities ... 204
§ 903:1 Control of local government 205
§ 903:2 Expenditures for government services 205
§ 903:3 Automatic stay: § 362 206
§ 903:4 Prioritizing unsecured claims: § 507 206
§ 903:5 Reducing claims 206
§ 903:6 Plan implementation 206
§ 903:7 Relation to Tenth Amendment 207
§ 903:8 Relation to § 109 207
§ 903:9 State efforts to settle municipal debt: restriction on state laws 207
§ 903:10 State efforts to settle municipal debt: judgments reducing debt require creditor consent 208
§ 903:11 Puerto Rico and § 903 208
§ 904 Limitation on jurisdiction and powers of court 208
§ 904:1 Scope 209
§ 904:2 Appointment of a trustee 209
§ 904:3 Interim payments for professional services 210
§ 904:4 Orders supporting automatic stay: § 362 210
§ 904:5 Use, sale, or lease of property: § 363 210
§ 904:6 Exception: consent of the debtor 210
§ 904:7 Exception: orders supporting a confirmed plan 211
§ 904:8 Judicial leverage: plan confirmation and § 943 211

SUBCHAPTER II ADMINISTRATION 212

§ 921 Petition and proceedings relating to petition 212
§ 921:1 Section 921(a): core concept 213
§ 921:2 Who may file 213
§ 921:3 Relation to § 109(c) and (d) 213
§ 921:4 Relation to § 301 214
§ 921:5 Section 921(b): core concept 214
§ 921:6 Section 921(c): core concept 214
§ 921:7 Objection to the petition 214
§ 921:8 Notice and hearing 214
§ 921:9 Good faith: judicial discretion 214
§ 921:10 Good faith: legal and factual standards 215
§ 921:11 Compliance with § 109(c) 215
§ 921:12 Section 921(d): core concept 216
§ 921:13 Section 921(e): core concept 216
§ 921:14 Prohibition on stays 216
§ 921:15 Lack of jurisdiction 216
§ 922 Automatic stay of enforcement of claims against the debtor 216
§ 922:1 Section 922(a): core concept 217

§ 922:2 Relation to § 362(a) 218
§ 922:3 Stay applicable only to claims and actions as set forth in Code 218
§ 922:4 Claims against municipal officers 218
§ 922:5 Liens on assessments or tax revenues 219
§ 922:6 Section 922(b): core concept 219
§ 922:7 Section 922(c): core concept 219
§ 922:8 Section 922(d): core concept 219
§ 922:9 "Special revenues" 219
§ 923 Notice 220
§ 923:1 Affected events 220
§ 923:2 Burden of notice: Rule 2002 220
§ 923:3 Form of notice: additional publication notice 221
§ 924 List of creditors 221
§ 924:1 Comparison with § 521 221
§ 925 Effect of list of claims 221
§ 925:1 Exceptions 222
§ 925:2 Relation to § 501 222
§ 926 Avoiding powers 222
§ 926:1 Section 926(a): core concept 223
§ 926:2 Prerequisite 223
§ 926:3 Requirements 223
§ 926:4 Relevant avoidance sections 223
§ 926:5 Scope of trustee's authority 224
§ 926:6 Section 926(b): core concept 224
§ 927 Limitation on recourse 224
§ 927:1 "Special revenues" defined 225
§ 927:2 Relation to § 1111(b): effect on holders of non-recourse claims 225
§ 928 Post petition effect of security interest 225
§ 928:1 Section 928(a): core concept 226
§ 928:2 "Special revenues" defined 226
§ 928:3 Relation to § 552(a) 227
§ 928:4 General revenues versus special revenues 227
§ 928:5 Relation to § 928(b) 227
§ 928:6 Section 928(b): core concept 227
§ 928:7 Exception: municipal betterment assessments 228
§ 929 Municipal leases 228
§ 930 Dismissal 228
§ 930:1 Section 930(a): core concept 229
§ 930:2 Notice and hearing 230
§ 930:3 Judicial discretion 230
§ 930:4 Dismissal for cause 230
§ 930:5 Dismissal: appointing a trustee 230
§ 930:6 Section 930(b): core concept 230
§ 930:7 Judicial discretion 230

SUBCHAPTER III THE PLAN 231

§ 941 Filing of plan 231
§ 941:1 Debtor's duty 231
§ 941:2 Debtor's sole prerogative 231
§ 941:3 Timing 232
§ 941:4 Failure to file plan: consequences 232
§ 942 Modification of plan 232
§ 942:1 Debtor's prerogative 232
§ 942:2 Timing 232
§ 942:3 Standard for modified plan 233
§ 942:4 Effect of modification 233
§ 943 Confirmation 233
§ 943:1 Section 943(a): core concept 234
§ 943:2 "Special tax payer" defined 234
§ 943:3 Scope of standing 234
§ 943:4 Section 943(b): core concept 234
§ 943:5 Judicial discretion 234
§ 943:6 Confirmation elements 234
§ 943:7 Denial of confirmation: consequences 237
§ 944 Effect of confirmation 237
§ 944:1 Section 944(a): core concept 238
§ 944:2 Failure to file proof of claim 238
§ 944:3 Allowed or disallowed claims 238
§ 944:4 Acceptance or rejection of plan 239
§ 944:5 Section 944(b): core concept 239
§ 944:6 Debts existing as of confirmation 239
§ 944:7 Additional steps 239
§ 944:8 Exceptions to discharge 239
§ 944:9 Section 944(c): core concept 240
§ 944:10 Exception created by plan or judicial decision 240
§ 944:11 Lack of notice or actual knowledge 240
§ 945 Continuing jurisdiction and closing of the case 241
§ 945:1 Section 945(a): core concept 241
§ 945:2 Section 945(b): core concept 242
§ 945:3 Exception 242
§ 946 Effect of exchange of securities before the date of the filing of the petition 242

CHAPTER 11 REORGANIZATION 243

SUBCHAPTER I OFFICERS AND ADMINISTRATION 258

§ 1101 Definitions for this chapter 258
§ 1101:1 Section 1101(1): core concept 259
§ 1101:2 Applicability 259
§ 1101:3 Termination of debtor in possession status; relation to § 1306(b) 260
§ 1101:4 Relation to § 1107 260
§ 1101:5 Relation to § 1112 261

§ 1101:6 Section 1101(2): core concept 261
§ 1101:7 Elements of substantial consummation 261
§ 1101:8 Relation to § 1112 262
§ 1101:9 Relation to § 1127(b) 262
§ 1101:10 Relation to Federal Rule of Bankruptcy Procedure 3022 262
§ 1101:11 Comparison with § 350 262
§ 1101:12 Standard of review and equitable mootness 262
§ 1102 Creditors' and equity security holders' committees 264
§ 1102:1 Section 1102(a): core concept 266
§ 1102:2 Role of committees 266
§ 1102:3 Appointment of committees and eligibility 266
§ 1102:4 Appointment of additional committees 267
§ 1102:5 Court review of committee membership 267
§ 1102:6 Small business exception 268
§ 1102:7 Adjusting membership: protecting small business creditors 268
§ 1102:8 Conversion to Chapter 7 269
§ 1102:9 Section 1102(b): core concept 269
§ 1102:10 Composition of creditors' committees 269
§ 1102:11 Composition of equity security holder committees 270
§ 1102:12 Removal of a member from committee 270
§ 1102:13 Duties of disclosure 271
§ 1103 Powers and duties of committees 271
§ 1103:1 Section 1103(a): core concept 273
§ 1103:2 Selection of agents 273
§ 1103:3 Authority for employment under § 328 273
§ 1103:4 Compensation approval under §§ 330 and 331 273
§ 1103:5 Fiduciary duty 274
§ 1103:6 Conditional privilege to committee counsel 274
§ 1103:7 Section 1103(b): core concept 275
§ 1103:8 Per se conflicts of interest 275
§ 1103:9 Denial of compensation under § 328 275
§ 1103:10 Section 1103(c): core concept 276
§ 1103:11 Powers and duties of the committee 276
§ 1103:12 Committee represents creditors as a whole 276
§ 1103:13 Right to consult with the trustee 276
§ 1103:14 Investigation of the debtor 277
§ 1103:15 Committee participation in plan formulation 277
§ 1103:16 Right to request appointment of trustee 277
§ 1103:17 Right to bring suit 277
§ 1103:18 Committees' powers postconfirmation 279
§ 1103:19 Fiduciary duty of committee 279
§ 1103:20 Limited immunity 279
§ 1103:21 Section 1103(d): core concept 280
§ 1103:22 Failure to meet with committee 280
§ 1104 Appointment of trustee or examiner 280

§ 1104:1 Section 1104(a): core concept 283
§ 1104:2 Time 283
§ 1104:3 Motion to appoint trustee: relation to § 1103 283
§ 1104:4 Notice and hearing: § 102 284
§ 1104:5 Grounds for appointment 284
§ 1104:6 Presumption: standard of proof..... 286
§ 1104:7 Judicial discretion..... 286
§ 1104:8 Effect of appointment on debtor in possession..... 287
§ 1104:9 Relation to § 546 287
§ 1104:10 Section 1104(b): core concept 287
§ 1104:11 Procedure for election of trustee..... 288
§ 1104:12 Exception: §§ 1161 and 1163 288
§ 1104:13 Certification of election: consequences..... 288
§ 1104:14 Section 1104(c): core concept..... 288
§ 1104:15 No trustee..... 288
§ 1104:16 Time 288
§ 1104:17 Motion to appoint examiner: relation to § 1103.... 288
§ 1104:18 Grounds for appointment 289
§ 1104:19 Scope of examiner's authority: § 1106 289
§ 1104:20 Comparing trustee and examiner: §§ 321 and 1106 290
§ 1104:21 Notice and hearing: § 102 290
§ 1104:22 Section 1104(d): core concept 290
§ 1104:23 Relation to § 1104(b) 290
§ 1104:24 Selection of examiner..... 291
§ 1104:25 Consultation with interested parties..... 291
§ 1104:26 Appointment of a "disinterested person" 291
§ 1104:27 Section 1104(e): core concept..... 292
§ 1105 Termination of trustee's appointment 292
§ 1105:1 Applicability..... 292
§ 1105:2 Standing to proceed 292
§ 1105:3 Grounds to terminate trustee's appointment..... 293
§ 1106 Duties of trustee and examiner 293
§ 1106:1 Section 1106(a): core concept 296
§ 1106:2 Powers conferred by other provisions..... 296
§ 1106:3 Comparison to Chapter 7 trustee 297
§ 1106:4 Chapter 7 duties incorporated in § 1106(a)(1) 297
§ 1106:5 Filing obligations under § 1106(a)(2)..... 297
§ 1106:6 Investigations under § 1106(a)(3)..... 298
§ 1106:7 Reporting investigative results: § 1106(a)(4)..... 298
§ 1106:8 Filing plan or alternative to plan: § 1106(a)(5) 299
§ 1106:9 Furnishing tax information under § 1106(a)(6) 299
§ 1106:10 Filing postconfirmation reports: § 1106(a)(7)..... 299
§ 1106:11 Notice to creditors asserting claims for domestic support..... 299
§ 1106:12 Relation to debtor in possession: § 1107 300
§ 1106:13 Comparison of trustee and examiner 300
§ 1106:14 Section 1106(b): core concept 300

§ 1106:15 Investigative duties: § 1106(a)(3) and (4) 300
§ 1106:16 Relation to debtor in possession: § 1107 301
§ 1106:17 Relation to trustee 301
§ 1106:18 Section 1006(c): core concept 302
§ 1107 Rights, powers, and duties of debtor in possession 302
§ 1107:1 Section 1107(a): core concept 303
§ 1107:2 "Debtor in possession" defined: § 1101 304
§ 1107:3 Powers withheld from debtor in possession 304
§ 1107:4 Duties of debtor in possession 305
§ 1107:5 Avoidance powers: limitation periods 305
§ 1107:6 Section 1107(b): core concept 306
§ 1107:7 Other grounds for barring employment 306
§ 1108 Authorization to operate business 306
§ 1108:1 Relation to § 363 307
§ 1108:2 Relation to § 364 307
§ 1108:3 Relation to § 549 307
§ 1108:4 Presumption: comparison with § 721 307
§ 1108:5 Relation to § 1104 308
§ 1108:6 Obligation under other laws 308
§ 1109 Right to be heard 308
§ 1109:1 Section 1109(a): core concept 309
§ 1109:2 Comparison to amicus curiae 309
§ 1109:3 Standing to appeal 309
§ 1109:4 Section 1109(b): core concept 310
§ 1109:5 Parties in interest 310
§ 1109:6 Scope of standing 311
§ 1109:7 Timeliness 312
§ 1109:8 Relation to § 1103 313
§ 1109:9 Comparison to amicus curiae 313
§ 1109:10 Examples of determinations on standing 313
§ 1109:11 Standing and examiners 316
§ 1110 Aircraft equipment and vessels 316
§ 1110:1 Section 1110(a): core concept 319
§ 1110:2 Secured creditors, lessors, conditional vendors 319
§ 1110:3 Property subject to § 1110 320
§ 1110:4 Prior agreement on repossession 320
§ 1110:5 Relation to §§ 362, 363, 1129: any "other power" 320
§ 1110:6 Timing 321
§ 1110:7 Defense to repossession 321
§ 1110:8 Breach of § 1110 promise: measure of damages 322
§ 1110:9 Relation to § 547 322
§ 1110:10 Section 1110(b): core concept 322
§ 1110:11 Section 1110(c): core concept 322
§ 1110:12 Section 1110(d): core concept 323
§ 1111 Claims and interests 323
§ 1111:1 Section 1111(a): core concept 324
§ 1111:2 When claim must be filed 324
§ 1111:3 Section 1111(b): core concept 325

§ 1111:4 Effect of § 1111(b) on deficiency claims 325
§ 1111:5 Electing fully secured status: elements 327
§ 1111:6 Relation to § 506 327
§ 1111:7 Relation to § 1122 328
§ 1111:8 Relation to § 1129 328
§ 1112 Conversion or dismissal 329
§ 1112:1 Section 1112(a): core concept 333
§ 1112:2 Criteria for conversion by debtor 333
§ 1112:3 Section 1112(b): core concept 333
§ 1112:4 Comparison with § 1112(a) 333
§ 1112:5 Exceptions: § 1112(b)(2), § 1112(c), and § 1104(a)(3) 334
§ 1112:6 Standing and burden of proof 334
§ 1112:7 Conversion or dismissal sua sponte: relation to § 105 335
§ 1112:8 Notice and hearing 335
§ 1112:9 Judicial discretion 335
§ 1112:10 Enumerated grounds and unenumerated grounds 336
§ 1112:11 Lack of good faith as cause for conversion or dismissal 337
§ 1112:12 Relation to § 362 338
§ 1112:13 Multiple filings as ground for dismissal 338
§ 1112:14 Relation to § 706 338
§ 1112:15 Relation to §§ 348 and 349 338
§ 1112:16 Section 1112(c): core concept 339
§ 1112:17 Applicability: debtor's request 339
§ 1112:18 Available remedy: dismissal 339
§ 1112:19 Section 1112(d): core concept 339
§ 1112:20 Debtor's request: no prior discharge under § 1141 339
§ 1112:21 Chapter 12: conversion is "equitable" 339
§ 1112:22 Section 1112(e): core concept 340
§ 1112:23 Standing 340
§ 1112:24 Applicability 340
§ 1112:25 Section 1112(f): core concept 340
§ 1112:26 Relation to § 109 340
§ 1113 Rejection of collective bargaining agreements 340
§ 1113:1 Section 1113(a): core concept 343
§ 1113:2 Railway bankruptcies: § 1167 344
§ 1113:3 Relation to § 365 344
§ 1113:4 Assumption of collective bargaining agreements 344
§ 1113:5 Section 1113(b): core concept 345
§ 1113:6 Proposal to union 345
§ 1113:7 Reliable basis for proposal 345
§ 1113:8 Modifications: necessary to reorganization 346
§ 1113:9 Fair and equitable treatment 347
§ 1113:10 Disclosure to employees' representative 347

§ 1113:11 Negotiation with union: good faith 348
§ 1113:12 Section 1113(c): core concept 348
§ 1113:13 Proposal under § 1113(b)(1) 348
§ 1113:14 Union fails to accept without good cause 348
§ 1113:15 Balance of equities 349
§ 1113:16 Damages 349
§ 1113:17 Rejection of expired collective bargaining agreements 349
§ 1113:18 Section 1113(d): core concept 350
§ 1113:19 Hearing: time and scope 350
§ 1113:20 Time limit for decision 350
§ 1113:21 Protective orders 351
§ 1113:22 Section 1113(e): core concept 351
§ 1113:23 Notice and hearing 351
§ 1113:24 Timing 351
§ 1113:25 Duration: relation to § 1113(b) and (c) 351
§ 1113:26 Damages 351
§ 1113:27 Section 1113(f): core concept 352
§ 1113:28 Effect 352
§ 1113:29 Application to Chapter 7 cases 352
§ 1113:30 Relation to § 362 353
§ 1113:31 Priority status: relation to §§ 503 and 507 353
§ 1113:32 Effect on attempts to avoid preferences 354
§ 1114 Payment of insurance benefits to retired employees ... 354
§ 1114:1 Section 1114(a): core concept 361
§ 1114:2 "Retired employee" 361
§ 1114:3 "Plan, fund or program" 361
§ 1114:4 Maintaining and establishing plan, fund, or program 362
§ 1114:5 Section 1114(b): core concept 362
§ 1114:6 Identifying "authorized representatives" 362
§ 1114:7 Committee of retired employees: authority 362
§ 1114:8 Section 1114(c): core concept 363
§ 1114:9 Presumption in favor of union 363
§ 1114:10 Exceptions 363
§ 1114:11 Alternative authorized representative 363
§ 1114:12 Section 1114(d): core concept 364
§ 1114:13 Process of appointment 364
§ 1114:14 Authority and duties of committee 364
§ 1114:15 Section 1114(e): core concept 364
§ 1114:16 Relation to § 365 365
§ 1114:17 First exception: court order altering obligation 365
§ 1114:18 Second exception: agreement of parties 365
§ 1114:19 Enforcement of altered agreement 365
§ 1114:20 Expiration or termination of agreement 366
§ 1114:21 Relation to § 1129 366
§ 1114:22 Priority of claims for retiree benefits 366
§ 1114:23 Priority status: effect on secured claims 367

§ 1114:24 Comparison with § 1113 367
§ 1114:25 Section 1114(f): core concept 367
§ 1114:26 Section 1114(g): core concept 368
§ 1114:27 Proposal satisfies § 1114(f) 368
§ 1114:28 Proposal refused without good cause 368
§ 1114:29 Necessary modifications: balance of equities 368
§ 1114:30 Limit on judicial discretion 369
§ 1114:31 Restoration of benefits 369
§ 1114:32 Multiple applications for modification 369
§ 1114:33 Section 1114(h): core concept 369
§ 1114:34 Time 369
§ 1114:35 Standard for interim relief 369
§ 1114:36 Notice and hearing 369
§ 1114:37 Timing of hearing 369
§ 1114:38 Effect on application for modification 369
§ 1114:39 Section 1114(i): core concept 369
§ 1114:40 Section 1114(j): core concept 370
§ 1114:41 Section 1114(k): core concept 370
§ 1114:42 Time for hearing: standing 370
§ 1114:43 Time limit for ruling 370
§ 1114:44 Protective orders 370
§ 1114:45 Section 1114(l): core concept 370
§ 1114:46 Section 1114(m): core concept 370
§ 1114:47 Exception 370
§ 1114:48 Other restrictions on protection 371
§ 1115 Property of the estate 371
§ 1115:1 Section 1115(a): core concept 372
§ 1115:2 Property included after a conversion 372
§ 1115:3 Section 1115(b): core concept 372
§ 1115:4 Relation to § 1129(b)(2)(B)(ii): absolute priority rule 372
§ 1116 Duties of trustee or debtor in possession in small business cases 373
§ 1116:1 Failure to fulfill duties 374

SUBCHAPTER II THE PLAN 375

§ 1121 Who may file a plan 375
§ 1121:1 Section 1121(a): core concept 377
§ 1121:2 Discretionary filing 377
§ 1121:3 Section 1121(b): core concept 377
§ 1121:4 Relation to § 1121(c) and (d) 377
§ 1121:5 Tactical advantage 378
§ 1121:6 Other actions available during exclusivity period 378
§ 1121:7 Section 1121(c): core concept 378
§ 1121:8 Standing: relation to § 307 379
§ 1121:9 Circumstances that terminate exclusivity 379
§ 1121:10 Failure to file: relation to § 1112 380
§ 1121:11 Section 1121(d): core concept 380

§ 1121:12 Motion, party in interest, notice and hearing..... 380
§ 1121:13 Time 381
§ 1121:14 For cause..... 381
§ 1121:15 Section 1121(e): core concept..... 382
§ 1121:16 Defining a "small business" 383
§ 1121:17 Electing "small business" treatment 383
§ 1121:18 Time limits..... 383
§ 1121:19 Extending or reducing time limits 384
§ 1122 Classification of claims or interests..... 384
§ 1122:1 Section 1122(a): core concept 385
§ 1122:2 Significance of § 1122(a): §§ 1123 and 1129..... 385
§ 1122:3 Grouping of dissimilar claims or interests..... 386
§ 1122:4 Exception for minor unsecured claims: § 1122(b) ... 386
§ 1122:5 Separate classes for similar claims or interests..... 387
§ 1122:6 Section 1122(b): core concept 390
§ 1122:7 Administrative convenience 390
§ 1122:8 Impaired small claims 390
§ 1123 Contents of plan 391
§ 1123:1 Section 1123(a): core concept 394
§ 1123:2 Designating classes of claims and interests..... 394
§ 1123:3 Specifying claims or interests not impaired..... 395
§ 1123:4 Treatment of impaired claims or interests 395
§ 1123:5 Same treatment for similar claims or interests ... 396
§ 1123:6 Adequate means for implementation 397
§ 1123:7 Prohibition on nonvoting stock 398
§ 1123:8 Selecting controlling officers 399
§ 1123:9 Duties of individual Chapter 11 debtors..... 399
§ 1123:10 Section 1123(b): core concept 399
§ 1123:11 Discretion to impair claims or interests 399
§ 1123:12 Executory contracts, unexpired leases..... 400
§ 1123:13 Settling, adjusting, or enforcing claims..... 400
§ 1123:14 Sale of estate property..... 402
§ 1123:15 Modification of claims 403
§ 1123:16 Other appropriate provisions 404
§ 1123:17 Section 1123(c): core concept..... 405
§ 1123:18 Section 1123(d): core concept 405
§ 1124 Impairment of claims or interests 406
§ 1124:1 Impairment must come from plan 407
§ 1124:2 Significance of impairment..... 408
§ 1124:3 Relation to § 1111 408
§ 1124:4 Relation to § 1122 408
§ 1124:5 Unimpaired creditors: post-petition interest 408
§ 1124:6 Impairment: broadly applied 409
§ 1124:7 Examples of impairment/nonimpairment 409
§ 1124:8 Exception: de minimis ("manufactured") impairment..... 410
§ 1124:9 Exception: § 1123(a)(4)..... 410
§ 1124:10 Exception: § 1124(2) and cure of default..... 410

§ 1125 Postpetition disclosure and solicitation..... 412
§ 1125:1 Section 1125(a): core concept 415
§ 1125:2 "Adequate information"..... 415
§ 1125:3 Typical claimant or interest holder 416
§ 1125:4 Section 1125(b): core concept 417
§ 1125:5 Timing: relation to § 1126..... 417
§ 1125:6 Other communications: additional information.... 418
§ 1125:7 Flawed disclosure statements: sanctions 418
§ 1125:8 Notice and hearing..... 419
§ 1125:9 No requirement for valuation or appraisal..... 419
§ 1125:10 Section 1125(c): core concept..... 419
§ 1125:11 Section 1125(d): core concept 419
§ 1125:12 Scope 419
§ 1125:13 Agency's right to be heard versus right to appeal. 420
§ 1125:14 Section 1125(e): core concept..... 420
§ 1125:15 Requirement of good faith..... 420
§ 1125:16 Compliance with bankruptcy code 420
§ 1125:17 Conduct not immunized 420
§ 1125:18 Section 1125(f): core concept 421
§ 1125:19 Defining a small business 421
§ 1125:20 Applicable modifications..... 421
§ 1125:21 Section 1125(g): core concept..... 421
§ 1126 Acceptance of plan 421
§ 1126:1 Section 1126(a): core concept 424
§ 1126:2 Holders of allowed claims or interests: § 502 424
§ 1126:3 Right to vote: duty to vote 424
§ 1126:4 Voting by U.S. 424
§ 1126:5 Section 1126(b): core concept 424
§ 1126:6 Compliance with nonbankruptcy law 424
§ 1126:7 Compliance with § 1125 424
§ 1126:8 Section 1126(c): core concept..... 425
§ 1126:9 First requirement: two-thirds of value of claims .. 425
§ 1126:10 Second requirement: more than half the voters ... 426
§ 1126:11 Significance of class acceptance: § 1129 426
§ 1126:12 Disqualified voters: relation to § 1126(e) 426
§ 1126:13 Section 1126(d): core concept 427
§ 1126:14 Requirement for acceptance..... 427
§ 1126:15 Disqualified voters: relation to § 1126(e) 427
§ 1126:16 Section 1126(e): core concept..... 427
§ 1126:17 Standing 427
§ 1126:18 Notice and hearing..... 427
§ 1126:19 Lack of good faith 428
§ 1126:20 Consequences and sanctions 429
§ 1126:21 Section 1126(f): core concept 429
§ 1126:22 Section 1126(g): core concept..... 429
§ 1126:23 Comparing language with § 1126(f) 430
§ 1127 Modification of plan 430
§ 1127:1 Section 1127(a): core concept 432

§ 1127:2 Standing 432
§ 1127:3 Scope and discretion: §§ 1122, 1123, and 1127(c) .. 432
§ 1127:4 Filing of modification: no motion required 433
§ 1127:5 Modification after denial of confirmation 433
§ 1127:6 Section 1127(b): core concept 433
§ 1127:7 Standing 434
§ 1127:8 Judicial discretion to modify: § 105 434
§ 1127:9 Scope and timing 434
§ 1127:10 Relation to §§ 1121, 1122, 1123, and 1127(c) 436
§ 1127:11 Notice and hearing 436
§ 1127:12 Section 1127(c): core concept 436
§ 1127:13 Scope 437
§ 1127:14 Exception: minor modifications 437
§ 1127:15 Section 1127(d): core concept 437
§ 1127:16 Scope: material adverse modifications 437
§ 1127:17 Plain language and relation to Federal Rule of Bankruptcy Procedure 3019 438
§ 1127:18 Time limit: consequences of inaction 438
§ 1127:19 Section 1127(e): core concept 438
§ 1127:20 Requirements for modification approval 438
§ 1127:21 Relation to §§ 1229 and 1329 439
§ 1127:22 Refiling prior to discharge of current case 439
§ 1127:23 Section 1127(f): core concept 439
§ 1128 Confirmation hearing 439
§ 1128:1 Section 1128(a): core concept 440
§ 1128:2 Amount and quality of notice 440
§ 1128:3 Failure to give notice 440
§ 1128:4 Comparison with § 102 440
§ 1128:5 Section 1128(b): core concept 440
§ 1128:6 Defining a party in interest: relation to § 1109 441
§ 1128:7 Unimpaired creditors: relation to § 1124 441
§ 1128:8 Voting on plan vs. objecting to plan: § 1126 441
§ 1129 Confirmation of plan 441
§ 1129:1 Section 1129(a): core concept 448
§ 1129:2 Plan compliance with Code § 103 449
§ 1129:3 Proponent compliance with Code § 103 449
§ 1129:4 Good faith: compliance with applicable law 449
§ 1129:5 Approval of payments and fees 450
§ 1129:6 Disclosure of officers 451
§ 1129:7 Regulatory approval of rates 452
§ 1129:8 Impaired claims: best interest of creditors 452
§ 1129:9 Acceptance or no impairment 453
§ 1129:10 Full payment of priority claims 454
§ 1129:11 Acceptance by a single impaired class 456
§ 1129:12 Likelihood of successful reorganization 458
§ 1129:13 Payment of bankruptcy fees 460
§ 1129:14 Payment of retiree benefits 460
§ 1129:15 Domestic support obligations 460

§ 1129:16 Individual debtors: objecting unsecured creditors . 461
§ 1129:17 Conforming to applicable nonbankruptcy law 461
§ 1129:18 Standard of proof..... 461
§ 1129:19 Section 1129(b): core concept 461
§ 1129:20 Relation to § 510(a) 461
§ 1129:21 Relation to § 1129(a)..... 462
§ 1129:22 Fair and equitable: "cramdown"..... 462
§ 1129:23 Fairness to secured creditors: § 1129(b)(2)(A)..... 463
§ 1129:24 Relation to § 506 465
§ 1129:25 Fairness to unsecured creditors: § 1129(b)(2)(B)... 465
§ 1129:26 Fairness to interest holders: § 1129(b)(2)(C) 467
§ 1129:27 Additional requirements under § 1129(b)..... 467
§ 1129:28 "New value" exception..... 467
§ 1129:29 Section 1129(c): core concept..... 468
§ 1129:30 Relation to § 1127 468
§ 1129:31 Relation to § 1144 468
§ 1129:32 Competing confirmable plans..... 469
§ 1129:33 Section 1129(d): core concept 469
§ 1129:34 Section 1129(e): core concept..... 469
§ 1129:35 Whether order denying confirmation appealable .. 469

SUBCHAPTER III POST-CONFIRMATION MATTERS..... 469

§ 1141 Effect of confirmation 470
§ 1141:1 Section 1141(a): core concept 473
§ 1141:2 Interested parties bound 473
§ 1141:3 Parties whose claim or interest is impaired..... 474
§ 1141:4 Acceptance/rejection of plan 474
§ 1141:5 Statutory exceptions: relation to § 1141(d) 474
§ 1141:6 Exception: postconfirmation claims 475
§ 1141:7 Exception: notice and due process..... 475
§ 1141:8 Nonparties 475
§ 1141:9 Preclusion..... 475
§ 1141:10 Effect of confirmation on estate 476
§ 1141:11 Section 1141(b): core concept 477
§ 1141:12 "Property": scope 477
§ 1141:13 "Unprovided for" property: silence in the plan..... 478
§ 1141:14 Section 1141(c): core concept..... 478
§ 1141:15 Requirements for voiding lien 478
§ 1141:16 Exception: § 1141(d)(2) and (3) 480
§ 1141:17 Relation to § 506 480
§ 1141:18 Section 1141(d): core concept 480
§ 1141:19 Scope of discharge..... 481
§ 1141:20 Shareholders and general partners 482
§ 1141:21 Preconfirmation debts: Chapter 7 compared 482
§ 1141:22 Exception: claims protected by plan or order 482
§ 1141:23 Exception: notice and due process..... 482
§ 1141:24 Exception: setoffs and § 553 483

§ 1141:25 Exception: individual debtors and § 523 484
§ 1141:26 Exception: plans of liquidation 484
§ 1141:27 Waiver of discharge 485
§ 1141:28 Surviving claims 485
§ 1141:29 Claims against non-debtors 485
§ 1141:30 Relation to §§ 362 and 524 486
§ 1141:31 Relation to § 365 486
§ 1141:32 Discharge of individual debtors 486
§ 1141:33 Exception to discharge of corporations 487
§ 1141:34 Effect of § 1141(d) on postconfirmation debts 487
§ 1142 Implementation of plan 488
§ 1142:1 Section 1142(a): core concept 489
§ 1142:2 Conflicting nonbankruptcy law: scope 489
§ 1142:3 Plan compliance: relation to § 1141 490
§ 1142:4 Section 1142(b): core concept 490
§ 1142:5 Sua sponte orders 490
§ 1142:6 Court's discretion 490
§ 1142:7 Scope of jurisdiction 490
§ 1143 Distribution 493
§ 1143:1 Time limit: starting date and maximum time 493
§ 1143:2 Acts affected 494
§ 1143:3 Failure to act: consequences 494
§ 1143:4 Undistributed assets: relation to § 347 494
§ 1144 Revocation of an order of confirmation 494
§ 1144:1 Standing 495
§ 1144:2 Ground for revocation: modification under § 1127 495
§ 1144:3 Fraud 496
§ 1144:4 Limitation period 497
§ 1144:5 Substantial consummation: futility of relief 497
§ 1144:6 Good faith reliance 497
§ 1144:7 Effect of revocation on discharge 498
§ 1144:8 Relation to § 1112 498
§ 1144:9 Relation to § 1129 498
§ 1145 Exemption from securities laws 498
§ 1145:1 Section 1145(a): core concept 502
§ 1145:2 Inapplicable nonbankruptcy law 502
§ 1145:3 Relation to § 1145(b) 502
§ 1145:4 Eligibility for exemption 502
§ 1145:5 New value 503
§ 1145:6 Subsequent transfers 504
§ 1145:7 Voluntary registration 504
§ 1145:8 Section 1145(b): core concept 504
§ 1145:9 Relation to § 1145(a) 504
§ 1145:10 Section 1145(c): core concept 505
§ 1145:11 Section 1145(d): core concept 505
§ 1146 Special tax provisions 505
§ 1146:1 Section 1146(a): core concept 506
§ 1146:2 Stamp tax defined 506

§ 1146:3 Under a plan 506
§ 1146:4 Eligibility for exemption 507
§ 1146:5 Eleventh amendment immunity 507
§ 1146:6 Section 1146(b): core concept 508
§ 1146:7 Inapplicable to Internal Revenue Service 508
§ 1146:8 Judicial declaration 508

SUBCHAPTER IV RAILROAD REORGANIZATION 508

§ 1161 Inapplicability of other sections 508
§ 1161:1 Sections made inapplicable 509
§ 1161:2 Relation to § 103(a) 509
§ 1161:3 Relation to § 103(g) 510
§ 1161:4 Relation to § 109(b) 510
§ 1162 Definition 510
§ 1163 Appointment of trustee 510
§ 1163:1 Mandatory appointment 511
§ 1163:2 Process of appointment 511
§ 1163:3 Relation to § 1104 511
§ 1164 Right to be heard 512
§ 1164:1 Authorized agencies 512
§ 1164:2 Appellate standing 512
§ 1164:3 Comparison with § 1109(a) 513
§ 1165 Protection of the public interest 513
§ 1165:1 Comparison with non-railroad cases 513
§ 1165:2 Applicability: enumerated sections 514
§ 1165:3 Applicability: nonenumerated sections 514
§ 1165:4 Public interest defined 514
§ 1165:5 Means of protecting public interest 515
§ 1166 Effect of subtitle IV of title 49 and of Federal, State, or local regulations 515
§ 1166:1 Applicable nonbankruptcy laws 516
§ 1166:2 Exceptions 516
§ 1166:3 Special provision for certain railroads 516
§ 1166:4 Relation to 28 U.S.C.A. § 959 516
§ 1166:5 Relation to § 1165 517
§ 1167 Collective bargaining agreements 517
§ 1167:1 Altering a collective bargaining agreement 517
§ 1167:2 Applicability: railway labor contracts 518
§ 1167:3 Relation to § 365 518
§ 1167:4 Relation to § 1113 518
§ 1167:5 Relation to § 1165 519
§ 1168 Rolling stock equipment 519
§ 1168:1 Section 1168(a): core concept 522
§ 1168:2 Relation to § 1110 522
§ 1168:3 Rolling stock equipment defined 522
§ 1168:4 Parties eligible to repossess 522
§ 1168:5 Prerequisite for repossession 522

§ 1168:6 Relation to §§ 362, 363, and 1129 523
§ 1168:7 Injunctions 523
§ 1168:8 Time limits on repossession 523
§ 1168:9 Section 1168(b): core concept 524
§ 1168:10 Section 1168(c): core concept 524
§ 1168:11 Pre-amendment leases 524
§ 1168:12 Pre-amendment security interests 524
§ 1168:13 Section 1168(d): core concept 524
§ 1169 Effect of rejection of lease of railroad line 524
§ 1169:1 Section 1169(a): core concept 525
§ 1169:2 Relation to § 365 525
§ 1169:3 Lessor's duties 525
§ 1169:4 Section 1169(b): core concept 526
§ 1169:5 Relation to § 1165 526
§ 1169:6 Seeking relief from lessor's obligation 526
§ 1169:7 Consequences of relieving lessor's obligation 526
§ 1169:8 Section 1169(c): core concept 526
§ 1170 Abandonment of railroad line 526
§ 1170:1 Section 1170(a): core concept 528
§ 1170:2 Abandonment defined 528
§ 1170:3 Requirements for abandonment 529
§ 1170:4 Notice and hearing 529
§ 1170:5 Standing to seek abandonment 529
§ 1170:6 Alternatives to abandonment under § 1170 529
§ 1170:7 Section 1170(b): core concept 530
§ 1170:8 Advising the court 530
§ 1170:9 Time 530
§ 1170:10 Section 1170(c): core concept 530
§ 1170:11 Failure to report 530
§ 1170:12 Notice and hearing 530
§ 1170:13 Section 1170(d): core concept 530
§ 1170:14 Automatic stay pending appeal 530
§ 1170:15 Exception: suspending service pending appeal 531
§ 1170:16 Staying the order suspending service 531
§ 1170:17 Section 1170(e): core concept 531
§ 1170:18 Employee protection 531
§ 1170:19 Employee protection and priority claims 531
§ 1171 Priority claims 531
§ 1171:1 Section 1171(a): core concept 532
§ 1171:2 Significance of administrative expense status 533
§ 1171:3 Timing of claims 533
§ 1171:4 Applicability: limitations 533
§ 1171:5 Relation to § 1165 533
§ 1171:6 Section 1171(b): core concept 533
§ 1171:7 Explanation: comparison with § 1171(a) 533
§ 1171:8 Priority received 534
§ 1171:9 "Six months" rule 534
§ 1171:10 Relation to § 1165 534

§ 1172 Contents of plan 534
§ 1172:1 Section 1172(a): core concept 536
§ 1172:2 Relation to § 1123 536
§ 1172:3 Continuation/termination of railroad service 536
§ 1172:4 Transfer/abandonment of railroad lines 536
§ 1172:5 Relation to § 1165 536
§ 1172:6 Section 1172(b): core concept 536
§ 1172:7 Applying for approval 537
§ 1172:8 Time limit for evaluating proposal 537
§ 1172:9 Hearing options 537
§ 1172:10 Approving, modifying, conditioning, rejecting 537
§ 1172:11 Judicial review 537
§ 1172:12 Section 1172(c): core concept 537
§ 1172:13 Relation to priority claims 538
§ 1173 Confirmation of plan 538
§ 1173:1 Section 1173(a): core concept 539
§ 1173:2 Relation to § 1129 539
§ 1173:3 Protection for creditors and equity interests 539
§ 1173:4 Ability to pay fixed charges 539
§ 1173:5 Section 1165 and the public interest 539
§ 1173:6 Section 1173(b): core concept 540
§ 1174 Liquidation 540
§ 1174:1 Motion of party in interest 541
§ 1174:2 Notice and hearing 541
§ 1174:3 Judicial discretion 541
§ 1174:4 Mandatory time limit 541
§ 1174:5 Section 1165: public interest 541
§ 1174:6 Method of liquidation 541

SUBCHAPTER V SMALL BUSINESS DEBTOR REORGANIZATION 541

§ 1181 Inapplicability of other sections 542
§ 1181:1 Section 1181(a): core concept 543
§ 1181:2 Section 1181(b): core concept 543
§ 1181:3 Section 1181(c): core concept 543
§ 1182 Definitions 543
§ 1182:1 Section 1182(1): core concept 544
§ 1182:2 Section 1182(2): core concept 544
§ 1183 Trustee 544
§ 1183:1 Section 1183(a): core concept 546
§ 1183:2 Section 1183(b): core concept 546
§ 1183:3 Relation to Chapter 12 and 13 trustees 546
§ 1183:4 Section 1183(c): core concept 547
§ 1184 Rights and powers of a debtor in possession 547
§ 1184:1 Section 1184: core concept 547
§ 1185 Removal of debtor in possession 547
§ 1185:1 Section 1185(a): core concept 548
§ 1185:2 Section 1185(b): core concept 548

§ 1186 Property of the estate 548
§ 1186:1 Section 1186(a): core concept 549
§ 1186:2 Section 1186(b): core concept 549
§ 1187 Duties and reporting requirements of debtors 549
§ 1187:1 Section 1187(a): core concept 550
§ 1187:2 Section 1187(b): core concept 550
§ 1187:3 Section 1187(c): core concept 550
§ 1187:4 Modifications of § 1125(f) 550
§ 1188 Status conference 550
§ 1188:1 Section 1188(a): core concept 551
§ 1188:2 Section 1188(b): core concept 551
§ 1188:3 Circumstances for which debtor should not justly be held accountable: standard 551
§ 1188:4 Section 1188(c): core concept 552
§ 1189 Filing of the plan 552
§ 1189:1 Section 1189(a): core concept 553
§ 1189:2 Section 1189(b): core concept 553
§ 1189:3 Circumstances for which debtor should not justly be held accountable: standard 553
§ 1190 Contents of plan 554
§ 1190:1 Section 1190(1): core concept 554
§ 1190:2 Section 1190(2): core concept 555
§ 1190:3 Section 1190(3): core concept 555
§ 1190:4 Section 1190(3): application 555
§ 1191 Confirmation of plan 555
§ 1191:1 Section 1191(a): core concept 557
§ 1191:2 Discharge at confirmation 558
§ 1191:3 Section 1191(b): core concept 558
§ 1191:4 Section 1191(c): core concept 558
§ 1191:5 Section 1191(d): core concept 559
§ 1191:6 Section 1191(e): core concept 559
§ 1192 Discharge 559
§ 1192:1 Section 1192: core concept 560
§ 1192:2 Discharge for both individual and corporate debtors 560
§ 1193 Modification of plan 561
§ 1193:1 Section 1193(a): core concept 562
§ 1193:2 Section 1193(b): core concept 562
§ 1193:3 Section 1193(c): core concept 563
§ 1193:4 Section 1193(d): core concept 563
§ 1194 Payments 563
§ 1194:1 Section 1194(a): core concept 564
§ 1194:2 Section 1194(b): core concept 564
§ 1194:3 Section 1193(c): core concept 564
§ 1195 Transactions with professionals 564
§ 1195:1 Section 1195: core concept 564

CHAPTER 12 ADJUSTMENT OF DEBTS OF A FAMILY FARMER OR FISHERMAN WITH REGULAR ANNUAL

INCOME 567

SUBCHAPTER I OFFICERS, ADMINISTRATION, AND THE ESTATE 571

§ 1201 Stay of action against codebtor 571
§ 1201:1 Section 1201(a): core concept 573
§ 1201:2 Definition of codebtor 573
§ 1201:3 Requirement of "consumer" debt 573
§ 1201:4 Application of § 1301 case law 574
§ 1201:5 Section 1201(b): core concept 574
§ 1201:6 Section 1201(c): core concept 574
§ 1201:7 Considerations in lifting the stay 574
§ 1201:8 Section 1201(d): core concept 574
§ 1202 Trustee 574
§ 1202:1 Section 1202(a): core concept 577
§ 1202:2 Methods of appointing a trustee 577
§ 1202:3 Section 1202(b): core concept 577
§ 1202:4 Duties as set forth in Chapter 7 577
§ 1202:5 Investigative powers of the trustee 578
§ 1202:6 Attendance at hearings 578
§ 1202:7 Ensuring timely payments 578
§ 1202:8 When debtor ceases to be in possession 578
§ 1202:9 Notice of domestic support claim 579
§ 1202:10 Section 1202(c): core concept 579
§ 1203 Rights and powers of debtor 579
§ 1203:1 Rights as debtor in possession 580
§ 1203:2 No right to compensation 580
§ 1203:3 Functions and duties required 581
§ 1203:4 Exceptions to duties required 581
§ 1204 Removal of debtor as debtor in possession 581
§ 1204:1 Section 1204(a): core concept 582
§ 1204:2 Causes for removal 582
§ 1204:3 Section 1204(b): core concept 582
§ 1205 Adequate protection 582
§ 1205:1 Section 1205(a): core concept 583
§ 1205:2 Section 1205(b): core concept 584
§ 1205:3 Relation to §§ 362, 363, and 364 584
§ 1205:4 Property interest protected 584
§ 1205:5 Section 1205(b)(1): cash payments 584
§ 1205:6 Section 1205(b)(2): additional liens 585
§ 1205:7 Section 1205(b)(3): reasonable rent 585
§ 1205:8 Section 1205(b)(4): other relief 586
§ 1205:9 Valuation 586
§ 1205:10 Remedy for lack of adequate protection 587
§ 1206 Sales free of interests 587
§ 1206:1 Notice and hearing 588
§ 1206:2 Relation to § 363 588
§ 1206:3 Authorized parties 588

§ 1206:4 Scope of authority 589
§ 1206:5 Interest in proceeds of sale 589
§ 1207 Property of the estate 589
§ 1207:1 Section 1207(a): core concept 590
§ 1207:2 Relation to § 541 590
§ 1207:3 Property acquired after filing 591
§ 1207:4 Debtor's post-filing earnings 592
§ 1207:5 Converted cases 592
§ 1207:6 Section 1207(b): core concept 593
§ 1207:7 Enumerated exceptions 593
§ 1208 Conversion or dismissal 593
§ 1208:1 Section 1208(a): core concept 595
§ 1208:2 Waiver 595
§ 1208:3 Conversion to or from other chapters 596
§ 1208:4 Consequence of conversion 596
§ 1208:5 Section 1208(b): core concept 596
§ 1208:6 Waiver 596
§ 1208:7 Cases previously converted to Chapter 12 597
§ 1208:8 Allegation of fraud: § 1208(d) 597
§ 1208:9 Consequence of dismissal 597
§ 1208:10 Section 1208(c): core concept 598
§ 1208:11 Standing 598
§ 1208:12 Notice and hearing 598
§ 1208:13 Judicial discretion 598
§ 1208:14 Nonexclusive list of causes 598
§ 1208:15 Enumerated causes 599
§ 1208:16 Consequence of dismissal 600
§ 1208:17 Section 1208(d): core concept 601
§ 1208:18 Standing 601
§ 1208:19 Notice and hearing 601
§ 1208:20 Discretion of court 601
§ 1208:21 Relation to § 1208(b) 601
§ 1208:22 Consequence of conversion 602
§ 1208:23 Section 1208(e): core concept 602
§ 1208:24 Relation to § 109 602
§ 1208:25 Conversion to Chapter 11 602

SUBCHAPTER II THE PLAN 602

§ 1221 Filing of plan 603
§ 1221:1 Debtor's right and duty 603
§ 1221:2 Deadline for filing 603
§ 1221:3 Extensions 604
§ 1221:4 Remedy: relation to § 1208 604
§ 1222 Contents of plan 605
§ 1222:1 Section 1222(a): core concept 608
§ 1222:2 Submission of future income: § 1222(a)(1) 608
§ 1222:3 Payment of priority claims: § 1222(a)(2) 608
§ 1222:4 Same class, same treatment: § 1222(a)(3) 608

§ 1222:5 Relation to § 1229 609
§ 1222:6 Payment to trustee 609
§ 1222:7 Payment on domestic support obligations 610
§ 1222:8 Section 1222(b): core concept 610
§ 1222:9 Class discrimination: consumer debt: § 1222(b)(1) 610
§ 1222:10 Modification of claims: § 1222(b)(2) 610
§ 1222:11 Curing or waiving defaults: § 1222(b)(3) 612
§ 1222:12 Concurrent payments: § 1222(b)(4) 613
§ 1222:13 Cure and maintenance, long term debt: § 1222(b)(5) 613
§ 1222:14 Executory contracts, unexpired leases: § 1222(b)(6) 613
§ 1222:15 Payment from property of the estate: § 1222(b)(7) 614
§ 1222:16 Payment from sale of property: § 1222(b)(8) 614
§ 1222:17 Long term secured debt: time limits and § 1222(b)(9) 614
§ 1222:18 Vesting of property of the estate: § 1222(b)(10) 615
§ 1222:19 Interest on nondischargeable claims 615
§ 1222:20 Catchall provision: § 1222(b)(12) 615
§ 1222:21 Section 1222(c): core concept 616
§ 1222:22 Relation to § 1222(b)(5) and (b)(9) 616
§ 1222:23 Relation to Chapter 11 small business bankruptcy provision (§ 1191(c)(2)(A)) 616
§ 1222:24 Section 1222(d): core concept 616
§ 1223 Modification of plan before confirmation 616
§ 1223:1 Section 1223(a): core concept 617
§ 1223:2 Relation to § 1222 617
§ 1223:3 Relation to § 1229 617
§ 1223:4 Timing: previous denial of confirmation 617
§ 1223:5 Section 1223(b): core concept 618
§ 1223:6 Section 1223(c): core concept 618
§ 1224 Confirmation hearing 618
§ 1224:1 Expedited notice 619
§ 1224:2 Nature of the hearing 619
§ 1224:3 Standing 619
§ 1224:4 Timing: exception for cause 619
§ 1224:5 Consequence of tardiness: remedy 620
§ 1225 Confirmation of plan 621
§ 1225:1 Section 1225(a): core concept 623
§ 1225:2 Relation to § 1225(b) 623
§ 1225:3 Judicial discretion 624
§ 1225:4 Compliance with Chapter 12 and the Code 624
§ 1225:5 Payment of required fees 624
§ 1225:6 Good faith 624
§ 1225:7 Comparison to Chapter 7: unsecured claims 625
§ 1225:8 Treatment of allowed secured claims 625

§ 1225:9 A realistic plan 630
§ 1225:10 Domestic support obligations 630
§ 1225:11 Section 1225(b): core concept 631
§ 1225:12 Consenting unsecured creditors 631
§ 1225:13 Relation to § 1225(a) 631
§ 1225:14 "Disposable income" defined 631
§ 1225:15 Disposable income and secured creditors 632
§ 1225:16 Section 1225(c): core concept 632
§ 1226 Payments 633
§ 1226:1 Section 1226(a): core concept 634
§ 1226:2 Preconfirmation payments to trustee 634
§ 1226:3 Disposition of funds upon plan confirmation 634
§ 1226:4 Denial of confirmation 634
§ 1226:5 Standing trustee's fee 634
§ 1226:6 Section 1226(b): core concept 634
§ 1226:7 Timing of administrative and trustee payments 635
§ 1226:8 References to § 1202(c) and (d) 635
§ 1226:9 Trustee fees on payment of administrative claims 635
§ 1226:10 Section 1226(c): core concept 635
§ 1226:11 Direct payments by debtor 636
§ 1227 Effect of confirmation 636
§ 1227:1 Section 1227(a): core concept 637
§ 1227:2 Relation to § 1208(b) 637
§ 1227:3 Relation to § 1228 638
§ 1227:4 Relation to § 1229 638
§ 1227:5 Binding the trustee 638
§ 1227:6 Section 1227(b): core concept 638
§ 1227:7 Section 1227(c): core concept 639
§ 1227:8 Exception: terms of plan or confirmation order 639
§ 1227:9 Exception: § 1228(a) 639
§ 1228 Discharge 639
§ 1228:1 Section 1228(a): core concept 642
§ 1228:2 Eligibility: full compliance with plan 642
§ 1228:3 Exceptions: payments under § 1222(b)(5) and (9) 642
§ 1228:4 Exception: hardship discharge 643
§ 1228:5 Timing of discharge 643
§ 1228:6 Scope of discharge 643
§ 1228:7 Effect of discharge: relation to § 524 644
§ 1228:8 Prior bankruptcies: comparison with § 727 644
§ 1228:9 Relation to § 1227 645
§ 1228:10 Relation to § 1229 645
§ 1228:11 Section 1228(b): core concept 645
§ 1228:12 Notice and hearing 645
§ 1228:13 "Hardship" discharge: prerequisites 645
§ 1228:14 Section 1228(c): core concept 646
§ 1228:15 Section 1228(d): core concept 646
§ 1228:16 Prerequisites to revoking discharge 646

§ 1228:17 Exclusive ground for revocation 647
§ 1228:18 Section 1228(e): core concept 647
§ 1228:19 Section 1228(f): core concept 647
§ 1229 Modification of plan after confirmation 647
§ 1229:1 Section 1229(a): core concept 649
§ 1229:2 Comparison with § 1223 649
§ 1229:3 Exclusive authority for modification 649
§ 1229:4 Timing 649
§ 1229:5 Standing 650
§ 1229:6 Provisions of plan subject to modification 650
§ 1229:7 Relation to § 1227: whether changed circumstances necessary 650
§ 1229:8 Section 1229(b): core concept 652
§ 1229:9 Compliance with §§ 1222, 1223, and 1225 652
§ 1229:10 Displacing original plan: notice and hearing 652
§ 1229:11 Section 1229(c): core concept 652
§ 1229:12 Time limits: comparison with § 1222(c) 653
§ 1229:13 Section 1229(d): core concept 653
§ 1230 Revocation of an order of confirmation 653
§ 1230:1 Section 1230(a): core concept 654
§ 1230:2 Fraud 654
§ 1230:3 Relation to § 105 654
§ 1230:4 Limitation period: 180 days 655
§ 1230:5 Relation to Rule 60(b) 655
§ 1230:6 Section 1230(b): core concept 655
§ 1231 Special tax provisions 656
§ 1231:1 Section 1231(a): core concept 656
§ 1231:2 Section 1231(b): core concept 656
§ 1232 Claim by a governmental unit based on the disposition of property used in a farming operation ... 657
§ 1232:1 Section 1232(a): core concept 658
§ 1232:2 Application of priority-stripping 659
§ 1232:3 Section 1232(b): core concept 659
§ 1232:4 Section 1232(c): core concept 659
§ 1232:5 Section 1232(d): core concept 659

CHAPTER 13 ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME 661

SUBCHAPTER I OFFICERS, ADMINISTRATION, AND THE ESTATE 668

§ 1301 Stay of action against codebtor 668
§ 1301:1 Section 1301(a): core concept 670
§ 1301:2 Timing of stay 671
§ 1301:3 Activities prohibited 671
§ 1301:4 Applicability: "consumer debts" and § 101(8) 671
§ 1301:5 Parties protected: individuals 672
§ 1301:6 Effect of stay 673

§ 1301:7 Comparison with § 362 generally 673
§ 1301:8 Remedying violations: comparison with § 362(k) .. 674
§ 1301:9 Comparison with Chapter 11 674
§ 1301:10 Comparison with § 1201..... 674
§ 1301:11 Exception: ordinary course of business 675
§ 1301:12 Exception: termination of Chapter 13 case..... 675
§ 1301:13 Section 1301(b): core concept 675
§ 1301:14 Section 1301(c): core concept..... 675
§ 1301:15 Alternative grounds..... 675
§ 1301:16 Notice and hearing..... 675
§ 1301:17 Debtor's lack of consideration: § 1301(c)(1)..... 676
§ 1301:18 Incomplete payment under plan: § 1301(c)(2)..... 676
§ 1301:19 Irreparable harm: § 1301(c)(3)..... 677
§ 1301:20 Section 1301(d): core concept 677
§ 1302 Trustee..... 677
§ 1302:1 Section 1302(a): core concept 680
§ 1302:2 Standing trustees: 28 U.S.C.A. § 586 680
§ 1302:3 Absence of standing trustee..... 680
§ 1302:4 Section 1302(b): core concept 680
§ 1302:5 Relation to debtor: §§ 1303 and 1304 681
§ 1302:6 Comparison with Chapter 7 trustee 681
§ 1302:7 Relation to § 704 681
§ 1302:8 Appearance and hearing: standing..... 682
§ 1302:9 Distribution of funds: the bankruptcy act..... 683
§ 1302:10 Advising and assisting the debtor..... 684
§ 1302:11 Ensuring compliance with plan: § 1326 684
§ 1302:12 Notice to domestic support claimants..... 685
§ 1302:13 Section 1302(c): core concept..... 685
§ 1302:14 "Engaged in business": § 1304(a)..... 685
§ 1302:15 Relation to § 1106(a)(3) and (4)..... 685
§ 1302:16 Additional duties..... 685
§ 1302:17 Section 1302(d): core concept 685
§ 1303 Rights and powers of debtor..... 686
§ 1303:1 Relation to § 363 generally 686
§ 1303:2 Relation to unnamed provisions of § 363 687
§ 1303:3 Exclusive right of debtor..... 688
§ 1303:4 Incorporating other powers..... 688
§ 1303:5 Comparison with Chapter 11: § 1107..... 690
§ 1304 Debtor engaged in business 691
§ 1304:1 Section 1304(a): core concept 692
§ 1304:2 Self employment 692
§ 1304:3 Trade credit: production of income 692
§ 1304:4 Section 1304(b): core concept 692
§ 1304:5 Court's discretion 692
§ 1304:6 Role of trustee: relation to § 1302..... 693
§ 1304:7 Business losses 693
§ 1304:8 Relation to § 363 693
§ 1304:9 Relation to § 364 694

§ 1304:10 Debtors not engaged in business: comfort orders.. 694
§ 1304:11 Relation to § 365 694
§ 1304:12 Relation to Chapter 5..... 695
§ 1304:13 Section 1304(c): core concept..... 695
§ 1304:14 Relation to § 704(8) 695
§ 1304:15 Failure to perform duties: consequences 695
§ 1305 Filing and allowance of postpetition claims 695
§ 1305:1 Section 1305(a): core concept 697
§ 1305:2 Permissive filing 697
§ 1305:3 Creditor's option..... 698
§ 1305:4 Tax claims: "became payable"..... 698
§ 1305:5 Certain postpetition consumer debts..... 699
§ 1305:6 Consumer debt: relation to § 1305(c)..... 700
§ 1305:7 Relation to §§ 503 and 507..... 700
§ 1305:8 Consequences of § 1305(a): §§ 1322(b) and 1328... 702
§ 1305:9 Additional consequences: relation to § 1329..... 703
§ 1305:10 Consequences of not filing under § 1305 703
§ 1305:11 Postpetition claims ineligible for § 1305..... 704
§ 1305:12 Section 1305(b): core concept 704
§ 1305:13 Relation to § 502 704
§ 1305:14 Relation to § 1305(c) 704
§ 1305:15 Section 1305(c): core concept..... 704
§ 1305:16 Court approval prior to incurring debt 704
§ 1305:17 Creditor's knowledge: actual or constructive..... 705
§ 1305:18 Disallowance: nondischargeability and § 1328(d).. 705
§ 1306 Property of the estate 706
§ 1306:1 Section 1306(a): core concept 707
§ 1306:2 Applicability 707
§ 1306:3 Relation to § 541 707
§ 1306:4 Duty to disclose 708
§ 1306:5 Cases converted to Chapter 7: § 348(f) 709
§ 1306:6 Comparison with Chapter 11 709
§ 1306:7 Comparison with Chapter 12 710
§ 1306:8 Relation to § 362 710
§ 1306:9 Relation to § 1325..... 711
§ 1306:10 Relation to § 1327(b)..... 711
§ 1306:11 Thirteenth Amendment to the U.S. Constitution.. 714
§ 1306:12 Section 1306(b): core concept 714
§ 1306:13 Comparison with Chapter 7 714
§ 1306:14 Debtor's duty 715
§ 1306:15 Relation to § 521 715
§ 1306:16 Exempt property: § 522..... 715
§ 1307 Conversion or dismissal..... 716
§ 1307:1 Section 1307(a): core concept 719
§ 1307:2 Waiver..... 719
§ 1307:3 Rights after conversion..... 719
§ 1307:4 Conversion to other chapters: § 1307(d) 720
§ 1307:5 Relation to § 1307(f) 720

§ 1307:6 Section 1307(b): core concept 720
§ 1307:7 Conversion versus dismissal: § 349(b) 720
§ 1307:8 Timing of dismissal 720
§ 1307:9 Waiver 720
§ 1307:10 Nearly unqualified right: exceptions 721
§ 1307:11 Relation to § 109(g) 722
§ 1307:12 Comparison with § 707 723
§ 1307:13 Relation to § 1327 723
§ 1307:14 Relation to § 1329 723
§ 1307:15 Preventing abuse of § 1307(b) 723
§ 1307:16 Section 1307(c): core concept 724
§ 1307:17 Comparison with § 1307(a) and (b) 724
§ 1307:18 Relation to § 1307(f) 724
§ 1307:19 Relation to § 1307(g) 724
§ 1307:20 Enumerated causes for conversion or dismissal ... 725
§ 1307:21 Unenumerated causes 727
§ 1307:22 Notice and hearing 731
§ 1307:23 Court's discretion 731
§ 1307:24 Sua sponte conversion or dismissal 732
§ 1307:25 Standing 732
§ 1307:26 Relation to § 362 732
§ 1307:27 Comparison and relation to § 1325 733
§ 1307:28 Comparison with § 1330 733
§ 1307:29 Motions to convert: notices of dismissal 734
§ 1307:30 Section 1307(d): core concept 734
§ 1307:31 Relation to § 1307(f) 734
§ 1307:32 Relation to § 1307(g) 734
§ 1307:33 Timing of conversion: § 1325 734
§ 1307:34 Standing 735
§ 1307:35 Notice and hearing 735
§ 1307:36 Conversion "for cause" 735
§ 1307:37 Section 1307(e): core concept 735
§ 1307:38 Section 1307(f): core concept 736
§ 1307:39 Section 1307(g): core concept 736
§ 1307:40 Relation to § 109 736
§ 1308 Filing of prepetition tax returns 736
§ 1308:1 Section 1308(a): core concept 738
§ 1308:2 Section 1308(b): core concept 738
§ 1308:3 Holding creditors' meeting open 738
§ 1308:4 Section 1308(c): core concept 739
§ 1308:5 Consequence for failing to file 739

SUBCHAPTER II THE PLAN 739

§ 1321 Filing of plan 739
§ 1321:1 Debtor's duty 740
§ 1321:2 Timing 740
§ 1321:3 Failure to file: § 1307(c)(3) 740
§ 1321:4 Debtor's prerogative 740

§ 1321:5 Relation to § 1322 741
§ 1321:6 Preconfirmation modification: § 1323..... 741
§ 1321:7 Postconfirmation modification: § 1329..... 741
§ 1322 Contents of plan 741
§ 1322:1 Section 1322(a): core concept 746
§ 1322:2 Payment from future earnings or income 746
§ 1322:3 Amount to be paid 746
§ 1322:4 Payment to trustee..... 746
§ 1322:5 Payment of priority claims: § 507 747
§ 1322:6 Equal treatment of claims 747
§ 1322:7 Certain domestic support obligations..... 748
§ 1322:8 Section 1322(b): core concept 748
§ 1322:9 Relation to § 1322(a), (c), (d), and (e) 748
§ 1322:10 Classes of unsecured claims: relation to § 1122.... 748
§ 1322:11 Discrimination against classes 748
§ 1322:12 Exception for consumer debt..... 749
§ 1322:13 Modification of secured and unsecured claims..... 749
§ 1322:14 Valuation date..... 749
§ 1322:15 Security interest in personal residence..... 750
§ 1322:16 Curing "any" default..... 756
§ 1322:17 Paying claims concurrently 756
§ 1322:18 Curing defaults on long-term debt 757
§ 1322:19 Claims allowed by § 1305 759
§ 1322:20 Executory contracts and unexpired leases 760
§ 1322:21 Payment by liquidating property..... 760
§ 1322:22 Vesting of estate property..... 761
§ 1322:23 Interest payments on nondischargeable unsecured claims 761
§ 1322:24 Other appropriate provisions 761
§ 1322:25 Section 1322(c): core concept..... 762
§ 1322:26 Termination of right to cure 762
§ 1322:27 Mortgages maturing during performance of plan . 763
§ 1322:28 Section 1322(d): core concept 764
§ 1322:29 Income above median state level..... 764
§ 1322:30 Income below median state level..... 765
§ 1322:31 Computing time: § 1326(a)(1)..... 765
§ 1322:32 Payments beyond 60-month limit and dismissal .. 765
§ 1322:33 Section 1322(e): core concept 765
§ 1322:34 Relation to §§ 506, 1322(b)(2), and 1325(a)(5) 766
§ 1322:35 Section 1322(f): core concept..... 766
§ 1323 Modification of plan before confirmation..... 766
§ 1323:1 Section 1323(a): core concept 767
§ 1323:2 Debtor's right..... 767
§ 1323:3 Limitation on modification: § 1322..... 768
§ 1323:4 Timing: relation to § 1329..... 768
§ 1323:5 Hearing on notice: Rule 3019..... 768
§ 1323:6 Section 1323(b): core concept 768
§ 1323:7 Section 1323(c): core concept..... 769

§ 1323:8 Unsecured claims 769
§ 1323:9 Presumptions: rebutting presumptions 769
§ 1323:10 Rejection versus objection 769
§ 1324 Confirmation hearing 769
§ 1324:1 Section 1324(a): core concept 770
§ 1324:2 Notice: § 102 770
§ 1324:3 Court's duty at hearing 770
§ 1324:4 Objections from parties in interest 771
§ 1324:5 Limitations on objections 771
§ 1324:6 Failure to object: effect of judicial order 772
§ 1324:7 Section 1324(b): core concept 772
§ 1324:8 Hearing: "Held" v. "Concluded" 772
§ 1325 Confirmation of plan 772
§ 1325:1 Section 1325(a): core concept 777
§ 1325:2 Judicial discretion 777
§ 1325:3 Relation to § 1329 779
§ 1325:4 Compliance with Code § 1325(a)(1) 779
§ 1325:5 Payment of fees: § 1325(a)(2) 779
§ 1325:6 Good faith: § 1325(a)(3) 779
§ 1325:7 Protecting unsecured claims: § 1325(a)(4) 781
§ 1325:8 Secured claims: § 1325(a)(5) 782
§ 1325:9 Making the payments: § 1325(a)(6) 787
§ 1325:10 Good faith 788
§ 1325:11 Domestic support obligations 788
§ 1325:12 Filing tax returns 788
§ 1325:13 Section 1325(b): core concept 788
§ 1325:14 Parties authorized to object 789
§ 1325:15 Full payment of claim: first option 789
§ 1325:16 Projected disposable income: second option 789
§ 1325:17 Definitions 789
§ 1325:18 Section 541(b)(7)(A)(i) and (B)(i): Contributions to 401(k) plans 792
§ 1325:19 Social Security and other types of income 792
§ 1325:20 Holder of allowed unsecured claim 793
§ 1325:21 Section 1325(c): core concept 793
§ 1325:22 Judicial discretion 793
§ 1325:23 Anti-assignment laws 793
§ 1325:24 Whether order denying confirmation appealable 794
§ 1325:25 Section 1325(d): core concept 794
§ 1326 Payments 795
§ 1326:1 Section 1326(a): core concept 797
§ 1326:2 Debtor's payments: timing 797
§ 1326:3 Late payments: relation to § 1307 798
§ 1326:4 Payments by trustee 798
§ 1326:5 Confirmation: bar date for claims 799
§ 1326:6 Unconfirmed plans: returning payments 799
§ 1326:7 Relation to §§ 348 and 349 801
§ 1326:8 Relation to § 363 801

§ 1326:9 Maintenance of required insurance coverage 802
§ 1326:10 Section 1326(b): core concept 802
§ 1326:11 Administrative expenses 802
§ 1326:12 Fee for standing trustee 803
§ 1326:13 Fee for Chapter 7 trustee in previously converted or dismissed case 803
§ 1326:14 Section 1326(c): core concept 803
§ 1326:15 Judicial discretion 804
§ 1326:16 Relation to § 1322(a)(1) 804
§ 1326:17 Section 1326(d): core concept 804
§ 1327 Effect of confirmation 805
§ 1327:1 Section 1327(a): core concept 806
§ 1327:2 Notice and hearing prerequisite 806
§ 1327:3 Res judicata: parties and claims affected 806
§ 1327:4 Enforcement 808
§ 1327:5 Relation to § 523 and § 1328 808
§ 1327:6 Relation to § 1307 808
§ 1327:7 Relation to § 1325 808
§ 1327:8 Relation to § 1329 809
§ 1327:9 Relation to § 1330 809
§ 1327:10 Relation to § 362 809
§ 1327:11 Relation to § 502 810
§ 1327:12 Comparison with § 1141 810
§ 1327:13 Section 1327(b): core concept 810
§ 1327:14 Relation to § 1306 811
§ 1327:15 Relation to § 348 812
§ 1327:16 Section 1327(c): core concept 812
§ 1327:17 Exception 813
§ 1327:18 Impact on liens 813
§ 1328 Discharge 814
§ 1328:1 Section 1328(a): core concept 817
§ 1328:2 Compliance with plan 818
§ 1328:3 Comparison with § 1328(b) 818
§ 1328:4 Postpetition consumer claims: § 1328(d) 818
§ 1328:5 Judicial discretion 818
§ 1328:6 Timing 819
§ 1328:7 Waiver of discharge 819
§ 1328:8 Debts discharged: "provided for" 819
§ 1328:9 Debts discharged: disallowance under § 502 820
§ 1328:10 Debts not discharged 820
§ 1328:11 Section 1328(b): core concept 824
§ 1328:12 Judicial discretion 824
§ 1328:13 Notice and hearing 825
§ 1328:14 Prerequisites to discharge under § 1328(b) 825
§ 1328:15 Timing 826
§ 1328:16 Scope of discharge: § 1328(a) and (c) 826
§ 1328:17 Section 1328(c): core concept 826
§ 1328:18 Unsecured claims 826

§ 1328:19 Disallowed claims: § 502 826
§ 1328:20 Exceptions to discharge 826
§ 1328:21 Postpetition consumer claims: § 1328(d)..... 827
§ 1328:22 Section 1328(d): core concept 827
§ 1328:23 Scope 827
§ 1328:24 Prerequisites to discharge..... 827
§ 1328:25 Section 1328(e): core concept 827
§ 1328:26 Ground for revocation 827
§ 1328:27 Alternative grounds for revocation: § 727 828
§ 1328:28 Section 1328(f): core concept..... 828
§ 1328:29 "Chapter 20" or no-discharge Chapter 13 cases ... 829
§ 1328:30 Section 1328(g): core concept 830
§ 1328:31 Section 1328(h): core concept 830
§ 1328:32 Section 1328(i): core concept..... 830
§ 1329 Modification of plan after confirmation 831
§ 1329:1 Section 1329(a): core concept 833
§ 1329:2 Timing..... 833
§ 1329:3 Scope of payments under the plan 834
§ 1329:4 Standing: comparison with § 1321 834
§ 1329:5 Modification grounds: change in circumstance..... 835
§ 1329:6 Judicial discretion..... 836
§ 1329:7 Scope: § 1329(a)(1), (2), and (3)..... 836
§ 1329:8 Limitations on modification..... 837
§ 1329:9 Relation to § 1327..... 837
§ 1329:10 Relation to § 1328..... 838
§ 1329:11 Expenditures for health insurance..... 838
§ 1329:12 List of modifications exclusive..... 839
§ 1329:13 Section 1329(b): core concept 839
§ 1329:14 Requirements of § 1322..... 839
§ 1329:15 Relation to § 1323(c) 839
§ 1329:16 Requirements of § 1325(a) 840
§ 1329:17 Applicability of § 1325(b)..... 840
§ 1329:18 Determining property value and effective date.... 841
§ 1329:19 Displacing the plan: new effective date, notice, and hearing 841
§ 1329:20 Section 1329(c): core concept..... 841
§ 1329:21 Exception: "for cause"..... 842
§ 1329:22 Comparison with § 1322(d)..... 842
§ 1329:23 Measuring time 842
§ 1329:24 Section 1329(d): core concept 842
§ 1329:25 Notice and hearing..... 842
§ 1329:26 Extended plan payments time frame 843
§ 1329:27 Applicable chapter 13 sections..... 843
§ 1329:28 Grace period for payments not modification 843
§ 1330 Revocation of an order of confirmation..... 843
§ 1330:1 Section 1330(a): core concept 844
§ 1330:2 No alternative grounds for revocation 844
§ 1330:3 Relation to § 1327..... 845

§ 1330:4 Standing 845
§ 1330:5 Timing 845
§ 1330:6 Notice and hearing 846
§ 1330:7 Judicial discretion 846
§ 1330:8 Defining fraud 846
§ 1330:9 Section 1330(b): core concept 846
§ 1330:10 Conversion or dismissal under § 1307 846
§ 1330:11 Modification under § 1329 846

CHAPTER 15 ANCILLARY AND OTHER CROSS-BORDER CASES 847

§ 1501 Purpose and scope of application 850
§ 1501:1 Section 1501(a): core concept 852
§ 1501:2 Ancillary jurisdiction 853
§ 1501:3 Foreign Proceeding 853
§ 1501:4 Section 1501(b): core concept 853
§ 1501:5 Section 1501(c): core concept 853
§ 1501:6 Section 1501(d): core concept 854
§ 1501:7 Relationship to § 1517 854
§ 1501:8 Limits on applicability of Chapter 15 854

SUBCHAPTER I GENERAL PROVISIONS 854

§ 1502 Definitions 854
§ 1502:1 Debtor 855
§ 1502:2 Establishment 856
§ 1502:3 Foreign court 857
§ 1502:4 Foreign main proceeding 857
§ 1502:5 Foreign nonmain proceeding 858
§ 1502:6 Trustee 859
§ 1502:7 Recognition 859
§ 1502:8 Territorial jurisdiction of the U.S. 859
§ 1503 International obligations of the United States 859
§ 1503:1 International obligation of the U.S. 860
§ 1504 Commencement of ancillary case 860
§ 1504:1 Procedure for commencing case 860
§ 1505 Authorization to act in a foreign country 861
§ 1505:1 Authorization to act in foreign country 861
§ 1506 Public policy exception 861
§ 1506:1 "Manifestly contrary" public policy 862
§ 1506:2 Narrow Scope 862
§ 1507 Additional assistance 863
§ 1507:1 Section 1507(a): core concept 864
§ 1507:2 Limitation on additional assistance 864
§ 1507:3 Section 1507(b): core concept 864
§ 1507:4 Relation to § 1521 865
§ 1508 Interpretation 865
§ 1508:1 Mandated interpretation 866

SUBCHAPTER II ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT 866

§ 1509 Right of direct access 866
§ 1509:1 Section 1509(a): core concept 868
§ 1509:2 Section 1509(b): core concept 868
§ 1509:3 Section 1509(c): core concept 868
§ 1509:4 Section 1509(d): core concept 868
§ 1509:5 Section 1509(e): core concept 869
§ 1509:6 Section 1509(f): core concept 869
§ 1510 Limited jurisdiction 869
§ 1510:1 Limited jurisdiction 870
§ 1511 Commencement of case under section 301, 302, or 303 870
§ 1511:1 Section 1511(a): core concept 870
§ 1511:2 Section 1511(b): core concept 871
§ 1512 Participation of a foreign representative in a case under this title 871
§ 1512:1 Party in interest 871
§ 1513 Access of foreign creditors to a case under this title 871
§ 1513:1 Section 1513(a): core concept 872
§ 1513:2 Section 1513(b): core concept 872
§ 1513:3 Nondiscrimination as to priority of claim 872
§ 1513:4 Foreign revenue claims 872
§ 1513:5 Applicable tax treaties 873
§ 1514 Notification to foreign creditors concerning a case under this title 873
§ 1514:1 Section 1514(a): core concept 874
§ 1514:2 Section 1514(b): core concept 874
§ 1514:3 Exception: court's discretion 874
§ 1514:4 Formalities of notice 874
§ 1514:5 Section 1514(c): core concept 874
§ 1514:6 Section 1514(d): core concept 874

SUBCHAPTER III RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF 874

§ 1515 Application for recognition 874
§ 1515:1 Section 1515(a): core concept 875
§ 1515:2 Requirement of appointment "in" foreign proceeding 876
§ 1515:3 Section 1515(b): core concept 876
§ 1515:4 Section 1515(c): core concept 876
§ 1515:5 Section 1515(d): core concept 877
§ 1516 Presumptions concerning recognition 877
§ 1516:1 Section 1516(a): core concept 877
§ 1516:2 Section 1516(b): core concept 878
§ 1516:3 Section 1516(c): core concept 878

§ 1517 Order granting recognition 879
§ 1517:1 Section 1517(a): core concept 880
§ 1517:2 Notice and hearing requirement 881
§ 1517:3 Applicability of § 109(a) 881
§ 1517:4 Public policy limitation 881
§ 1517:5 Recognition compared with relief 882
§ 1517:6 Section 1517(b): core concept 882
§ 1517:7 Relation to § 1502 882
§ 1517:8 "Pending" requirement 882
§ 1517:9 Section 1517(c): core concept 883
§ 1517:10 Section 1517(d): core concept 883
§ 1517:11 Consideration for modification or termination 883
§ 1517:12 Closing of Chapter 15 cases 884
§ 1518 Subsequent information 884
§ 1518:1 Reporting on later developments 885
§ 1519 Relief that may be granted upon filing petition for recognition 885
§ 1519:1 Section 1519(a): core concept 886
§ 1519:2 Forms of relief permitted 886
§ 1519:3 Section 1519(b): core concept 887
§ 1519:4 Section 1519(c): core concept 887
§ 1519:5 Section 1519(d): core concept 887
§ 1519:6 Section 1519(e): core concept 887
§ 1519:7 Section 1519(f): core concept 887
§ 1519:8 Relation to § 1522 887
§ 1520 Effects of recognition of a foreign main proceeding 887
§ 1520:1 Section 1520(a): core concept 888
§ 1520:2 Applicable bankruptcy provisions 889
§ 1520:3 Section 1520(b): core concept 890
§ 1520:4 Section 1520(c): core concept 890
§ 1520:5 Additional powers of foreign representative 890
§ 1521 Relief that may be granted upon recognition 891
§ 1521:1 Section 1521(a): core concept 893
§ 1521:2 Comparison with § 1520 893
§ 1521:3 Scope of relief 893
§ 1521:4 Limitation on relief 894
§ 1521:5 Relation to § 1522 895
§ 1521:6 Analysis under § 1521 and relation to prior § 304 895
§ 1521:7 Section 1521(b): core concept 896
§ 1521:8 Prerequisite 896
§ 1521:9 Comparing § 1521(a)(5) with § 1521(b) 896
§ 1521:10 Section 1521(c): core concept 896
§ 1521:11 Choice of law 896
§ 1521:12 Section 1521(d): core concept 897
§ 1521:13 Section 1521(e): core concept 897
§ 1521:14 Section 1521(f): core concept 897
§ 1522 Protection of creditors and other interested persons 897

§ 1522:1 Section 1522(a): core concept 898
§ 1522:2 Section 1522(b): core concept 898
§ 1522:3 Section 1522(c): core concept 898
§ 1522:4 Section 1522(d): core concept 899
§ 1523 Actions to avoid acts detrimental to creditors 899
§ 1523:1 Section 1523(a): core concept 899
§ 1523:2 Section 1523(b): core concept 900
§ 1524 Intervention by a foreign representative 900
§ 1524:1 Intervention by foreign representative 900

SUBCHAPTER IV COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES 901

§ 1525 Cooperation and direct communication between the court and foreign courts or foreign representatives 901
§ 1525:1 Section 1525(a): core concept 901
§ 1525:2 Section 1525(b): core concept 902
§ 1526 Cooperation and direct communication between the trustee and foreign courts or foreign representatives .. 902
§ 1526:1 Section 1526(a): core concept 902
§ 1526:2 Section 1526(b): core concept 902
§ 1527 Forms of cooperation 903
§ 1527:1 Types of cooperation authorized 903

SUBCHAPTER V CONCURRENT PROCEEDINGS . 904

§ 1528 Commencement of a case under this title after recognition of a foreign main proceeding 904
§ 1528:1 Cases filed after recognition 905
§ 1528:2 Limitation on in rem jurisdiction 905
§ 1529 Coordination of a case under this title and a foreign proceeding 905
§ 1529:1 Coordination of foreign proceedings with pending cases 906
§ 1529:2 Limitation on powers of foreign representatives 907
§ 1529:3 Prior relief not affected 907
§ 1529:4 Bankruptcy case initiated after recognition 907
§ 1529:5 Foreign nonmain proceedings 907
§ 1529:6 Coordination with § 305 907
§ 1530 Coordination of more than 1 foreign proceeding 907
§ 1530:1 Coordination of multiple foreign proceedings 908
§ 1530:2 Foreign main proceeding filed first 908
§ 1530:3 Nonmain proceeding filed first 908
§ 1530:4 Multiple nonmain proceedings 908
§ 1531 Presumption of insolvency based on recognition of a foreign main proceeding 908
§ 1531:1 Presumption of insolvency 909
§ 1532 Rule of payment in concurrent proceedings 909
§ 1532:1 Payments in concurrent proceedings 910

§ 1532:2 Secured creditors 910

Table of Laws and Rules

Table of Cases

Index