# **Index**

### ABANDONMENT OF PROPERTY

Supreme Court, polluted property may not be abandoned, property of estate: Midlantic Nat'l Bank v. New Jersey Dept. of Environmental Protection, 15:36

Valueless property, 6:11

# ABSOLUTE PRIORITY, BUSINESS **REORGANIZATION RULE**

Generally, 12:17, 12:21

Contribution of new value as exception to

Generally, 12:21

Credit bidding: Radlax Gateway Hotel, LLC v. Amalgamated Bank, 15:90

### ABSTENTION

Bankruptcy court jurisdiction

Generally, 3:6

Code Section 305, **2:11**, **3:6** 

Discretionary abstention under 28 U.S.C. Section 1334(c), 3:6

Mandatory and discretionary abstention under 28 U.S.C. Section 1334(c), 3:6

Claims, estimating, 8:8

Eligible debtors, 2:1

Involuntary petition, 2:11, 3:6 Voluntary petition, 2:6, 3:6

### ABUSE OF BANKRUPTCY

**Bad Faith** (this index)

# **ACCOUNTANTS**

Fees as administrative expense, 8:12

### ACCOUNTS

**Bank Account** (this index)

# ACQUISITION OF PROPERTY

Exemption, 7:9

### ACTUAL FRAUD

Fraudulent representation: Husky International Electronics Inc. v. Ritz, 15:80

Reliance, 11:7

# ADEQUATE ASSURANCE UNDER **CODE SECTION 365**

Generally, 9:9, 9:17

# ADEQUATE PROTECTION

Adjustment of debts (of family farmer with regular annual income), Chapter 12 estate administration, 14:7

Automatic stay

Chapter 12 estate, administration, 14:7

Code Section 361, infra

Chapter 12 estate, administration, automatic stay, 14:7

Code Section 361

Automatic stay

Generally, 5:6

Fifth Amendment protection of property, 5:6

Context of Chapter 11, 9:1

Creditors and shareholders not entitled, 9:1

Lost opportunity values, **5:6** 

Super priority for inadequate protection, 5:6

Creditors and shareholders not entitled to Code Section 361. 9:1

Lost opportunity values and Code Section 361, 5:6

Super priority for inadequate protection, Code Section 361, 5:6

# ADJUSTMENT OF DEBTS (OF **FAMILY FARMER WITH** REGULAR ANNUAL INCOME)

Adequate protection, Chapter 12 estate administration, 14:7

ADJUSTMENT OF DEBTS (OF	ADJUSTMENT OF DEBTS (OF AN
FAMILY FARMER WITH	INDIVIDUAL WITH
REGULAR ANNUAL	REGULAR INCOME) UNDER
INCOME)—Cont'd	CHAPTER 13—Cont'd
Administration. Estate, Chapter 12,	Administration—Cont'd
infra	Problems of estate administration,
Automatic stay and adequate protec-	infra
tion, Chapter 12 estate	Best interest test, 13:8
administration, 14:7	Church tithe, 13:13
Classification, cure, and cramdown, Chapter 12 plan, <b>14:12</b>	Classes of creditors, 13:8
Conversion. Selecting Chapter 12 and	Conversion to and from Chapter 13, 13:2
conversion to or from Chapter	
12, infra	Cram down of secured creditor, <b>13:11</b> Creditors
Discharge, 14:13	Modifying rights of secured credi-
Estate, Chapter 12	tors, infra
Generally, 14:4	Modifying rights of unsecured
Administration	creditors, infra
Generally, <b>14:5</b>	Default, curing, 13:10
Assumption or rejection of exec-	Disbursement of payments, <b>13:5</b>
utory contracts and leases,	Discharge
14:9	Generally, 11:22
Automatic stay and adequate	Hardship, <b>13:14</b>
protection, 14:7	Priority creditors not discharged,
Cash collateral, 14:8	13:9
Introduction, 14:5	Super discharge in Chapter 13,
Standing Chapter 12 trustee and	11:22, 13:14
debtor in possession, <b>14:6</b>	Discriminatory treatment of creditors,
Introduction, 14:1	13:8, 13:12
Plan, Chapter 12	Disposable income, 13:13
Generally, 14:10	Effective date of plan, 13:9
Classification, cure, and	Effective reorganization under sec-
cramdown, 14:12	tion 362, <b>5:6, 13:6</b>
Introduction, 14:10	Eligibility, 13:2
Payment and good faith, 14:3	Exempt property, <b>13:4</b>
Selecting Chapter 12 and conversion	Filing proof of claim, 13:7, 13:9
to or from Chapter 12	Good faith after the 1984 Amend-
Generally, <b>14:2</b> , <b>14:3</b>	ments, 13:14
Distinguishing "family farmer"	Income deduction order, 13:12
and "farmer," 14:2	Interest on deferred tax claims, 13:9
ADJUSTMENT OF DEBTS (OF AN	Involuntary not available, 2:7, 13:2
INDIVIDUAL WITH	Modification of confirmed plan, 13:2
REGULAR INCOME) UNDER	Modifying rights of secured creditors
CHAPTER 13	Generally, 13:7
Generally, 13:1 et seq.	Cram down of objecting secured
Adequate protection payments, 13:5	creditor, 13:11
Administration	Filing of proofs of claim, 13:7
Estate in Chapter 13, generally, 9:1	Long term debt, 13:10

#### ADJUSTMENT OF DEBTS (OF AN ADJUSTMENT OF DEBTS (OF AN INDIVIDUAL WITH INDIVIDUAL WITH **REGULAR INCOME) UNDER** REGULAR INCOME) UNDER CHAPTER 13—Cont'd CHAPTER 13—Cont'd Modifying rights of secured creditors Time —Cont'd Effective date of plan, supra Payments to, inside and outside the Limit of plan, 13:10 plan, 13:12 Tithe to church, 13:13 Modifying rights of unsecured credi-Trustees, 4:10, 10:2, 13:6 tors Underwater mortgage, debtor's Generally, 13:9 power to strip second mortgage, Classification of unsecured credi-13:10 tors, 13:8 Unsecured creditors. Modifying rights of unsecured creditors, Priority creditors, 8:10, 13:9 Mortgage, curing default, 13:10 Voting by creditors, 13:3 Overview of Chapter 13, 1:9 Pension plans, 13:13 ADMINISTRATION (OF Plan **BANKRUPTCY ESTATE**) Generally, 13:6, 13:9, 13:10, Generally, 9:1 et seq. 13:14 See also topics Adjustment of debts Conversion, 13:15 (of an individual with regular income) under Chapter 13; **Dismissal**, **13:15** Adjustment of debts (of family Modification, 13:15 farmer with regular annual Reasonable and necessary expense, income); Supreme Court (this 13:13 index) Post-bankruptcy property, 6:9, 13:4 Adequate assurance, 9:2, 9:9 Problems of estate administration Adequate protection, 9:1 Generally, 13:3 Automatic stay to protect, 5:2 Automatic stay in Chapter 13, 13:5 Avoiding powers. See specific power Avoiding powers, **10:2**, **13:6** such as **Preference** (this index) Cash collateral, 13:6 Bankruptcy judge role, 4:2, 9:4 Chapter 13 trustee, 13:6 Business judgment criteria, 9:4, 9:10 Chapter 11 estate administration Credit, **13:6** Creditors' committee expenses, 4:8 Cure of mortgage in default, 13:10 Distinctive problems, 9:1 Estate, expanding and contracting Chapter 12 estate nature of, 6:9, 13:4 Generally, 14:5 Executory contract, 13:6 Assumption or rejection of execu-Exemptions, 7:4, 13:4 tory contracts and leases, 14:9 Projected disposable income, 13:13 Automatic stay and adequate Reasonable and necessary expense, protection, 14:7 13:13 Cash collateral, 14:8 Secured claim as affecting available Introduction, 14:5 property, 6:9, 13:4 Standing Chapter 12 trustee and Secured creditors. Modifying rights debtor in possession, **14:6** of secured creditors, supra Code Section 365. Executory Social security funding, 13:2 contracts under Code Section Super discharge, 11:17, 11:22, 13:14 365, infra

Lost opportunity values, demand for,

5:6

### ADMINISTRATION (OF ADMINISTRATION (OF **BANKRUPTCY ESTATE**) **BANKRUPTCY ESTATE**) —Cont'd —Cont'd Consolidation. Joint, or consolida-Statutory creditors' committee tion, in bankruptcy case, infra expenses, 4:8 Credit. Obtaining credit to administer Use, sale or lease of property of estate, infra Code Section 363, 9:3 Creditors' committee expenses, 4:8 Detachment of bankruptcy judge Discharge, exceptions, sale of collateral, **11:9** from administration, 4:2 Disposition of encumbered prop-Estate administration, generally, 9:1 erty, 9:6 Executory contracts under Code Sec-Judicial deference to business tion 365 judgment, 9:4 Generally, 9:8 Leases Bankruptcy clause not recognized, Administrative rent claim, 8:9 Assuming unexpired lease, 9:15 Cancellation for pre-bankruptcy Bankruptcy clause not breach, 9:9 recognized, 9:15 Collective bargaining contract, Curing default, 9:17 9:13 Lessor as debtor, 9:19 Contracts for sale of land, 9:12 Shopping center lease, 9:18 Contracts of financing for Termination of lease before transportation equipment, bankruptcy, 9:16 9:14 Unexpired lease defined, 9:17 Defining the executory contract, Leases, under Code Section 365, 9:8 9:15 Rejecting the executory contract, Liquidation through Chapter 11, 9:10 9:3, 12:2 Time shares, 9:12 Ordinary course of business, 9:3 Expenses of administration, 8:12 Rent as administrative expense, Family farmer. Chapter 12 estate, 8:9 supra Sales in and out of ordinary course, First day orders, 9:1 Joint, or consolidation, in bankruptcy Utility service, 9:2 ADMINISTRATIVE CLAIMS Generally, 2:12 Administrative Expenses (this Community claim and estate, 2:14 index) Joint petition by spouses, 2:13 **Claims** (this index) Subsidiaries and affiliates, 2:15 Leases. Use, sale or lease of property ADMINISTRATIVE EXPENSES of estate, infra Generally, 8:12 Multiple entities, consolidation, 2:15 See also specific topics Obtaining credit to administer estate Adequate protection, **5:6** Generally, 9:7 Burial expenses, 8:12, 8:20 Environmental protection, 9:7 Creditors' committee in Chapter 11, Routine business needs, 9:7 4:8

Sale of property. Use, sale or lease of

property of estate, infra

# **ADMINISTRATIVE EXPENSES**

—Cont'd Rent. 8:9

### ADVERSARY HEARING

Student loan discharge without adversary hearing on undue hardship is final, plan confirms: *United Student Aid Funds, Inc. v. Espinosa*, **15:100** 

### **AFFILIATES**

Initiation of bankruptcy case, 2:15 Insider, preference, 10:11

### AFFIRMATIVE CLASS

Confirmation requirement in Chapter 11. **12:12** 

### AFTER NOTICE AND HEARING

Code Section 102, 1:4, 4:2

# ALTERNATIVES TO BANKRUPTCY

Generally, 1:2

Assignment for the benefit of creditors, **1:2** 

Bulk sales, 1:2

Composition or extension, **1:2** Lender liability, **1:2** 

### **AMENDMENTS**

Bankruptcy Amendments and Federal Judgeship Act of 1984 (this index)

### AMOUNT OF CLAIM

Filing estimate, 8:8

# **APPEALS**

Generally, 3:10

See also topics Bankruptcy court jurisdiction; Supreme Court (this index)

Bankruptcy appellate panel, **3:10** District court or court of appeals, **3:10** 

Finality as condition for appeal, **3:10** Stay pending appeal, **3:10** 

Supreme Court, circuit courts of appeal may review interlocutory orders of bankruptcy courts reviewed by district court: *Con-*

### APPEALS—Cont'd

necticut Nat'l Bank v. Germain, 15:10

### ASBESTOS SETTLEMENT

Direct action by victims extends to insurers of debtor: *Travelers Indemnity Co. v. Bailey*, **15:17** 

# ASSIGNMENT FOR BENEFIT OF CREDITORS

Alternative to bankruptcy, 1:2
Appointment of assignee as grounds for involuntary petition, 2:8

### ATTORNEY-CLIENT PRIVILEGE

Supreme Court, corporate: Commodity Futures Trading Com'n v. Weintraub, 15:23

### **ATTORNEYS**

Fees. Attorney's Fees (this index)
Strategy (this index)
Supreme Court (this index)

## ATTORNEY'S FEES

Carve-out fund, payment through, 8:13

Chapter 7 debtor's fees, payment out of estate: *Lamie v. U.S. Trustee*, **15:63** 

Chapter 13, 13:2

Contract to pay post-petition fees not limited to litigating non-bank-ruptcy issues: Travelers Casualty & Surety Co. of America v. Pacific Gas & Electric Co., 15:58

Divorce action as including, exception from discharge, **11:16** 

Excessive, 8:13

Fees as administrative expense, 8:12
Imposition of, failure in asserting
fraud exception to discharge,
11:16

Installments, 8:13

# **AUTOMATIC STAY**

**Adequate Protection** (this index)

Adjustment of debts (of family farmer with regular annual income), Chapter 12 estate

### AUTOMATIC STAY-Cont'd

administration, 14:7

Bank account freeze, 5:2

Cause and equity cushion analysis, 5:5

Chapter 13, discharge through, **11:22** Claims by creditors and distribution in bankruptcy, **8:1** 

Co-debtors in Chapters 12 and 13, 13:5

Compulsion of business with debtor by use, **5:2** 

Contempt for violation, 5:7

Counterclaims in proceedings to relieve, **5:4** 

Effective reorganization under section 362(d), **5:6** 

Environmental protection, **5:3** 

Exceptions, Code Section 362(b), **5:3** Expedited and preliminary hearing,

5:4

Federal Reserve Board proceedings excepted: Board of Governors of the Federal Reserve System v. M Corp. Financial, Inc., 15:32

Fifth Amendment protection, **5:6** Injunction under section 105 as alternative, **5:2** 

Letter of credit, 5:2

Lift of stay as alternative to dismissal, **1:4** 

Non-debtor injunctions, Code Section 105, **5:2** 

Police or regulatory action as exception, **5:3** 

Proceedings to relieve or modify, **5:4** Providing adequate protection, **5:6** Redemption from foreclosure sale, **5:2** 

Scope, generally, 5:2

Section 362(a), scope of, 5:1

Set-off, **5:2**, **10:13** 

Strikes or picketing, 5:3, 9:12

**Supreme Court** (this index)

Tribes, automatic stay, sovereign immunity

Lac du Flambeau Band v. Coughlin, **15:24** 

### AUTOMOBILES

Car Ownership, Cost Deductions (this index)

### AVOIDING POWERS OF TRUSTEE

See also **Supreme Court** (this index) Generally, **10:1** 

Alternative claims invoking, 10:1

Chapter 13 exercise of, **10:2**, **13:6** 

Debtor in possession may exercise as to bulk sale, 1:2, 10:7

Debtor or debtor in possession, **10:2** Effect of using, **10:1** 

Exemptions, protecting, 10:2

Fraudulent transfer, buyouts: *Merit Management Group, LP v. FTI Consulting, Inc.*, **15:70** 

Fraudulent transfers, **10:7**, **10:14 to 10:16** 

Limitations upon actions, two years, **10:19** 

Non-bankruptcy law, **10:7** 

Post-bankruptcy transfers, 10:21

Preferential transfers, 10:8

Preservation of avoided transfers, 10:18

Real property transfers, 10:6

Recovered property as part of estate,

Set-off, 10:13

Statutory liens, 10:17

Strong-arm clause, Code Section 544(a), **10:4 to 10:6** 

Turnover orders, 10:3

Unperfected security interest, 10:5

## **BAD FAITH**

See also **Good Faith** (this index)

Chapter 13 plan, denial of confirmation, **13:14** 

Confirmation standards

Chapter 11, 12:10

Chapter 13, 13:14

Debt relief agency for consumer debtors, includes attorneys not advising abuse of bankruptcy: *Milavetz, Gallop & Milavetz, P.A. et. al v. U.S.*, **15:29** 

Discharge in bankruptcy. **Discharge** (of Claims) (this index)

### BAD FAITH—Cont'd

Dismissal

Chapter 11 petition, **1:8**, **2:6**Chapter 13 petition, **13:2**Sanctions upon dismissal of involuntary petition, **2:10** 

### **BANK ACCOUNT**

Automatic stay

Generally, 5:2

Administrative freeze of bank account not in violation of automatic stay: Citizens Bank of Maryland v. Strumpf, 15:33

Collateral subject to estate administration, **9:6** 

Set-off, 10:13

Turnover order, 10:3

### **BANKING**

**Banks and Banking** (this index)

# BANKRUPTCY AMENDMENTS AND FEDERAL JUDGESHIP ACT OF 1984

See also specific subjects

Generally, 3:2

Basic structure, 3:2

Consent, withdrawal, and proceedings involving personal injury, 3:5

Core proceedings, 3:3

Jury trial, 3:7

Related proceedings, 3:4

# **BANKRUPTCY CLAUSES**

Non-recognition, 9:9, 9:16

### BANKRUPTCY COURT

Court clerk, 4:3

Deference to, voting impaired class, creditor: U.S. Bank NA v. Village at Lakeridge, LLC, 15:93

Jurisdiction. Bankruptcy Court Jurisdiction (this index)

Supreme Court, exempt property; authority to surcharge homestead exemption for debtor's fraud: *Law v. Siegel*, **15:44** 

# BANKRUPTCY COURT JURISDICTION

See also topics Bankruptcy Amendments and Federal Judgeship Act of 1984; Bankruptcy

Judge (this index)

Abstention from jurisdiction

Generally, 3:6

Abstention under Bankruptcy Code Section 305, 1:8, 2:11, 3:6

Discretionary abstention under 28 U.S.C. Section 1334(c), **3:6** 

Mandatory and discretionary abstention and the related proceeding under 28 U.S.C. Section 1334(c), **3:6** 

**Appeals** 

Generally, 3:10

Bankruptcy Amendments and Federal Judgeship Act of 1984. **3:10** 

Reform Act, 3:10

Approval of administrative expense, **8:12** 

# Bankruptcy Amendments and Federal Judgeship Act of 1984 (this index)

Chapter 11 bankruptcy court has initial jurisdiction to enjoin collection on supersedeas bond against final judgment: *Celotex Corp. v. Edwards*, **15:11** 

Chapter 15, overview, 1:11

Conclusions, 3:11

Core proceedings, 3:3

Denial of confirmation not final order: *Bullard v. Blue Hills Bank*. **15:19** 

Denial without reservation of a motion to lift the automatic stay is a final order: Ritzen Group, Inc. v. Jackson Masonry, LLC, 15:20

Emergency rule, 3:1

Judges. **Bankruptcy Judge** (this index)

Marathon decision, 3:4

Proceedings, 3:1

Related proceedings, 3:4

# BANKRUPTCY COURT JURISDICTION—Cont'd

Review. Appeals, supra Stern Claims, **15:21** 

**Supreme Court** (this index)

Venue

Generally, 3:9

Bankruptcy case: 28 U.S.C. Section 1408, **3:9** 

Bankruptcy proceedings: 28 U.S.C. Section 1409, **3:9** 

Transfer of venue: 28 U.S.C. Section 1412, **3:9** 

# **BANKRUPTCY JUDGE**

Approval of administrative expenses, **8:1** 

Authority and role, **4:2, 9:4, 9:10** 

"Best interest of creditors" test, reorganization plan, **12:11** 

Business judgment, deferral, **9:4**, **9:10** 

Executory contract, assume or reject, 9:10

Unexpired lease, assume or reject, **9:17** 

# BANKRUPTCY JUDGES, UNITED STATES TRUSTEES, AND FAMILY FARMER BANKRUPTCY ACT OF 1986

See specific topics throughout this index

### **BANKRUPTCY RULES**

Conflict with Emergency Rule, 3:1

# BANKS AND BANKING

Accounts. **Bank Account** (this index) Avoidance, buyouts: *Merit Management Group, LP v. FTI Consulting, Inc.*, **15:70** 

Claims, capital maintenance by depository institution, **8:19** 

Eligibility for bankruptcy, 2:1

Savings and loan associations, ineligible for bankruptcy, **2:1** 

Supreme Court, avoiding powers: *Barnhill v. Johnson*, **15:67** 

### **BONA FIDE DISPUTES**

Involuntary bankruptcy, review by court, **2:9** 

# **BONA FIDE PURCHASER**

Property of estate not transferred to trustee, **6:1**Test for statutory liens, **10:17** 

### **BULK SALE**

Alternative to bankruptcy, 1:2 Avoidance, 10:7

### BURDEN OF PROOF

Corporate tax willfully ignored: Raleigh v. Illinois Dept. of Revenue, **15:56** 

**Discharge (of Claims)** (this index)

### **BURIAL EXPENSES**

Administrative expenses, 8:12, 8:20

# **BUSINESS JUDGMENT**

Estate administration, 9:4, 9:10

### **BUSINESS NEEDS**

Obtaining credit for routine business needs, **9:7** 

## BUSINESS REORGANIZATION

See also topics Administration of estate; Claims; Supreme Court (this index)

Generally, 12:1 et seq.

Absolute priority rule

Generally, **12:17**, **12:21** 

Contribution of new value as exception to, **12:21** 

Contribution of new value as exception to: Norwest Bank Worthington v. Ahlers, 15:84

Credit bidding: Radlax Gateway Hotel, LLC v. Amalgamated Bank, **15:90** 

Adequate information for plan, 12:9 Administrative and other priorities, 8:10

Affirmative class for confirmation, 12:12

Allocation of plan payments to trust fund taxes: *U.S. v. Energy Resources Co.*, **15:85** 

BUSINESS REORGANIZATION	BUSINESS REORGANIZATION		
—Cont'd	—Cont'd		
Business judgment in administration,	Individual Chapter 11 debtor, 12:24		
9:4, 9:10	Interest upon deferred payment,		
Cash collateral, 9:6	12:13		
Claims, 8:5	Lender's deficiency, new value con-		
Claims: Pioneer Inv. Services Co. v.	tribution, 12:21		
Brunswick Assoc. Ltd. Partner-	Likelihood of further bankruptcy,		
ship, <b>15:87</b>	feasibility, 12:14		
Confirmation of plan, 12:10	Liquidation clause, 12:14		
Conversion to and from Chapter 11,	Liquidation in Chapter 11, 9:5, 12:2		
12:3	Market measurement, contribution of		
Cram down	new value as exception to: Bank		
Generally, 12:17	of America Nat'l Trust and Sav. Ass'n v. 203 North LaSalle		
Discrimination among classes,	Street Partnership, 15:88		
12:18	Negotiation as central to, 12:1		
Exchange securities, issuance, 12:22	Overview, 1:4, 12:1		
Fair and equitable, generally,	Pension liabilities: <i>Pension Ben</i> .		
12:19	Guar. Corp. v. LTV Corp., 15:86		
Impairment of classes, 12:20	Plan		
Lender's deficiency, new value	Confirmation, <b>12:10</b>		
contribution, 12:21	Cram down, <b>12:17</b>		
Subordination of claims, 12:18	Debtor's exclusive right to		
Creditors committee, role, 12:1	propose, 12:1		
Cure of default, 12:7	Opponents, disclosure criteria,		
Debtor ordered to assume more pen-	12:9		
sion liabilities: <i>Pension Ben</i> .	Pre-packaged, 12:25		
Guar. Corp. v. LTV Corp., 15:86	Proper classification, impairment of		
Debtor's assets, sale without plan,	classes, <b>12:6</b>		
12:4	Real estate debtor, single asset, 12:24		
Discharge, <b>11:21</b> , <b>12:16</b>	Sale of debtor's assets without plan,		
Disclosure statement, 12:9	12:4		
Discrimination among classes, 12:18	Securities issued to fund plan, 12:8		
Drop dead clause, 12:14	Single asset real estate debtor, 12:24		
Effective date of plan, 12:15	Small business debtor, 12:24		
Election under Code Section 1111(b),	Stamp tax exemption requiring sale		
12:23	after confirmed plan: Florida Dept. of Revenue v. Piccadilly		
Eligibility of persons not engaged in	Cafeterias, Inc., <b>15:89</b>		
business, 1:4, 2:1	Subordination of claims, <b>12:6</b> , <b>12:18</b>		
Exchange securities, issuance, 12:22	Trust fund taxes, allocation of plan		
Fair and equitable, generally, <b>12:19</b>	payments to: U.S. v. Energy		
Further bankruptcy, likelihood, <b>12:14</b>	Resources Co., 15:85		
Gerrymandering, impairment of classes, <b>12:6</b>	Visionary debtor, 12:14		
Good faith of debtor, 12:3	BUYOUTS		
Immunity from securities regulation,			
12:8	Fraudulent transfers: Merit Manage- ment Group, LP v. FTI Consult-		
Impairment of classes 12:7 12:20	ing Inc. 15:70		

### CAPITAL GAINS

Sale of farm not a tax incurred by estate: *Hall v. United States*, **15:92** 

# CAR OWNERSHIP, COST DEDUCTIONS

Supreme Court, deduction disallowed without actual loan or lease payments: *Ransom v. FIA Card Services N.A.*, **15:102** 

### **CARVE-OUT FUND**

Attorney and professional fees, administrative expenses, **8:13** 

# CASES AND CONTROVERSIES Bankruptcy Court Jurisdiction (this index)

# CASH ADVANCE

Credit card fraud or misuse, exceptions to discharge of claim, 11:8

### **CASH COLLATERAL**

Access to and automatic stay, **5:2** Chapter 12, administration of estate, **14:8** 

Chapter 13, debtor, 13:6 First day orders, 9:1 Set-off, 10:13 Use by estate, 9:6

# **CASH MANAGEMENT ISSUES**

First day orders, 9:1

## CASH PROCEEDS

Defined, 9:6

# CAUSE AND EQUITY CUSHION ANALYSIS

Automatic stay, 5:5

### **CHAPTER 7**

See also specific matter
Attorneys' fees paid out of debtor's estate: *Lamie v. U.S. Trustee*,
15:63

Conversion from Chapter 7 to Chapter 13 tempered by good faith: Marrama v. Citizens Bank of Massachusetts, 15:99

Overview, 1:3

### **CHAPTER 11**

See also specific matter

Generally. See **Business Reorgani- zation** (this index)

Estate administration. Administration (of Bankruptcy Estate) (this index)

### **CHAPTER 12**

See also **Adjustment of Debts** (of Family Farmer with Regular Annual Income) (this index); also see specific topics

Family fishermen bankruptcy, **1:10**Farm bankruptcy, **1:10**, **4:10**, **6:9**, **7:4**, **15:92** 

### **CHAPTER 13**

Generally. Adjustment of Debts (of an Individual with Regular Income) under Chapter 13 (this index)

# **CHAPTER 15**

**Cross-Border Insolvencies** (this index)

### CHARITABLE CONTRIBUTIONS

Reasonable and necessary expenses for Chapter 13 plan, **13:13** 

# **CHILD SUPPORT**

Exception to discharge, 11:14

# **CHOICES**

Chapter 7, overview of bankruptcy choices, **1:3** 

Chapter 11, overview of bankruptcy choices, **1:4** 

Chapter 12, overview of bankruptcy choices, **1:10** 

Chapter 13, overview of bankruptcy choices, **1:9** 

Chapter 15, overview of bankruptcy choices, **1:11** 

Law and state preemption. Exempt and Immune Property (this index)

Non-bankruptcy alternatives, overview of bankruptcy choices, 1:2

CLAIMS	CLAIMS—Cont'd
See also <b>Supreme Court</b> (this index)	Pension claims, subordination of
Generally, 8:1	noncompensatory tax claims,
Abstention to permit estimating of,	8:18
8:8	Priority
Administrative priority	Generally, <b>8:1, 8:10</b>
Expenses of administration, <b>8:12</b>	Capital maintenance, depository
Petitioning creditors for involun-	institution, 8:19
tary bankruptcy, 2:8	Drunk driving, 8:20
Rent, <b>8:9</b>	Administrative priority, supra
Super priority for inadequate protection, <b>5:6</b>	Rent, <b>8:9</b>
Allowance of, 8:7	Secured creditors, 8:4, 8:5
Amount of claim, filing estimate, <b>8:8</b>	Secured measured by value, 8:1
Automatic stay, post-petition and	Stale debt: Midland Funding, LLC v. Johns, 15:59
pre-petition claims, 8:1, 11:22	Subordination, 8:21
Capital maintenance, depository	Super priority, 8:21
institution, 8:19	Timely filing, 8:6
Chapter 11, double deeming of listed	Timely filing: Pioneer Inv. Services
claims, <b>8:6</b>	Čo. v. Brunswick Assoc. Ltd.
Chapter 13, <b>11:22</b>	Partnership, 15:52, 15:87
Class claims, 8:6	Unliquidated, 8:1, 8:8
Community property claims, <b>2:14</b> , <b>6:6</b>	Unlisted, 8:6
Contingent Claims (this index)	CLASSES
Debtor or trustee may file, <b>8:6</b>	See also topics Impaired Classes;
Disputed, 8:1	Unimpaired Classes (this
Drunk driving, priority claim, 8:20	index)
Environmental clean up orders, 8:3	Adjustment of debts (of family
Equitable	farmer with regular annual
Generally, <b>8:1</b>	income), <b>14:12</b>
Subordination of tax claims, 8:18	Adjustment of debts (of an individual
Subordination of tax claims:	with regular income) under Chapter 13, creditors, <b>13:8</b>
United States v. Noland and	Business reorganization, claims and
United States v. CF&I	interest, 12:5
Fabricators of Utah, Inc.,	Creditor, voting: U.S. Bank NA v.
15:53	Village at Lakeridge, LLC,
Estimating, 8:8	15:93
Fair Debt Collections Practices Act:	CLAUSES
Midland Funding, LLC v. Johns, 15:59	
Family support, <b>8:11</b>	Non-recognition of bankruptcy
Filing, 8:5	clauses, <b>9:9, 9:16</b>
Future claims, <b>8:1, 8:2</b>	CLEANUP ORDER
	Supreme Court, discharge: Ohio v.
Late claims, 8:6	Kovacs, 15:46
Multiple, 8:9	CLERK OF COURT
No-asset bankruptcy, <b>8:6</b>	
Objecting to discharge, 8:6	Bankruptcy court. 4:3

### CO-DEBTOR STAYS

Injunction, Code Section 105, 5:2

### **COLLATERAL**

See also other entries throughout this index

Cross-collateralization of loans, 9:7

# COLLECTION ON SUPERSEDEAS BOND

Supreme Court, collection on supersedeas bond against final judgment may be enjoined: *Celotex Corp. v. Edwards*, **15:11** 

# COLLECTIVE BARGAINING CONTRACTS OR AGREEMENTS

Generally, 9:13

Supreme Court, rejection, administration: *N.L.R.B. v. Bildisco and Bildisco*, **15:60** 

# COLLUSION

Foreclosure (this index)

### **COMMUNITY PROPERTY**

Community claim, **2:14**, **6:6** Property of the estate, **6:6** 

### COMPOSITION AND EXTENSION

Alternative to bankruptcy, 1:2

### CONCEALMENT OF ASSETS

Denial of discharge in Chapter 7, 11:3

### CONFIRMATION

Generally. See topics Adjustment of Debts (of an Individual with Regular Income) under Chapter 13; Business Reorganization (this index)

Denial of confirmation not final order: *Bullard v. Blue Hills Bank*. **15:19** 

Standards. **Bad Faith** (this index)

### **CONSENT**

Bankruptcy Amendments of 1984, **3:5** 

### CONSOLIDATION

See also **Administration (of Bankruptcy Estate)** (this index) Substantive consolidation for

multiple entities, 2:15

### CONSTITUTIONALITY

Emergency Rule, **3:1** Exemptions, state use of opt-out, **7:3** 

### **CONSUMERS**

Claims, consumer deposits, **8:17**Supreme Court, Chapter 11, eligibility for bankruptcy: *Toibb v. Radloff*, **15:4** 

### **CONTEMPT**

Discharge, contempt for violation of discharge order: *Taggard v. Lorenzen*, **15:82** 

Violation of automatic stay, 5:7

### CONTINGENT CLAIMS

Generally, 8:1, 8:8

Chapter 13 eligibility, 13:2

Contrast to former Bankruptcy Act, 8:1

Distinction from disputed in involuntary petition, 2:9

Excluded in computing debt in involuntary petition, **2:9** 

Recognition, 8:1, 8:8

# CONTRACTUAL COMPOSITION OR EXTENSION

Alternative to bankruptcy, 1:2

# CONTRIBUTION

Workers' compensation premiums do not qualify as contribution to employee benefit plan within Section 507(a)(5): Howard Delivery Service Inc. v. Zurich American Insurance Co., 15:57

### **CONVERSION**

Chapter 7 to Chapter 13 tempered by good faith: *Marrama v. Citizens Bank of Massachusetts*, **15:99** 

Chapter 11

Generally, 1:8

Business reorganizations, 12:3

CONVERSION—Cont'd

### Chapter 12 Administrative Expenses (this Generally, 14:3 index) Distinguishing "family farmer" Fees (this index) and "farmer," 14:2 **COURT CLERK** Selecting Chapter 12 and conver-Bankruptcy court, 4:3 sion to or from Chapter 12, 14:2 **COURTS** Chapter 13 **Bankruptcy Court Jurisdiction** Generally, 13:2 (this index) Chapter 7 to Chapter 13 tempered **Supreme Court** (this index) by good faith: Marrama v. **CRAMDOWN** Citizens Bank of Mas-Chapter 11 sachusetts, 15:99 Generally, 12:17 Collateral, exception to discharge, Supreme Court: Norwest Bank 11:9 Worthington v. Ahlers, 15:84 Involuntary petition, 2:11 Chapter 12 plan, adjustment of debts Voluntary petition, 2:6 (of family farmer with regular annual income), 14:12 CORPORATE ATTORNEY-CLIENT Chapter 13 **PRIVILEGE** Generally, 13:11 Supreme Court: Commodity Futures Disposition of encumbered prop-Trading Com'n v. Weintraub, 15:23 erty, **9:6** Replacement value: Associates CORPORATE TAX Commercial Corp. v. Rash, Burden of proof, tax claim controlled 15:54 by state law: Raleigh v. Illinois Prime rate plus adjustment for risk: Dept. of Revenue, 15:56 Till v. SCS Credit Corp., 15:98 Supreme Court, Chapter 11, business CORPORATIONS reorganization: Norwest Bank Affiliates and subsidiaries, joint Worthington v. Ahlers, 15:84 administration, 2:15 **CREDIT, OBTAINING** Discharge Chapter 13 debtor, 13:6 Chapter 11, 11:22 Code Section 364, 9:7 Not available in Chapter 7, 11:22 Credit for routine business needs, 9:7 Forfeited charter precludes eligibility for bankruptcy, 2:6 **CREDIT BIDDING** Forming new corporation for purpose Absolute priority rule: Radlax of bankruptcy, 1:8 Gateway Hotel, LLC v. Not for profit corporation ineligible Amalgamated Bank, 15:90 for involuntary case, 2:9 **CREDIT CARDS** Supreme Court Burden of proof, tax claim con-Misuse and other frauds, 11:8 trolled by state law: Raleigh v. Payment using pre-approved, 11:8 *Illinois Dept. of Revenue*, **CREDITORS** 15:56 See also specific topics throughout Corporate attorney-client privilege: this index Commodity Futures Trading

Com'n v. Weintraub, 15:23

COSTS

**Secured Claims** (this index)

### CREDITORS—Cont'd

**Unsecured Claims** (this index)

### **CREDITORS' COMMITTEE**

See also **Business Reorganization** (this index)

Generally, 4:8

Additional committees, discretionary power to appoint, **4:8** 

Avoiding powers, 10:2

List of twenty largest submitted with petition, 2:4

Trustees, 10:2

### **CREDIT UNIONS**

Ineligible for bankruptcy, 2:1

# CROSS-BORDER INSOLVENCIES

Generally, 1:11, 16:1

First gateway: United States, center of main interest, **16:2** 

Individuals eligible to use Chapter 15. **16:5** 

Overview of Chapter 15, 1:11

Second gateway: United States, place of nonmain foreign proceedings, **16:3** 

UNCITRAL model law and European regulation, **16:4** 

# CROSS-COLLATERALIZATION OF LOANS

Generally, 9:7

### **CURING DEFAULT**

Assuming unexpired lease, 9:17 Chapter 11, to avoid impairment, 12:7

Chapter 13, to decelerate, 13:10

## **CUSTODIAN**

Appointment of as grounds for involuntary petition, **2:8** 

Turnover order against, 10:3

# DATE OF PLAN

Chapter 13, 13:9

Effective, and confirmation of reorganization, **12:16** 

### **DEBTOR-IN-POSSESSION**

See also **Business Reorganization** (this index)

# DEBTOR-IN-POSSESSION—Cont'd

Avoiding powers, 10:2

Trustees, 10:2

### **DEBTORS**

Income. **Income of Debtor** (this index)

# DEBT RELIEF AGENCY, ATTORNEY AS

Generally, 4:1

Abuse of bankruptcy, not advising consumer debtors to incur debt: *Milavetz, Gallop & Milavetz, P.A. et. al v. U.S.*, **15:29** 

### **DEBTS**

Adjustment of Debts (of Family Farmer with Regular Annual Income) (this index)

Adjustment of Debts (of an Individual with Regular Income) under Chapter 13 (this index)

Claims (this index)

General failure to pay as basis for involuntary petition, 2:8

## **DECEIT**

**Fraud** (this index)

# **DEFALCAING FIDUCIARIES**

Supreme Court, exception to discharge: *Bullock v. BankChampaign*, *N.A.*, **15:79** 

### **DEFALCATING FIDUCIARIES**

Exception to discharge, 11:13

# **DEFAULT**

Curing Default (this index)

## **DELINQUENT TAXES**

Recharacterization of non-compensatory tax as penalty, Supreme Court's ruling: *United States v. Noland* and *United States v. CF&I Fabricators of Utah, Inc.*, **15:53** 

# DENIAL

**Discharge (of Claims)** (this index)

### **DIRECT ACTION**

Asbestos settlement extends to insurers of debtor in direct action by victims: *Travelers Indemnity Co. v. Bailey*, **15:17** 

# **DISALLOWANCE**

Filed claims, 8:7

### DISCHARGE

Fraud, settlement of fraud does not preclude raising nondischarge-ability in subsequent bankruptcy: *Archer v. Warner*, **15:76** 

Nondischargeable taxes, bankruptcy stay tolls three-year limit to look back for: *Young v. U.S.*, **15:77** 

Objections, timely objection to discharge: *Kontrick v. Ryan*, **15:78** 

Timely objection to discharge: *Kontrick v. Ryan*, **15:78** 

# **DISCHARGE (OF CLAIMS)**

Generally, 11:1 et seq.

See also topics Adjustment of Debts (of an Individual with Regular Income) under Chapter 13; Supreme Court (this index)

Bad faith

Credit card cash advances, intent not to repay, 11:8

Balance of hardship test, 11:14

Burden of proving

Generally, 11:2

Concealment. Fraud and concealment, infra this group

Fraud and concealment

Generally, 11:3

Exemptions, 7:9

Prior bankruptcy, 11:5

Cause of action for, is distinctive from state claim, 11:11

Chapter 11, 11:21, 12:16

Chapter 13, 11:22, 13:14

Concealment. Burden of proving, supra

Corporation not eligible in Chapter 7, 11:1, 11:21

Credit card misuse, exception, 11:8

### **DISCHARGE (OF CLAIMS)**

-Cont'd

**Denial** 

Asserting objections to discharge, **8:6, 11:4** 

Chapter 7, 11:3

Effect, 11:18

Enforcement, 11:18

Environmentally regulated business, 11:1

Exceptions from discharge

Asserting exceptions from discharge, **8:6** 

Bankruptcy court, exceptions which must be asserted in, 11:6

Child support, 11:14

Conversion of collateral, 11:9

Drunk driving, 11:9, 11:22

Family support, 11:14

Fiduciaries, 11:13

Justifiable, not reasonable, reliance requirement when excepting discharge for fraud: *Field v. Mans*, **15:73** 

Legal intoxication, 11:9

Libel, 11:9

Loans or renewals on false financial statements, 11:7

Malicious injury, 11:9

Malicious injury: *Kawaauhau v. Geiger*, **15:74** 

Malpractice, 11:9

Malpractice: *Kawaauhau v. Geiger*, **15:74** 

Misuse of credit cards, 11:8

Procedure of raising, 8:6

Punitive damages, 11:10

Punitive damages: *Cohen v. de La Cruz*, **15:75** 

Restitution, infra

Sale of collateral, 11:9

Torts, 11:9

Torts: *Kawaauhau v. Geiger*, **15:74** Filing claim and objections to, **8:6** 

Fraud. Burden of proving, supra

Fresh start, scope of, 11:1

Hardship discharge, 11:5, 11:17,

11:22, 13:14

# DISCHARGE (OF CLAIMS) —Cont'd

Medical malpractice, willful and malicious injury, **11:9** 

Medical malpractice, willful and malicious injury: *Kawaauhau v. Geiger*, **15:74** 

Partnership not eligible in Chapter 7, 11:1

Ponzi scheme bankruptcy, restitution order as affected by subsequent indictment for money laundering, mail fraud, bank fraud, 11:17

Presumption of non-dischargeability for "credit spree," 11:8

Prohibition of discrimination by governmental agencies, **11:20** 

Proof of claim not necessary for, 8:6, 11:5, 13:9

Punitive damages award, dischargeability, 11:10

Punitive damages award, dischargeability: *Cohen v. de La Cruz*, **15:75** 

Reaffirmation of discharged debt, 11:18

Restitution ordered after conviction

Generally, 11:22

Ponzi scheme, 11:17

Sentencing, exclusion of restitution as part of, 11:17

State court judgments as collateral estoppel, **11:11** 

Student loans, 11:15, 11:22

Tax obligations, 11:12

Unlisted creditors, 11:15

Violent federal crimes, 11:17

Willful and malicious injury, 11:9

Selection of Chapter, factor in, 2:1, 11:3

Split discharge for community claims, **2:14** 

Standard for establishing denial or exception, 11:2

Student loans, 11:15, 11:22, 13:14

Super discharge in Chapter 13, 11:17, 11:22, 13:14

# DISCHARGE (OF CLAIMS) —Cont'd

Voiding judgments and enjoining collection, **11:19** 

### DISCLOSURE STATEMENT

Hearing on adequate information on reorganization plan, 12:9

### DISCRIMINATION

Chapter 13 classes, unfair discrimination, **13:8**, **13:12** 

Prohibition by governmental agencies following discharge, 11:20

Reorganization plan, unfair discrimination, 12:18

### DISGUISED PRIORITY

Avoiding power of trustee, 10:17

### **DISMISSAL**

**Bad Faith** (this index)

Chapter 11, 1:8

Failure to pay fees, 11:5

Involuntary petition, 2:11, 3:10

Voluntary petition, 2:6, 3:10

# DISPOSABLE INCOME

**Projected Disposable Income** (this index)

# DISPUTED DEBTS

See also **Claims** (this index)

Distinguished from contingent claims for involuntary petition, 2:9

# DISTRIBUTION

Chapter 11, going concern value, 12:1

Chapter 13, confirmed plan, **13:1**, **13:12** 

Claims by creditors, 8:1

Estimating claims, 8:8

Late claims, 8:6

Priority claims, **8:10, 8:20** 

Proof of claim to receive, 8:5

Surety of claimant, 8:21

## DISTRICT COURT

**Bankruptcy Court Jurisdiction** (this index)

# **DIVORCE**

Lien upon property in, avoidable in bankruptcy, 7:5

Support awards in, excepted from discharge, **11:14** 

Supreme Court, avoidance, judicial lien, exempt property: *Farrey v. Sanderfoot*, **15:39** 

### **DOUBLE DEEMING**

Scheduled claims in Chapter 11, 8:6

# **DRUNK DRIVING**

Exceptions from discharge of claims, 11:9, 11:22
Priority claims, 8:20

# EARNINGS

**Income of Debtor** (this index)

### EFFECTIVE DATE OF PLAN

Chapter 11, 12:15

Chapter 13. Adjustment of Debts (of an Individual with Regular Income) under Chapter 13 (this index)

### **ELECTION**

Section 1111(b), reorganization, 12:23

# **ELIGIBILITY**

See also **Supreme Court** (this index)

Chapter 11, persons not engaged in business, 1:4, 2:1

Chapter 13, 13:1

Collective bargaining rejection as motive, **9:13** 

Corporation with terminated charter, **2:6** 

Creditors eligible to petition for involuntary petition, **2:9** 

Debtors eligible for bankruptcy, generally, **2:1** 

ERISA qualified plans: *Patterson v. Shumate*, **15:37** 

Initiation of bankruptcy case and requirements of, **2:1** 

# EMERGENCY RULE, APPELLATE JURISDICTION

Generally, 3:1

# EMERGENCY RULE, APPELLATE JURISDICTION—Cont'd

Constitutional objections to Rule, **3:1** *Marathon* decision, **3:4** 

### **EMPLOYMENT**

**Labor Unions** (this index) **Pensions** (this index)

### ENCUMBERED PROPERTY

See also **Value** (this index) Estate's right to dispose of, **9:6** Value, concept of, **6:4** 

# **ENFORCEMENT**

Discharge, 11:18

### **ENTIRETIES**

Tenancy as property of estate, 6:5

# ENVIRONMENTAL CLEAN UP ORDERS

Claims by creditors and distribution in bankruptcy, **8:3** 

# ENVIRONMENTAL PROTECTION

Automatic stay, **5:4** Obtaining credit, **9:7** 

# EQUITABLE SUBORDINATION OF TAX CLAIMS

Generally, 8:18, 15:53

### **EOUITY CUSHION**

Adequate protection for automatic stay, **5:5** 

# ERISA QUALIFIED PLANS

Exempt and immune property: *Patterson v. Shumate*, **15:37** 

# **ESTATE**

See also specific topics

Adjustments of Debts (of Family Farmer with Regular Annual Income)

Chapter 12, 14:4

**Property of Bankruptcy Estate** (this index)

# **EXAMINER**

Appointment, Chapter 11 case, 4:7

### **EXCEPTIONS**

See also **Supreme Court** (this index) Automatic stay, section 362(b), **5:3** 

**Discharge** (this index)

Preference, 10:12

Probate exception does not prohibit court from hearing tortious interference with inheritance claim: *Marshall v. Marshall*, **15:16** 

### **EXCHANGE SECURITIES**

Reorganization plan, 12:22

# EXCLUSION FROM BANKRUPTCY

Generally, **2:1, 6:3** 

# **EXECUTORY CONTRACTS**

Adequate assurance required to assume, **9:9**, **9:17** 

Assuming or rejecting, under Code Section 365, **9:8** 

Assumption or rejection of leases and, in Chapter 12 estate administration, **14:9** 

Bankruptcy clause in, 9:9

Code Section 365. Administration (of Bankruptcy Estate) (this index)

Collective bargaining contract, **9:13** Contracts terminated prior to bankruptcy, **9:9** 

Court approval to assume or reject, 9:10

Cure of default, 9:9, 9:17

Financing leases are not, 9:17

Land. Sale of land, contracts for, infra

Licenses of intellectual property, 9:11

Loans are not, 9:8

Motive to reject in selecting bankruptcy, collective bargaining contract, **9:13** 

Personal services are not, 9:8

Real property. Sale of land, contracts for, infra

Sale of land, contracts for Generally, **9:12** 

# **EXECUTORY CONTRACTS**

-Cont'd

Sale of land, contracts for—Cont'd Defining the executory contract, 9:8

Possession in purchaser, 9:12
Rejecting the executory contract,
9:10, 9:12

Timeshares, 9:12

Standard for rejection, 9:10

Time for rejection, 9:10

Transportation equipment, contracts financing, Code Sections 541(b)(4) and 1110, **9:14** 

# EXEMPT AND IMMUNE PROPERTY

See also **Supreme Court** (this index)

Generally, 7:1 et seq.

Acquisition of exempt property, 7:9

Avoiding powers protecting, 10:2

Choice of law and state preemption Generally, 7:5

Choosing the property to exempt, 7:5

Constitutionality of state use of opt-out, 7:3

Eligibility for bankruptcy, *Puerto Rico v. Franklin California Tax-Free Trust*, **15:5** 

ERISA qualified plans: *Patterson v. Shumate*, **15:37** 

States selecting opt-out, 1:9, 7:2

Claiming the exemption, **7:6** 

Entireties tenancies as, 6:5

ERISA qualified plans: *Patterson v. Shumate*, **15:37** 

Extra-territorial application of exemptions, **7:11** 

Fraud in selection of, 7:9

Husband and wife may choose separate, **7:5, 7:6** 

Inherited IRA accounts: *Clark v. Rameker*, **15:45** 

IRA accounts: *Rousey v. Jacoway*, **15:42** 

**Pensions** (this index)

Personal property exemptions, 7:7

# EXEMPT AND IMMUNE PROPERTY—Cont'd

Protecting exemptions impaired by liens or by transfer, 7:10

Real property, homestead or tenants by the entireties, **7:6** 

Redemption from secured claim, **6:11, 7:5** 

Terminology and history, **7:1**Use of exemptions in Chapters 12 and 13, **7:4**, **13:4**Waiver of not recognized, **7:5** 

# **EXPEDITED HEARING**

Relief of automatic stay, 5:4

# **EXPENSES**

**Administrative Expenses** (this index)

**Fees** (this index)

# EXTENSION AND COMPOSITION

Alternative to bankruptcy, 1:2

# **EXTRA-TERRITORIALITY**

Exemptions, application of, 7:11

# FAIR DEBT COLLECTIONS PRACTICES ACT

Violation, proof of claim, stale debt: Midland Funding, LLC v. Johns, 15:59

# FAIR PREPONDERANCE STANDARD

Supreme Court, exceptions proved by, discharge: *Grogan v. Garner*, **15:72** 

### **FALSE STATEMENTS**

Materially false statement describing a single asset must be in writing: Lamar, Archer, and Cofrin, LLP v. Appling, 15:81

# **FAMILIES**

**Husband and Wife** (this index) Support. **Family Support** (this index)

### **FAMILY FARMERS**

Adjustment of Debts (of Family Farmer with Regular Annual Income) (this index)

### FAMILY FARMERS—Cont'd

Chapter 12, eligible for, **1:10, 4:10, 6:9, 7:4** 

### **FAMILY FISHERMEN**

Chapter 12, eligible for, 1:10

# **FAMILY SUPPORT**

Claims, 8:11

Exception to discharge, 11:14
Future payment disallowed as claim,
8:7

### FARMS AND FARMING

Capital gains on sale of farm not a tax incurred by estate: *Hall v. United States*, **15:92** 

Chapter 12 bankruptcy, **1:10, 4:10, 6:9, 7:4** 

Eligible for Chapter 13, 13:2

Family Farmers (this index)

Ineligible for involuntary bankruptcy, **2:9** 

### FEDERAL RESERVE BOARD

Automatic stay, proceedings excepted: Board of Governors of the Federal Reserve System v. M Corp. Financial, Inc., 15:32

### **FEES**

# **Attorney's Fees** (this index)

Failure to pay causing dismissal, 11:5 Filing fees

Generally, 2:1

Installment payment, 2:1

Imposition, failure to establish fraud exception to discharge, **11:16** 

Professional

Administrative expense, 8:13

**Attorney's Fees** (this index)

Reasonable amount, 8:7

### **FIDUCIARY**

Supreme Court, defalcation by fiduciary excepted from discharge: Bullock v. BankChampaign, N.A., 15:79

## FIFTH AMENDMENT

Taking of property interest by automatic stay, **5:6** 

### FILING

See also **Recording** (this index) Anonymous proof of claim, **8:6** 

Chapter 11 filing: Pioneer Inv. Services Co. v. Brunswick Assoc. Ltd. Partnership, **15:52** 

Claims, generally, 8:5

Debtor or trustee may file claims, **8:6** Disallowance of claims, **8:7** 

Discharge of claim not dependent, 8:6, 11:5

Estimating amount of claim, 8:8

Family support, 8:11

**Fees** (this index)

Multiple components claims, 8:9

Objections to discharge, 8:6

Petitions, 3:8

Proof of claims

Secured creditors, in Chapter 13, 13:7

Stale debt: Midland Funding, LLC v. Johns, 15:59

Unsecured creditors, in Chapter 13, **13:9** 

Secured creditors filing proof of claim, **8:5** 

**Serial Filing** (this index)

Stale debt: *Midland Funding, LLC v. Johns*, **15:59** 

Timely, required, 8:6

# FINAL JUDGMENT

Chapter 11 bankruptcy court has initial jurisdiction to enjoin collection on supersedeas bond against final judgment: *Celotex Corp. v. Edwards*, **15:11** 

Collection on supersedeas bond against final judgment may be enjoined: *Celotex Corp. v. Edwards*, **15:11** 

### FINANCIAL INSTITUTIONS

**Banks and Banking** (this index)

# FIRST DAY ORDERS

Administration (of bankruptcy estate), **9:1** 

# **FISHERMEN**

Chapter 12, eligible for, 1:10

### FISHERMEN—Cont'd

Priority claims, 8:16

# FLOATING LIENS

Generally, 6:10, 9:6, 10:12

### **FORECLOSURE**

Collusion or noncollusion

Post-petition transactions and Bankruptcy Code Section 549, non-collusive foreclosure, **10:21** 

State law, mortgage foreclosure shows reasonably equivalent value conclusively if it is noncollusive and complies with: *BFP v. Resolution Trust Corp.*, **15:68** 

Fraudulent transfer, foreclosure sale as, **10:7** 

Supreme Court, mortgage foreclosure shows reasonably equivalent value conclusively if it is noncollusive and complies with state law: *BFP v. Resolution Trust Corp.*, **15:68** 

## **FRAUD**

Acquisition of exempt property as, **7:9** 

Burden of proof. **Discharge (of Claims)** (this index)

Credit card fraud or misuse, 11:8

Denial of discharge in Chapter 7 case, 11:3, 11:17

Justifiable, not reasonable, reliance requirement when excepting discharge for fraud: *Field v. Mans*, **15:73** 

Mail fraud, restitution order as nondischargeable in bankruptcy, 11:17

Materially false statement describing a single asset must be in writing: Lamar, Archer, and Cofrin, LLP v. Appling, 15:81

Money laundering, restitution order as nondischargeable in bankruptcy, 11:17

Reliance, 11:7

### FRAUD—Cont'd

Rent-gouging scheme, dischargeability of damage award: *Cohen* v. de La Cruz, **15:75** 

Representation fraudulent: *Husky International Electronics Inc. v. Ritz*, **15:80** 

Settlement of fraud does not preclude raising nondischargeability in subsequent bankruptcy: *Archer v. Warner*, **15:76** 

Stern claims heard de novo by
District Court: Executive
Benefits Insurance Agency v.
Atkinson, 15:21

Transfers, creditors

Generally, 10:14

Actual intent to defraud, 10:16

Adversary proceedings: Executive Benefits Insurance Agency v. Arkison, 15:21

Avoidance, buyouts: Merit Management Group, LP v. FTI Consulting, Inc., 15:70

Constructive fraud, 10:15

State law under section 544(b), **10:7** 

Stern claims, 15:21

Welfare fraud

Restitution as nondischargeable in bankruptcy, 11:17

Restitution order as nondischargeable in bankruptcy, **11:17** 

# FREEZE OF BANK ACCOUNT

Automatic stay, administrative freeze of bank account not in violation of: Board of Governors of the Federal Reserve System v. M Corp. Financial, Inc., 15:32

# FRESH CASH EXCEPTION

Discharge, 11:7

# FRINGE BENEFIT CLAIMS Generally, 8:15

FUTURE CLAIMS
Generally, 8:1, 8:2

# GERRYMANDERING

Business reorganization, claims and interest, 12:6

### GOING CONCERN VALUE

Chapter 11, 6:7, 6:9, 9:5, 9:6, 12:1

# **GOOD FAITH**

See also **Bad Faith** (this index)

Adjustment of debts (of an individual with regular income) under Chapter 13, good faith after the 1984 Amendments, 13:14

Business reorganization, 12:3

Chapter 11 debtor, 12:3

Conversion of Chapter 7 to Chapter 13 tempered by good faith: *Marrama v. Citizens Bank of Massachusetts*, **15:99** 

Payment

**Bad Faith** (this index) Chapter 12 plan, **14:11** 

### **GRAIN PRODUCERS**

Priority claims, 8:16

### **HEARINGS**

See also **Bankruptcy Court Juris- diction** (this index)

Expedited and preliminary, to relieve or modify automatic stay, **5:4** 

Section 102, 1:4, 4:2

Student loan discharge without adversary hearing on undue hardship is final, plan confirms: *United Student Aid Funds, Inc. v. Espinosa*, **15:100** 

# HOMESTEAD

Real property exemption, **7:6**Supreme Court, exempt property: *Law v. Siegel*, **15:44** 

# **IMMUNE PROPERTY**

**Exempt and Immune Property** (this index)

# IMMUNITY FROM AVOIDING POWERS

**Supreme Court** (this index)

## IMPAIRED CLASSES

Generally, **12:5**, **12:6** Classes defined, **12:5** 

### IMPAIRED CLASSES—Cont'd

Creditor, voting: U.S. Bank NA v. Village at Lakeridge, LLC, 15:93

Cure to avoid impairment, 12:7

### IMPLIED CONSENT

Stern claims: Wellness International Network, Ltd. v. Sharif, 15:22

### INCOME OF DEBTOR

Chapter 13

Estate property, 13:4

Income deduction order, 13:12

Estate property

Generally, 6:9

Chapter 11, 12:1

Chapter 13, 13:4

Exemption, 7:8

# INDIVIDUAL CHAPTER 11 DEBTOR

Reorganization plan, 12:24

### INHERITED PROPERTY

IRA accounts not exempt: *Clark v. Rameker*, **15:45** 

# INITIATION OF BANKRUPTCY CASE

Eligibility requirements, 2:1

Involuntary petition

Generally, 2:7

Abstention, conversion or dismissal, 2:11

Eligible creditors to petition for,

Grounds for, under section 303(h), **2:8** 

Venue, 2:3

Joint administration or consolidation, 2:12

Joint petition by spouses, 2:13

Order for relief, 2:5

Sanctions imposed against unsuccessful petitioners, 2:10

Subsidiaries and affiliates, 2:15

Voluntary petition

Generally, 2:2

Abstention, conversion or dismissal, **2:6** 

# INITIATION OF BANKRUPTCY

CASE—Cont'd

Voluntary petition—Cont'd Order for relief, 2:5

Petition, schedules and statements,

2:4

Venue, 2:3

# **INJUNCTIONS**

Chapter 11 bankruptcy court has initial jurisdiction to enjoin collection on supersedeas bond against final judgment: *Celotex Corp. v. Edwards*, **15:11** 

Collection on supersedeas bond against final judgment may be enjoined: *Celotex Corp. v. Edwards*, **15:11** 

Non-debtor, and section 105, **5:2** Strikes or picketing, **5:3** 

# **INJURY**

Willful and malicious, exception to discharge, 11:9

### **INSIDERS**

Preferential transfer, 10:11

## **INSOLVENCY**

Clauses, non-recognition of insolvency clauses, **9:9**, **9:16** 

Cross-Border Insolvencies (this index)

Equitable test used for involuntary petitions, 2:8

Presumption

Preference, 10:9

Set-off, 10:13

Voluntary petition does not require insolvency, 2:2

# INSURANCE AND INSURANCE COMPANIES

Ineligible for bankruptcy, **2:1 Life Insurance** (this index)

# INTELLECTUAL PROPERTY

Licenses, 9:11

## **INTEREST**

Deferred payment in Chapter 11, 12:13

### INTEREST—Cont'd

Installment cure of home mortgage default in Chapter 13: *Rake v. Wade*, **15:97** 

Noncompensatory tax may not be subordinated but may be recharacterized as a penalty: *United States v. Noland* and *United States v. CF&I Fabricators of Utah, Inc.*, **15:53** 

Prime rate plus adjustment for risk: *Till v. SCS Credit Corp.*, **15:98** 

Rate for cram down in Chapter 13, 13:11

Supreme Court, claims, post-petition interest: *U.S. v. Ron Pair Enterprises, Inc.*, **15:47** 

Tax claims deferred in Chapter 13, 13:9

Unmatured as disallowed claim, 8:7

### **INTERFERENCE**

Probate exception does not prohibit court from hearing tortious interference with inheritance claim: *Marshall v. Marshall*, **15:16** 

### **INTERIM RULE**

**Emergency Rule** (this index)

### **INTERIM TRUSTEES**

**Trustees** (this index)

# INTERLOCUTORY ORDERS

Supreme Court, circuit courts of appeal may review interlocutory orders of bankruptcy courts review by district court: Connecticut Nat'l Bank v. Germain, 15:10

### INTERNAL REVENUE SERVICE

Noncompensatory tax may not be subordinated but may be recharacterized as a penalty: United States v. Noland and United States v. CF&I Fabricators of Utah, Inc., 15:53

# INVOLUNTARY GAP CREDITORS

Generally, 8:14

# INVOLUNTARY PETITION, INITIATION

Generally, 2:7

Abstention, conversion or dismissal of petition, **2:11** 

Eligible creditors to petition for, **2:9** Eligible debtors, **2:9** 

Grounds for, under section 303(h), **2:8** 

Interim trustee before order for relief, **2:10** 

Order for relief, 2:5

Post-petition transfers generated by, 10:21

Sanctions imposed against unsuccessful petitioners, **2:10** 

### **IRA ACCOUNTS**

Exempt property: *Rousey v. Jacoway*, **15:42** 

Inherited accounts not exempt property: Clark v. Rameker, 15:45

### **IRS**

Noncompensatory tax may not be subordinated but may be recharacterized as a penalty: *United States v. Noland* and *United States v. CF&I Fabricators of Utah, Inc.*, **15:53** 

# JOINT ADMINISTRATION

**Administration** (this index)

# JOINT INTEREST IN REAL PROPERTY

Administration by estate, 2:14, 6:5

### JOINT PETITION

Spouses, 2:13

### **JUDGES**

Bankruptcy Judge (this index)

# **JUDGESHIP**

Bankruptcy Amendments and Federal Judgeship Act of 1984 (this index)

# **JUDGMENTS**

Collateral estoppel, state court, **11:11** Voiding, and enforcement of discharge, **11:19** 

### JUDICIAL LIEN

Supreme Court, divorce, avoidance, exempt property: Farrey v. Sanderfoot, 15:39

### JURISDICTION

# **Bankruptcy Court Jurisdiction** (this index)

Stern claims, 15:21

**Supreme Court** (this index)

### **JURY TRIAL**

Bankruptcy Amendments of 1984, 3:7

# JUSTIFIABLE RELIANCE

Exceptions from discharge for fraud, justifiable, not reasonable, reliance requirement: Field v. Mans, 15:73

### **LABOR UNIONS**

Collective bargaining agreement as executory contract, 9:13 Eligibility for bankruptcy, 2:1

Strikes or picketing and automatic stay, 5:3, 9:13

# LAC DU FLAMBEAU BAND V. **COUGHLIN**

Tribes, automatic stay, sovereign immunity, 15:24

# LANDLORD-TENANT INTERESTS

Bankruptcy clauses not recognized, 9:16

Claims of, 8:9

Rent as estate property, 6:10

### LAND SALES

**Executory Contracts** (this index)

# LAND TRUST

Ineligible for bankruptcy, 2:1

Choice of exemptions, and state preemption, 7:5

Non-bankruptcy law, 1:2

Right of trustee to invoke under Code Section 544(b), 10:7

# **LAWYERS**

**Attorneys** (this index)

### LEASES

See also Administration (of Bankruptcy Estate) (this index)

Assuming unexpired lease and curing default

Generally, 9:17

Financing leases excluded, 9:17

Assumption or rejection of unexpired, 9:15

Lessor as debtor and rights of tenants, 9:19

Shopping center lease, 9:18

Termination of lease before bankruptcy, 9:16

Unexpired lease defined, 9:17

### LEGISLATIVE HISTORY

Proper use, 1:1

### LENDER LIABILITY

Generally, 1:2

### **LIBEL**

Discharge in bankruptcy, willful libel exception, 11:9

### LIENS

# **Avoiding Powers of Trustee** (this index)

Floating liens, **6:10**, **9:6**, **10:12** 

Judicial lien, Supreme Court, divorce, avoidance, exempt property: Farrey v. Sanderfoot, 15:39

Protecting exemptions impaired by liens or by transfer, 7:10

Restitution order, 11:17

Right of trustee to preserve avoided, under Code Section 551, 10:18

Secured claims, 8:1

Tax Liens (this index)

**Trustees** (this index)

### LIFE INSURANCE

Exemptions, 7:7

Policy factors to exclude from estate,

Turnover of premiums, 10:3

# LIQUIDATING BANKRUPTCY

Chapter 7, 1:3

### LIQUIDATING PLAN

Chapter 11, 12:2

# LIQUIDATION VALUE

Generally, 6:7

### **LOANS**

Cross-collateralization of loans, 9:7
False financial statements, 11:7
Reorganization, lender's deficiency, nonrecourse loan, 12:21
Supreme Court, grace period for perfection of enabling loan:

Fidelity Financial Services, Inc.

# v. Fink, 15:69 LOST OPPORTUNITY VALUES

Adequate protection, **5:6**, **9:1** Cure damages, **12:7** 

### **MAIL FRAUD**

Restitution order as nondischargeable in bankruptcy, **11:17** 

### MALPRACTICE

Discharge in bankruptcy, exception, 11:9

Discharge in bankruptcy, exception: *Kawaauhau v. Geiger*, **15:74** 

### **MARATHON DECISION**

Generally, **3:4**Appeals in light of, **3:10**Effect upon claims estimation, **8:8** 

# **MEANS TEST**

Calculating as part of the petition, 2:2
Consumer abuse and the means test,
1:6

# **MISREPRESENTATION**

Fraud (this index)

# MISUSE OF BANKRUPTCY PROCESS

Bad faith purpose and new debtor syndrome, 1:8
Consumer abuse and means test, 1:6
Generally, 1:5

Overuse of process, 1:2 Serial filings, 1:7

### **MODIFICATION**

Adjustment of Debts (of an Individual with Regular Income) under Chapter 13 (this index)

# **MONEY LAUNDERING**

Restitution order as nondischargeable in bankruptcy, **11:17** 

# **MORTGAGES**

Adjustment of debt and residential, 13:10

Bifurcation of home mortgages in Chapter 13 plan: *Nobelman v. American Sav. Bank*, **15:96** 

# **Foreclosure** (this index)

Installment cure of home mortgage default in Chapter 13 plan: *Rake* v. *Wade*, **15:97** 

Removal to Federal court, bankruptcy defense not ground for: *Rivet v. Regions Bank of Louisiana*, 15:13

Supreme Court, foreclosure shows reasonably equivalent value conclusively if it is noncollusive and complies with state law: BFP v. Resolution Trust Corp., 15:68

Undersecured, Supreme Court

Dewsnup v. Timm, 15:50

Nobelman v. American Sav. Bank,
15:96

Underwater mortgage, debtor's power to strip second mortgage, 13:10

# MOTOR VEHICLES

Car Ownership, Cost Deductions (this index)

### **MUNICIPALITIES**

Eligibility for bankruptcy, *Puerto* Rico v. Franklin California Tax-Free Trust, **15:5** 

# **NEGOTIATION**

Importance of, and reorganization, 1:4, 9:13, 12:1

# **NEW DEBTOR SYNDROME**

Generally, 1:8

# NEW VALUE CONTRIBUTION, BUSINESS REORGANIZATION RULE

Exception to absolute priority

Generally, 12:21

Norwest Bank Worthington v. Ahlers, 15:84

Market measured: Bank of America Nat'l Trust and Sav. Ass'n v. 203 North LaSalle Street Partnership, **15:88** 

### NONBANKRUPTCY LAW

Avoiding power under section 544(b), **10:7** 

Family support determinations not binding for discharge, 11:14 Use of by Bankruptcy Code, 1:2

# NON-RECOGNITION

Bankruptcy clauses, 9:9, 9:16

# NOT FOR PROFIT CORPORATION

Ineligible for involuntary case, 2:9

# NOTICE

Section 102, 1:4, 4:2

### **OBJECTIONS**

Asserting, to discharge, in Chapter 7 case, **8:5**, **11:4** 

Claims filed, by trustee, **8:7**Cram down of objecting secured creditor, in Chapter 13, **13:11**Filing claim and, to discharge, **8:6** 

# ORDER FOR RELIEF

Automatic in voluntary petition, 2:5

### ORDERS

Supreme Court, circuit courts of appeal may review interlocutory orders of bankruptcy courts reviewed by district court: *Connecticut Nat'l Bank v. Germain*, **15:10** 

# ORDINARY COURSE PAYMENTS

Supreme Court, exception to preference for ordinary course payments: *Union Bank v. Wolas*, **15:66** 

### **OVERREACHING**

Trustee's avoiding powers, **4:4**, **6:4**, **10:21** 

### OVERSECURED TAX CLAIMS

Supreme Court: *U.S. v. Ron Pair Enterprises, Inc.*, **15:47** 

# **OVERVIEW OF CHAPTERS**

Chapter 7, 1:3

Chapter 11, **1:4** 

Chapter 12, 1:10

Chapter 13, 1:9

Chapter 15, **1:11** 

Conclusion, 1:12

# PARENT AND SUBSIDIARY CORPORATIONS

Consolidation, 2:15

# PARTITION OF JOINT INTERESTS

Generally, 6:5

### **PAYMENTS**

Credit cards, payment using pre-approved, 11:8

Plans

Adjustment of Debts (this index)
Business Reorganization (this index)

Supreme Court, exception to preference for ordinary course payments: *Union Bank v. Wolas*, **15:66** 

### PENALTIES

**Sanctions** (this index)

# **PENSIONS**

Exempt property

IRA Accounts: *Rousey v. Jacoway*, **15:42** 

**Supreme Court** (this index)

Subordination of noncompensatory tax claims, **8:18** 

**Supreme Court** (this index)

# PERFECTING SECURITY INTEREST

Supreme Court, grace period for perfection of purchase money security interest: *Fidelity* 

# PERFECTING SECURITY INTEREST—Cont'd

Financial Services, Inc. v. Fink, 15:69

# PERSONAL INJURY PROCEEDINGS

Bankruptcy Amendments of 1984, 3:5

# PERSONAL PROPERTY EXEMPTIONS

Generally, 7:7

# PERSONNEL (IN BANKRUPTCY PROCESS)

Clerk of the United States Bankruptcy Court, **4:3** Creditors' committee, **4:8** 

Debtor and the trustee in Chapters 11, 12 and 13, **4:10** 

Debtor in possession in Chapter 11, **4:5** 

Generally, 4:5

Appointment of an examiner, **4:7** Appointment of an independent

trustee, **4:6** 

Other special personnel, 4:12

Trustee in Chapter 7. 4:4

United States bankruptcy judge, 4:2 United States Trustee, 4:11

### **PETITIONS**

See also **Filing** (this index) Prescribed forms, **2:4** 

# **PICKETING**

Injunctions, 5:3

### **PLAN**

Adjustment of debts (of an individual with regular income) under Chapter 13

Generally, 13:2, 13:6, 13:9, 13:10

Conversion, 13:15

Dismissal, 13:15

Modification, 13:15

Reasonable and necessary expense, 13:13

# Business Reorganization (this

index)

Chapter 12, 14:11

# PLAN—Cont'd

Supreme Court (this index)

# PONZI SCHEME

Restitution order as nondischargeable, bankruptcy proceeding preceding criminal charges, 11:17

## POST-BANKRUPTCY PROPERTY

Chapter 7 case, 6:8

Chapter 11, 12, and 13 cases, 6:9

Collateral as, 6:10

Inheritance, 6:8

Rent as, 6:10

# POST-PETITION ATTORNEYS' FEES

Contract to pay post-petition fees not limited to litigating non-bank-ruptcy issues: Travelers Casualty & Surety Co. of America v. Pacific Gas & Electric Co., 15:58

# POST-PETITION CREDITORS

Adjustment of debts and, 13:8

# POST-PETITION INTEREST

Supreme Court, claims: *U.S. v. Ron Pair Enterprises, Inc.*, **15:47** 

# POST-PETITION TRANSACTIONS

Trustee, and Bankruptcy Code Section 549, **10:21** 

### **PREFERENCES**

Supreme Court (this index)

## PREFERENTIAL TRANSFER

Check as, 10:12

Elements of preference, 10:9

Exceptions to preference, 10:12

Floating liens as, 10:12

Hard preference to insiders, 10:11

In general, **10:8** 

Protecting exemptions impaired by liens or by transfer, 7:10

Routine application to easy preference, **10:10** 

### PRELIMINARY HEARING

Relief or modification of automatic stay, **5:4** 

# PREPACKAGED PLAN

Generally, 12:25

# PRIORITY CLAIMS

See also **Claims** (this index) Generally, **8:10** 

Business reorganization: *Czyzewski v. Jevic Holding Corp.*, **15:91** 

Confirmation of reorganization plan, 12:13

Drunk driving, 8:20

Expenses of petitioners for involuntary bankruptcy, **2:8** 

Fishermen, 8:16

Grain producers, 8:16

Secured creditor as, 8:10

Unsecured creditors, adjustment of debts, 13:9

### PROBATE ESTATE

Ineligible for bankruptcy, 2:1

Probate exception does not prohibit court from hearing tortious interference with inheritance claim: *Marshall v. Marshall*, **15:16** 

# PROCEEDS OF COLLATERAL

Generally, 6:10, 9:6

# PRODUCTS OF COLLATERAL

Generally, 6:10, 9:6

# PROFESSIONAL FEES

Fees (this index)

# PROJECTED DISPOSABLE INCOME

Adjustment of debts (of an individual with regular income) under Chapter 13, 13:13

Supreme Court, including future events in calculation of: *Hamilton v. Lanning*, **15:101** 

# PROOF OF CLAIM

Claims (this index)

**Filing** (this index)

# PROPERTY OF BANKRUPTCY ESTATE

See also **Supreme Court** (this index)

Generally, 6:1 et seq.

Abandoning valueless, **6:11** 

Asset forfeiture versus bankruptcy, **6:12** 

Business license as, 6:7

Chapter 11, 12, or 13, 6:9

Community, 2:14, 6:6

Encumbered, shared interests and the concept of "value," **6:4** 

Exclusions from bankruptcy estate, **6:3** 

# **Exempt and Immune Property** (this index)

Floating liens, proceeds, products, and rental income, **6:10** 

Income as, **6:9, 13:4** 

Inheritance after petition, 6:8

Jointly held, 6:5

Life insurance, policy factors to exclude from estate, **6:8** 

Problems of value, 6:7

Recovered property using avoiding powers, **6:8** 

**Turnover of Estate Property** (this index)

### PUERTO RICO

Eligibility for bankruptcy, pending Chapter XI, **15:5** 

# PUNITIVE DAMAGES

Exceptions from discharge, 11:10
Exceptions from discharge: *Cohen v. de La Cruz*, 15:75

### **PURCHASERS**

**Bona Fide Purchaser** (this index)

Sales (this index)

Seller (this index)

# REAFFIRMATION OF DEBT

Generally, **11:18** 

# REAL ESTATE DEBTOR, SINGLE ASSET

Reorganization plan, 12:24

### REAL PROPERTY

Executory Contracts (this index)
Transfers, trustee avoiding powers,
10:6

# REASONABLE AND NECESSARY EXPENSE

Chapter 13 plan, 13:13

# RECLAMATION

Goods sold to insolvent buyer, 9:8

### RECORDING

Conveyances, 10:14
Leases, 10:14
Mortgages, 10:14
Petition to cut-off post-bankruptcy conveyances, 10:21
Security interests, 10:14

## REDEMPTION

Automatic stay, to foreclosure sale, **5:2** 

Debtor's redemption from secured creditor, **6:11**, **7:5** 

### REGULAR INCOME

Eligibility for Chapter 13, 2:2, 13:2

# REHABILITATION PLAN

Generally, 12:2

# RELATED PROCEEDINGS

Generally, **3:4** 

### **RELIANCE**

Actual fraud barring discharge without reliance, 11:7

Justifiable, not reasonable, reliance requirement when excepting discharge for fraud: Field v. Mans, 15:73

# REMAND

Supreme Court jurisdiction of bankruptcy cases and proceedings, remand orders are not reviewable by appeal: *Things Remembered, Inc. v. Petrarca*, 15:12

### REMOVAL TO FEDERAL COURT

Collateral mortgage, bankruptcy defense not ground for removal:

### REMOVAL TO FEDERAL COURT

-Cont'd

Rivet v. Regions Bank of Louisiana. 15:13

### RENEWALS OF CREDIT

False financial statements, 11:7

### **RENT**

Claims, 8:9

Estate property, 6:10

Treble damages in rent-gouging scheme, dischargeability: *Cohen v. de La Cruz*, **15:75** 

# REORGANIZATION (CHAPTER 11 PLAN)

**Business Reorganization** (this index)

### REPLACEMENT VALUE

Chapter 13 cramdown secured claim: Associates Commercial Corp. v. Rash, 15:54

### RESTITUTION

**Discharge (of Claims)** (this index) **Supreme Court** (this index)

### RETIREMENT

**Pensions** (this index)

# RETROACTIVE EFFECT

Supreme Court, Code Section 522(f), exempt property: U.S. v. Security Indus. Bank, 15:38

### RETROACTIVE PERFECTION

Codes 546 and 550, protecting rights of claimants through, **10:19** 

### REVIEW

**Appeals** (this index)

# **RULES**

Bankruptcy Rules (this index) Emergency Rule (this index)

### SAFE HARBOR PROVISIONS

Securities in reorganization, 12:8

### **SALES**

Bona Fide Purchaser (this index)
Bulk Sale (this index)

### SALES—Cont'd

Land. **Executory Contracts** (this index)

Property of estate. **Administration** (of Bankruptcy Estate) (this index)

# **SANCTIONS**

Imposed against unsuccessful petitioners in involuntary cases, 2:10

Noncompensatory tax may not be subordinated but may be recharacterized as a penalty: United States v. Noland and United States v. CF&I Fabricators of Utah, Inc., 15:53

Violation of automatic stay, 5:7

# SAVINGS AND LOAN ASSOCIATIONS

Ineligible for bankruptcy, 2:1

### **SCHEDULES**

Voluntary petition, 2:4

## SECURED CLAIMS

See also **Claims** (this index)
Concept of value, **8:1**Disposal of collateral by estate, **9:6**Fair and equitable, reorganization plan, **12:20** 

Filing proof of claim, 8:5
Lien on property, 8:1
Not eligible to petition for involuntary bankruptcy, 2:9
Redemption, 6:11, 7:5

# **SECURITIES**

Issuance, reorganization, 12:8, 12:22

# SECURITIES AND EXCHANGE COMMISSION

Generally, 4:9

### **SELLER**

**Bona Fide Purchaser** (this index) Reclamation under Code Section 546, **9:8** 

Sales (this index)

# **SERIAL FILING**

Misuse of bankruptcy, 1:7

### SERIAL FILING-Cont'd

Petitions

Chapter 13 misuse, 13:2

Dismissal, 1:7

Supreme Court, eligibility for bankruptcy: Central Trust Co., Rochester, N.Y. v. Official Creditors' Committee of Geiger Enterprises, Inc., 15:2

### **SET-OFF**

Generally, 10:13

# **SHAREHOLDERS**

Chapter 11 affecting, **12:5**, **12:8**, **12:17** 

Claims for rescission subordinated, **8:21** 

### SHOPPING CENTER

Lease, 9:18

# SINGLE ASSET REAL ESTATE DEBTOR

Reorganization plan, 12:24

# SMALL BUSINESS DEBTOR

Chapters 11, 12 and 13 debtor and trustee, **4:10** 

Reorganization plan, 12:24

# SOCIAL SECURITY FUNDING

Chapter 13, 13:2

# SOCIAL SECURITY TAXES

Equitable subordination of claims, 8:18

Equitable subordination of claims: *United States v. Noland* and *United States v. CF&I Fabricators of Utah, Inc.*, **15:53** 

### **SOVEREIGN IMMUNITY**

Tribes, automatic stay, sovereign immunity

Lac du Flambeau Band v. Coughlin, **15:24** 

Waiver, **3:8** 

### SPENDTHRIFT TRUSTS

Generally, 15:37

# **SPOUSES**

See also **Divorce** (this index)

### SPOUSES—Cont'd

Choose separate exemptions, 7:5, 7:6 Community property claims, 2:14 Discharge of joint debts, 11:1 Entireties, tenancy by, 6:5, 7:6 Joint petition, 2:13 Joint tenancy, property of estate, 6:5

### STALE DEBT

Fair Debt Collections Practices Act: Midland Funding, LLC v. Johns, 15:59

# STATE LAW

Generally, **1:1** Law (this index)

Non-Bankruptcy Law (this index)
Property of bankruptcy estate, 6:1,
6:2

Puerto Rico, eligibility for bankruptcy, **15:5** 

# STATUTORY CREDITORS' COMMITTEE IN CHAPTER 11

**Creditors' Committee** (this index)

### **STAYS**

Automatic Stay (this index)
Co-Debtor Stays (this index)

### STERN CLAIMS

Fraudulent transfer adversary proceedings heard de novo by District Court: *Executive Benefits Insurance Agency v. Atkinson*, **15:21** 

Implied consent adjudication: Wellness International Network, Ltd. v. Sharif, 15:22

Jurisdiction, 15:21

### **STRATEGIES**

Bad faith Chapter 11, creditors confronting, **1:8, 2:6** 

Choosing between relief from stay or conversion, **5:6** 

Nominal payment Chapter 13, creditors confronting, **13:14** 

# **STRIKES**

Injunctions, 5:3

# STRONG-ARM CLAUSE, AVOIDING POWERS OF TRUSTEE

Generally, **10:4 to 10:6**Real property transfers, **10:6**Unperfected security interest, trustee may avoid, **10:5** 

### STRONG ARM POWER

**Avoiding Powers of Trustee** (this index)

### STUDENT LOANS

Discharge without adversary hearing on undue hardship is final, plan confirms: *United Student Aid Funds, Inc. v. Espinosa*, **15:100** 

Jurisdiction of bankruptcy cases and proceedings, hardship discharge not barred by Eleventh Amendment: *Tennessee Student Assistance Corp. v. Hood*, **15:14** 

# SUBORDINATION OF CLAIMS

Generally, 8:6, 8:21

Noncompensatory tax may not be subordinated but may be recharacterized as a penalty: United States v. Noland and United States v. CF&I Fabricators of Utah, Inc., 15:53

Tax claims

Generally, 8:18

United States v. Noland and United States v. CF&I Fabricators of Utah, Inc., 15:53

# SUBSEQUENT TRANSFEREES

Section 550 and, trustee, 10:20

# **SUBSIDIARIES**

Corporate debtor, 2:15

### **SUMMARY JURISDICTION**

Former Bankruptcy Act, 3:5, 4:2

### **SUPER DISCHARGE**

Debt of individual with regular income, **13:14** 

# SUPER PRIORITY CLAIMS

Generally, **5:6**, **8:21** 

See also **Claims** (this index)

### SUPERSEDEAS BOND

**Supreme Court** (this index)

# **SUPREME COURT**

Generally, 15:1 et seq.

Abandonment, polluted property may not be abandoned, property of estate: Midlantic Nat'l Bank v. New Jersey Dept. of Environmental Protection, 15:36

Absolute priority rule, credit bidding: Radlax Gateway Hotel, LLC v. Amalgamated Bank, 15:90

Actual fraud not limited to obtaining property through fraudulent representation: *Husky International Electronics Inc. v. Ritz*, **15:80** 

Administration

Generally, 15:60

Collective bargaining agreements, rejection of: *N.L.R.B. v. Bildisco and Bildisco*, **15:60** 

Rejection of trademark license does not prevent Licensee from continuing to use the rejected trademark: Mission Prod. Holdings, Inc. v. Tempnology, LLC., 15:61

Allocation of plan payments to trust fund taxes

Business reorganization: *U.S. v. Energy Resources Co.*, **15:85** 

Claims: U.S. v. Energy Resources Co., 15:49

Ancillary preference, not barred by Eleventh Amendment: *Central Virginia Community College v. Katz.* **15:15** 

Asbestos settlement extends to insurers of debtor in direct action by victims: *Travelers Indemnity Co. v. Bailey*, **15:17** 

Attorney-client privilege, corporate:

Commodity Futures Trading
Com'n v. Weintraub, 15:23

Attorneys as debt relief agencies for consumer debtors, includes not advising abuse of bankruptcy:

Milavetz, Gallop & Milavetz,
P.A. et. al v. U.S., 15:29

### SUPREME COURT—Cont'd

Attorneys' fees, contract to pay postpetition fees not limited to litigating non-bankruptcy issues: Travelers Casualty & Surety Co. of America v. Pacific Gas & Electric Co., 15:58

Attorneys' fees for defense of fee award: Baker Botts LLP v. ASARCO LLC, 15:64

Automatic stay

Generally, 15:31

Bank account under administrative freeze not in violation of automatic stay: Citizens Bank of Maryland v. Strumpf, 15:33

Compensation for loss reinvestment opportunity: *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, **15:31** 

Exceptions from automatic stay, administrative law proceedings excepted: Board of Governors of the Federal Reserve System v. M Corp. Financial, Inc., 15:32

Retaining property seized prior to the petition does not violate the automatic stay: *City of Chicago v. Fulton*, **15:34** 

Automobiles. Car ownership costs, below

Avoiding powers

Check is paid and creates preference when bank honors check: *Barnhill v. Johnson*, **15:67** 

Exception to preference for ordinary course payments: *Union Bank v. Wolas*, **15:66** 

Judicial lien, divorce, exempt property: *Farrey v. Sanderfoot*, **15:39** 

Jurisdiction of bankruptcy cases and proceedings, infra

Medical malpractice, willful and malicious injury: *Kawaauhau v. Geiger*, **15:74** 

Mortgage foreclosure shows reasonably equivalent value

- Avoiding powers—Cont'd conclusively if it is noncollusive and complies with state law: *BFP v. Resolution Trust Corp.*, **15:68** 
  - Payments of trust fund taxes not avoidable as preference: *Begier v. I.R.S.*, **15:65**
  - Perfection of enabling loan, grace period: Fidelity Financial Services, Inc. v. Fink, 15:69
  - Preference, payments of trust fund taxes not avoidable as: *Begier* v. *I.R.S.*, **15:65**
- Bankruptcy court, exempt property; authority to surcharge homestead exemption for debtor's fraud: *Law v. Siegel*, **15:44**
- Business reorganization
  - Generally, 15:84 et seq.
  - Allocation of plan payments to trust fund taxes: *U.S. v. Energy Resources Co.*, **15:85**
  - Chapter 11 cramdown, contribution of new value: *Norwest Bank Worthington v. Ahlers*, **15:84**
  - Claims: Pioneer Inv. Services Co. v. Brunswick Assoc. Ltd. Partnership, **15:87**
  - Contribution of new value
    - Chapter 11 cramdown: Norwest Bank Worthington v. Ahlers, 15:84
    - Market measured: Bank of America Nat'l Trust and Sav. Ass'n v. 203 North LaSalle Street Partnership, 15:88
  - Cramdown, Chapter 11: Norwest Bank Worthington v. Ahlers, 15:84
  - Debtor ordered to assume more pension liabilities: *Pension Ben. Guar. Corp. v. LTV Corp.*, **15:86**
  - Market measured, contribution of new value: Bank of America Nat'l Trust and Say. Ass'n v.

### SUPREME COURT—Cont'd

- Business reorganization—Cont'd 203 North LaSalle Street Partnership, 15:88
  - Pension liabilities: *Pension Ben. Guar. Corp. v. LTV Corp.*, **15:86**
  - Priority rule: Czyzewski v. Jevic Holding Corp., **15:91**
  - Stamp tax exemption requiring sale after confirmed plan: Florida Dept. of Revenue v. Piccadilly Cafeterias, Inc., 15:89
  - Trust fund taxes, allocation of plan payments to: *U.S. v. Energy Resources Co.*, **15:85**
- Capital gains on sale of farm not a tax incurred by estate: *Hall v. United States*, **15:92**
- Car ownership costs, deduction disallowed without actual loan or lease payments: *Ransom v. FIA Card Services N.A.*, **15:102**
- Chapter 7
  - Conversion to Chapter 13 tempered by good faith: Marrama v. Citizens Bank of Massachusetts, **15:99**
  - Restitution orders, discharge: *Kelly v. Robinson*, **15:71**
  - Trustee: Commodity Futures Trading Com'n v. Weintraub, 15:23
- Chapter 11 cramdown, contribution of new value, business reorganization: *Norwest Bank Worthington v. Ahlers*, **15:84**
- Chapter 11 plan may not release nondebtors
  - Without consent by the creditors.

    Harrington v. Purdue Pharma,
    L.P., 15:94
- Check is paid and creates preference when bank honors check, avoiding powers: *Barnhill v. Johnson*, **15:67**
- Circuit courts of appeal may review interlocutory orders of bankruptcy courts review by district

court: Connecticut Nat'l Bank v. Germain, 15:10

### Claims

- Allocation of plan payments to trust fund taxes: *U.S. v. Energy Resources Co.*, **15:49**
- Attorneys' fees, contract to pay post-petition fees not limited to litigating non-bankruptcy issues: Travelers Casualty & Surety Co. of America v. Pacific Gas & Electric Co., 15:58
- Cleanup order dischargeable: *Ohio* v. *Kovacs*, **15:46**
- Noncompensatory tax may not be subordinated but may be recharacterized as a penalty: United States v. Noland and United States v. CF&I Fabricators of Utah, Inc., 15:53
- Oversecured tax claims: U.S. v. Ron Pair Enterprises, Inc., 15:47
- Post-petition interest: U.S. v. Ron Pair Enterprises, Inc., 15:47
- Restitution, debt as defined by Code Section 101(12): Pennsylvania Dept. of Public Welfare v. Davenport, **15:48**
- Taxes and tax claims, infra
- Timely filing: Pioneer Inv. Services Co. v. Brunswick Assoc. Ltd. Partnership, **15:52, 15:87**
- Trust fund taxes, allocation of plan payments to: *U.S. v. Energy Resources Co.*, **15:49**
- Undersecured mortgages: *Dewsnup v. Timm*, **15:50**
- Workers' compensation premiums do not qualify as contribution to employee benefit plan within Section 507(a)(5): Howard Delivery Service Inc. v. Zurich American Insurance Co., 15:57
- Cleanup order, discharge: *Ohio v. Kovacs*, **15:46**

### SUPREME COURT—Cont'd

- Collective bargaining agreements, rejection, administration: *N.L.R.B. v. Bildisco and Bildisco*, **15:60**
- Compensation for loss reinvestment opportunity, automatic stay: United Sav. Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd., 15:31
- Consumers, Chapter 11, eligibility for bankruptcy: *Toibb v. Radloff*, **15:4**
- Contribution of new value
  - Chapter 11 cramdown, business reorganization: *Norwest Bank Worthington v. Ahlers*, **15:84**
  - Market measured: Bank of America Nat'l Trust and Sav. Ass'n v. 203 North LaSalle Street Partnership, **15:88**
- Conversion of Chapter 7 to Chapter 13 tempered by good faith: *Marrama v. Citizens Bank of Massachusetts*, **15:99**
- Corporate attorney-client privilege: Commodity Futures Trading Com'n v. Weintraub, 15:23

### Corporations

- Attorney-client privilege: Commodity Futures Trading Com'n v. Weintraub, 15:23
- Burden of proof, tax claim controlled by state law: Raleigh v. Illinois Dept. of Revenue, 15:56

### Counterclaim

- Final judgment, state common law action raised as counterclaim to a filed proof of claim: *Stern v. Marshall*, **15:18**
- Courts and officers, generally, **15:23** Cramdown
  - Prime rate plus adjustment for risk: Till v. SCS Credit Corp., 15:98
- Cramdown, Chapter 11, business reorganization: Norwest Bank Worthington v. Ahlers, **15:84**

- Credit bidding: Radlax Gateway Hotel, LLC v. Amalgamated Bank, **15:90**
- Debtor ordered to assume more pension liabilities, business reorganization: *Pension Ben. Guar. Corp. v. LTV Corp.*, **15:86**
- Debt relief agencies for consumer debtors, includes attorneys not advising abuse of bankruptcy: *Milavetz, Gallop & Milavetz, P.A. et. al v. U.S.*, **15:29**
- Deduction for car ownership costs, actual loan or lease payments: Ransom v. FIA Card Services N.A., 15:102
- Defalcation by fiduciary excepted from discharge: *Bullock v. BankChampaign, N.A.*, **15:79**

### Discharge

- Chapter 7, restitution orders: *Kelly v. Robinson*, **15:71**
- Defalcation by fiduciary excepted from discharge: *Bullock v. BankChampaign*, *N.A.*, **15:79**
- Fair preponderance standard, exceptions proved by: *Grogan* v. *Garner*, **15:72**
- Fiduciary, defalcation excepted from discharge: *Bullock v. BankChampaign, N.A.*, **15:79**
- Justifiable, not reasonable, reliance requirement when excepting discharge for fraud: *Field v. Mans*, **15:73**
- Objections, timely objection to discharge: *Kontrick v. Ryan*, **15:78**
- Restitution as debt as defined by Code Section 101(12): Pennsylvania Dept. of Public Welfare v. Davenport, **15:48**
- Restitution orders, Chapter 7: *Kelly v. Robinson*, **15:71**
- Timely objection to discharge: *Kontrick v. Ryan*, **15:78**
- Disposable income projection, including future events in calculation of: *Hamilton v. Lanning*, **15:101**

### SUPREME COURT—Cont'd

- Distinctive personnel in bankruptcy, Chapter 7 trustee may waive corporate attorney-client privilege
  - Commodity Futures Trading Com8217n v. Weintraub, **15:26**
- Divorce, avoidance, judicial lien, exempt property: *Farrey v. Sanderfoot*, **15:39**
- Eligibility for bankruptcy Generally, **15:2**

Chapter 11

- Consumers: *Toibb v. Radloff*, **15:4**
- Pending Chapter XI: Central Trust Co., Rochester, N.Y. v. Official Creditors' Committee of Geiger Enterprises, Inc., 15:2
- Consumers, Chapter 11: *Toibb v. Radloff*, **15:4**
- Pending Chapter XI

Generally, 15:2

- Chapter 11: Central Trust Co., Rochester, N.Y. v. Official Creditors' Committee of Geiger Enterprises, Inc., 15:2
- Municipal bankruptcy law, Puerto Rico v. Franklin California Tax-Free Trust, 15:5
- Serial filing: Johnson v. Home State Bank, 15:3
- ERISA qualified pension plan excluded from estate: *Patterson* v. *Shumate*, **15:37**
- **Exceptions** 
  - Discharge, supra
  - Preference for ordinary course payments: *Union Bank v. Wolas*, **15:66**
- Exempt property
  - Generally, 15:38
  - Avoidance, judicial lien, divorce: *Farrey v. Sanderfoot*, **15:39**
  - Bankruptcy court, authority to surcharge homestead exemption

- Exempt property—Cont'd for debtor's fraud: *Law v. Siegel*, **15:44** 
  - Code section 522(f), retroactive effect: *U.S. v. Security Indus. Bank*, **15:38**
  - Divorce, avoidance, judicial lien: *Farrey v. Sanderfoot*, **15:39**
  - ERISA qualified pension plan excluded from estate: *Patterson v. Shumate*, **15:37**
  - Homestead exemption, Bankruptcy court lacking authority to surcharge for debtor's fraud: *Law v. Siegel*, **15:44**
  - IRA accounts: *Rousey v. Jacoway*, **15:42**
  - Judicial lien, divorce, avoidance: *Farrey v. Sanderfoot*, **15:39**
  - Property subject to value cap, explicit trustee notice required: *Schwab v. Reilly*, **15:43**
  - Retroactive effect, Code Section 522(f): *U.S. v. Security Indus. Bank*, **15:38**
  - State exemptions, limitation of Code Section 522(f): *Owen v. Owen.* **15:40**
  - Surcharge of debtor's homestead exemption, Bankruptcy court lacking authority due to debtor's fraud: *Law v. Siegel*, **15:44**
  - Sustained exemption without objection, lack of existence of colorable basis: *Taylor v. Frddland & Kronz*, **15:41**
  - Value cap, property subject to; explicit trustee notice required: *Schwab v. Reilly*, 15:43
- Fair preponderance standard, exceptions proved by, discharge: *Grogan v. Garner*, **15:72**
- FCC license revocation: F.C.C. v. NextWave Personal Communications Inc., 15:62
- Fiduciary, defalcation excepted from discharge: *Bullock v.*

# SUPREME COURT—Cont'd

- BankChampaign, N.A., 15:79
- Fraud, settlement of fraud does not preclude raising nondischarge-ability in subsequent bank-ruptcy: *Archer v. Warner*, **15:76**
- Homestead exemption, exempt property; Bankruptcy court lacking authority to surcharge for debtor's fraud: *Law v. Siegel*, **15:44**
- Immunity from avoiding powers.

  Jurisdiction of bankruptcy cases and proceedings, infra
- Income projections, including future events in calculation of projected disposable income: *Hamilton v. Lanning*, **15:101**
- Insurer is Party in Interest entitled to be heard
  - Plan of Reorganization: Truck Ins. Exchange v.Kaiser Gypsum Co., Inc., 15:95
- Interest, prime rate plus adjustment for risk: *Till v. SCS Credit Corp.*, **15:98**
- Introduction, 15:1
- Judicial lien, divorce, avoidance, exempt property: *Farrey v. Sanderfoot*, **15:39**
- Judicial powers in violation of Article III, bankruptcy judges held, jurisdiction of bankruptcy cases and proceedings: Northern Pipeline Const. Co. v. Marathon Pipeline Co., 15:6
- Junior unsecured mortgage, stripping: Bank of America, N.A. v. Caulkett, **15:51**
- Jurisdiction of bankruptcy cases and proceedings
  - Generally, 15:6
  - Ancillary preference, not barred by Eleventh Amendment: Central Virginia Community College v. Katz, 15:15
  - Asbestos settlement extends to insurers of debtor in direct action by victims: *Travelers Indemnity Co. v. Bailey*, **15:17**
  - Attorneys as debt relief agencies for consumer debtors,

- Jurisdiction of bankruptcy cases and proceedings—Cont'd includes not advising abuse of bankruptcy: *Milavetz, Gallop & Milavetz, P.A. et. al v. U.S.*, **15:29** 
  - Chapter 11 bankruptcy court has initial jurisdiction to enjoin collection on supersedeas bond against final judgment: *Celotex Corp. v. Edwards*, **15:11**
  - Circuit courts of appeal may review interlocutory orders of bankruptcy courts reviewed by district court: *Connecticut Nat'l Bank v. Germain*, **15:10**
  - Debt relief agencies for consumer debtors, includes attorneys not advising abuse of bankruptcy: *Milavetz, Gallop & Milavetz, P.A. et. al v. U.S.*, **15:29**
  - Denial without reservation of a motion to lift the automatic stay is a final order: *Ritzen Group, Inc. v. Jackson Masonry, LLC*, **15:20**
  - Immunity from avoiding powers States: Hoffman v. Connecticut Dept. of Income Maintenance, 15:8
    - United States: U.S. v. Nordic Village, Inc., 15:9
  - Judicial powers in violation of Article III, bankruptcy judges held: Northern Pipeline Const. Co. v. Marathon Pipeline Co., **15:6**
  - Probate exception does not prohibit court from hearing tortious interference with inheritance claim: *Marshall v. Marshall*, **15:16**
  - Remand orders are not reviewable by appeal: *Things Remembered, Inc. v. Petrarca*, **15:12**

Stern claims, 15:21

### SUPREME COURT—Cont'd

- Jurisdiction of bankruptcy cases and proceedings—Cont'd
  - Student loans
    - Discharge without adversary hearing on undue hardship is final, plan confirms: *United Student Aid Funds*, *Inc. v. Espinosa*, **15:100**
    - Hardship discharge not barred by Eleventh Amendment: *Tennessee Student Assistance Corp. v. Hood*, **15:14**
  - Trial by jury: *Granfinanciera*, *S.A. v. Nordberg*, **15:7**
  - Violation of Article III, bankruptcy judges held judicial powers in: *Northern Pipeline Const. Co. v. Marathon Pipeline Co.*, **15:6**
- Lac du Flambeau Band v. Coughlin Tribes, automatic stay, sovereign immunity, **15:24**
- Market measured, contribution of new value, business reorganization: Bank of America Nat'l Trust and Sav. Ass'n v. 203 North LaSalle Street Partnership, 15:88
- Materially false statement describing a single asset must be in writing: Lamar, Archer, and Cofrin, LLP v. Appling, 15:81

# Mortgages

- Foreclosure shows reasonably equivalent value conclusively if it is noncollusive and complies with state law: *BFP v. Resolution Trust Corp.*, **15:68**
- Plans for individuals with regular income, installment cure of home mortgage default: *Rake* v. *Wade*, **15:97**
- Removal to Federal court, bankruptcy defense not ground for: *Rivet v. Regions Bank of Louisiana*, **15:13**
- Undersecured

Dewsnup v. Timm, 15:50

Mortgages—Cont'd Undersecured—Cont'd Nobelman v. American Sav. Bank, **15:96** 

Motor Vehicles. Car ownership costs, above

Nondischargeable taxes, bankruptcy stay tolls three-year limit to look back for: *Young v. U.S.*, **15:77** 

Officers, generally, 15:23

Oversecured tax claims, claims: *U.S. v. Ron Pair Enterprises, Inc.*, **15:47** 

Payments of trust fund taxes not avoidable as preference

Avoiding powers: *Begier v. I.R.S.*, **15:65** 

Pending Chapter XI

Chapter 11, eligibility for bankruptcy: Central Trust Co., Rochester, N.Y. v. Official Creditors' Committee of Geiger Enterprises, Inc., 15:2

Eligibility for bankruptcy: Central Trust Co., Rochester, N.Y. v. Official Creditors' Committee of Geiger Enterprises, Inc., 15:2

### Pensions

Business reorganization: Pension Ben. Guar. Corp. v. LTV Corp., **15:86** 

ERISA qualified pension plan excluded from estate: *Patterson v. Shumate*, **15:37** 

Perfection of enabling loan, grace period: Fidelity Financial Services, Inc. v. Fink, 15:69

Plans for individuals with regular income

Generally, 15:96 et seq.

Bifurcation of home mortgages: Nobelman v. American Sav. Bank, **15:96** 

Installment cure of home mortgage default: *Rake v. Wade*, **15:97** 

Restitution as debt as defined by Code Section 101(12), **15:48** 

### SUPREME COURT—Cont'd

Plans for individuals with regular income—Cont'd

Undersecured mortgages, paring down: *Nobelman v. American Sav. Bank*, **15:96** 

Polluted property may not be abandoned, property of estate: Midlantic Nat'l Bank v. New Jersey Dept. of Environmental Protection, 15:36

Post-petition interest, claims: *U.S. v. Ron Pair Enterprises, Inc.*, **15:47** 

Preferences. Payments of trust fund taxes not avoidable as preference, supra

Priority rule: *Czyzewski v. Jevic Holding Corp.*, **15:91** 

Probate exception does not prohibit court from hearing tortious interference with inheritance claim: *Marshall v. Marshall*, **15:16** 

Projection of disposable income, including future events in calculation of: *Hamilton v. Lanning*, **15:101** 

Property of estate

Generally, 15:35

Abandonment, polluted property may not be abandoned: Midlantic Nat'l Bank v. New Jersey Dept. of Environmental Protection, 15:36

ERISA qualified pension plan excluded from estate: *Patterson v. Shumate*, **15:37** 

Polluted property may not be abandoned: *Midlantic Nat'l Bank v. New Jersey Dept. of Environmental Protection*, **15:36** 

Protected secured creditor, seizure of property prior to bank-ruptcy subject to turnover: *U.S. v. Whiting Pools, Inc.*, **15:35** 

Seizure of property prior to bankruptcy from adequately

- Property of estate—Cont'd protected secured creditor subject to turnover: *U.S. v. Whiting Pools, Inc.*, **15:35** 
  - Turnover, seizure of property subject to: *U.S. v. Whiting Pools, Inc.*, **15:35**
- Property subject to value cap, explicit trustee notice required; exempt property: *Schwab v. Reilly*, **15:43**
- Protected secured creditor, seizure of property prior to bankruptcy subject to turnover, property of estate: *U.S. v. Whiting Pools*, *Inc.*, **15:35**
- Puerto Rico v. Franklin California Tax-Free Trust, **15:5**
- Rejected trademarks: Mission Prod. Holdings, Inc. v. Tempnology, LLC., 15:61
- Rejection of collective bargaining agreements, administration: *N.L.R.B. v. Bildisco and Bildisco*, **15:60**
- Remand orders are not reviewable by appeal: *Things Remembered*, *Inc. v. Petrarca*, **15:12**
- Removal to Federal court
- Collateral mortgage, bankruptcy defense not ground for removal: *Rivet v. Regions Bank of Louisiana*, **15:13**
- Restitution as debt as defined by Code Section 101(12)
  - Claims: Pennsylvania Dept. of Public Welfare v. Davenport, 15:48
  - Discharge: Pennsylvania Dept. of Public Welfare v. Davenport, 15:48
  - Plans for individuals with regular income, **15:48**
- Restitution orders, Chapter 7, discharge: *Kelly v. Robinson*, **15:71**
- Retroactive effect, Code Section 522(f), exempt property: *U.S. v. Security Indus. Bank*, **15:38**
- Return of undistributed postpetition assets to debtor: *Harris v.*

# SUPREME COURT—Cont'd

Viegelahn, 15:103

- Seizure of property prior to bankruptcy from adequately protected secured creditor subject to turnover, property of estate: *U.S. v. Whiting Pools*, *Inc.*, **15:35**
- Serial filing, eligibility for bankruptcy: *Johnson v. Home State Bank*, **15:3**
- Sovereign immunity precludes invoking state fraudulent transfer law Internal Revenue Service: United
  - Internal Revenue Service: *United* States v. Miller, **15:25**
- Stamp tax exemption, business reorganization requiring sale after confirmed plan: Florida Dept. of Revenue v. Piccadilly Cafeterias, Inc., 15:89
- State common law action final judgment, counterclaim to a filed proof of claim: Stern v. Marshall, 15:18
- State exemptions, limitation of Code Section 522(f), exempt property: *Owen v. Owen*, **15:40**
- Stay, bankruptcy stay tolls three-year limit to look back for nondischargeable taxes: *Young v. U.S.*, **15:77**

## Student loans

- Discharge without adversary hearing on undue hardship is final, plan confirms: *United Student Aid Funds, Inc. v. Espinosa*, **15:100**
- Hardship discharge not barred by Eleventh Amendment: *Tennessee Student Assistance Corp. v. Hood*, **15:14**

# Supersedeas bond

- Chapter 11 bankruptcy court has initial jurisdiction to enjoin collection on supersedeas bond against final judgment: *Celotex Corp. v. Edwards*, **15:11**
- Surcharge, only trustee may surcharge the secured lender under

Bankruptcy Code Section 506(c): *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, **15:28**, **15:55** 

- Surcharge of debtor's homestead exemption, exempt property;
  Bankruptcy court lacking authority due to debtor's fraud: *Law v. Siegel*, **15:44**
- Sustained exemption without objection, lack of existence of colorable basis; exempt property:

  Taylor v. Frddland & Kronz,
  15:41

Taxes and tax claims

Burden of proof, tax claim controlled by state law: Raleigh v. Illinois Dept. of Revenue, 15:56

- Capital gains on sale of farm not a tax incurred by estate: *Hall v. United States*, **15:92**
- Delinquent taxes, recharacterization of non-compensatory tax as penalty: *United States v. Noland* and *United States v. CF&I Fabricators of Utah, Inc.*, **15:53**
- Nondischargeable taxes, bankruptcy stay tolls three-year limit to look back for: *Young* v. U.S., **15:77**
- Settlement trustee must pay taxes: *Holywell Corp. v. Smith*, **15:27**

Trust fund taxes, infra

Trial by jury, jurisdiction of bankruptcy cases and proceedings: *Granfinanciera*, *S.A. v. Nordberg*, **15:7** 

Tribes, automatic stay, sovereign immunity

Lac du Flambeau Band v. Coughlin, **15:24** 

Trustees, only trustee may surcharge the secured lender under Bankruptcy Code Section 506(c): Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A., 15:28, 15:55

### SUPREME COURT—Cont'd

Trust fund taxes

Allocation of plan payments
Business reorganization: U.S. v.
Energy Resources Co.,
15:85

Claims: U.S. v. Energy Resources Co., **15:49** 

Turnover, seizure of property subject to, property of estate: *U.S. v. Whiting Pools, Inc.*, **15:35** 

Undersecured mortgages:

Dewsnup v. Timm, 15:50

Nobelman v. American Sav. Bank, 15:96

- Value cap, exempt property subject to; explicit trustee notice required: *Schwab v. Reilly*, **15:43**
- Violation of Article III, bankruptcy judges held judicial powers in, jurisdiction of bankruptcy cases and proceedings: Northern Pipeline Const. Co. v. Marathon Pipeline Co., 15:6
- Waiver of corporate attorney-client privilege: *Commodity Futures Trading Com'n v. Weintraub*, **15:23**

Workers' compensation

Premiums do not qualify as contribution to employee benefit plan within Section 507(a)(5): Howard Delivery Service Inc. v. Zurich American Insurance Co., 15:57

# **SURCHARGE**

Supreme Court, exempt property, homestead exemption: *Law v. Siegel*, **15:44** 

Trustees, only trustee may surcharge the secured lender under Bankruptcy Code Section 506(c): Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A., 15:28, 15:55

## SUSTAINED EXEMPTION

Supreme Court, lack of existence of colorable basis, exempt prop-

### SUSTAINED EXEMPTION—Cont'd

erty: Taylor v. Frddland & Kronz, 15:41

### TAX CLAIMS

Generally, 8:18

Delinquent taxes, recharacterization of non-compensatory tax as penalty: *United States v. Noland* and *United States v. CF&I Fabricators of Utah, Inc.*, **15:53** Exemption to discharge, **11:12** 

## TAXES

**Supreme Court** (this index)

### **TENANCIES**

Joint or entireties, 6:5

### **TENANTS**

See also **Landlord-Tenant Interests** (this index)

Lessor as debtor and rights, **9:19** Property held by, exemption, **7:6** 

### **TERRITORIES**

Eligibility for bankruptcy, *Puerto Rico v. Franklin California Tax-Free Trust*, **15:5** 

# TIME

Adjustment of Debts (of an Individual with Regular Income) under Chapter 13 (this index)

Claims, timely filing of Generally, **8:6** 

Pioneer Inv. Services Co. v. Brunswick Assoc. Ltd. Partnership, 15:52, 15:87

Code Section 102, after notice and hearing, **1:4**, **4:2** 

Date of Plan (this index)

Executory contracts, time for rejection, **9:10** 

**Initiation of Bankruptcy Case** (this index)

Supreme Court, Code Section 522(f), exempt property, retroactive effect: *U.S. v. Security Indus. Bank*, **15:38** 

# TIME SHARES

Executory contract regarding, 9:12

### TORTS

Discharge in bankruptcy, exception Generally, 11:9

Kawaauhau v. Geiger, 15:74

Probate exception does not prohibit court from hearing tortious interference with inheritance claim: *Marshall v. Marshall*, **15:16** 

### **TRANSFERS**

Avoiding Powers of Trustee (this index)

Fraud (this index)

**Preferential Transfer** (this index)

# TRANSITION PROVISIONS OF BANKRUPTCY REFORM ACT

Affecting appeals, 3:10

# TRANSPORTATION EQUIPMENT

Contracts of financing, Bankruptcy Code Sections 541(b)(4) and 1110, **9:14** 

# TRIAL BY JURY

Supreme Court, jurisdiction of bankruptcy cases and proceedings: *Granfinanciera*, *S.A. v. Nordberg*, **15:7** 

### **TRUSTEES**

Administrator of estate, generally, **4:4** 

Appointment of an independent, in Chapter 11 case, **4:6** 

**Avoiding Powers of Trustee** (this index)

Chapter 11, 12 or 13 case

Generally, 4:10

Chapter 12 or 13 case

Generally, **13:6** 

Exercise of avoiding powers, 13:4

Conduct of business by, Chapter 7 case, **9:1**, **9:3** 

Debtor in possession, administration of Chapter 12 estate, **14:6** 

Duties, generally, 4:4, 9:7

Examiner as alternative in Chapter 11. **4:7** 

### TRUSTEES—Cont'd

Expenses of administrator of estate, 8:12

Fees applied differently in the two states using administrators violates uniformity

Clause- Siegel v. Fitzgerald, **15:30** Interim

Appointment in involuntary petition, 2:10

Automatic, Chapter 7, 4:4

Surcharge, only trustee may surcharge the secured lender under Bankruptcy Code Section 506(c): *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, **15:28**, **15:55** 

United States, 4:11

### TRUST FUND TAXES

**Supreme Court** (this index)

# TURNOVER OF ESTATE PROPERTY

Generally, 10:3

Bank account protected, **10:3** Custodian, **10:3** 

Life insurance premiums protected, 10:3

Supreme Court, seizure of property subject to, property of estate: *U.S. v. Whiting Pools, Inc.*, **15:35** 

# UNCITRAL MODEL LAW AND EUROPEAN REGULATION

Cross-border insolvencies, 16:4

### UNDERSECURED CLAIMS

Bifurcation of home mortgages in Chapter 13 plan: *Nobelman v. American Sav. Bank*, **15:96** 

### UNDERSECURED MORTGAGES

Supreme Court: *Dewsnup v. Timm*, **15:50** 

Supreme Court: *Nobelman v. American Sav. Bank*, **15:96** 

## UNDERWATER MORTGAGE

Debtor's power to strip second mortgage, 13:10

### UNEMPLOYMENT TAXES

Equitable subordination of claims Generally, **8:18** 

United States v. Noland and United States v. CF&I Fabricators of Utah, Inc., 15:53

# **UNEXPIRED LEASES**

Leases (this index)

# UNFAIR DISCRIMINATION

**Discrimination** (this index)

### UNIFORM BANKRUPTCY LAW

Geographical uniformity, 1:1

# UNIFORM FRAUDULENT CONVEYANCES ACT

Generally, **10:14** 

### UNIMPAIRED CLASSES

Generally, 12:5, 12:6

Classes defined, 12:5

Cure to avoid impairment, **12:7** Impairment and nonimpairment, **12:7** 

### UNION

**Labor Unions** (this index)

## UNLISTED CREDITORS

Exception to discharge, 11:15

# UNPERFECTED SECURITY INTEREST

Trustee may avoid, 10:5

## UNSECURED CLAIMS

See also **Claims** (this index)
Eligible to petition for involuntary bankruptcy, **2:5**Unlisted, **8:6** 

### UTILITY SERVICES

Generally, 9:2

# VALUE

Chapter 13 cramdown secured claim, replacement value: *Associates Commercial Corp. v. Rash*, **15:54** 

Community property, **6:6**Contribution of new value, **12:21**Determining value, **6:7** 

# VALUE—Cont'd

Encumbered property, shared interests and concept, **6:4**, **9:6** 

Exempt property subject to value cap, explicit trustee notice required: *Schwab v. Reilly*, **15:43** 

Fifth Amendment protection of, **5:6** Going concern value in Chapter 11, **6:7**, **6:9**, **9:5**, **9:6**, **12:1** 

Jointly held property, **6:5** Liquidation value, **6:7, 12:1** 

Mortgage foreclosure shows reasonably equivalent value conclusively if it is noncollusive and complies with state law: *BFP v. Resolution Trust Corp.*, **15:68** 

Negotiation to determine, **6:7** Secured and unsecured claims and concept, **8:1** 

### VALUELESS PROPERTY

Abandoning, 6:11

### **VENUE**

Bankruptcy court jurisdiction Generally, **3:9** 

Transfer of venue: 28 U.S.C. Section 1412, **3:9** 

Venue for the case: 28 U.S.C. Section 1408, 2:3, 3:9

Venue for the proceedings: 28 U.S.C. Section 1409, **2:3**, **3:9** 

Transfer of venue, 2:3

# VIOLENT FEDERAL CRIMES

Restitution, nondischarge debt, 11:17

# VOLUNTARY PETITION INITIATION

Generally, 2:2

Abstention, conversion or dismissal, **2:6** 

Order for relief, 2:5

# VOLUNTARY PETITION INITIATION—Cont'd

Petition, schedules and statements, **2:4** 

Venue, 2:3

### **VOTING**

Chapter 11, 12:6, 12:10

Creditor, impaired class: U.S. Bank NA v. Village at Lakeridge, LLC, 15:93

### WAGES

See also **Income of Debtor** (this index)

Exemption, 7:8

Wage claims, 8:15

### WAIVER

Contractual, **2:1** Sovereign immunity, **3:8** 

### WELFARE FRAUD

Restitution as nondischargeable in bankruptcy, 11:17

### WIFE

**Husband and Wife** (this index)

# WILLFUL, MALICIOUS OR INTENTIONAL HARM

Discharge exemption, willful or malicious injury

Generally, 11:9

Kawaauhau v. Geiger, 15:74

# WORKERS' COMPENSATION

Premiums do not qualify as contribution to employee benefit plan within Section 507(a)(5): Howard Delivery Service Inc. v.
Zurich American Insurance Co., 15:57

# WRITING AND WRITTEN INSTRUMENTS

Materially false statement describing a single asset must be in writing: Lamar, Archer, and Cofrin, LLP v. Appling, 15:81