Introduction for Bankruptcy Evidence Manual 2026-2027 Edition

The following recent cases of interest are included in this latest edition.

Volume I

The issue of res judicata (claim preclusion) often arises in bankruptcy litigation.

§ **2:6**: The Ninth Circuit in In re Nance, 156 F.4th 961 (9th Cir. 2025), held that prior bankruptcy court order denying debtor's claim of exemption of recreational vehicle under state law, did not preclude under res judicata, debtor's later amended claim of exemption under bankruptcy law.

§ **2:6**: The Bankruptcy Court in In re Romo, 668 B.R. 661 (Bkrtcy.D.N.M. 2025), held that prior state court default foreclosure decree waiving chapter 7 debtors' homestead exemption did not have res judicata effect in § 522(f) action or affect debtors' right to claim their homestead exemption in their chapter 7 case.

§ **2:15**: The Bankruptcy Court in In re Bain, 672 B.R. 119 (Bkrtcy.M.D. Tenn. 2025), held that the chapter 13 debtors could modify their confirmed plan to surrender their vehicle to secured creditor and pay it the value of the claim in confirmed plan.

§ **2:19**: The Bankruptcy Court in In re Gleaton, 670 B.R. 808 (Bkrtcy.S.D. Fla. 2025), held that the bankruptcy court's prior order denying and dismissing chapter 7 debtor's stay violation motion with prejudice based on failure to prosecute was an adjudication on the merits and entitled to res judicata effect.

The issue of collateral estoppel (issue preclusion) often arises in bankruptcy litigation.

§ **3:5**: The Bankruptcy Court in In re Riegle, 665 B.R. 387 (Bkrtcy.C.D. Ill. 2024), held that collateral estoppel applied to state court judgment despite debtor's claim that her attorney failed to make a closing argument and failed to timely file appellate brief resulting in dismissal of appeal.

§ **3:8**: The Fifth Circuit in Matter of Adair, 137 F.4th 384 (5th Cir. 2025), held that in § 523(a)(6) proceeding, bankruptcy court improperly rejected chapter 13 debtor's defense as precluded by prior state court judgment.

§ **3:13**: The Bankruptcy Court in In re Fitch, 666 B.R. 563 (Bkrtcy.S.D. Ohio 2025), held that collateral estoppel applied to prior state court default judgment where chapter 7 debtor had a full and fair-opportunity and an adequate incentive to litigate the particular issue.

§ **3:15**: The Bankruptcy Court in In re Curley, 666 B.R. 673 (Bkrtcy.D. Or. 2024), held that state court default judgment, where answer was stricken as a sanction, was entitled to collateral estoppel effect in § 523 action where chapter 7 debtor had full and fair opportunity to be heard.

Although less common than res judicata or collateral estoppel, the Rooker-Feldman doctrine also arises in bankruptcy litigation.

§ **8:5**: The Bankruptcy Court in In re Zahoruiko, 666 B.R. 856 (Bkrtcy.D. Conn. 2024), held that the Rooker-Feldman doctrine barred chapter 13 debtor's objection to proof of claim relating to final state court judgment.

§ **8:5**: The District Court in Downey v. Bd. of Trs. of S. Illinois Univ., 671 B.R. 744 (S.D. Ill. 2025), held that the Rooker-Feldman doctrine barred District Court from considering chapter 7 debtor's request for court to impose stay to prevent landlord from evicting her.

§ **8:6**: The Third Circuit in In re Adams, 151 F.4th 144, 148 (3d Cir. 2025), held that the Rooker-Feldman doctrine did not prohibit jurisdiction over debtor's claims, but res judicata applied to debtor's claims.

§ **8:6**: The Bankruptcy Court in In re Dorvil, 665 B.R. 35 (Bkrtcy.N.D. Tex. 2024), held that the Rooker-Feldman doctrine did not preclude the bankruptcy court's striking post petition findings made by state court regarding pre petition default judgment against chapter 7 debtor in violation of § 524.

Volume II

The issue of presumptions and inferences often arises in bankruptcy litigation.

§ **301:2**: The Bankruptcy Court in In re Nwosu, 667 B.R. 844 (Bkrtcy.S.D. Ohio 2025), held that the Court drew negative inference against chapter 13 debtor for failing to testify at hearing on a motion to dismiss the case.

The issue of receipt of mail often arises in bankruptcy litigation.

§ **301:9**: The Bankruptcy Court in In re Weathers, 670 B.R. 20 (Bkrtcy.D.S.C. 2025), held that the creditor failed to rebut presumption of receipt of bankruptcy filing in § 362 action for violation of the automatic stay.

The application of privileges is very important in bankruptcy litigation.

§ **501:18**: The Bankruptcy Court in In re Celsius Network LLC, 669 B.R. 667 (Bkrtcy.S.D.N.Y. 2025), held that plaintiff's subpoena served on defendant's attorney seeking defendant's contact information in order to serve defendant with lawsuit, did not violate defendant's attorney-client privilege.

§ **501:35**: The Bankruptcy Court in In re Schamens, 666 B.R. 521 (Bkrtcy.M.D.N.C. 2024), held that the Bankruptcy Court, in its discretion, would not stay the adversary proceeding pending the outcome of criminal case against the chapter 7 debtor.

The admissibility of opinions and of expert testimony often arise in bankruptcy litigation.

§ **701:2**: The Bankruptcy Court in In re Lamb, 665 B.R. 603 (Bkrtcy.E.D.N.C. 2024), held that debtors had the burden of proof on valuation of mobile home securing creditor's claim and failed to establish the value for chapter 13 plan purposes.

§ **702:1**: The District Court in Vascular Access Centers, L.P. v. Philadelphia Vascular Inst., LLC, 669 B.R. 738 (E.D. Pa. 2025), held that proposed expert testimony was not needed to assist the bankruptcy court in determining the amount of sanctions and was therefore properly excluded under rule 702.

The application of the hearsay rules often arises in bankruptcy litigation.

§ **803:12**: The Bankruptcy Court in In re Klein, 669 B.R. 877 (Bkrtcy.C.D. Cal. 2025), held that the chapter 11 trustee established sufficient grounds to admit documents as an "other-

wise qualified witness" under business record exception to the hearsay rule 803(6)(D).