2026 HIGHLIGHTS

The Law of Debtors and Creditors has been presented now for three years as a soft-bound text in three volumes that are updated annually. We sadly note that our long-time co-author Lawrence R. Ahern III passed away in March after a brief illness.

This edition has been substantially revised, with chapters undergoing review by the co-authors, each focusing on specific areas of the relevant law. This 2026 edition features developments in caselaw and rules, including Circuit Court decisions in this last year. Significant updates include:

In the bankruptcy-related chapters, some Federal Rules of Bankruptcy Procedure were revised, effective December 1, 2025. Substantial changes were made to Rule 3002.1, and new Official Form were adopted to implement the revised rule. Those Rule and Form changes are discussed in Chapter 17. Bankruptcy Rule 8006(g) was revised to clarify that any party to an appeal may file a request that a Court of Appeals authorize a direct appeal. There is no obligation to do so if no party wishes the Court of Appeals to authorize a direct appeal.

Significant Circuit Court decisions on Chapter 13 practice are also discussed in Chapter 17, with those decisions including Mission Hen, LLC v. Lee, 137 F.4th 1008 (9th Cir. 2025) (At the time of the Chapter 13 filing the unsecured debt limit was $419,275, and the under secured junior mortgagee asserted that the debtor was ineligible based on value of the property, but the debtor moved to value the property with intention of cramming down the under secured claim that was subject to modification under section 1322(c)(2). Although *In re Scovis*, 249 F.3d 975 (9th Cir. 2001), held that eligibility was normally determined based on a debtor's schedules, when valuation of property became an issue soon after the case filing, it was not error for the Bankruptcy Court to determine eligibility based on the Court's valuation, which placed the debtor below the unsecured debt limit. The debtor's amended plan proposed to pay the secured amount of the junior mortgage in full but to bifurcate the claim under section 1322(c)(2). The creditor's objection presented the issue "whether the phrase 'payment of the claim as modified' in § 1322(c)(2) refers to modifications only of the terms of the 'payment,' or of the entire 'claim' itself, " and the Circuit agreed with the BAP decision that the claim could be modified and bifurcated, citing other Circuits in agreement.).

New case authority on Chapter 11 issues are found in chapter 16A, including, for example, *Bestwall LLC v. Official Committee of Asbestos Claimants of Bestwall, LLC*, 148 F.4th 233, 74 Bankr. Ct. Dec. (CRR) 202 (4th Cir. 2025), in which the Fourth Circuit narrowly held that federal courts have subject-matter jurisdiction over bankruptcy cases involving solvent debtors, because the Constitution grants Article III judicial powers over all cases arising under the laws of the United States, which the Court held included the Bankruptcy Code.

In chapter 13's discussion of property of the estate and exemptions, one of the updated cases was In re Delamo, 158 F.4th 1335 (11th Cir. 2025), in which the Eleventh Circuit affirmed allowance of the exemption in a joint bank account that the debtor claimed as tenants by entirety. The opinion analyzes the continuing effect of *Beal Bank, SSB v. Almand and Associates*, 780 So. 2d 45 (Fla. 2001), holding that a joint account held by husband and wife is held in tenancy by entirety unless there is a disclaimer that such a tenancy is not intended.

New case authority on claims and discharge exceptions, discussed in chapters 14 and 15, includes *In re Buscone*, 133 F.4th 196 (1st Cir. 2025), in which the Chapter 13 debtor's debt to former business partner had been excepted from discharge in prior Chapter 7 case, and the First Circuit held that the state-court default judgment that was entered as a sanction for litigant's misconduct was given preclusive effect when the litigant had the opportunity to participate in the litigation before entry of the default judgment, with the debtor precluded from contesting the prior exception from discharge.