

Bankruptcy

Law 889, Spring 2025

Professors Stephen Ware & Malissa Walden

<https://sware.ku.edu/bankruptcy>

Course Description. This survey of bankruptcy and debtor-creditor law covers topics such as: Chapters 7, 11, and 13 of the Bankruptcy Code and enforcement of money judgments outside of bankruptcy. Prerequisites: Commercial Law: Secured Transactions; and Business Organizations.

Learning Outcomes. This course should serve at least three purposes. One is to study the law and practice of bankruptcy and related debtor-creditor law. Successfully completing this course will advance students' knowledge of both individual and business bankruptcy. Another purpose of this course is to develop students' skills. Among these skills are legal analysis, problem-solving, and communication, both written and spoken. The third purpose of the course is to introduce students to bankruptcy lawyers' professional and ethical responsibilities to clients and others in the legal system.

Class Meetings. Our three-credit, in person course is scheduled for 10:20-11:15 on Tuesdays, Thursdays, and Fridays in Green Hall 203.

Two instructors. This course has two instructors. Professor Ware is the main instructor with ultimate responsibility for the course. Professor Walden is an experienced adjunct professor and practitioner of bankruptcy law, as well as a KU Law alum. Professor Walden is scheduled to teach this course Feb. 18, 28, and March 4, 25, 27, 28. You may contact her at MLWalden@WaldenLegalSolutions.com or schedule a phone appointment [KU Student Phone Call](#) if she is otherwise unavailable.

Attendance and lateness. Accreditation standards governing the Law School say that “[a] law school shall require regular and punctual class attendance.” Perfection is not required, so you may miss a class or two because you have transportation problems, a job interview, illness, a death in the family, or something similar. This sort of absence is no worry, and you do not need to contact the instructor about it. Just borrow class notes from a classmate and then let the instructor know if you have any questions about the material we covered. Similarly, you may be late to class or leave early once or twice for reasons like those listed above. Again, this is no worry and no need to contact the instructor about it.

By contrast, if you are going to miss class or be late or leave early more than a couple of times during the course that is a worry. If that happens, you should contact Professor Ware to discuss how we can address the situation and keep you on track with the course and your classmates. If you miss some or all of a class session three or more times, Prof. Ware may send you an email warning. If after he does that, you miss some or all of a class session two more times, he may exclude you from the final exam.

Computers and other electronics in class. Subject to exceptions the instructor will announce, you may use a computer in class, but only for working on this course. Audio or video recording of class is prohibited without written permission from that day's instructor.

Required Reading. The required casebook is GREGORY GERMAIN, *BANKRUPTCY LAW AND PRACTICE* (5th ed. 2024). This book is free and available at <https://www.cali.org/books/bankruptcy-law-and-practice#>

Also required is a statutebook with current versions of Uniform Commercial Code Articles 1 and 9 and the Bankruptcy Code.

Grading. 100 points are available in this course:

- 60 from the final exam,
- 10 from the midterm exam,
- 20 from Ware graded assignments and classroom performance, and
- 10 from Walden graded assignments and classroom performance.

Classroom performance. Key to your classroom performance in this course is frequently raising your hand and contributing your thoughts when the instructor asks questions to the entire class, as well as when the instructor directs questions to you individually. Questions to the whole class invite all students to volunteer, so the more hands that go up, the more smoothly our discussions can regularly include a variety of voices and viewpoints. You will individually benefit from contributing frequently, not only in your grade, but also in practicing the important professional skill of speaking about the law. Ideally, each student will answer several questions, after volunteering, each day. But if you need a pass once or twice during the semester, that is fine.

Talking with Professor Ware Outside of Class. Tuesdays, Thursday, and Fridays, Prof. Ware intends to be fully available to students after our class and then in the afternoons of Tuesdays and Fridays. He will be available plenty of other times as well, and you are always welcome to schedule an appointment or stop by his office (414C), call 785-864-9209, or email ware@ku.edu.

Lunch with Professor Ware. We can go across the street to the DeBruce Center Cafe, and within limits the Law School will buy our lunches. These lunches work best with groups of two or three students at a time. If you would like to do this, please email Prof. Ware suggesting a day or two that works for all the students in the group at 11:30 or 1:00 (to avoid crowds) and please copy the other student(s) on that email.

Accommodations. Classroom and testing accommodations are available to eligible students registered with the Student Access Center. You may contact access@ku.edu or Associate Dean for Academic and Student Affairs, Leah Terranova, leaht@ku.edu or 785-864-4357.

Required links. KU's [syllabus policy](#) requires each syllabus to include these links:

- Explanation of instructional time expected for out-of-class student work per credit (see [Credit Hour Definition](#) policy)
- Statement on accommodations and/or information for students with disabilities (see or use):
 - KULC: [Student Access Center Syllabus Statement](#)

- KUMC: [Syllabus Statement for Accommodations](#)
- Links to the following policies:
 - [Sexual Harassment](#)
 - [Nondiscrimination, Equal Opportunity, and Affirmative Action](#)
 - [KU Statement on Diversity and Inclusion](#)
 - Academic Misconduct
 - KULC: [Academic Misconduct \(USRR 2.7.1\)](#)
 - KUMC: [Academic Misconduct](#)
 - Change of Grade
 - KULC: [Change of Grade Policy](#) and [Change of Grade \(USRR 2.4.1\)](#) (i.e., grade appeal)
 - KUMC: [School of Health Professions Grade Policy](#); [School of Nursing Grade Policy](#); [School of Medicine \(MD\) Grade Policy](#); and [Graduate Studies Grade Policies](#)
 - KULC: [Code of Student Rights and Responsibilities](#)
 - KULC: [Commercial Note-Taking](#)
 - KULC: [Mandatory Reporting](#)
 - KULC: [Racial and Ethnic Harassment Policy](#)

CLASS	ASSIGNMENT
Non-Bankruptcy Debt Collection Law	
1. Jan. 21	1.1 – 1.3.2 (Problems 1-4)
2. Jan. 23	1.4, do 1.4.5.1 with Kan. Stat. §§ 60-2301 – 60-2311 1.6 – 1.7.2, 1.9 – 1.11
3. Jan. 24	1.8, do 1.8.1 (Problems 1-3) with NY’s UVTA and Kansas Statutes Chapter 33
The Bankruptcy Estate and Trustee	
4. Jan. 28	3.1 – 3.2, 7.1 – 7.4, 7.6 (Problem 1), 4.1, 4.4 (Problems 2-8, 10), Revised 4.5 on Canvas
Exemptions	
5. Jan. 30	11 U.S.C. § 302, 5.1 – 5.2, 5.4.2, 5.5 – 5.6.2, 5.7, 5.8 (Problem 1)
The Automatic Stay	
6. Jan. 31	6.1, 6.2 (Problems 1, 3-4, 9-13, 15), 6.3.2
Claims	
7. Feb. 4	10.1, 10.3, 10.4 (Problems 1-3)
8. Feb. 6	10.2.8, 10.6, 10.7 (Problems 1-2)
Secured Claims	
9. Feb. 7	9.1, 9.3 (Problems 4-6), 9.4 (Problems 1-3)
10. Feb. 11	9.7 – 9.11, 11.9, Hall v. Ford Motor Credit ,
Discharge	
11. Feb. 13	10.12, 11.1 – 11.4 (skip Davis), 11.10 (Problems 1-2, 4, and 6)
12. Feb. 14	11.5, 11.7, 11.8.3 - 11.8.5, 11.8.8
13. Feb. 18 (Walden)	11.6, 11.8.1 - 11.8.2, Read 11/17/22 DOJ Guidance We will discuss Bankruptcy + Student Loans in class. Consider: The history of student loans in bankruptcy. What is the Brunner Test (3 prongs). What you know or believe based on media coverage. Do you know what types of loans are available to students. If you took out student loans for yourself, how comfortable did you feel signing for the loan. Is a college education still worth it. What do you think needs to change (if anything).

Chapter 13 Bankruptcy	
14. Feb. 20	3.10 (Problems 7, 9, 10, 11), 12.1 – 12.5, 12.7
15. Feb. 21	Read the “Thirteenth Circuit” decision for the Duberstein Bankruptcy Moot Court Competition, 2025. Graded Assignment At least an hour before class, submit two questions you, as a Supreme Court justice, would ask Petitioner and two you would ask Respondent. One of your two questions for each side must be on each of the two issues. You must, during class, ask at least one of these questions each issue to get full credit on this assignment. Your submission must end with a sentence stating that you developed your questions entirely on your own and did not discuss the substance of this assignment with anyone else.
16. Feb. 25	12.6-12.6.4. In 12.10 before the problems, without doing math, but just conceptually with the BR Code, what will the Lincolns do regarding their home, rental property, cars, and furniture?
17. Feb. 27	12.8 – 12.9
The Means Test	
18. Feb. 28 (Walden)	3.11 – 3.12, 3.14 - 3.15, 3.21 – 3.24, 3.22 (Problems 1–4)
19. March 4 (Walden)	3.25 – 3.25.1 We will review the Means Test and calculations in class.
Jurisdiction	
20. March 6	3.3 – 3.6
21. March 7	3.7
22. March 11	Graded assignment, part a. Attend U.S. Bankruptcy Court for at least two hours by March 11. Our class will not meet that day.
23. March 13	Graded assignment, part b. At least an hour before class, submit 1000-1500 words discussing what you observed in court. How did what you observed relate to material we have studied in this course. Any observations seem inconsistent with that material? The first paragraph of your writing should state the date(s), time(s), and location(s) of your court attendance.
24. March 14	Midterm exam

Spring Break	
25. March 25 (Walden)	<p>Re-read 12.1 – 12.5</p> <p>In class we will begin analyzing Chapter 13 Means Test, plan and intake. These will be provided to you. You will need to submit your:</p> <ul style="list-style-type: none"> -Completed Means Test -Completed Chapter 13 Plan -Analysis <p><u>Due Before next class (3/27/25)</u></p> <p>Requirements:</p> <p>2-3 single-spaced pages discussing the debtor</p> <ol style="list-style-type: none"> 1. Briefly summarize the amount and types of the debtor’s income, expenses, property, and debts. Synthesize facts found throughout the intake to draw conclusions that show you’ve penetrated behind the document to develop an educated guess about what is really happening in the debtor’s life. 2. Other than income, expenses, property, and debts, do any other facts revealed by these documents seem particularly important to the debtor? 3. How is this Ch. 13 bankruptcy likely to help the debtor? 4. What will you tell Debtor when they ask you if they should file bankruptcy? <p>Organize your submission with headings corresponding to the four questions above.</p>
26. March 27 (Walden)	<p>Re-read 7.1 – 7.4, 12.7, 12.9</p> <ul style="list-style-type: none"> • Verify that you have completed your Chapter 13 MT • Verify that you have completed your Chapter 13 Plan • Be ready to discuss your findings in class.
27. March 28 (Walden)	<p>Why Should You Care</p> <p>In class discussion on why practitioners should care about Bankruptcy.</p>

Business Bankruptcy	
Eligibility, Dismissals	
28. April 1	3.10 (Problems 1, 4, 5, 8). Graded assignment: Research however you like. Then at least an hour before class submit a paragraph describing what happens (in terms of property and payment) with respect to creditors and owners of an insolvent business entity in each of these situations, so four paragraphs total, in 500 words or less: <ol style="list-style-type: none"> 1. all creditors independently try to collect outside of BR; 2. all creditors cooperate with each other outside of BR; 3. dissolution of the business entity under state corporate law; 4. Chapter 7.
29. April 3	14.4 – 14.4.1
30. April 4	3.16 – 3.17, 6.4, LTL case
Use, Sale, and Abandonment of Property of the Estate	
31. April 8	7.5, 7.8, 7.10, 9.12, 9.14, 10.9 – 10.10
Executory Contracts	
32. April 10	7.11, 7.13.1, 7.16 (Problems 1-4, 7)
Voidable (“Fraudulent”) Transfers and Strong Arm Clause	
33. April 11	8.1 – 8.4 (do Problems 6-7), 8.6 - 8.6.1 (Problems 1-2)
Preferences	
34. April 15	8.7, 8.8 (Problems 1-5, 7-10)
35. April 17	8.10, 8.12 (Problems 2-4), 8.13 - 8.14
Business Reorganization	
36. April 18	10.11 – 10.11.1, 13.1 – 13.6, 13.8.1-2, 13.9
37. April 22	13.10.1 – 13.10.2, 13.10.3.2
38. April 24	13.11 – 13.13, 14.2
39. April 25	Graded assignment: At least an hour before class, submit a paragraph describing what happens (in terms of property and payment) with respect to creditors and owners of an insolvent business entity in each of these situations, so six paragraphs total, in 1000 words or less: <ol style="list-style-type: none"> 1. all creditors independently try to collect outside of BR; 2. all creditors cooperate with each other outside of BR; 3. dissolution of the business entity under state corporate law; 4. Chapter 7; 5. a Chapter 11 plan that basically says, “Sell D’s property to the highest bidder and use the proceeds to pay creditors according to priorities of Ch. 7”; 6. sale of all D’s property under BR Code § 363 with proceeds paying creditors according to priorities of Ch. 7.