

American Board of Certification

Study Guide



Business Bankruptcy and Consumer Bankruptcy Law Certification Examinations

June 2009

The following was compiled to serve as a guide for preparing for the American Board of Certification (ABC) exams, and to help applicants prepare for the exam. Certification by definition is meant to test a level of knowledge and expertise. The ABC exams are designed to draw on knowledge gained through experience and therefore a great deal of preparation should not be necessary for an attorney who meets the experience and substantial involvement requirements for certification.

In addition to this guide, we recommend that you review the sample examinations that are available free of charge on the ABC website at **www.abcworld.org**. A list of bankruptcy continuing legal education opportunities can also be found on the ABC website.

ABC Faculty Committee

The ABC Examinations are prepared by the ABC Faculty Committee and are reviewed by the ABC Dean of Faculty. The following are the members of the ABC Faculty Committee:

Dean of Faculty
Prof. Nathalie Martin
Albuquerque, New Mexico
University of New Mexico School of Law

Faculty Committee Members:

Prof. Laura B. Bartell
Wayne State University Law School
Detroit, Michigan

Prof. John M. Czarnetzky
University of Mississippi School of Law
University, Mississippi

Prof. Alexander L. Edgar
Notre Dame Law School
South Bend, Indiana

Prof. Creola Johnson
Ohio State University Moritz
College of Law
Columbus, Ohio

Prof. Margit Livingston
DePaul University College of
Law
Chicago, Illinois

Prof. Katherine M. Porter
University of Iowa College of
Law
Iowa City, Iowa

Prof. Nancy B. Rapoport
William S. Boyd School of
Law
Las Vegas, Nevada

Prof. Laura Spitz
University of Colorado
Law School
Denver, Colorado

Prof. Reynaldo Anaya Valencia
St. Mary's University School of
Law
San Antonio, Texas

Prof. G. Ray Warner
St. John's University School of Law
Jamaica, New York

Prof. Michaela White
Creighton University School of Law
Omaha, Nebraska

Prof. William Widen
University of Miami School of Law
Miami, Florida

Exam Structure

The six-hour certification examination is divided into the following three sections:

Section	Taken By	Length	Composition
Part I: Bankruptcy Law Multiple Choice	Business & Consumer Bankruptcy Certification examinees	2 hours	50 multiple choice questions
Part II: Bankruptcy Law Ethics Essay	Business & Consumer Bankruptcy Certification examinees	1 hour (plus additional 15 min. of reading time)	2 essay questions (choose 2 out of 4)
One Hour Lunch Break			
Part III: Business Law Sub-Specialty Essay Exam	Business Bankruptcy Certification examinees	3 hours (plus additional 15 min. of reading time)	2 essay questions (choose 2 out of 3)
Part III: Consumer Law Sub-Specialty Essay Exam	Consumer Bankruptcy Certification examinees	3 hours (plus additional 15 min. of reading time)	2 essay questions (choose 2 out of 3)

Both Consumer Bankruptcy Law and Business Bankruptcy Law applicants will take the first and second sections of the examination. There will be lunch break of up to one hour at about noon. (You are "on your own"; lunch is not provided to examinees.) For the third section, the sub-specialty essay questions, different examinations will be administered to Consumer Bankruptcy Law applicants and to Business Bankruptcy Law applicants. Section III will be administered in the afternoon and will be preceded by a

15 minute reading period. The examination will end at approximately 5:00 p.m. On exam day, there may also be individuals taking the Creditors' Rights Certification Exam.

Part I, General Bankruptcy Law, is a two-hour examination composed of fifty multiple-choice questions about general bankruptcy law issues. The questions cover a range of both business and consumer issues, as well as questions relating to procedure and special bankruptcy powers. Because this is a national examination, we have attempted to limit the questions to well-established principles. The questions in this section range from easy to very hard. It is not expected that anyone will correctly answer every question, but we do expect that a reasonably competent bankruptcy practitioner will achieve a passing score without extensive study. As you prepare for this section, we suggest that you focus your efforts on a review of the Bankruptcy Code and Rules, and the Supreme Court's cases in the bankruptcy field.

In taking this section of the examination, you should attempt to choose the best answer from among the four choices. You will not be penalized for wrong answers, so you should answer every question, even if you are not certain of your answer. We have done our best to insure that the multiple-choice questions are unambiguous and that our "correct" answers represent settled law. However, if, after taking the examination, you believe a particular question is ambiguous, or has two or more "best" answers, you may request a "Multiple Choice Objection" form for submission to the ABC Faculty Committee.

In **Part II, the Ethics Section**, you are given four short ethics questions. After a fifteen minute reading period to review the questions before the examination begins, you must answer any two of them in one hour. We have attempted to draft questions that reflect the real-life ethical problems a bankruptcy lawyer faces. Although it is important that you identify the ethical issues and reach a correct conclusion, your answers will be graded primarily on the quality of your analysis and explanation. Thus, it is critically important that you explain your conclusions thoroughly. An answer reaching the correct result, but failing to explain your reasoning, will be given a failing grade. In order to pass the Ethics section, you must pass both ethics questions. Your answers will be graded on a pass/fail basis. The scores on the two questions will not be averaged.

For **Part III, the Sub-Specialty section**, different sets of essay questions will be administered to Consumer Bankruptcy Law applicants and to Business Bankruptcy Law applicants. You are given three questions. After a fifteen-minute reading period to review the questions before the examination begins, you must answer any two of them in three hours. Like the Ethics short-essay section, your answers to the sub-specialty questions will be graded primarily on the quality of your analysis and explanation. Thus, it is critically important that you explain your conclusions thoroughly. An answer reaching the correct result, but failing to explain your reasoning, will be given a failing grade.

In order to pass the sub-specialty section, you must pass both questions. Your answers will be graded on a pass/fail basis. The scores on the two questions will not be averaged. You may wish to bring a quiet calculator, because the questions may require some mathematical calculations. Although minor mathematical errors will not affect

your score, your answer should contain such general calculations and estimates as you are able to make in providing the advice called for in the question.

Questions in the sub-specialty tests are designed to present real-life situations that a bankruptcy law specialist might encounter in practice. The questions raise both "run-of-the-mill" issues and some issues on the cutting edge of the law.

Allowed Materials

You can bring unannotated copies of three resources into the entire exam: the Bankruptcy code, the Uniform Commercial Code, and (if you bring your own copy) a copy of your own state's ethical rules. Your proctor may have copies of the Bankruptcy Code and the UCC that you can borrow for the exam, but no ethical rules will be provided

You may consult these materials in preparing your answers. You may not consult any other outside materials. You may, however, bring a QUIET calculator. We will provide #2 pencils for the multiple-choice section and ink pens for your essay answers.

Exam Scores

Exam Scores are issued three-four months following the test date.

**American Board of Certification
Certification Exam in Bankruptcy
Knowledge Tested**

There are three Parts to the certification exam in Bankruptcy. Part I is in the form of fifty (50) multiple choice questions. Part I will test candidates on their knowledge and general information on bankruptcy topics that are applicable in all bankruptcies (60%), as well as a candidate's knowledge and information on topics that are exclusively applicable in (i) consumer bankruptcies (20%) and (ii) business bankruptcies (20%). All candidates for certification in Bankruptcy will be required to pass Part I of the test for certification. Candidates are given two hours to complete Part I of the exam.

Part II of the certification exam is on the topic of Legal Ethics. Candidates are given the choice of answering two out four possible questions. The questions (and answers) are in essay form. Candidates are given one hour to complete Part II of the exam. Suggested time for each question: 30 minutes.

Candidates seeking certification in the Consumer Bankruptcy sub-specialty must answer two essay questions addressing consumer bankruptcy issues. Candidates are given three hours to complete Part III of the exam. Suggested time for each question: One hour and 30 minutes.

Candidates seeking certification the Business Bankruptcy sub-speciality must answer two essay questions addressing business bankruptcy issues. Candidates are given three hours to complete Part III of the exam. Suggested time for each question: One hour and 30 minutes.

The importance of the knowledge or skill required to answer each topic for acceptable certification level performance is indicated next to each topic. All topics may be covered in multiple choice or essay questions, although ethics will be covered in more depth in the essay questions.

1 -Not important

#2 - Minimally important

#3 - Moderately important

#4 - Very important

Generic Topics

Importance of Knowledge or Skill for Acceptable Certification Level

- May apply to business or consumer bankruptcy
- The question can be written in either context, but the principles are the same in both contexts

Participants in Bankruptcy Case

- | | | |
|----|---|---|
| 1. | Role of Trustee in ch.13 | 3 |
| 2. | Role of Trustee in ch. 7 | 3 |
| 3. | Rights and powers of DIP or trustee in ch. 11 | 3 |
| 4. | Committees in ch. 11 | 3 |
| 5. | Appointment of Professionals | 3 |
| 6. | Role of Examiner | 2 |

Jurisdictional Topics

- | | | |
|-----|--|---|
| 7. | District Court jurisdiction | 2 |
| 8. | Bankruptcy Court jurisdiction | 3 |
| 9. | Jury trials in bankruptcy | 1 |
| 10. | Injunctive and contempt powers of Bankruptcy Court | 2 |
| 11. | Appeals from Bankruptcy Court | 2 |
| 12. | Sovereign Immunity | 2 |

Debtor Eligibility and Forms of Relief

- | | | |
|-----|--|---|
| 13. | Different forms of relief under the Code | 4 |
| 14. | Debtor eligibility for relief under each separate chapters | 3 |
| 15. | Conversion/dismissal | 3 |

Commencement of Case

- | | | |
|-----|-------------------|---|
| 16. | Joint cases | 2 |
| 17. | Voluntary case | 3 |
| 18. | Involuntary cases | 2 |

- 19. Dismissal of cases 3
- 20. Creditors' meeting 2
- 21. First day matters 3
- 22. Schedules and required filings 3

The Automatic Stay

- 23. Scope of stay 3
- 24. Termination of stay 3
- 25. Relief from stay 3
- 26. Adequate protection 3
- 27. Single asset real estate 2
- 28. Small business cases 2

Property of the Estate

- 29. Composition of estate 4
- 30. Trustee's turnover power 3
- 31. Abandonment of property 2

Avoidance Powers

- 32. Standing & statute of limitations 3
- 33. Liability of transferees 3
- 34. Strong arm power 3
- 35. Preferences (and exceptions) 4
- 36. Fraudulent conveyances 4
- 37. Set-off 2
- 38. Postpetition transfers 2

Trustee's power re: estate property and credit

- 39. Use, sale & lease of estate property 4
- 40. Outside of ordinary course of business transactions 3

41.	Cash collateral issues	4
42.	Post-petition credit	3
43.	Adequate protection	4
<u>Claims against the estate</u>		
44.	Claims - secured & unsecured	3
45.	Unliquidated, contingent, unmatured & disputed claims	3
46.	Proof & allowance of claims and interests	2
47.	Interest on claims and fees	3
48.	Claims classification & priorities	3
<u>Executory contracts</u>		
49.	Estate's right to assume or reject	3
50.	Procedure for assumption or rejection	3
51.	Non-assumable contracts	2
52.	Collective bargaining agreements	2
53.	Assignment	3
54.	Special timing rules	3
55.	Protective rules for nondebtor parties	2
<u>Discharge</u>		
56.	Discharge – procedure	3
57.	Scope of discharge	3
58.	Effect of discharge	3
59.	Waiver of discharge & reaffirmation	3
60.	Major § 727 & § 523 issues	3
61.	Protection from discrimination	2
<u>Miscellaneous</u>		
62.	Federal Rules of Bankruptcy Procedure	3

63. Utility Service	2
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Consumer Bankruptcy Topics

CB1. Chapter 7 v. chapter 13 generally	4
CB2. Exemptions generally	4
CB3. Exemptions – procedure	3
CB4. Exemptions – lien avoidance	3
CB5. Chapter 13 procedure	3
CB6. Conversion and dismissal	3
CB7. Chapter 13 plan	4
CB8. Eligibility, abuse, good faith and means-testing	4
CB9. Credit counseling	3
CB10. Debt relief agencies	2
CM11. Classification of claims	2
CB12. Treatment of Secured claims	4
CB13. Treatment of Priority claims	3
CB14. Treatment of Unsecured claims	2
CB15. Redemption	2
CB16. Modification of claimants' rights & cure of default	3
CB17. Reaffirmation	3
CB18. § 521(a)(2) and ride through	3
CB19. Plan confirmation	3
CB20. Disposable income test	4
CB21. Availability of Chapter 7 discharge	3
CB22. § 523 exceptions	3
CB23. Discharge – procedure	3

CB24. Ch. 13 discharge	3
CB25. Repeat filers – stay and eligibility	3
CB26. Consumer stay violations issues	3
CB27. Effect of confirmation of ch.13 plan	3
CB28. Modification of confirmed ch. 13 plan	3

Business Bankruptcy Topics

BB1. Choice of chapter	4
BB2. Eligibility for chapter 11	3
BB3. Classification and impairment	3
BB4. Reclamation and § 503(b)(9)	3
BB5. Commencement of chapter 11 case	3
BB6. Role of DIP, creditors, interest holders	4
BB7. Exclusivity and plan timing issues	4
BB8. Small business cases	2
BB9. Disclosure	3
BB10. Voting on plan	4
BB11. Plan confirmation	4
BB12. Modification of plan	4
BB13. Content of plan - mandatory & permissive provisions	4
BB14. Effect of confirmation	3
BB15. Plan implementation	2
BB16. Revocation of confirmation	2
BB17. Retention of counsel and fee applications	3
BB18. Third party releases	3
BB19. Prepackaged or prenegotiated plans	2

BB20. Intercreditor agreements 2

Legal Ethics

- May be covered in multiple choice or essay questions

E1. Conflicts of Interest	4
E2. Disinterestedness	4
E3. Rule 9011	3
E4. Withdrawal of Counsel	3
E5. Fees	4
E6. Disclosure rules	4
E7. Debt relief agencies	3
E8. Who is client	3
E9. Client confidences/privilege	4
E10. Client wrongdoing	3
E11. Joint representation	3