DEBTOR/CREDITOR & BANKRUPTCY
3 Credits
OUTLINE AND SYLLABUS

I. Course Outline and Objectives

This course provides students with an understanding of bankruptcy law, debt collection and related statutes on both the state and federal levels. By the end of this course, each student should:

A. Have taken another step toward becoming a truly educated and enriched individual by learning through activities such as: (1) participating in class discussion in an informed and professional manner, (2) asking questions of one’s self, other students, and the instructor in order to more fully understand a concept or idea, (3) responding thoughtfully to ideas that challenge his or her own thinking, etc.;

B. Know and demonstrate a general understanding of debtor/creditor and bankruptcy law:

1. Knowledge and demonstration of the above includes, but is not limited to:
   a. Exhibiting understanding of the common law writs (attachment, replevin, and garnishment, liens, secured debt, bailment, and judgment liens. Additionally, exhibiting understanding of the structure and purpose of the bankruptcy code;
   b. Utilizing an analytical framework for decision-making regarding the avoidance of common pitfalls in writ, lien, bailment, and bankruptcy work to support the debtor-creditor work of an attorney; and
   c. Identifying and appropriately using the above analytical framework to draft pleadings, motions, writs, orders, exhibits, and discovery, thereby competently assisting an attorney’s debtor-creditor practice.

C. Know and demonstrate a general understanding of relevant ethical, moral, social, and political considerations.

II. Texts


III. **Grading System**

<table>
<thead>
<tr>
<th>Component</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>A. Class Participation</td>
<td>40%</td>
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<tr>
<td>B. Paper</td>
<td>20%</td>
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<tr>
<td>C. Mid-Term Exam</td>
<td>10%</td>
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<tr>
<td>D. Final Exam</td>
<td>30%</td>
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<td>100%</td>
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IV. **Grading Philosophy**

Grading in this course is not on the basis of a curve or any other criteria which relativizes student work product. In other words, the grade earned by a student is not based on a comparison of the student’s work product to any other student’s work product. Grades are measured against an absolute. That absolute is whether the student’s work product is substantively correct and presented in a manner which demonstrates a command of higher thinking skills (analysis, synthesis, and evaluation), balanced judgment, clarity and precision of thought, good oral and written communication skills (correct use of grammar and syntax, logical development of ideas, with supporting citation to authority), and overall professional bearing.

Under this grading system it is possible for all students to achieve the highest grade awardable. The converse is also possible. On balance, this grading system is rigorous. There is not arbitrary grade inflation or deflation under this grading philosophy.

Under only the **most unusual circumstances** will extra credit work be considered. Missed exams, low exam grades, etc., do not constitute “most unusual circumstances.”

V. **Class participation grading**

The rationale for emphasizing class participation is research into adult education demonstrated that active participation by the student is the key to effective comprehension, retention, and readiness for the workplace. For the student to demonstrate comprehension, retention and readiness to the instructor, the student must show he/she is contributing to his/her own and his/her fellow students’ intellectual enrichment in a meaningful and mature manner.

The following is an illustration of how this component of a student’s grade is determined. If the student wants to achieve 100% for participation, then the student must attend all class sessions and come to each class well-prepared, and must qualitatively (not
quantitatively) engage in discussions, ask questions, make connections between sources of information, and become involved in scenarios, presentations, readings, briefings, etc.

If the student elects not to attend class, or attends by filling a chair (not engaging him/herself in group discussions, scenarios, presentations, etc.), it will be considered as 0% of the class participation portion of the student’s grade and his/her final grade will reflect accordingly.

Between 100% and 0% class participation lies a great deal of latitude for the student with respect to his/her involvement. As before, an illustration: If a student attends the great majority of classes, and meaningfully participates (as defined above) in about half of those classes, the student will receive 50% of the grade ascribed to class participation. Thus, the student need only honestly examine the number of times he/she attended class and actively participated (as defined above) divided by the total number of class sessions in the quarter to approximate what his/her percentage of the participation grade will be. Other factors such as a student’s progress throughout a quarter, and the quality and insight of his/her contributions are also grading considerations.

Class participation should not be taken as a reason to engage in immature, offensive, rude, belligerent, etc., behavior. Students are guided by the college’s Student Code of Conduct when in class.

Conceptually, participation (as defined above) is an indirect measure of maturity, motivation, and professionalism. One aspect of these attributes is honest self-awareness and self-assessment. Another aspect of these attributes is ownership and responsibility for outcomes. The instructor expects each student to honestly assess his/her motivation, maturity, and professionalism, and to take responsibility for what is learned and how well it is learned. Practice makes the master. Honest, active, mature classroom participation will lead to the same in the workplace.

The instructor understands the subjectivity inherent in this portion of a student’s grade. The instructor also understands such mitigating factors as shyness, slow verbal skills, self-esteem issues, different learning styles, etc. The instructor invites students to discuss this portion of the grade with him early in the quarter, NOT AT THE END OF THE QUARTER when the grade’s dye has been cast. The instructor makes every effort to be fair with respect to grading, and does consider mitigating factors.

However, the instructor also expects a student to take risks regarding mitigating factors (examples above) in the student’s life. For example, if a student deems him/herself to be shy, and therefore avoids participating in class, the instructor expects that student to make consistent, good faith efforts at overcoming the shyness. The same would be expected in the workplace. RISK AND REWARD ARE COMMENSURATE. Generally speaking, the greater the risk, the greater the reward. Here the reward is greater learning, enhanced self-confidence, more fun in the long run, and an easier transition to the workplace.
VI. Incompletes

Only under the most unusual and/or extreme circumstances will a student be permitted to take an incomplete or “Z” grade for this class. Students who perform poorly on exams or other class work, or who do not regularly attend, should not anticipate they can receive an incomplete of “Z” grade.

VII. Instructor

Bob Loomis
Office: 213J
Phone: 509-533-7470  FAX 509-533-8163
E-mail: bob.loomis@scc.spokane.edu

IX. Attendance and Participation

Full attendance and participation is expected. Exceptions will be made for emergencies and unusual circumstances (family death, hospitalization, etc.). Conflicts with work, vacation, etc., will not count, and a missed class will count as an absence. Late attendance will be considered, and will negatively affect the class participation portion of a student’s grade. Any deadline given in class (example: handing in a paper, time for completing a test) will be strictly enforced. Under only the most unusual circumstances will individuals be allowed a deadline dispensation. Minor illnesses, forgetfulness, work conflicts, etc., do not constitute “most unusual circumstances.”

This class is part of each student’s preparation for a professional career. A hallmark of professionalism is punctuality. A high percentage of a student’s grade is based on class participation. Participation includes prompt attendance. Students who routinely come late to class and/or leave early and/or do not participate should expect the participation portion of their grade to be adversely impacted.

X. Ethics

Ethics and professionalism are of central concern in the legal environment. Therefore, any student found cheating as defined in WAC 132Q-04-060 will receive, at the least, an automatic failing grade for this course. Additional disciplinary measures may be taken as deemed appropriate. For example, plagiarism on any class paper, project pleading, presentation, etc. is cheating.

Students who disrupt the class’s positive learning environment are also subject to discipline under the college’s Code of Conduct as defined in WAC 132Q-04-067: “Any student who, by act of misconduct, substantially disrupts any college class by engaging in
conduct that renders it difficult or impossible to maintain the decorum of the class, shall be subject to disciplinary action.” A disruption to the classroom’s positive learning environment is anything which prevents the instructor from effectively conveying information to the class. Examples include sleeping, rudeness, talking in class, unpermitted physical contact, body odor, excessive questioning, etc. Disciplinary action is found under WAC 132Q-04-260, and includes disciplinary warning, reprimand, disciplinary probation, dismissal, and fines. A faculty member has the right to bestow a three day suspension upon a student who disrupts class. The faculty member has the liberty to define “disruptive” (See WAC 132Q-05-33).

XI. Support Services

The Americans with Disabilities Act is designed to ensure that students with disabilities have an equal opportunity to access academic programs and successfully complete their educational goals. Spokane Community College is committed to providing accessibility to all students. Any students with disabilities who have accommodation needs must contact Disability Support Services located in the Learning Resource Center (Library) or call Laura at 533-8872 to make an appointment to complete the intake process. Additionally the student should contact me after to further facilitate the necessary accommodation.

XII. Specific Class Assignments:

The following table depicts the assignments you will complete during the course of this class along with an explanation of the skills you can anticipate acquiring from the completion of these assignments:

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<thead>
<tr>
<th>SPECIFIC ASSIGNMENT(S)</th>
<th>SPECIFIC SKILLS/OUTCOMES</th>
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<tbody>
<tr>
<td>1. Drafting Exercise—Summons, Petition, and Response to initiate typical creditor action in a) attachment, b) replevin, or c) garnishment. Completed over course of class.</td>
<td>1. Increasing understanding of substantive applicable law.</td>
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<tr>
<td>2. Drafting Exercise—Writ of Execution, or Replevin, or Garnishment (student’s election) including: a) action appropriate motion, issue of law note, affidavit, and order. Completed over course of class.</td>
<td>2. Developing competence with fundamental legal research.</td>
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<tr>
<td>2. Scenario Problem-Solving. Completed once per class session.</td>
<td>3. Refining critical thinking skills with respect to applying elements analysis to hypothetical facts.</td>
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<td>4. Increasing proficiency with respect to writing clear, accurate legal prose.</td>
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<td>5. Increasing proficiency with respect to formatting legal documents.</td>
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<td>6. Deepening working familiarity with applicable civil procedure rules.</td>
</tr>
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<td>2. Scenario Problem-Solving.</td>
<td>1. Refining critical thinking skills with respect to applying elements analysis to hypothetical facts.</td>
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<tr>
<td></td>
<td>2. Developing collaborative people-skills.</td>
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XIII. Legal Advice:

The instructor is a licensed and practicing attorney. Additionally the instructor is a relatively caring individual. On a regular basis the instructor is approached by students seeking legal advice. The Rules of Professional Conduct governing the activities of an attorney in Washington State, provide that when an attorney provides legal advice to a person, an attorney-client relationship is established, the attorney is professionally responsible for his/heir’s advice, and the attorney can be sued for malpractice in such situations. This is true whether money is received or not, and whether the advice is casual or not. The instructor does not carry malpractice insurance, and his office is not configured to check for conflicts of interest, calendaring, etc., which are integral to good professional representation. Additionally, the common way in which the instructor is approached for legal advice, frequently means the instructor is not provided with the correct and/or complete information, upon which a reasoned professional judgment could be based. Please therefore understand that the instructor, with some measure of regret, cannot, and does not provide legal advice to students, even in the form of a hypothetical—a frequently employed student technique. If you are in the position of needing free or low-cost legal advice, the instructor has in his office, for free, a flyer with contact information for many of the agencies in the Inland Northwest which provide such services to the public. You need only ask.

XIV. Outline

The following is an outline of subjects to be covered in this class. The class may not cover all of the following topics, since each class’ pace varies. Additionally, the topics may not be covered in the order listed.

**OUTLINE: DEBTOR/CREDITOR AND BANKRUPTCY**

I. Secured Debt
   A. Theory and Practice

II. Liens
   A. Agricultural
   B. Judgment
   C. Materialman’s

III. Bailments
A. Theory and Practice

IV. Soldiers’ and Sailors’ Civil Relief Act
   A. Affidavit Drafting Exercise

V. Common Law Writs
   A. Garnishments
   B. Replevin
   C. Attachments

VI. Supplemental Proceedings

VII. Receivership

VIII. Fraudulent Conveyances
   A. Common Law of Fraudulent Conveyances (Badges of Fraud)
   B. Uniform Fraudulent Conveyance Act

IX. Assignment for the Benefit of Creditors

X. Bankruptcy
   A. Introduction and Philosophy of Bankruptcy
   B. Chapter 7
   C. Chapter 9
   D. Chapter 11
   E. Chapter 12
   F. Chapter 13
   G. Automatic Stay
   H. Schedule of Assets and Liabilities
   I. Meeting with Creditors §341
   J. Liquidation
   K. Reorganization
   L. Creditors’ Rights
   M. Discharge
   N. Modification
   O. Appeal