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Bankruptcy

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Questions & Answers
Bankruptcy

SECOND EDITION

Mary Jo Wiggins

PROFESSOR OF LAW
UNIVERSITY OF SAN DIEGO SCHOOL OF LAW



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Dedication

To D.C.W., J.R.N., E.J.N., Sr., N.C.W. and M.M.W.,
with utmost gratitude for your unwavering support and love.-M.J.W.

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Preface to the Second Edition

This study guide uses a variety of realistic, multiple-choice and short-answers questions to test your knowledge of the bankruptcy Code and bankruptcy issues that frequently arise in bankruptcy practice. These materials are based upon the Bankruptcy Code currently in effect, and the book has been updated to reflect adjustments in dollar amounts as of the time of this writing. Throughout the book, I have tried to keep answers and explanations as concise as possible. In particular, I do not provide lengthy recounts of bankruptcy law in each answer. You can get that from your bankruptcy instructor or from other sources. I provide only as much doctrine as you need to understand the answers and the analysis behind the answers. You will also not find footnotes or lots of citations for much the same reason. Finally, please note that the book emphasizes those Code sections that are likely to be covered in your bankruptcy course and that bankruptcy lawyers most frequently encounter in practice.

Most of the short-answer questions can be answered in no more than five to ten sentences, and you should not spend more than fifteen minutes a question. My answers are sometimes short and sometimes long. When they are long, they are only that way because I think it will help enhance your understanding and build substantive connections between the topic of the question and other important topics in the field of bankruptcy law. My advice to you is to always try to prepare your own answer before looking at the answers I have prepared. You might stumble occasionally, but that is the only way to find out what you actually know.

I did not set out to become a bankruptcy expert when I started my legal career. I first came to the field mostly by circumstance. However, having studied the Code and its policies closely and having taught scores of students for almost three decades now, I continue to marvel at the timeless and challenging questions the Code and related law generate. I hope this book helps you discover for yourself how endlessly fascinating this area of law can be and that it assists you greatly in achieving your personal learning goals.

Mary Jo Wiggins
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February 2018

Preface to the First Edition

The primary source for Bankruptcy is Title 11 of the United States Code, often just referred to as the “Bankruptcy Code”. This study guide uses multiple-choice and short-answer questions to test your knowledge of the Bankruptcy Code and its occasional intersection with other sources of law (such as Article 9 of the Uniform Commercial Code and various parts of state law including property law and family law). These materials are based upon the Bankruptcy Code in effect on May 1, 2010, which can be found in many softbound statutory supplements used in most law schools.

Throughout the book, we try to keep our explanations as concise as possible. In particular, we do not provide lengthy recitations of bankruptcy doctrine in each answer since you can get that from your bankruptcy course, or from other sources. We provide only as much doctrine as is necessary to assist you in understanding our answers. Moreover, in the interest of keeping the book readable and “user-friendly,” we do not use footnotes or laborious citations. Finally, the book emphasizes frequently used Code sections over those you will be less likely to encounter in the “real world.”

Most of the short-answer questions should be answered in no more than ten sentences and you should not spend more than fifteen minutes a question. Our answers are sometimes longer than that, but only when we think it will help enhance your understanding. We believe that you’ll better understand the materials if you prepare your own answer before peeking in the back to see what we think.

We enjoy teaching bankruptcy in its many forms, and wish you the best in using our study guide to supplement your understanding of this interesting, relevant and challenging subject.

Bruce A. Markell
U.S. Bankruptcy Judge, District of Nevada
Senior Fellow in Bankruptcy and Commercial Law
University of Nevada, Las Vegas
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May 2010

About the Author

Mary Jo Wiggins is Professor of Law at the University of San Diego School of Law. She has been a member of the USD law faculty for over two decades, and she has been recognized by the University as a Herzog Endowed Scholar, the Class of 1975 Endowed Professor, and as a University Professor, the University's highest academic honor.

Professor Wiggins teaches and writes in the areas of Corporate and Consumer Bankruptcy, Debtor-Creditor Law, and Property, and she is the author of numerous articles and book chapters on these topics. A nationally recognized scholar in these fields, Professor Wiggins is an elected member of the prestigious American Law Institute and a contributing author to *Collier on Bankruptcy*. Professor Wiggins was appointed by then Supreme Court Chief Justice William H. Rehnquist to the United States Judicial Conference Advisory Committee on the Federal Rules of Bankruptcy Procedure, and she served two consecutive terms on the Advisory Committee. Professor Wiggins has been selected as a Fellow of the American Bankruptcy Law Journal Fellowship Program, and she was awarded the Asa S. Herzog Award from Matthew Bender & Co. Professor Wiggins has also been named one of San Diego's "Top Attorneys." During the course of her career, Professor Wiggins has served as: Chair of the American Association of Law Schools' Section on Debtors' and Creditors' Rights; Reporter for the Ninth Circuit Judicial Council's Committee for Review of Local Bankruptcy Rules of Procedure; Chair of the California State Bar Insolvency Law Committee's Interim Bankruptcy Rules Review Project; Chair of the California State Bar Insolvency Law Committee's Publication Subcommittee; Member of the Advisory Board of the American Bankruptcy Institute Law Review; Faculty Member of the American Board of Certification for Business and Consumer Bankruptcy; Faculty Member of the Center for the Study of Corporate & Securities Law at the University of San Diego School of Law; Consultant for RAND Corporation Research Studies on the operation of the United States Bankruptcy system; Of Counsel at the law firm of Procopio, Cory, Hargreaves, & Savitch, LLP; Faculty Advisor and Coach of the University of San Diego School of Law's Duberstein Bankruptcy Moot Court Team; Associate Dean for Academic Affairs of the University of San Diego School of Law; Inaugural Vice Dean of the University of San Diego School of Law.

Professor Wiggins received her undergraduate degree with highest departmental honors from Smith College in Northampton, Massachusetts. She received her law degree from the University of Michigan Law School where she was Notes Editor of the *Michigan Law Review* and recipient of the Howard B. Coblentz Prize for outstanding contributions to the *Michigan Law Review*. Before

entering law teaching, Professor Wiggins practiced Bankruptcy Law and Commercial Litigation with the law firm of Ice, Miller, Donadio & Ryan in Indianapolis, Indiana.