

FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B./BBA.LL.B./LL.B.

Semester - II

SUBJECT: ALWS II

SUBJECT CODE: BAL-208/BBL-208/LLB-206

NAME OF FACULTY: Dr. Arun Verma

Lecture-39



R

Reaffirmation agreement

An agreement by a debtor to continue paying a dischargeable debt after the bankruptcy, usually for the purpose of keeping collateral or mortgaged property that would otherwise be subject to repossession.

Record

A written account of the proceedings in a case, including all pleadings, evidence, and exhibits submitted in the course of the case.

Redemption

A procedure in a Chapter 7 case whereby a debtor removes a secured creditor's lien on collateral by paying the creditor the value of the property. The debtor may then retain the property.

Remand

Send back.

Reverse

The act of a court setting aside the decision of a lower court. A reversal is often accompanied by a remand to the lower court for further proceedings.

S

Sanction

A penalty or other type of enforcement used to bring about compliance with the law or with rules and regulations.

Schedules

Lists submitted by the debtor along with the petition (or shortly thereafter) showing the debtor's assets, liabilities, and other financial information. (There are official forms a debtor must use.)

Secured creditor

A secured creditor is an individual or business that holds a claim against the debtor that is secured by a lien on property of the estate. The property subject to the lien is the secured creditor's collateral.

Secured debt

Debt backed by a mortgage, pledge of collateral, or other lien; debt for which the creditor has the right to pursue specific pledged property upon default. Examples include home mortgages, auto loans and tax liens.

Senior judge

A federal judge who, after attaining the requisite age and length of judicial experience, takes senior status, thus creating a vacancy among a court's active judges. A senior judge retains the judicial office and may cut back his or her workload by as much as 75 percent, but many opt to keep a larger caseload.

Sentence

The punishment ordered by a court for a defendant convicted of a crime.

Sentencing guidelines

A set of rules and principles established by the United States Sentencing Commission that trial judges use to determine the sentence for a convicted defendant.

Sequester

To separate. Sometimes juries are sequestered from outside influences during their deliberations.

Service of process

The delivery of writs or summonses to the appropriate party.

Settlement

Parties to a lawsuit resolve their dispute without having a trial. Settlements often involve the payment of compensation by one party in at least partial satisfaction of the other party's claims, but usually do not include the admission of fault.

Small business case

A special type of chapter 11 case in which there is no creditors' committee (or the creditors' committee is deemed inactive by the court) and in which the debtor is subject to more oversight by the U.S. trustee than other chapter 11 debtors. The Bankruptcy Code contains certain provisions designed to reduce the time a small business debtor is in bankruptcy.

Standard of proof

Degree of proof required. In criminal cases, prosecutors must prove a defendant's guilt "beyond a reasonable doubt." The majority of civil lawsuits require proof "by a preponderance of the evidence" (50 percent plus), but in some the standard is higher and requires "clear and convincing" proof.

Statement of financial affairs

A series of questions the debtor must answer in writing concerning sources of income, transfers of property, lawsuits by creditors, etc. (There is an official form a debtor must use.)

Statement of intention

A declaration made by a chapter 7 debtor concerning plans for dealing with consumer debts that are secured by property of the estate.

Statute

A law passed by a legislature.

Statute of limitations

The time within which a lawsuit must be filed or a criminal prosecution begun. The deadline can vary, depending on the type of civil case or the crime charged.

Sua sponte

Latin, meaning "of its own will." Often refers to a court taking an action in a case without being asked to do so by either side.

Subordination

The act or process by which a person's rights or claims are ranked below those of others.

Subpoena

A command, issued under a court's authority, to a witness to appear and give testimony.

Subpoena duces tecum

A command to a witness to appear and produce documents.

T

Temporary restraining order

Akin to a preliminary injunction, it is a judge's short-term order forbidding certain actions until a full hearing can be conducted. Often referred to as a TRO.

Testimony

Evidence presented orally by witnesses during trials or before grand juries.

Toll

See statute of limitations.

Tort

A civil, not criminal, wrong. A negligent or intentional injury against a person or property, with the exception of breach of contract.

Transcript

A written, word-for-word record of what was said, either in a proceeding such as a trial, or during some other formal conversation, such as a hearing or oral deposition

Transfer

Any mode or means by which a debtor disposes of or parts with his/her property.

Trustee

The representative of the bankruptcy estate who exercises statutory powers, principally for the benefit of the unsecured creditors, under the general supervision of the court and the direct supervision of the U.S. trustee or bankruptcy administrator. The trustee is a private individual or corporation appointed in all chapter 7, chapter 12, and chapter 13 cases and some chapter 11 cases. The trustee's responsibilities include reviewing the debtor's petition and schedules and bringing actions against creditors or the debtor to recover property of the bankruptcy estate. In chapter 7, the trustee liquidates property of the estate, and makes distributions to creditors. Trustees in chapter 12 and 13 have similar duties to a chapter 7 trustee and the additional responsibilities of overseeing the debtor's plan, receiving payments from debtors, and disbursing plan payments to creditors.

Typing service

A business not authorized to practice law that prepares bankruptcy petitions.