

George Mason University School of Law

Bankruptcy Reorganization Seminar

Course 454-001
Wednesday 6:00 PM – 7:50 PM
Arlington Campus Room 123

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Spring 2008

Syllabus

Text:

Michael A. Gerber, *Business Reorganizations*, 2nd Edition (LexisNexis) 2000 (referred to here as “*Gerber*”).

U.S. Bankruptcy Code, 11 U.S.C. §§ 101 – 1532 (2007) (referred to here as “*Code*”); Federal Rules of Bankruptcy Procedure, 2007 (referred to here as “*Rules*”). The Code must include the amendments promulgated by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005; the Rules must include the most recent Amendments including those effective 12/1/05. If not otherwise available, both the Code and the Rules are available online.

The Seminar will use the chapter 11 case, *In re Movie Gallery, Inc., et al.*, Case No. 07-33849, U.S. Bankruptcy Court, Eastern District of Virginia (Richmond Division) as a case study. Papers and pleadings filed in the *Movie Gallery* case will be available to students either online or by in-class handouts. (A request will be made to grant students in this Seminar direct online access to the Case Docket through the PACER system. Students will need to have individual internet access.) Papers in the *Movie Gallery* case are referred to here as “*Movie Gallery Docket No. ___*”.

Prerequisites: Bankruptcy Law 167-001 or -002.

Course Description: This Seminar will cover the procedures, the strategies and the dynamics of corporate reorganization under Chapter 11 of the U.S. Bankruptcy Code. There is no exam for the Seminar; there is a writing requirement. Students will be required to pick a topic during the first half of the semester for their writing requirement. Suggested topics will be provided.

Assignments:

- INTRODUCTION

Gerber – Chapter 1 (skip “Old Man and the Tree” at 88-93 and *In re Marvel* at 110-115; skim *In re Leslie Fay*); **Code** §109 (eligibility), §327 (employment of professionals), §341 (meeting the creditors), §506(a) (valuation), §521 (what Debtor must file), §541 (property of the Estate), §362 (automatic stay), §1101(1) & §1107 & §1108 (debtor in possession), §1102 & §1103 (committees), §1104 & §1106 (trustees and examiners), §1129(a) (confirmation of plan); **Rules** 1007 (lists, schedules and statement); *See also* 28 U.S.C. §§ 1408-1410. **Movie Gallery Docket Nos.** 1, 4, 5, 6, 7, 25, 9, 10, 54

- GETTING TO THE “FIRST DAY” AND MAKING IT EFFECTIVE

Gerber – ; **Movie Gallery Docket Nos.** 16, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 31, 33, 34, 42, 43, 44, 46, 79, 88, 93, 94, 95, 96, 97, 98, 99, 100

- AUTOMATIC STAY

Gerber – Chapter 2 (skip 155-166, 190-200, 214-224); **Code** §105(a) (power of court), §361 (adequate protection), §362 (automatic stay); **Rules** 4001 (relief from stay), 7065 (injunctions).

- MANAGEMENT OF THE DEBTOR’S BUSINESS

Gerber – Chapter 3 (skip 242-253 [read Notes 253-257]; skip *In re UNR Industries, Inc.*; skip *In re Lifeguard Industries, Inc.*; skip §3.04 and §3.05); **Code** §327 (employment of professionals), §329 (transactions with attorneys), §363 (use, sale or lease of property), §1102 (appointment of committee), §1104 (appointment of trustee/examiner), §1105 (removal of trustee/examiner), §1107 (duties of DIP), §1108 (authorization to operate business), §1121 (exclusivity); **Rules** 2007.1, 2008, 2009, 2010, 2011, 2012, 2013, 2015 (trustee/examiner), 4001, 6604 (use, sale or lease of property); **Movie Gallery Docket Nos.** 95, 96, 117

- FINANCING THE DEBTOR’S OPERATIONS

Gerber – Chapter 4 (skip *In re Ames Dept. Stores*; skip 386-390, 396-401); **Code** §363 (use, lease and sale), §364 (obtaining credit), §503(b) (administrative expense priority); **Rules** 4001 (obtaining credit).

- EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Gerber – Chapter 5 (skip sections 5.04[D] and [E] (437-439); skip Michael Andrew article (445-448); skip *South Street Seaport Ltd. v. Burger Boys* (449-453); skip 492 (after Notes and Questions) - 500; **Code** §502(b), §365 (contracts and leases); **Rule** 6006 (assumption, rejection, assignment), 6007 (abandonment); Read also: *In re Homeplace*

Stores, Inc., 228 B.R. 88 (Bankr. Del. 1998); *In re Elder-Beerman Stores Corp.*, 201 B.R. 759 (Bankr. S.D. Ohio 1996). See also *Nat'l Labor Relations Bd. v. Bildisco & Bildisco*, 465 U.S. 513 (1984) and *In re Columbia Gas System, Inc., et al. v. United States*, 50 F.3d 233 (3d Cir. 1995) (Countryman definition of executory contract); **Movie Gallery Docket Nos.** 98, 99, 143, 145

– CLAIMS AGAINST THE DEBTOR

Gerber Chapter 6; **Code** §101(5) (definition of claim), §101(12) (definition of debt), §501 (filing proofs of claim), §502 (allowance of claims), §503 (allowance of expenses), §506(a) (secured claims), §510 (subordination), §1111 (claims and interests); **Rules** 3001, 3002, 3003, 3004, 3005 (filing proofs of claim), 3007 (objection to claims); **Movie Gallery Docket Nos.** 127

– PLAN OF REORGANIZATION

Gerber Chapter 7 (skip *In re Express One Int'l*; skip section {B}; skip Notes at 628-630; skip *In re New Valley Corp.*; skip *In re Windsor on the River Assoc.*(but read Notes); skip *In re Metrocraft Publishing Services*; skip *In re Clamp-All Corp.*(but read Notes); skip Clark, “Taking Feasibility Seriously”; skip *In re Valenti* (but read Notes); skip Metz, “Bankrupt – And in the Chips”, Metz, “A Restructured Plan for Duplan”, Metz, “A Vital Panex from Duplan”; skip “Debates on Uniform Law on Bankruptcy”; skip LoPucki & Whitford, “Bargaining Over Equity’s Share ...”; skip *In re Landau Boat Co. (Landau I)*, *In re Landau Boat Co. (Landau II)*); **Code** §1121 (who may file plan), §1122 (classification), §1123 (contents of plan), §1124 (impairment), §1125 (disclosure and solicitation); **Rules** 1020 (small business), 3013 (classification), 3014 (1111(b) election), 3016 (filing of plan and disclosure statement), 3017 & 3017.1 (disclosure statement); **Movie Gallery Docket Nos.**

– CONFIRMATION

Gerber Chapter 8 (skip *Reliable Electric Co. v. Olson Construction* (but read Notes); skip *Berk v. Brooks Fashion Stores* (but read Notes); skip *Hexcel Corp. v. Stepan Co.* (but read Notes); skip Sections 8.04, 8.05; **Code** §1126 (acceptance of plan), §1128 (hearing), §1129 (confirmation); **Rules** 3018 (acceptance and rejection), 3020 (confirmation), 3021 (distribution); **Movie Gallery Docket Nos.**

– CHAPTER 11 IN SUMMARY

Gerber Chapter 9.