





AS OF: OCT. 27, 2021

CORPORATE DISTRESS AND REORGANIZATION LAW
LGST 646 / 246
SPRING 2022

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Canvas 

Class Meetings Mondays & Wednesdays, 1:45 – 3:15p
 Huntsman F70

Student Hours  Tuesdays, 1–4p, or by appointment
 Huntsman 649

Course Description

Never does law play a more prominent role in investment and managerial decisionmaking than when a company faces financial distress. The value of claims on a distressed firm depends not only on business fundamentals, but also, crucially, on how the law can be expected to divvy up control and economic rights among parties with potentially conflicting aims. Managers face unique constraints. Working knowledge of the law is thus required for anyone who hopes to operate in distressed situations—whether as an investor, advisor, or manager. This course aims to develop that knowledge. By the end of the semester, students who take this course seriously should: (1) grasp the conceptual and historical foundations of law’s response to financial distress; (2) understand how the fundamentals of workout and bankruptcy law commonly play out (and determine creditor recoveries) in the modern environment; and (3) be familiar with cutting-edge practices and unresolved dilemmas at the forefront of distress today.

Familiarity with basic corporate finance principles will be helpful but is not required. Students willing to spend time on Wikipedia can thrive without any previous exposure.

Assessment

For LGST 646 (MBA students)

- Professionalism (20%)
- Final Exam (80%)

For LGST 246 (undergraduates)

- Professionalism (20%)
- Group Presentation—Case Study (40%)
- Final Exam (40%)

Policies

This course will involve a combination of lecture, discussion, and “Socratic” questioning. Cold calling will be a regular feature of class. To make the course as valuable to your friends (and you) as possible, please observe the following norms:

- *Tell Me How to Pronounce Your Name.* Let me know if you prefer to be called something other than the name in Penn’s files (or if you think I might mispronounce your name).
- *Do the Reading.* You should complete assigned readings before class. Completion means more than having skimmed. Our class sessions are based on cold calling with “Socratic” questioning. It’s therefore important that you be ready to answer questions about the assigned texts and discuss them critically.
- *But Tell Me If You Didn’t.* I understand that schedules get busy. It is not always feasible to do the work on time. If you are unable to finish, please email me at least an hour before class, and I will not call on you (max four times in the semester).
- *Don’t Pretend to Have Read What You Haven’t.*
- *No Electronic Devices in Class.* If you have an emergency requiring connectivity, talk with me before class.

Text

Course pack [study.net] available on Canvas.

Suggested Additional Resources

- Podcasts: Reorg, Debtwire, The Deal.
- Email newsletters: Petition

// tentative agenda on next page

1. **19 Jan** — INTRODUCTION; THE LEGAL BASES OF CAPITAL STRUCTURE AND CONFLICT
Readings none

2. **24 Jan** — BANKRUPTCY FOR MERCHANTS
Readings Tabb, *History of the Bankruptcy Laws* [pp. 5–14]
13 Eliz. c. 5
Twyne's Case
Assignment recoveries problem set

3. **26 Jan** — RAILROADS AND THE EQUITY RECEIVERSHIP
Readings Bond of the Washington Manchester Railroad Co.
Rosenberg, *A New Scheme of Reorganization* [pp. 523–29]
Railroad v. Howard

4. **31 Jan** — THE NEW DEAL VISION
Readings Skeel, *Debt's Dominion* [pp. 101–13; 119–27]
Case v. Los Angeles Lumber Products Co.
In re Atlas Pipeline Corp.
Trust Indenture Act of 1939, § 316(b)

5. **2 Feb** — TBD

6. **7 Feb** — REORGANIZATION UNDER THE BANKRUPTCY CODE (AS INTENDED)
Readings 11 U.S.C. §§ 109(d); 301, 303(b); 1107(a); 1112(b)(1), (4)
In re General Growth Properties

7. **9 Feb** — COLLATERAL PROTECTION AND ESTATE MANAGEMENT
Readings 11 U.S.C. §§ 362(a), (d); 363(b); 365(a), (b)(1)
United Savings Association v. Timbers of Inwood Forest
In re Kmart

8. 14 Feb — FINANCING THE BANKRUPTCY

Readings 11 U.S.C. § 364(a)–(d)
Huebner, *Debtor-in-Possession Financing*
In re *Los Angeles Dodgers*
Zumbro, *DIP and Exit Financing Trends* [optional]

9. 16 Feb — MARSHALING RESOURCES

Readings 11 U.S.C. §§ 547(b); 101(31)(B)
11 U.S.C. §§ 548(a)(1); 101(32)(A)
11 U.S.C. § 550(a), (b)
Metropolitan Life v. RJR Nabisco
In re *Tribune Co. Fraudulent Conveyance Litigation*

10. 21 Feb — CLAIMS: SIZE, CLASSIFICATION, AND VOTING

Readings 11 U.S.C. § 502(a), (b)(2), (c)
11 U.S.C. § 506(a)(1), (b); § 552(a), (b)(1)
In re *Chateaugay*
Momentive Performance Materials v. BOKF (In re *MPM Silicones*)
11 U.S.C. §§ 1122–26
Dish Network v. DBSD North America (In re *DBSD*)

11. 23 Feb — PLAN CONFIRMATION: ENTITLEMENTS AND END-AROUNDS

Readings 11 U.S.C. § 1129(a)(7), (b)
Bank of America Nat'l Trust & Savings v. 203 N. La Salle
Czyzewski v. Jevic Holding
In re *ICL Holding*

12. 28 Feb — THE 1990S: PREPACKS AND THE ADVENT OF CREDITOR CONTROL

Readings Weiss & Wruck, *Chapter 11's Failure in the Case of Eastern Airlines*
11 U.S.C. § 1126(b)

13. 14 Mar — GOING-CONCERN SALES

Readings 11 U.S.C. §§ 1123(b)(4); 1141(c)
11 U.S.C. § 363(b), (f)
In re *Lionel*
In re *Chrysler*

14. 16 Mar — SUPPORT AGREEMENTS; RIGHTS OFFERINGS

Readings 11 U.S.C. § 1125
In re *Indianapolis Downs*
11 U.S.C. § 1123(a)(4)
Ad Hoc Committee v. Peabody Energy (In re *Peabody*)

15. 21 Mar — CAPITAL STRUCTURE COMPLEXITIES

Readings In re *LTV Steel*
In re *Franchise Service of North America*
In re *Owens Corning*

16. 23 Mar — HIGH-YIELD BOND INDENTURES

Readings Windstream Note Indenture [browse] [Canvas → Files]
Kahan, *Rethinking Corporate Bonds* [pp. 1040–53] [Canvas → Course Materials]

17. 28 Mar — BONDHOLDER ACTIVISM

Readings *Wilmington Savings Fund v. Cash America Int'l*
U.S. Bank v. Windstream

18. 30 Mar — BOND WORKOUT TACTICS

Readings Trust Indenture Act of 1939, § 316(b), redux
Katz v. Oak Industries
Marblegate Asset Mgmt. v. Education Mgmt. Finance
CNH Diversified Opportunities v. Cleveland Unlimited
Whitebox Relative Value v. Transocean (TRO Brief)

19. 4 Apr — CREDIT AGREEMENTS

Readings J. Crew Credit Agreement [browse] [Canvas → Files]
Second Lien Loans: Overview [Canvas → Files]

20. 6 Apr — PRIMING TRANSACTIONS: TRAPDOORS & UPTIER EXCHANGES

Readings *Eaton Vance v. Wilmington Savings Fund (Complaint)*
North Star v. Serta Simmons

21. 11 Mar — CAESARS CONVERSATION WITH SUJEET INDAP

Readings Indap & Frumes, *The Caesars Palace Coup*

22. 13 Apr — TAPPING DERIVATIVES INVESTORS

Readings Paulos et al., *CDS Auctions: An Overview* [pp. 105–20] [Canvas → Course Materials]
Solus Alternative v. GSO (Complaint)
[Swap Seller Looks to Salvage Bad Bankruptcy Bet](#)

23. 18 Apr — EUROPEAN / GLOBAL RESTRUCTURING INSTITUTIONS

Readings Mayer Brown: Scheme of Arrangement [Canvas → Files]
Eidenmüller, *Contracting for a European Insolvency Regime* [pp. 273–84] [Canvas → Files]
Westbrook, *Chapter 15 at Last* [Canvas → Course Materials]
In re Ocean Rig UDW

24. 20 Apr — SOVEREIGN DEBT

Readings *NML Capital v. Republic of Argentina*
[The Real Story of How a Hedge Fund Detained a Vessel in Ghana](#)
Crystallex Int'l v. Bolivarian Republic of Venezuela

25 Apr — GROUP PRESENTATIONS — undergraduates only

Readings N/A

27 Apr — GROUP PRESENTATIONS — undergraduates only

Readings N/A

FINAL EXAM: Date and time TBD — May 2–10