

NEW JERSEY BANKRUPTCY MANUAL 2014 EDITION

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INTRODUCTION

The NEW JERSEY BANKRUPTCY MANUAL was first published by the New Jersey Institute for Continuing Legal Education in 1993. The MANUAL was made possible through the combined efforts of Chief Judge William H. Gindin and Hugh M. Leonard, Esq., who, along with a dedicated committee of judges and lawyers, contributed their time and expertise to create this important resource.

Since 1993, the Bankruptcy Code has gone through two significant amendments. The Bankruptcy Reform Act of 1994, enacted on October 22, 1994, included, among other provisions, an expedited procedure for small business reorganizations, a provision for jury trials in the bankruptcy court, and new standards and penalties for bankruptcy petition preparers. Ten years later, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) was enacted on April 20, 2005, effective on October 17, 2005. BAPCPA revised the Bankruptcy Code to provide for prepetition credit counseling, personal financial management training, additional attorney certifications and liabilities, and homestead exemption limitations. BAPCPA also required the filing of additional documents, afforded new priorities and protections for domestic support obligations, allowed for in forma pauperis filings, added provisions designed to limit the release of personal information, and added a new chapter, Chapter 15 for Cross-Border cases.

In addition, since 1993 the Bankruptcy Court for the District of New Jersey has modified and expanded its Local Rules and Forms, providing for Cash Collateral Guidelines, a Loss Mitigation Program, Electronic Filing procedures, Guidelines for Case Management & Administration Procedures in Complex Chapter 11, and Guidelines for Interim Compensation for Chapter 11 Professionals.

In order to address these issues and other changes, the editors and authors have again revised the Bankruptcy Manual to reflect changing times, and to continue to improve on this useful and effective roadmap to New Jersey Bankruptcy practice.

We are all grateful for the efforts of Editor-In-Chief Judge Rosemary Gambardella as well as other judges and attorneys who have contributed to this undertaking and have created such a valuable resource for Bankruptcy practitioners in the District of New Jersey.

Honorable Gloria M. Burns
Chief Judge
United States Bankruptcy Court
District of New Jersey
May, 2014

FOREWORD

In 1993, the New Jersey Institute for Continuing Legal Education first published the New Jersey Bankruptcy Manual. At that time, Hugh M. Leonard, Esq., its Editor-In-Chief, noted that “for some time, New Jersey bankruptcy practitioners, bankruptcy judges and the Creditor-Debtor Section of the New Jersey Bar Association have discussed the need for a manual focused on New Jersey bankruptcy practice.” Since that time, the Manual has served the purpose of providing access to both local rules and decisional law for New Jersey bankruptcy practitioners.

This Bankruptcy Manual incorporates the various changes in both substantive law and procedure since the Manual’s 1993 publication including the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. It also provides updated material since the Manual’s 2006 edition. It was only with the invaluable assistance of our Chief Judge Gloria M. Burns, our Bankruptcy Judges, our Clerk of Court James J. Waldron, and leading bankruptcy practitioners that we have a publication of which we can all be proud.

Thanks go to the Manual Committee, the authors, the editorial board and the New Jersey Institute for Continuing Legal Education (now part of the New Jersey State Bar Association), Michael Weisberg, Esq., Publications Director, and Georgia Woodruff, Editor, for the many hours spent to produce what we trust will be an excellent resource of New Jersey bankruptcy law and practice. Special thanks go to my Judicial Assistant, Rosemary Paul, Judi M. LeCompte, Management Analyst for the United States Bankruptcy Court for the District of New Jersey, and Jeanne N. Naughton, Esq., Chief Deputy Clerk for the United States Bankruptcy Court for the District of New Jersey, whose assistance in the publication of this Manual cannot be overstated. On behalf of all the contributors, we hope and trust that the Manual will be a valuable and trusted resource for bankruptcy practitioners in this state for many years to come.

Hon. Rosemary Gambardella
United States Bankruptcy Judge
United States Bankruptcy Court
District of New Jersey
Bankruptcy Manual Editor-In-Chief

DEDICATION

We proudly dedicate this manual to Hugh M. Leonard, a “dean” of the New Jersey Bankruptcy Bar, devotee of the New Jersey Bankruptcy Bench, and contributor extraordinaire to the New Jersey Institute for Continuing Legal Education. Hugh’s accomplishments and contributions to the New Jersey bankruptcy community could alone form the basis of a manual. A small sampling of the highlights of his illustrious career include:

- * Former Chair of the Corporate Restructuring practice at Cole, Schotz, Meisel, Forman & Leonard, P.A.
- * Hugh graduated from Seton Hall University in 1958. After serving in the United States Army (Fort Bliss, El Paso, Texas) from 1958 to 1960, Hugh graduated from Seton Hall Law School in 1963.
- * From 1965 to 1979, Hugh concentrated his practice in insolvency matters, serving as receiver and counsel in numerous significant cases, including several major corporate reorganizations.
- * In 1979, Hugh was appointed as United States Trustee for New Jersey and Delaware by the Attorney General of the United States to test a bankruptcy pilot program created by the Bankruptcy Reform Act of 1978. Until 1989, he served as Trustee for New Jersey, Delaware, and later Pennsylvania when it became part of Region 3 in 1986. During his term, Hugh also served as Chairman of the Advisory Committee for United States Trustees.
- * Hugh is a former President of the Federal Bar Association, New Jersey Chapter; former Chairman (and current Trustee) of the Bankruptcy Law Section, New Jersey State Bar Association; and former member of the Lawyers Advisory Committee to the New Jersey Bankruptcy Courts. Hugh also served as a member of the Local Bankruptcy Rules Revision Committee.
- * Hugh has been associated with the New Jersey Institute for Continuing Legal Education for over 25 years and has developed and participated in numerous seminars on insolvency law. He coauthored the *Basic Bankruptcy Skills Manual* and several re-publications since 1970. He is the editor of the *New Jersey Bankruptcy Manual*, First Edition. Hugh has participated in numerous lectures for professional organizations and has contributed articles to *New Jersey Lawyer*, *Bergen Barrister* and other publications.

Hugh, we are forever grateful for your humanitarianism, guidance, wisdom, and tireless effort to improve the advancement of the bankruptcy law and those it serves.

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