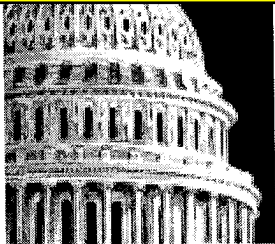


Note: This excerpt provides a peek into the contents of the booklet. A high-resolution pdf of the entire booklet is available on the bankruptcy judges-only area of the NCBJ website. The pdf is available to state court judges upon request to an NCBJ member judge. Members of the public may purchase a copy of the booklet at the publisher's website, [www.abiworld.org](http://www.abiworld.org).



# **Bankruptcy Issues for State Trial Court Judges**

## ***Third Edition***

**Includes coverage of  
2005 Bankruptcy Law!**

**A Publication of the  
American Bankruptcy Institute**

*Edited by*  
*Marianne B. Culhane and Michaela M. White*  
*Professors of Law*  
*Creighton University School of Law, Omaha, Nebraska*

***Supported by a grant from the  
National Conference of Bankruptcy Judges  
Endowment Fund for Education***



# Table of Contents

Foreword	iii
I. Introduction and User's Guide	1
II. The Bankruptcy-State Connection: An Overview	3
III. Structure of the Bankruptcy Court System	5
A. Jurisdiction	5
B. Removal and Remand (Briefly)	6
IV. Types of Bankruptcy Filings	7
A. Chapter 7	7
B. Chapter 11	8
C. Chapter 12	8
D. Chapter 13	9
V. Bankruptcy Concepts	11
A. Property of the Estate	11
B. Property of the Debtor	11
C. Claim	11
VI. Bankruptcy Stays and Injunctions	13
A. Section 362 Stays	13
1. To whom does a §362 stay apply?	14
2. To what conduct does a §362 stay apply?	15
a. Actions against property of the estate	15
b. Actions against property of the debtor	16
c. Actions against the debtor	16
3. How can state court litigants respond to the stay?	17
a. Exceptions to the §362 stay	17
b. Termination of the Stay	19
c. Dismissal of the case or denial of discharge as terminating the stay	20
d. Requesting relief from the stay	20
4. What are the sanctions for violation of the stay?	22
5. What is the effect of an action that violates §362?	22
6. How does the §362 stay affect contractual and statutory time limitations?	22
7. What are the practical ramifications of the stay for state court judges?	23
B. Sections 1201 and 1301 Codebtor Stays	23
VII. Dischargeability Law	25
A. Debts Excepted from Discharge	25
B. Chapter 7	27

C. Chapter 11	28
D. Chapter 12	28
E. Chapter 13	28
VIII. Bankruptcy and Domestic Relations Law	31
A. Domestic Support Obligations	31
B. Property of the Estate and Jointly Owned Real Property	31
1. Jointly Owned Property as Property of the Estate	31
2. Real Estate Held as Tenants by the Entirety	32
3. Exemptions and Entirety Property	32
C. Effect of the Automatic Stay on Domestic Relations Matters	32
D. Exceptions to the Automatic Stay for Domestic Relations Matters	33
E. Relief from the Stay	34
F. Dischargeability and State Court Domestic Relations Issues	34
1. Exceptions to discharge	34
2. Responding to a discharge by modification of support	36
G. Avoidance of Transfers or Liens	36
H. Plan Confirmation	36
IX. Bankruptcy and Criminal Proceedings	37
A. Automatic Stay	37
B. Dischargeability	38
X. Bankruptcy Terms	39
XI. Questions Commonly Asked by State Court Judges	47
XII. United States Bankruptcy Judges	51
XIII. United States Bankruptcy Clerks	63
XIV. United States Trustee Program	67
XV. Applicable Bankruptcy Statutes & Rules: Selected Provisions	73