



The State Bar of California

2023 LEGAL SPECIALIST EXAMINATION Preparation Packet

Examination Date: October 24, 2023

Legal Specialization Area:
BANKRUPTCY LAW

This packet contains key information you will need to prepare for the 2023 Legal Specialist Examination:

- Examination Action Plan
- Exam specifications listing topics that may be tested
- Free sample essay questions (multiple-choice questions are not released)

For full details, please visit [Exam Information](#).

2023 LEGAL SPECIALIST EXAMINATION ACTION PLAN

A. Start Today:

1. **Register** for the Legal Specialist Examination today in the [Admissions Applicant Portal \(Applicant Portal\)](#). Registration closes on **September 15**.
2. **Review** this packet for an overview and visit [Becoming a Certified Specialist](#) for eligibility requirements, current exam information, and other important dates and deadlines.

B. Know the Exam:

1. **Format:** The Legal Specialist Examination is a single-day exam that consists of eight short essay questions and 75 multiple-choice questions and tests whether an attorney has a proficient understanding of the key laws, rules, and procedures applicable to that area of law.
2. **Exam topics:** See enclosed exam specifications.
3. **Exam practice:** See enclosed sample essay questions. No sample answers are available for the essay questions, and no multiple-choice questions are released for practice.
4. **Ensure that your laptop is ready before exam day:** Applicants should take the two mock exams on the laptop that they will use on exam day **prior** to exam day.
5. **Other certification requirements:** Review the other task, education, and experience requirements in the post-exam application for initial certification. You may have already met many of the requirements, or you can continue to meet them through January 31, 2027.

C. Prepare for Exam Day

1. **Applicants must login into the exam by the posted password release time of 8:00 a.m.** so that you have enough time to verify your identification and start your laptop.
2. **Items allowed in the exam room:**
Please review the [exam bulletin](#) for a list of items that are allowed in the exam room before the exam.

While most applicants will not be allowed to bring reference books into the exam room, those taking the exams in the following four specialty areas have the option to bring in one of the following code books if they wish to do so (annotated or unannotated version):

- **Bankruptcy Law:** Bankruptcy Code and Rules
- **Estate Planning, Trust & Probate Law:** California Probate Code

- **Immigration & Nationality Law:** Immigration & Nationality Act only (NOT regulations)
- **Taxation Law:** Internal Revenue Code only (NOT regulations)

BANKRUPTCY LAW

Examination Specifications

Purpose of the Exam: The Bankruptcy Law Legal Specialist Examination consists of a combination of essay and multiple-choice questions. It is designed to verify the applicant's knowledge of and proficiency in the usual legal procedures and substantive law that should be common to specialists in the field as represented by the skills listed below. We recognize that these skills are interrelated, which may require that you apply several skills in responding to a single exam question. Also, the order of the skills does not reflect their relative importance, nor does the skill sequence represent an implied order of their application in practice.

Your answers to the exam questions should reflect your ability to identify and resolve issues, apply bankruptcy law to the facts given, and show knowledge and understanding of the pertinent principles and theories of law, their relationship to each other, and their qualifications and limitations. Of primary importance for the essay questions will be the quality of your analysis and explanation.

Knowledge of the following fundamental lawyering skills may be assessed:

Subject Area 1: Professional Responsibility 1.1 Duties to clients, counsel, trustees, Court, and other parties and interest 1.1.1 Attorney's signature as certification 1.1.2 FRBP 9011 sanctions against attorneys 1.1.3 Debt Relief Agency requirements 1.2 Potential and actual conflict of interest 1.3 Professional employment and compensation 1.4 Attorney engagement agreements	Subject Area 2: Pre-Bankruptcy Considerations 2.1 Non-bankruptcy alternatives 2.2 Pre-bankruptcy planning 2.3 Disclosure and gathering of information 2.4 Attorney-client, attorney work product and other privileges and waiver 2.5 Determining client eligibility for Chapters 7, 11, 12, 13 2.6 Potential litigation issues 2.7 Reaffirmation/Redemption/Surrender/Retention 2.8 Involuntary petitions
Subject Area 3: Automatic Stay Issues 3.1 Scope of Stay 3.2 Exceptions to Stay 3.3 Expiration of Stay 3.4 Terminating or Modifying Stay 3.5 Successive bankruptcy cases 3.6 Violation of automatic stay 3.7 Special rules for single asset real estate	Subject Area 4: Estate Issues 4.1 Debtor's duties 4.2 Property of the Estate 4.3 Exemptions 4.4 Use of Cash Collateral 4.5 Post-petition Credit 4.6 Sale of Estate Property 4.7 Abandonment of Estate Property 4.8 Leases and executor contracts 4.8.1 Assumption/Assignment/Rejection 4.8.2 Debtor as Lessor 4.9 Turnover and Avoidance Actions 4.10 Setoff and Recoupment 4.11 Administrative Expenses

Subject Area 5: Claims Issues 5.1 Scheduling and Filing Claims 5.2 Tax and Priority Claims 5.3 Claims Objections	Subject Area 6: Reorganization Issues 6.1 Basic knowledge 6.1.1 Chapter 11 6.1.1.1 Chapter 11 vs. 7 vs. 13 vs. 9 vs. Small Business 6.1.1.2 Eligibility 6.1.1.3 Debtor in Possession Trustee 6.1.1.4 Creditor Committee 6.1.1.5 Role of the U.S. Trustee 6.1.1.6 Operational Issues and Compliance 6.2 Retention of Professionals/Compensation 6.2.1 Employment 6.2.2 Fee Applications 6.3 Chapter 11 Plans 6.3.1 Exclusivity 6.3.2 Disclosure Statement 6.3.3 Classification of Claims 6.3.4 Impairment of Claims 6.3.5 Voting 6.3.6 Admin and Priority Claims 6.3.7 Secured Claims 6.3.7.1 506 classification, valuation 6.3.7.2 1111(b) election 6.3.8 Best Interests of Creditors 6.3.9 Feasibility 6.3.10 Valuation 6.3.11 Cramdown 6.3.12 Absolute Priority/New Value 6.3.13 Discharge 6.3.14 Post-Confirmation Issues 6.4 Small Business in Chapter 11 6.4.1 Eligibility 6.4.2 Timing/Deadlines 6.4.3 Differences from Chapter 11 6.5 Individuals in Chapter 11 6.5.1 Property of the Estate 6.5.2 Comparison with Chapter 13, 7 6.5.3 Exempt Property 6.6 Dismissal/Conversion Issues 6.7 Chapter 13 Issues 6.7.1 Eligibility 6.7.2 Co-Debtor Stay 6.7.3 Property of the Estate 6.7.4 3-5 Year Plan 6.7.5 Avoidability Actions 6.7.6 Discharge
Subject Area 7: Post Confirmation Issues 7.1 Chapter 11 -- Plan Modification 7.1.1 Substantial Consummation 7.1.2 Breach of Confirmed Plan	Subject Area 8: Bankruptcy Litigation 8.1 Jurisdiction 8.1.1 Jury Trial 8.1.1.1 Waiver by Filing a Claim

7.1.3	Modifications in individual cases – “best effort” requirement	8.1.2	Stays/Injunctions
7.2	Chapter 11 Dismissal	8.1.3	Withdrawal of Reference
7.2.1	Failure to pay post-petition domestic support obligations	8.1.4	Sovereign Immunity Issues
7.3	Chapter 11 Conversion	8.2	Removal and Abstention
7.4	Chapter 13 -- Plan Modification	8.2.1	Timing and Procedure
7.4.1	Suspension Orders	8.2.2	Remand
7.4.2	Hardship Discharges	8.3	Res Judicata/Collateral Estoppel
7.4.3	Outside Limit for Modification	8.3.1	Effect of Final Judgment
7.4.4	Modification to purchase health insurance	8.3.1.1	Grogan-Burden of Proof
7.4.5	Audits & Reviews	8.3.2	Default Judgment
7.5	Chapter 13 Dismissal	8.3.3	Settlement/Effect on Dischargeability
7.5.1	Failure to pay post-petition domestic support obligations	8.4	Discharge and Non-Dischargeability Litigation
7.5.2	Failure to file tax returns	8.4.1	Timing and Procedure/Deadlines
7.6	Chapter 13 Conversion	8.4.2	Availability of Discharge for Individuals, Corporations
		8.4.2.1	Chapter 7, 13, 11
		8.4.3	Bankruptcy Court Jurisdiction Over Discharge/Dischargeability Litigation
		8.4.4	Scope of Discharge/Discharge Injunction
		8.4.5	Impact of Denial of Discharge

BANKRUPTCY LAW
Sample Essay Questions

Below are actual questions from past examinations. These questions were designed to be read and answered within 45 minutes, though current examination questions are designed to be read and answered in 30 minutes.

Sample Legal Specialist Examination Question #1

Husband and Wife were married for five tumultuous years. After the police was called to their home for the second time to break up a physical brawl, Wife filed for divorce. Wife and Husband were able to agree on a property settlement pursuant to which Husband gave Wife a Promissory Note for \$30,000 bearing 7% per annum interest, amortized over five years with monthly payments of \$594.04. The final decree required Husband to pay \$2,000 per month in spousal support to Wife.

Until a year before the divorce, Husband was a manager at a fast food restaurant, earning less than \$45,000 a year. He recently became an automobile salesman working on commission. He was doing quite well. During the 10 months prior to the divorce, he made as much as \$10,000 per month, although he averaged \$5,000 per month. During the two months after the divorce decree was entered, Husband's income appeared to be averaging \$7,000 per month.

After Husband and Wife separated, but before the final divorce decree was entered, Husband used his own charge cards to buy expensive jewelry and take exotic vacations. Two months after the divorce, he accrued \$170,000 in credit card debt.

Also while the divorce was pending, Wife filed suit against Husband in state court seeking to recover \$200,000 in medical costs, plus emotional distress damages and punitive damages arising from Husband having allegedly assaulted her during the final fight that led to the divorce. Three months after the divorce decree was entered, but before Wife's state court action was decided, Husband filed a Chapter 13 plan. Husband's budget submitted with the plan showed a monthly income of \$7,000 per month and expenses of \$4,000 per month, which included \$2,000 a month in spousal support payments to Wife. The note to Wife was listed as a general unsecured debt which, under Husband's plan, will receive 18 cents on the dollar.

Wife filed a claim for \$3 million based upon her state court action and objected to confirmation of the plan.

**What issues should Wife raise to defeat confirmation of Husband's Chapter 13 plan?
Discuss.**

END OF QUESTION

Sample Legal Specialist Examination Essay Question #2

Debtor visited Attorney the day after his first meeting of creditors in his Chapter 7 case. He filed to discharge a large judgment against him resulting from his negligence in an auto accident while he was uninsured. He wants to retain Attorney as his bankruptcy counsel. He filed his case in pro per after studying about bankruptcy on the Internet. Based on his interview with Debtor, Attorney discovers the following irregularities with his bankruptcy schedules:

- Debtor is married. His wife did not file bankruptcy. He did not list any assets which were titled in his wife's name, although several may be community property. These include a leased car, a timeshare in Cabo San Lucas, clothing, a \$10,000 bank account, and the community property residence.
- Debtor receives social security as his only income. It is not listed on his Schedule I. His wife's income from her ERISA qualified retirement plan of \$10,000 per month is not listed.
- Numerous creditors are not listed, including credit cards, family members and taxing agencies who are creditors of Debtor. He intended to pay these entities and thus did not list them.

At a recent meeting of creditors, Trustee learned about the facts in paragraph a. Trustee told Debtor that a criminal investigation might be instituted against him based on concealment of assets.

Attorney accepted Debtor's case and it remains a Chapter 7 case.

What actions should Attorney advise Debtor to take and why?

END OF QUESTION

Sample Legal Specialist Examination Essay Question #3

Debtor, a professional with a salary of \$10,000 a month from his corporation, retained Attorney to file a bankruptcy petition to reorganize his tax debt. He had over \$100,000 in a 401(k) and \$50,000 equity in his house. The stock in Debtor's business was all owned by him and was valued at \$75,000. The value of all his other personal assets was \$15,000.

The IRS filed a personal tax lien for \$100,000. In addition, the IRS and the Franchise Tax Board had priority tax claims of \$45,000. Debtor had a \$550,000 unsecured bank loan and he owed \$15,000 to his divorce attorney. Both of these debts were dischargeable.

Debtor's average monthly expenses included \$2,000 in child support and \$1,500 to his unemployed former spouse on a marital equalization judgment of \$75,000. His other ordinary and necessary living expenses averaged \$5,000 a month.

Debtor was certain that his former spouse will object to the dischargeability of the marital equalization judgment.

Discuss the options Debtor may have under Chapters 7, 11 and 13 plans and the advantages and disadvantages of each option.

END OF QUESTION

Sample Legal Specialist Examination Essay Question #4

Debtor A and Debtor B retained Attorney for advice about their financial situation. Last month, they received a discharge and their Chapter 7 case closed. During the Chapter 7 case:

- Debtor A and Debtor B jointly had a debt owing to Debtor B's mother held nondischargeable under 11 U.S.C. §523(a)(2) in the amount of \$390,000.
- Payroll taxes owed by Debtor A totaling \$310,000 were not discharged, although no lien was filed.
- None of the wildcard exemption was used in exempting the pre-petition assets of Debtor A and Debtor B and is available.

Debtor A started working at the local grocery store as a checker. He made just enough money to pay the family's living expenses. His wages were garnished by the IRS. He had three minor children living at home.

In February 2005, Debtor B had a major movie studio take an option on a script she wrote and sent to the studio one year before the bankruptcy petition was filed. The terms of her contract with the studio was set to be reduced to writing. Debtor B was to receive \$10,000 per month for helping develop the script, up to a maximum of \$60,000, with a \$400,000 additional bonus if the script was made into a movie. The script was not listed as an asset in the bankruptcy proceeding or on the schedules based on the 25 rejection letters Debtor B received following its submission to numerous movie producers. She discussed the script and the rejections to the non-attorney petition preparer who had prepared the bankruptcy schedules filed by Debtor A and Debtor B.

Debtor A was told by his elderly father that Debtor A will inherit \$1,000,000 when his father dies. Debtor A's father is in failing health and may die within 90 days.

Discuss what Debtor A and Debtor B should do in regard to each debt and asset or potential asset.

END OF QUESTION