Over the years, many bankruptcy cases under the Code have reached the United States Supreme Court. Although the Supreme Court’s definitive holdings reach only limited specific issues in bankruptcy law, two important guiding principles have been enunciated on several occasions. First, as expected, the plain language of the statute controls. Second, the Court has repeatedly held that it will not find congressional intent to overrule law under the prior Bankruptcy Act absent a clear statement by Congress to that effect. Because of the latter principle, it is important to review precedent under the former Bankruptcy Act as well as cases under the Bankruptcy Code in researching unresolved bankruptcy questions. Since 1978, a substantial body of case law from the bankruptcy courts has been reported. In addition, appellate decisions in each jurisdiction have created a pool of binding precedent that must be examined before advocating on bankruptcy issues. In a bankruptcy court, it is generally only circuit court precedent that is considered binding. District court decisions and bankruptcy appellate panel decisions have stare decisis effect in bankruptcy, but because of the potential for inconsistent decisions from different judges of the same district court, they are generally not considered binding even on bankruptcy judges in the district in which they arose.

Additionally, state courts have ruled on issues directly or indirectly related to bankruptcy, most notably in the areas of state exemptions, dischargeability of certain debts, and lien rights of secured creditors. As is discussed more fully below, many bankruptcy issues turn on questions of state law. The body of bankruptcy case law continues to grow and careful research will generally uncover helpful decisions, if not binding precedent, on virtually any issue.

Footnotes


111 {107} See § 2.4.3 [1], infra, for discussion of bankruptcy appellate panels.


Source: National Consumer Law Center, Consumer Bankruptcy Law and Practice [12th ed.], updated at www.nclc.org/library
Source URL: https://library.nclc.org/bankr/01040404

Links
[1] https://library.nclc.org/nclc/link/Bankr.02.04.03