

BUSINESS ASSOCIATIONS

LAWS 609 §2

Professor Winston

Spring 2021

Syllabus

Class Time:	Mon., Wed., Thur.	2:00 pm – 3:00 pm
Class Location:	Online via Zoom	
Final Exam:	Monday, April 26	9:00 am
Office Hours:	Monday and Wednesday Or by appointment Office hours will be held on Zoom. See Blackboard for Zoom login info.	3:00 pm – 4:00 pm
Contact:	Office # 229	winstone@mailbox.sc.edu

Course Objectives:

This course will introduce you to many aspects of the laws governing corporations, partnerships and limited liability companies. At the conclusion of the course, students will demonstrate an understanding of:

- the sources of law governing business organizations;
- the legal forms available for business entities, and their consequences;
- the individuals involved in managing or influencing decision-making in business entities and their duties to the entity and to each other;
- The legal rights and responsibilities of business managers and equityholders; and
- the considerations relevant to counseling business entity clients on matters of business association law.

Course Text:

The required textbook for this course is: Jeffrey Bauman, Russell Stevenson & Robert Rhee, *Business Organizations Law and Policy*, West, 9th edition, 2017

I may also, occasionally, ask you to read some material from sources other than the casebook. Any additional readings will be posted on Blackboard.

Online Learning and Covid Accommodations:

This course will be taught *entirely online* this semester. My plan is to provide all or nearly all classes in live, synchronous format. We will use a number of tools to make this as engaging and meaningful a learning experience as possible. You will have the opportunity to provide feedback about what aspects of the course design are and are not effective for you. In this way, I hope we

can calibrate over the course of the semester to ensure no learning is lost due to the online format.

Our ability to create an engaging virtual learning environment requires your active participation in the class. A successful semester in the online format will require your commitment to logging in at the scheduled class times and participating in class. That said, I realize that the Covid-19 pandemic continues to cause a number of substantial and unavoidable disruptions. Therefore, my expectations of you in this course this semester are that: (1) You log in in real time and participate in our scheduled class meetings; (2) if there are impediments that keep you from participating in class or keeping up with the course work, you communicate with me promptly so we can work together to determine the best solution.

If you do have to miss a class, all classes will be recorded for later viewing. However, this option should only be used when attendance and participation in the live session is impossible. If you miss a live class and later watch a recording, you will still be considered absent for the missed class.

Class Participation:

Class participation will constitute 10% of your final grade. You will be eligible to earn up to 20 participation points during the semester. Participation points will be awarded based on the following:

1. Attendance in class
2. Participation in in-class activities
 - *This may include quizzes, small-group discussions or other activities*
3. Preparation and performance on your “on call” days
 - *See “On Call Policy” below.*
4. Attending office hours at least once during the semester
 - *If you have conflicts during my scheduled office hours, just send me an email to set up another time. (Though, if you wait until the end of the semester, I may be unable to accommodate your scheduling needs.)*
5. Voluntary participation in class discussion

On Call Policy:

[On call policy to be determined during first class meeting.] If you are on call in a particular class, my expectation is that you will be prepared to discuss the course material up to and including the reading assigned for your on-call day. Whenever possible, on-call students should log into Zoom several minutes before the start of class to test the functionality of their microphones and cameras.

All students are encouraged to participate in class discussions regardless of whether it is their on-call day; doing so will improve your participation score.

Final Exam Format:

The exact format of the final exam is subject to the Law School’s policies for exams this semester. The final exam will be open book and may have essay, short answer, and multiple-

choice questions. The “open book” nature of the exam means that you may consult your textbook or other written materials as you draft your exam responses. All writing on your exam should still be entirely your own, and material should never be copied directly from your textbook or other sources without appropriate attribution.

The issues and topics for exam questions will come from the course readings and class discussions. This means that the best way to prepare for the exam is to do the class readings and attend class.

Grading Information:

Your final exam will be worth 180 points. You can earn up to 20 points for participation. Therefore, your final score for the course will be out of a possible 200 points. Raw scores will be curved in accordance with Law School policy.

Attendance:

Regular attendance is essential for your legal education. It is also an ABA and Law School requirement. Excessive absences may result in your being denied the opportunity to sit for the final exam. You will be required to certify, at the time you take the exam, that you have satisfied the attendance requirements to sit for the exam.

Schedule of Readings:

A preliminary schedule of readings appears on the following pages. This schedule may be revised and supplemented as the course progresses.

Class Number	Date	Reading Pages	Reading Sections	Chapter	
1	Jan. 11	pp. 3-18	A. Introduction B. Risk and Risk Preference C. Allocating Risk and Return D. Beyond Agency Cost	Chapter 1: Business and Risk	Part I: Intro to Basic Business Law Concepts
2	Jan. 13	TBD			
3	Jan. 14	pp. 19-23; 26-35; bottom of 37-46	A. Taxonomy of Business Organizations C. Agency - <i>Gay Jenson Farms Co. v. Gargill, Inc.</i> - (skip Ribstein pp. 36-37) - <i>Summit Properties v. New Technology</i>	Chapter 2: Intro to Business Concepts	
No Class Jan. 18 – MLK DAY					
4	Jan. 20	pp. 46-52	Agency, continued - <i>Menard v. Dage</i>		
5	Jan. 21	pp. 52-70	D. Overview of Basic Legal Attributes of Firms E. Basic Terms and Concepts of Business Entities		
6	Jan. 25	pp. 81-82; 88-107	A. Introduction to Veil Piercing (Stop before “Doctrinal Confusion”) B. Tort Creditors - <i>Walkovszky v. Carlton</i> - <i>Radaszewski v. Telecom</i> C. Contract Creditors - <i>Freeman v. Complex Computing Co.</i>	Chapter 3: Limits to Limited Liability	
7	Jan. 27	pp. 107-127	Contract Creditors, continued: - <i>Kennedy Shoe Corp. v. Polan</i> D. Parent-Subsidiary Corporations - <i>Gardemal v. Westin Hotel Co.</i> - <i>OTR Associates v. IBC Services</i> E. Veil-Piercing in Limited Liability Companies - <i>NetJets Aviation, Inc. v. LHC</i>		
8	Jan. 28	No additional reading		Chapter 3, cont.	

9	Feb. 1	pp. 157-176	A. Introduction B. Framing the Issues (Stop before “ALI Principles”) - <i>Dodge v. Ford Motor Co.</i> - <i>eBay v. Newmark</i>	Chapter 5: Corporations and Society	
10	Feb. 3	pp.1065- 1074	<i>Paramount Communications v. Time, Inc.</i>		
No Class Feb. 4 – WELLNESS DAY					
11	Feb. 8	pp. 213-226; 229-234; 236-237	A. Introduction - <i>Donahue v. Rodd Electrotype</i> B. Restrictions on Board Authority and Shareholder Voting Arrangements (Stop before Shareholder Voting Arrangements.) - <i>Smith v. Atlantic Properties, Inc.</i> C. Minority Protection Devices D. Contractual Transfer Provisions (Stop before Types of Transfer Provisions)	Chapter 6: Close Corporations	Part II: Closely Held Entities
12	Feb. 10	pp. 242-261	E. Dissension and Oppression - <i>Wilkes v. Springside Nursing Home</i> - <i>Nixon v. Blackwell</i> - <i>In the Matter of Kemp & Beatley, Inc.</i>		
13	Feb. 11	No additional reading			
14	Feb. 15	pp. 263-282 (Stop before Limited Partnerships)	A. Introduction B. General Partnerships - <i>Martin v. Peyton</i> - <i>Meinhard v. Salmon</i>	Chapter 7: Partnerships	
15	Feb. 17	pp. 282-303	C. Limited Partnerships - <i>Gerber v. Enterprise Production Holdings</i> - <i>Dieckman v. Regency General Partner</i> - <i>Gateway Potato Sales v. G.B. Investment</i>		
16	Feb. 18	No additional reading		Chapter 8: Limited Liability Companies	
17	Feb. 22	pp. 305-325	A. Introduction - <i>Fraser v. Major League Soccer, LLC</i> B. Fiduciary Duty - <i>McConnell v. Hunt Sports Enterprises</i>		

18	Feb. 24	pp. 326-334; 344-356	B. 3. Fiduciary Duty – Delaware Approach - <i>Norton v. K-Sea Transp. Partners L.P.</i> D. Dissociation and Dissolution - <i>Haley v. Talcott</i>		
19	Feb. 25	No additional reading			
20	Mar. 1	Reserved			
21	Mar. 3	pp. 471-472; 486-507 (Stop at The Choice of the State)	A. Introduction C. Corporate Governance in a Federal System - <i>CTS Corp. v. Dynamics Corp. of America</i> - <i>Liggett v. Lee</i>	Chapter 12: Governance in the Public Corporation	Part III: Large and Publicly Traded Corporations
22	Mar. 4	No additional reading			
23	Mar. 8	pp. 509-527	A. The role of the Corporate Director B. Formalities of Board Action C. Governance in the Modern Board	Chapter 13: The Role of Directors	
24	Mar. 10	pp. 528-537	D. What Kind of Board?		
25	Mar. 11	pp. 539-559	A. Mechanics of Shareholders’ Meetings B. Election and Removal of Directors C. Inspection of Books and Records D. The Dynamics of Shareholder Voting in Public Companies		
26	Mar. 15	pp. 559-565; 576-591	E. Federal Proxy Regulation (Stop before “The Meaning of “Proxy Solicitation”) F. 2. Federal Law: The Shareholder Proposal Rule - <i>Lovenheim v. Iroquois Brands</i> - <i>The Medical Committee Case</i> - <i>Cracker Barrel</i> - <i>Trinity v. Wal-Mart Stores</i>	Chapter 14: The Role of Shareholders	
27	Mar. 17	No additional reading			

28	Mar. 18	pp. 663-666; 670-698	A. Introduction (Stop before Problem: Prime Parts) A.1. Direct and Derivative Actions - <i>Tooley v. Donaldson</i> A.2. Role of Counsel B. Who Qualifies as a Plaintiff? - <i>In re Fuqua Industries, Inc.</i> C. The Demand Requirement - <i>Aronson v. Lewis</i> - <i>Einhorn v. Culea</i>	Chapter 16: Shareholder Litigation	
29	Mar. 22	pp. 698-707	D. Inspection of Books and Records - <i>Saito v. McKesson HBOC</i> - <i>Seinfeld v. Verizon Communications, Inc.</i>		
30	Mar. 24	pp. 748; 751-768	A. Introduction to Fiduciary Duties (Stop before Intro to Standards of Care) C. Business Judgment Rule - <i>Shlensky v. Wrigley</i> - <i>In re Walt Disney</i>	Chapter 17: Duty of Care	
31	Mar. 25	pp. 769-787	D. Duty of Oversight - <i>Francis v. United Jersey Bank</i> - <i>In re Caremark International</i>		
32	Mar. 29	pp. 787-798; 800-816	<i>In re Citigroup Inc.</i> E. Duty to Become Informed - <i>Smith v. Van Gorkom</i>		
No Class Mar. 31 – WELLNESS DAY					
33	Apr. 1	pp. 816-828; 829-842	Van Gorkom and its Aftermath Reliance, Lack of Objectivity, Causation, Rebutting the Presumption of the BJR F. Avoidance of Liability (lecture?)		
34	Apr. 5	No additional reading			
35	Apr. 7	pp. 843; 846-860	A. Introduction B. Director Self-Dealing and Conflict of Interest - <i>Remillard Brick Co. v. Remillard-Dandini</i> - <i>Benihana of Tokyo, Inc. v. Benihana, Inc.</i>	Chapter 18: Duty of Loyalty	

36	Apr. 8	pp. 860-876; 878-881	B.3. The Meaning of Fairness - <i>Lewis v. Vogelstein</i> - <i>Harbor Finance Partners v. Huizenga</i> C. The Evolution of “Good Faith” - <i>In re Walt Disney</i>		
37	Apr. 12	pp. 881-899	<i>Stone v. Ritter</i> <i>ATR-Kim Eng Financial Corp. v. Araneta</i> <i>McPadden v. Sidhu</i>		
38	Apr. 14	pp. 899-900; 901-919	D. Corporate Opportunity Doctrine - <i>Farber v. Servan Land Company, Inc.</i> - <i>Burg v. Horn</i>		