**SYLLABUS**

**BUSINESS ASSOCIATIONS (Spring 2022)**

PROFESSOR: Robert J. Rhee

CONTACT: Holland Hall # 312C

352-273-0958

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CLASSROOM: Holland 355C

CLASS TIME: Wednesday & Friday: 10:00am to 12:00pm

(10-minute break in between)

OFFICE HOURS: Wednesday & Friday: 12pm to 1pm

* + - * + Office hours will always be consistent with the prevailing UF policy.
        + Office hours can be through Zoom, telephone, or in person (if UF policy permits), and there are no restrictions on any of these methods.
        + In-person office hours are freely available (if UF policy permits). In-person office hours can be in the professor’s office, but because my office is a small physical space students must wear a mask in my office and abide by social distancing and the door must be kept open. If you do not wish to wear a mask in my office, we can hold in-person office hours outside or do it in a larger indoor space.

FINAL EXAM: DATE (4 hours)

**TEXTBOOKS**

Robert J. Rhee, LLCs, Partnerships, and Corporations (West 2021)

**COURSE DESCRIPTION**

This course provides comprehensive coverage of the major business organizations, including general partnerships, limited partnerships, limited liability companies, and corporations. It emphasizes the major differences among these entities and the role of contracting for the rules of internal affairs. Topics include rules dealing with formation, agency, management structures, admissions and dissociations, fiduciary duties, corporate governance, shareholder litigation, and fundamental transactions.

**STUDENT LEARNING OUTCOMES**

An understanding of business associations is required to practice business law. Modern business law practice broadly uses the corporate form and noncorporate entities, including the limited liability company. This course teaches the major business organizations, including general partnerships, limited partnerships, limited liability companies, and corporations.

After completing this course, students should be able to:

1. Know and analyze the legal rules of internal affairs, including the distinction between default and mandatory rules, for all major business organizations.
2. Consider issues related to advising business organizers and managers with respect to formation and maintenance of business organizations.
3. Know the rules and principles of fiduciary duties applicable in different settings and business organizations.
4. Know the differences between the corporate form and noncorporate business entities.

**GRADING**

Grading will be consistent with College of Law policy. Your grade will be based on a final exam (100% of the final grade). Exam grades are done on a blind basis. All grades are final. There will be no regrading or revisions from me, except to correct any mathematical or clerical errors in computing the final score.

**FINAL EXAM FORMAT**

The final exam will be **open casebook**. There are no restrictions on what you can write into the book. You will also be permitted to bring **any personal notes or outlines**, **written by you or your study group’s workproduct** (i.e., no commercial outlines or any other published materials other than your textbook). There is no limitation on page count. Your notes and outline may include the statutory provisions that you believe will be necessary for the exam.

The final exam may have essay, short answer, and multiple choice questions. Essay questions will be an issue-spotting, analysis, or problem-solving format typically seen in most law school exams. The issues and topics for exam questions will come from the course readings and class discussions. The exam will fairly reflect the work that is done in the course. This means that the best way to prepare for the exam is to do the class readings and to attend class.

*Makeup Exam Policy*: The law school policy on exam delays and accommodations can be found at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

**GRADING INFORMATION**

The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

|  |  |  |  |
| --- | --- | --- | --- |
| **Letter Grade** | **Point Equivalent** | **Letter Grade** | **Point Equivalent** |
| A (Excellent) | 4.00 | C (Satisfactory) | 2.00 |
| A- | 3.67 | C- | 1.67 |
| B+ | 3.33 | D+ | 1.33 |
| B | 3.00 | D (Poor) | 1.00 |
| B- | 2.67 | D- | 0.67 |
| C+ | 2.33 | E (Failure) | 0.00 |

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

**WORKLOAD AND CLASS PREPARATION**

It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class.

**ATTENDANCE**

Per ABA requirements, please attend all classes, unless you e-mail me in advance with a legitimate excuse. Requirements for class attendance and make-up exams, assignments, and other work in this course are consistent with university policies that can be found at: <https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>.

The single best thing that a student can do to maximize the possibility of doing well in the course in terms of a grade is to keep up with the class reading assignments and to attend class regularly. The final exam will draw from the work done in course and the class discussion.

Attendance will be taken online. A student may access the online attendance form at the beginning of class from the law school quick links page: <https://www.law.ufl.edu/student-life> or the <https://www.law.ufl.edu/attendance>. You will enter the requested information, including your UFID number, name and attendance code. Your professor will provide the attendance code for each class.  The submissions are recorded. It is an Honor Code violation for giving the attendance code to a study who is not present in the class, either in person or online. Please do not violate this policy.

**ACCOMMODATIONS**

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

Also, with prior notification to the professor, students are entitled to be excused from class or other scheduled academic activity to observe a religious holy day of their faith. Students are entitled to have a reasonable amount of time to make up the material or activities covered in their absence. Students will not be penalized due to absence from class or other scheduled academic activity because of religious observances.

**ACADEMIC HONESTY**

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

**ONLINE COURSE EVALUATIONS**

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner can be found here: <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens, and can complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via [ufl.bluera.com/ufl/](file:///C:\Users\rmcilhenny\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\QH37XRU4\ufl.bluera.com\ufl\). Summaries of course evaluation results are available to students can be found here: <https://gatorevals.aa.ufl.edu/public-results/>.

**COVID POLICY**

The Covid-19 policy for the course is the prevailing University of Florida’s policy in effect during the entire pendency of the course. If the UF policy changes, the policy in effect for the course will also change. Additionally, your professor kindly asks all participants of the course that we consider the circumstances of our times and respect public health and the safety of our community. **Consistent with this aspiration, I kindly ask that students wear a mask, practice social distancing, and exercise pragmatic judgment.**

**RECORDING CLASS SESSIONS**

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.”

**ONLINE (ZOOM) CLASS SESSIONS**

Per law school policy, our course must be mostly in-person class sessions, at least 2/3 of all class sessions. Consistent with this policy, we can have at most 1/3 of class sessions online through Zoom or other means.

**CLASS CANCELLATION AND MAKEUP**

Class on Friday, February 11, is cancelled. Makeup class is on Monday, February 7, 5:00pm to 7:00pm, via Zoom.

**ASSIGNMENTS**

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| **Class #** | **Topics, Issues, and Cases** | **Text pages** |
| 1 | CHAPTER 1: OVERVIEW OF BUSINESS ENTITIES   * Relevance of business entities * Differences between corporations and NBEs   + *Fraser v. Major League Soccer, LLC* * Taxonomy of corporations * Taxonomy of NBEs * Sources of law and internal affairs   + *Azure Dolphin, LLC v. Barton*   + *Heaps v. Nuriche, LLC* * Problem: Friends Consider a Startup | 1-36 |
| 2 | CHAPTER 2: FORMING THE ENTITY   * Nature and essential attributes of business entities   + *Reynolds v. Lyman*   + *State v. Brelvis Consulting LLC*   + *Gould v. City of Stamford* * Attorney engagement   + *In re Murrin Brothers 1885, Ltd.* * Forming general partnerships   + *Martin v. Peyton*   + *Minuit Maid Corp. v. United Foods, Inc.* | 37-76 |
| 3 | * Forming general partnerships   + *Energy Transfer Partners, L.P. v. Enterprise Products Partners, L.P.* * Forming limited liability entities   + *McDonough v. McDonough*   + *In re Delaware Sports Complex, LLC*   + *A Guy Named Moe, LLC v. Chipotle Mexican Grill of Colorado, LLC* * Partnership and operating agreements   + *In re Nantucket Island Assoc. Ltd. Partnership Unitholders Litig.* | 76-116 |
| 4 | * Contract interpretation principles * Issues to consider for NBEs   CHAPTER 3: LIABILITY TO THIRD PARTIES   * Rule of limited liability in corporations   + *Walkovszky v. Carlton*   + *ORT Associates v. IBC Services, Inc.*   + *Freeman v. Complex Computing Co., Inc.* * Rule of limited liability in NBEs   + *Gateway Potato Sales v. G.B. Investment Co.* | 116-124  125-145 |
| 5 | * Rule of limited liability in NBEs   + *Alphonse v. Arch Bay Holdings, LLC* * Direct liability for one’s own conduct   + *Fifth Third Mortgage Co. v. Kaufman*   + *Cortez v. Bacco Material Handling Group, Inc.* * Veil piercing in NBEs   + *Dailey v. Ayers Land Development, LLC*   + *GreenHunter Energy, Inc. v. Western Ecosystems Technology, Inc.*   + *In re Phillips* * Successor liability   + *Alsco, Inc. v. Fatty’s Bar, LLC* | 145-187 |
| 6 | * Issues to consider for NBEs * Problem: Entrepreneurs Think about Liability   CHAPTER 4: FINANCE   * Introduction to equity financing * Shareholders * Members and partners   + *Kilpatrick v. White Hall on MS River, LLC*   + *In re Carlisle Etcetera LLC* * Capital accounts * Contributions   + *Fox v. I-10 Ltd.* | 187-190  191-217 |
| 7 | * Profit and loss, and distribution   + *Kessler v. Antinora* * Improper distribution and liability * Admissions and dissociations of partners and members * Interests as securities   + *SEC v. Merchant Capital, LLC* * Issues to consider for NBEs * Problem: Entrepreneurs Obtain Financing | 217-246 |
| 8 | CHAPTER 5: AGENCY   * Theory of agency and its costs * Legal definition of agency and agent   + *Lang v. Lions Club of Cudahy Wisc., Inc.*   + *Segal v. Genitrix, LLC* * Authority, estoppel, and ratification   + *Gay Jensen Farms Co. v. Cargill, Inc.* * Principal’s liability for agent’s contracts and wrongful acts   + *Thomas D. Philipsborn Irrevocable Ins. Trust v. Avon Capital, LLC*   + *Ira S. Bushey & Sons, Inc. v. U.S.*   + *Burlington Industries, Inc. v. Ellerth* | 247-288 |
| 9 | * Agency and limited liability * Problem: Entrepreneurs Begin Managing   CHAPTER 6: MANAGEMENT STRUCTURE   * Three basic forms of management * Centralized management and corporations * Management structures of NBEs   + *Florida R & D Fund Investors, LLC v. Florida BOCA/Deerfield R & D Investors, LLC* * Voting rights * Insurance and indemnification   + *Sandt v. Energy Maintenance Servs. Group I, LLC*   + *Trascent Management Consulting, LLC v. Bouri* | 288-292  293-332 |
| 10 | * Information rights * Issues to consider for NBEs * Problem: Entrepreneurs Think Seriously about Governance   CHAPTER 7: FIDUCIARY DUTY   * Introduction to fiduciary duties * Traditional approach to NBEs   + *Meinhard v. Salmon*   + *In re USACafes, L.P. Litigation*   + *Red River Wings, Inc. v. Hoot, Inc.*   + *In re Sky Harbor Hotel Properties, LLC* | 332-340  341-368 |
| 11 | * Traditional approach to NBEs   + *Acorn v. Moncecchi*   + *Wilson v. Gandis*   + *McConnell v. Hunt Sports Enterprises* * Delaware approach to contracting for fiduciary duty   + *Bay Center Apartments Owner, LLC v. Emergy Bay PKI, LLC*   + *Norton v. K-Sea Transp. Partners L.P.* | 368-403 |
| 12 | * Obligation of good faith and fair dealing   + *BFP v. Resolution Trust Co.*   + *Robinson v. Wangemann*   + *In re Northern Merchandise* * Fiduciary duty to creditors   + *CML V, LLC v. Bax* * Actions by partners and members   + *Fritchel v. White*   + *Anglo American Security Funds, L.P. v. S.R. Global International Fund, L.P.* | 403-439 |
| 13 | * Actions by partners and members   + *Saunders v. Briner*   + *Marx v. Morris*   + *Woodside Properties, LLC v. MKR Development, LLC* * Issues to consider for NBEs * Problem: Entrepreneurs Find a Deal and a Problem   CHAPTER 8: TRANSFER OF INTEREST AND DISSOCIATION   * Transfers of interest in corporation * Transfers of interest in NBEs   + *SP Investment Fund III, LLC v. Zell*   + *Bauer v. Blomfield Co./Holden Joint Venture* | 439-468  469-479 |
| 14 | * Transfers of interest in NBEs   + *Northeast Communications of Wisconsin, Inc. v. CenturyTel, Inc.*   + *Weddell v. H2O, Inc.*   + *Law v. Zemp*   + *JPMorgan Chase Bank, N.A. v. McClure* * Dissociation   + *United States v. Sanofi-Aventis U.S. LLC*   + *Gelman v. Buehler*   + *Fredericks Peebles & Morgan LLP v. Assam* | 479-522 |
| 15 | * Dissociation   + *Congel v. Malfitano*   + *IE Test, LLC v. Carroll* * Buy-sell agreements * Issues to consider for NBEs * Problem: Entrepreneurs Learn that Ownership Is Not Permanent   CHAPTER 9: DISSOLUTION AND MERGERS   * Dissolution   + *Dysart v. Dragpipe Saloon, LLC* | 522-552  553-559 |
| 16 | * Dissolution   + *Haley v. Talcott*   + *Styslinger v. Brewster Park, LLC*   + *In re Carlisle Etcetera LLC*   + *Beaudry v. Harding*   + *Guenther v. Ryerson* * Mergers and conversions   + *Corwin v. KKR Financial Holdings LLC*   + *Allison v. Eriksson* | 559-599 |
| 17 | * Issues to consider for NBEs * Problem: Entrepreneurs Go Bigtime, Maybe   CHAPTER 10: INTRODUCTION TO CORPORATIONS   * Corporations in society   + *Citizens United v. Federal Election Commission* * Major differences between NBEs and corporations * Why corporations * Delaware corporation law | 599-604  605-632 |
| 18 | CHAPTER 11: CORPORATE GOVERNANCE   * Board of directors   + *Cinerama, Inc. v. Technicolor, Inc.*   + *Joy v. North*   + *Shlensky v. Wrigley*   + *Kamin v. American Express Co.* * Officers * Shareholders * Corporate governance   + *Bayer v. Beran* | 633-664 |
| 19 | CHAPTER 12: DUTY OF CARE   * Care, risk-taking and business judgment   + *In re Citigroup Inc. Shareholder Derivative Litigation* * Duty to be informed   + *Smith v. Van Gorkom* * Exculpation * Aiding and abetting breach of duties   + *RBC Capital Markets, LLC v. Jervis* | 665-694 |
| 20 | CHAPTER 13: DUTY OF LOYALTY   * Self-dealing and conflict of interest transactions   + *Benihana of Tokyo, Inc. v. Benihana, Inc.*   + *Gantler v. Stephens*   + *Broz v. Cellular Information Systems, Inc.* * Bad faith   + *In re Walt Disney Co. Derivative Litigation*   + *In re Caremark International Inc. Derivative Litigation*   + *Stone v. Ritter* | 695-731 |
| 21 | * Bad faith   + *In re Citigroup International Inc. Derivative Litigation*   + *Marchand v. Barnhill*   + *In re Massey Energy Co. Derivative Litigation* * Controlling shareholders   + *Sinclair Oil Corp. v. Levien*   + *Weinberger v. UOP Inc.*   + *Solomon v. Pathe Communications Corp.* | 731-762 |
| 22 | * Controlling shareholders   + *Kahn v. Lynch Communications System, Inc.*   + *Kahn v. M & F Worldwide Corp.*   CHAPTER 14: SHAREHOLDER LITIGATION   * Information rights   + *Seinfeld v. Verizon Communications, Inc.* * Direct and derivative suits   + *Tooley v. Donaldson, Lufkin & Jenrette, Inc.* * Plaintiff standing in derivative actions   + *In re Fuqua Industries, Inc. Shareholder Litigation*   + *Lambrecht v. O’Neal* | 762-776  777-793 |
| 23 | * Demand and demand futility in derivative actions   + *Aronson v. Lewis* (skim read to extract the rule of demand futility, case superceded in *Zuckerberg*)   + *United Food and Commercial Workers Union v. Zuckerberg*(**case provided on Canvass**)   + *Cede & Co. v. Technicolor, Inc.*   + *In re eBay, Inc. Shareholder Litigation*   + *Beam ex rel. Martha Stewart Living Omnimedia v. Stewart*   + *Kahn v. M & F Worldwide Corp.* | 793-822 |
| 24 | CHAPTER 15: ISSUES IN MERGERS & ACQUISITIONS   * M&A basics   + *Bove v. Community Hotel Corp. v. Newport, R.I.* * Entrenchment and defenses   + *Unocal Corp. v. Mesa Petroleum Co.* | 823-844 |
| 25 | * Revlon and its progeny   + *Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.*   + *Paramount Communications, Inc. v. Time Inc.*   + *Paramount Communications, Inc. v. QVC Network*   + *Air Products and Chemicals, Inc. v. Airgas, Inc.* | 844-874 |
| 26 | OPEN CLASS |  |
|  | **FINAL EXAM: \_\_\_\_\_\_\_** |  |