**SYLLABUS**

**CORPORATIONS (Fall 2020)**

CONTACT: Holland Hall # 378

352-273-0958

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CLASSROOM: Holland 180

CLASS TIME: Mon. & Tues.: 4:50 PM to 6:15 PM (1 hour 25 minutes)

OFFICE HOURS: Mon. & Tues.: 12:30 PM to 1:30 PM

FINAL EXAM: December 4, Friday, 1:00 PM to 5:00 PM (4 hours)

**TEXTBOOKS**

Jeffrey Bauman, Russell Stevenson & Robert Rhee, Business Organizations Law and Policy, West, 9th ed., 2017

We will study the Delaware corporation statute (Delaware General Corporation Law). The DGLC is available at: <https://delcode.delaware.gov/title8/c001/>.

**COURSE GRADING**

Your grade will be based on a final exam only. The final exam will be an in-class exam. 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 allowed to bring in an outline or notes with the following restrictions: 20 pages (20 sheets of paper on 8x11 sheets), front and back permitted, handwritten or typed notes permitted, no margin restrictions. If a problem on the exam requires statutes, they will be provided in the exam.

The final exam may have essay, short answer, and multiple choice questions. Short answer and multiple choice questions are fairly self-explanatory. 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. There are no prior exams.

## **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 |
| A (Excellent) | 4.00 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.00 |
| B- | 2.67 |
| C+ | 2.33 |
| C (Satisfactory) | 2.00 |
| C- | 1.67 |
| D+ | 1.33 |
| D (Poor) | 1.00 |
| D- | 0.67 |
| 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.

**OFFICE HOURS**

Office hours listed on the first page of this syllabus will be via Canvass (Zoom). Please note that this office hour will be open to all, like normal office hour sessions. If you wish to have a private conversation, please make an appointment with me and we will arrange a private virtual meeting by phone or Zoom.

**CLASS CANCELLATION AND MAKEUP**

**The class on Monday, November 30, is cancelled. The makeup for this class is on Friday, September 11, 4:35 pm to 6:00 pm via Zoom.**

**STUDENT LEARNING OUTCOMES**

After completing this course, students should be able to:

1. Know and analyze the legal form of the corporation and the laws applicable to the internal affairs of the corporation and corporate governance in general.
2. Consider issues related to advising the board and officers of matters arising under corporation law, including issues related to their fiduciary duties.
3. Know basic aspects of business transactions related to corporations, such as mergers and acquisitions, and transactions of securities.
4. Know and apply basic business concepts in accounting, finance, and economics specifically relevant and related to the understanding of corporations and corporation law.
5. Read and analyze essential corporate documents such as certificate of incorporation, bylaws, proxies, and annual reports.

**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>.

Many students find that this course is difficult. Some legal concepts require background knowledge in business, economics, finance, and accounting, which will be foreign to many students. These concepts will be explained and discussed in class. Class attendance and preparation will be important to doing well in the course. 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.

**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>.

**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 is available at <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 <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

**ASSIGNMENTS**

**Note to students: The textbook has a number of Problems in the form of hypotheticals. Do not read these Problems since we will not be covering them in class.**

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| **Class #** | **Topics, Issues, and Cases** | **Text** | **Statutes** |
| 1 | CHAPTER 1   * Risk and risk preferences * Allocating risk and return * Beyond agency cost * Business planning   CHAPTER 2   * Taxonomy of business organizations * Why do firms exist? * Basic legal attributes of firms | 1-18  19-26  52-59  (pages 32) |  |
| 2 | 1. Basic terms and concepts of business entities  * *Bayer v. Beran* * *Schnell v. Chris-Craft Industries, Inc.* * *Bove v. Community Hotel Corp.* | 61-80  (page 19) |  |
| 3 | CHAPTER 3   1. Tort creditors  * *Walkovszky v. Carlton*  1. Contract creditors  * *Freeman v. Complex Computing Co.* * *Kinney Shoe Corp. Polan*  1. Parent-subsidiary corporations  * *OTR Associates v. IBC Services, Inc*. | 81-88  88-95  101-10  115-18  (pages 26) | DGCL § 102(b)(6) |
| 4 | CHAPTER 9   1. Financial accounting 2. Valuation | 359-82  385-86  392-98  (pages 30) |  |
| 5 | CHAPTER 10   1. Corporate securities 2. Corporate capital structure 3. Legal capital 4. Limitation on distributions  * *Klang v. Smith’s Food & Drug Centers, Inc*. | 399-408  410-24  (pages 23) | DGCL § 154, § 160(a)(1), § 170(a) |
| 6 | 1. Creating the corporation 2. Review Google’s Investor Relations website 3. Read Google’s Amended and Restated Certificate of Incorporation (Alphabet Inc.) 4. Read Google’s Bylaws (Alphabet Inc.)   **Note: This class will be held on Friday, Sept. 11, 4:35pm to 6:00pm via Zoom.** | Posted on Canvass | DGCL § 102(a)-(b), § 106, § 109 |
| 7 | CHAPTER 12   1. Models of corporate governance 2. Internal affairs doctrine as constitutional principle 3. The choice of state of incorporation 4. The future shape of state corporate law | 471-507  (pages 36) |  |
| 8 | CHAPTER 13   1. The role of corporate director 2. Formalities of board action 3. Governance in the modern board   CHAPTER 14   1. Mechanics of shareholder meetings 2. Election and removal of directors 3. Dynamics of shareholder voting | 509-27  539-46  551-559  (pages 33) |  |
| 9 | CHAPTER 14   1. Federal proxy regulation   Read Google’s Proxy (Alphabet Inc.) | 559-71  (pages 12)  Proxy on Canvass |  |
| 10 | CHAPTER 14   1. Shareholder nomination of directors and bylaw amendments  * *American Federation v. A.I.G., Inc.* * *CA, Inc. v. AFSCME Employees Pension Plan*   CHAPTER 15   1. Implied federal private action for proxy fraud 2. Materiality  * *TSC Industries, Inc. v. Northway, Inc.* * *Basic, Inc. v. Levinson* | 596-617  621-31  (pages 31) | DGCL § 112, § 113 |
| 11 | CHAPTER 15   1. Materiality  * *Gantler v. Stephens*  1. Causation  * *Mills v. Electric Auto-Lite Co.* * *Virginia Bankshares, Inc. v. Sandberg*  1. Culpability in proxy fraud action 2. Duty of disclosure under state law  * *Malone v. Brincat* | 631-62  (pages 31) |  |
| 12 | CHAPTER 16   1. Introduction  * *Tooley v. Donaldson, Lufkin & Jenrette*  1. Who qualifies as a plaintiff?  * *In re Fuqua Industries*  1. The demand requirement  * *Aronson v. Lewis* * *Rales v. Blasband* * *Einhorn v. Culea* | 663-66  670-98  (pages 31) |  |
| 13 | CHAPTER 16   1. Inspection of books and records  * *Saito v. McKesson HBOC, Inc*. * *Seinfeld v. Verizon Communications, Inc*.  1. Bylaws dealing with derivative litigation 2. Termination when demand is excused 3. On the independence of directors  * *Orman v. Cullman* * *In re eBay, Inc. Shareholder Litigation*  1. Settlement and attorneys’ fees | 698-713  713-15  738-45  (pages 24) | DGCL  § 220  § 102(f)  § 109(b) |
| 14 | CHAPTER 17   1. Fiduciary duties and standard of care 2. Business judgment rule  * *Shlensky v. Wrigley* * *In re Walt Disney Derivative Litigation* | 748-68  (20 pages) |  |
| 15 | CHAPTER 17   1. Duty of oversight  * *Francis v. United Jersey Bank* * *In re Caremark Int’l Inc. Derivative Litigation* * *In re Citigroup Inc. Derivative Litigation* | 769-98  (29 pages) |  |
| 16 | CHAPTER 17   1. Duty to become informed  * *Smith v. Van Gorkom*  1. Avoidance of liability | 799-828  829-31  832-39  839-42  (pages 41) |  |
| 17 | CHAPTER 18   * Director self-dealing and conflict of interest * *Remillard Brick Co. v. Remillard-Dandini Co.* * *Benihana of Tokyo, Inc. v. Benihana, Inc.* * *Lewis v. Vogelstein* * *Harbor Finance Partners v. Huizenga* * *Gantler v. Stephens* | 843  846-78  (pages 33) | DGCL  § 144 |
| 18 | CHAPTER 18   1. *Marchand v. Barnhill* (on Canvass) 2. The evolution of “good faith”  * *Stone v. Ritter* * *ATR-Kim Eng Financial Corp. v. Araneta* * *McPadden v. Sidhu* | 879-99  (20 pages)  Canvass |  |
| 19 | CHAPTER 19   1. Transactions within corporate groups  * *Sinclair Oil Corp. v. Levien*  1. Cash-out transactions  * *Weinberger v. UOP, Inc*. | 921-53  (32 pages) |  |
| 20 | CHAPTER 19   1. Cash-out transactions  * *Kahn v. Lynch Comm’n Sys. (Lynch I & II)* * *Kahn v. M&F Worldwide Corp.* * *In re Pure Resources, Inc.* | 954-80  (26 pages) |  |
| 21 | CHAPTER 20   1. Structuring corporation combinations 2. Tax aspects of corporate reorganizations 3. De facto merger doctrine  * *Hariton v. Arco Electronics, Inc*. | 999-1018  (19 pages) | DGCL  § 251  § 253  § 259 |
| 22 | CHAPTER 20   1. Sale of all or substantially all of assets  * *Gimbel v. Signal Companies, Inc*.   CHAPTER 21   1. The policy debate, and contests for control 2. The regulatory framework 3. Judicial review of takeover defenses  * *Cheff v. Mathes* | 1018-23  1025-46  (31 pages) |  |
| 23 | CHAPTER 21   1. Judicial review of takeover defenses  * *Unocal Corp. v. Mesa Petroleum Co*.  1. Statutory limitations 2. When the corporation is “for sale”  * *Revlon, Inc. v. MacAndrews & Forbes* | 1046-74  (28 pages) |  |
| 24 | CHAPTER 21   1. When the corporation is “for sale”  * *Paramount v. Time* * *Paramount v. QVC*  1. Proxy contests and tender offers 2. Limits on protecting negotiated acquisitions  * *Omnicare, Inc. v. NCS Healthcare, Inc*. | 1074-93  (19 pages) |  |
| 25 | CHAPTER 22   1. What is wrong with insider trading 2. Materiality 3. Insider trading: Rule 10b-5  * *Chiarella v. United States* * *Dirks v. SEC* * *United States v. O’Hagan* * *Salman v. United States*  1. Remedies for insider trading violations 2. Disgorgement liability: section 16 | 1095-1100  1111-36  (30 pages) |  |
| 26 | REVIEW CLASS   * Discuss final exam * Review old exam question |  |  |
| **FINAL EXAM: Friday, December 4, 1:00 PM to 5:00 PM (4 hours)** | | | |