**Law & Entrepreneurship**

**Fall 2020**

**Monday to Wednesday**

MoWe Tu 2:50 PM 3:15 PM 3:45 PM 4:10 PM MLAC-106

**Three Credits**

Professor D. Daniel Sokol

Office Hours: Tuesday – 1pm-2pm or by appointment (virtual)

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***July 15, 2020 version***

**Course Description**

This course explores the legal issues faced by small and emerging-growth businesses from startup through initial public offering. Through problems, transactional materials, and judicial opinions, students will explore the interests of parties to various transactions, including venture capital, franchising, IP licensing, strategic alliances, initial public offerings, etc. The goal of the course is to provide students with a deeper understanding of the contractual structure relationships in entrepreneurial contexts.

**Learning Outcomes**

Students who successfully complete this course will be able to:

* Understand the forces – both legal and non-legal – that motivate the behavior of parties in entrepreneurial relationships;
* Interpret, analyze, and assess financing contracts;
* Understand how law impacts business strategy and business plans of innovative growth companies; and
* Evaluate the regulation of entrepreneurial finance.

**Materials**

Case studies for purchase: <https://hbsp.harvard.edu/import/734232>

The other materials are free and available online

**Materials (for background – not required reading)**

* Bagley and Dauchy, The Entrepreneur’s Guide to Business Law
* Furr and Ahlstrom, Nail It then Scale It: The Entrepreneur's Guide to Creating and Managing Breakthrough Innovation

A website for the course has been created on Canvas. The website will host an increasing number of PowerPoint slides and other course materials as the semester progresses.  We will utilize a number of case studies and rely very little on cases.  This is a capstone course with prerequisites.  The assumption is that you know how to read a case and that we can spend more time on advanced issues.

**Meetings**

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**Evaluation**

The final grade in this course will have the following components:

Class participation – 20%  
Analysis of the first day’s reading – 5%  
Contractual drafting exercise - 10%  
Exam in Week 2 of the class – 20%  
Group Project 1 (Group Assigned) – 20%  
Group Project 2 (Students Choose Group) – 25%

**You have read the above correctly.  Twenty percent of the grade is based on a one hour exam that will be given at the beginning of Class 8 (after add/drop).  Drop this class NOW, if you are not going to be prepared.** The purpose of the quiz will be to determine that you did the reading and made a valiant effort to digest it. It is not intended to measure your mastery. That is what we will try to develop over the course of the semester. But since we have only 42 classes, I want everyone to start with some sense of what we are going to talk about.

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>.

**Class Attendance, Safety, and Participation**

We will have face-to-face instructional sessions to accomplish the student learning objectives of this course. In response to COVID-19, the following policies and requirements are in place to maintain your learning environment and to enhance the safety of our in-classroom interactions:

1. You are required to wear approved face coverings at all times during class and within buildings. Following and enforcing these policies and requirements are all of our responsibility. Failure to do so will lead to a report to the Office of Student Conduct and Conflict Resolution. You also will no longer be permitted on the UF Law campus. Finally, Dean Inman will also report your noncompliance to the relevant state board of bar examiners.
2. This course has been assigned a physical classroom with enough capacity to maintain physical distancing (6 feet between individuals) requirements. Please utilize designated seats and maintain appropriate spacing between students. Please do not move desks or stations.
3. Sanitizing supplies are available in the classroom if you wish to wipe down your desks prior to sitting down and at the end of the class.
4. Follow your TA’s guidance on how to enter and exit the classroom.  Practice physical distancing to the extent possible when entering and exiting the classroom.
5. If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), please do not come to campus or, if you are already on campus, please immediately leave campus. Please use the UF Health screening system and follow the instructions about when you are able to return too campus. <https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>.
6. Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up work.<https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/>.
7. **Any student that misses more than six (6) classes for the course may be dropped from the class.**  I use *may* rather than *shall* because health issues will be treated differently from other absences (so long as you email me in advance).  Habitual tardiness to class will be treated the same as absence from the class.  I take attendance in the beginning of each class.  I take this policy seriously because in the real word, absenteeism and tardiness are punished.  You need to start thinking and acting like a professional while in school.  I can give you lots of war stories of people who do not hit the ground running in practice and were tainted with a bad reputation from Day 1.  Do not let it happen to you.
8. I may need to reschedule some classes during the course of the semester.  My preference is to front load these make-up dates so as to provide for some cushion later on in the class to go over old exams and general questions.
9. Finally, let me address a subject that has agitated a great many electrons on the law professor blogs and listservs: the use of laptop computers in class for things other than taking notes or looking at the statutes.   I think it is anachronistic and honestly, beneath me, to do anything so draconian as to force students to write instead of type (I work almost exclusively on a keyboard). I am going to work very, very hard to teach this complex material in a way that makes sense and highlights the theory and practice in a digestible way.  I hope you reciprocate by using (i.e. not using) your electronic window to the world and others responsibly while in class.
10. Participation is part of your grade.

**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.

**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.

**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/>.

**UF Policies**

University Policy on Accommodating Students with Disabilities: Students requesting accommodation for disabilities must first register with the Dean of Students Office (<http://www.dso.ufl.edu/drc/>). The Dean of Students Office will provide documentation to the student who must then provide this documentation to the instructor when requesting accommodation. You must submit this documentation prior to submitting assignments or taking the quizzes or exams. Accommodations are not retroactive, therefore, students should contact the office as soon as possible in the term for which they are seeking accommodations.

University Policy on Academic Misconduct: 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>.

Netiquette: Communication Courtesy: All members of the class are expected to follow rules of common courtesy in all email messages, threaded discussions and chats. See <http://teach.ufl.edu/docs/NetiquetteGuideforOnlineCourses.pdf>

Getting Help:

For issues with technical difficulties for E-learning in Sakai, please contact the UF Help Desk at:

* [Learning-support@ufl.edu](mailto:Learning-support@ufl.edu)
* (352) 392-HELP - select option 2
* <https://lss.at.ufl.edu/help.shtml>

\*\* Any requests for make-ups due to technical issues MUST be accompanied by the ticket number received from LSS when the problem was reported to them. The ticket number will document the time and date of the problem. You MUST e-mail your instructor within 24 hours of the technical difficulty if you wish to request a make-up.

Other resources are available at <http://www.distance.ufl.edu/getting-help> for:

* Counseling and Wellness resources
* Disability resources
* Resources for handling student concerns and complaints
* Library Help Desk support

Should you have any complaints with your experience in this course please visit <http://www.distance.ufl.edu/student-complaints> to submit a complaint.

Statement related to workload/ABA Standard 310:

· Students should expect to spend, on average, approximately two hours preparing for every hour of class.

**Disability Syllabus Statement**

The University of Florida is committed to providing equal educational access to students with disabilities. As you are developing and/or updating your syllabi for the spring semester, please take a moment to review the university’s “[Policy on Course Syllabi](http://www.aa.ufl.edu/Data/Sites/18/media/policies/syllabus-policy-current.pdf)” which specifies the inclusion of the following recommended statement related to accommodations for students with disabilities:

“Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, [www.dso.ufl.edu/drc/](http://www.dso.ufl.edu/drc/)) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the instructor when requesting accommodations. Students with disabilities should follow this procedure as early as possible in the semester.”

A disability syllabus statement serves to open the lines of communication between an instructor and a student by making the student feel included when approaching an instructor regarding accommodation needs and/or disability-related concerns.

Additional resources for faculty can be found on the Disability Resource Center’s Instructor Resources webpage (<https://www.dso.ufl.edu/drc/faculty/resources-for-instructors>). Please contact the Disability Resource Center at 352-392-8565 or via e-mail at [accessuf@dso.ufl.edu](mailto:accessuf@dso.ufl.edu) if you have any questions.

**Reading Assignments**

Below is a list of reading assignments. Though each assignment could be covered in one class session, some assignments may require more than one session.  There may need to be some changes based upon the guest speakers needing last minute changes to their schedules.

Introduction

1. D. Daniel Sokol & D. Gordon, Law and Entrepreneurship Summary, available on Canvas.

Financing New Ventures – HBS case study

Questions you need to answer (in one page) due the first day of class, before class - **worth  5 percent of your grade**

1. What role does law play in entrepreneurship?
2. Which sources of financing are most appropriate for a new venture?
3. How do you pitch your venture to potential funders?
4. How is valuation determined?
5. Provide two examples of exit strategies for the entrepreneur.
6. Law and Entrepreneurship

D. Gordon Smith & Darian M. Ibrahim, [*Entrepreneurs on Horseback: Reflections on the Organization of Law*, 50 ARIZ. L. REV. 71 (2008)](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0001093&serialnum=0337600685)

1. What is understanding business plans and business models

What Is Disruptive Innovation? Clayton M. Christensen, Michael E. Raynor, and Rory McDonald, Harvard Business Review (December 2015 Issue)

Some Thoughts on Business Plans – HBS case study

1. Venture Capital I – What are the opportunities

How Venture Capitalists Evaluate Potential Venture Opportunities - HBS Case Study

1. Venture Capital II – The law of venture capital

Ronald J. Gilson, [*Engineering a Venture Capital Market: Lessons from the American Experience*, 55 STAN. L. REV. 1067 (2003)](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0001239&serialnum=0294336958)

1. Venture Capital III – Case study

Adams Capital Management: Fund IV – HBS case study

1. Understanding Business Plans

Developing Business Plans and Pitching Opportunities, HBS reading

1. Strategy for High-Growth Ventures

Leading High-Growth Ventures, HBS reading

1. Venture Capital IV - Understanding VCs

Andreessen Horowitz HBS case study

1. Exiting the Prior Commitment and Starting a New Business

HBS Case Study: Sheila & Craig Shepherd

1. Where is the diversity in VC?

Diversity in Innovation Paul A. Gompers Sophie Q. Wang, available at <https://www.hbs.edu/faculty/Publication%20Files/17-067_b5578676-e44c-40aa-a9d8-9e72c287afe8.pdf>

Gompers, Paul, and Silpa Kovvali. "The Other Diversity Dividend." Harvard Business Review 96, no. 4 (July–August 2018): 72–77, available at <https://hbr.org/2018/07/the-other-diversity-dividend>

1. Biotech Specific issues

23andMe: A Virtuous Loop, HBS case study

1. Contractual negotiations and business strategy

Proteus Biomedical: Making Pigs Fly HBS case study

1. Entrepreneurial Opportunities

Connectu, Inc. v. Facebook, Inc. (Complaint and Memorandum in Support of Motion to Dismiss); Ronald J. Gilson, [*The Legal Infrastructure of High Technology Industrial Districts: Silicon Valley, Route 128, and Covenants Not to Compete*, 74 NYU L. REV. 575 (1999)](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0001206&serialnum=0111853404)

1. Licensing Agreements and Technology Transfer

InfoVision (A): Technology Transfer at Georgia Tech, HBS case study

1. Licensing Agreements as business strategy

Jill Draeger, HBS case study

1. University Licensing (joint class with Engineering capstone class)

emmtrix Technologies: Patent Negotiations in High-Tech Academic Spinoffs, , HBS case study

1. Formation & The Law of Joint Ventures

[Grant v. Mitchell, 2001 WL 221509 (Del. Ch. 2001)](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=2001193924) (unpublished); [Mann v. GTCR Golder Rauner, 2006 WL 839148 (D.Ariz.,2006)](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=2008828972),

1. Tax structuring on venture capital

Guest Lecturer: Russell Light, Partner, Kirkland & Ellis [tbc]

1. Formation

Mark Bonham, Ray Quinney & Nebeker [Equity-Linked Investors, L.P. v. Adams, 705 A.2d 1040 (Del. Ch. 1997)](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000162&serialnum=1997104673); [Orban v. Field, 1997 WL 153831](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=1997082377) (Del. Ch.)

1. Angel Investments

Gracious Eloise: What Do Angels Want? (A) HBS case study

1. Convertible Preferred Stock

[*Benchmark Capital Partners IV, L.P. v. Vague*, 2002 WL 1732423](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=2002471940) (Del. Ch.) (unpublished)

1. Staged Financing

[*Kimberlin v. Ciena Corporation*, 1998 WL 603234](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=1998189706) (S.D.N.Y.)

1. Voting Rights and Protective Provisions

[*Watchmark Corp. v. Argo Global Capital, LLC*, 2004 WL 2694894](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=2005597025) (Del. Ch.); [*Telcom-SNI Investors, L.L.C. v. Sorrento Networks, Inc.*, 2001 WL 1117505](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=2001798627) (Del. Ch.)

1. IP issues – Patents

Foro Energy (A), HBS case study

1. IP Issues – Copyright

Black Duck Software

1. Protecting IP for a start-up

Randy Hetrick and TRX: Protecting Intellectual Property Rights (HBS case study)

1. Online Platforms

Hagiu, Andrei, 2014, “[Strategic Decisions for Multisided Platforms](https://sloanreview.mit.edu/article/strategic-decisions-for-multisided-platforms/),” Sloan Management Review

Fasten: Challenging Uber and Lyft with a New Business Model, HBS case study

1. Risk management/Buying and Selling a Business

EMC Corp.: Proposed Acquisition of VMware, HBS case study

1. Exit – Navigating the Deal Documents   
   Documents will be posted onto Canvas
2. Deals – Case study

*LAE Enterprises* HBS case study

1. Executive Compensation 4/4

Richard Spellman (A), HBS

1. Rethinking legal practice as entrepreneurship

KCC: Third Time's the Charm?, HBS case study

1. Fintech

A Pathway for Scotiabank’s Innovation: Leveraging Fintech partnerships, HBS case study

 The rest of the classes:

Presentations of second group projects