

Corporations
Law 6063 (19572)
University of Florida, Levin College of Law
Spring 2020
Professor Andrew Winden

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CLASSROOM: Holland 355B

CLASS TIME: Tuesday & Thursday: 10:30 a.m. to 11:55 a.m.

OFFICE HOURS: Tuesday: 1:00 p.m. to 3:00 p.m.
and by appointment or open door

FINAL EXAM: Thursday, May 7, 2020, 8:30am to 12:30pm (4 hours)

TEXTS & MATERIALS:

Alan Palmiter, Frank Partnoy and Elizabeth Pollman, *Business Organizations: A Contemporary Approach* (West Academic, 3rd Ed. 2019)

I will also post statutes, restatements of law, articles, case studies and other materials on CANVAS from time to time.

I will post reading and other assignments on CANVAS a week in advance of class. An outline of the class and the assignments for the first two classes are below at the end of the syllabus.

COURSE OVERVIEW

This 3-unit course surveys the legal rules governing corporations with an emphasis on Delaware law and the duties of the officers, directors, and controlling shareholders of public corporations. We will review the basics of agency, which underlie all business organizations, as well as topics in corporate law such as asset partitioning, limited liability, fiduciary law, shareholder voting, derivative suits, control transactions, and basic aspects of mergers and acquisitions. We will also discuss the role of the corporation in society and corporate personhood. In addition to lectures, the course will include discussion of problems and case studies in transactional settings, considering financial and strategic, as well as legal considerations.

COURSE OBJECTIVES and STUDENT LEARNING OUTCOMES

Upon completion of this course, students should be able to:

Knowledge-Related Learning Outcomes:

Identify the sources of corporate law

Identify and explain the rules and principles that determine:

- Organizational principles of corporations
- Powers of corporate directors, officers and equity owners
- Basic rights and liabilities of business entity directors, officers, creditors and equity owners

Skill-Related Learning Outcomes:

- Understand the basic processes for establishing and governing corporations
- Apply rules and principles of corporate organization and management to real-world cases
- Develop ability to consider and apply ethical and strategic considerations to real-world cases

RESOURCES

Resources if you feel lost:

Come to office hours, e-mail me, call me or come see me after class.

Corporate Law:

- Stephen Bainbridge, *Corporate Law* (3rd Ed. 2015), available in various forms on Amazon.
- Alan Palmiter, *Examples and Explanations: Corporations*

Accounting and Finance:

- Howell Jackson, et al., *Analytical Methods for Lawyers* (any edition), Chapters 4 & 5.
- William A. Klein & John C. Coffee, Jr., *Business Organizations and Finance*

Resources if you feel ambitious:

Romano, *Foundations of Corporate Law* (2nd Ed. 2012)

Ramseyer, ed., *Corporate Law Stories* (2009)

COURSE GRADING

Grading will be consistent with College of Law policy. Your grade will be based on a final exam (100% of the final grade) and class participation. The final exam will be an in-class, open-resource exam. The exam will include multiple-choice questions, an issue-spotter transactional essay and a policy essay. Exam grades are done on a blind basis. All grades are final. I will not regrade exams, except to correct any mathematical or clerical errors in computing the final score. As explained below under "Attendance, Preparation and Participation", I may raise or lower your grade by a third of a letter grade (e.g., from B to B+ or B-) based on exemplary or poor class participation. Because the course must adhere to a mandatory mean grade, participation may also be used to differentiate among students with equal final exam grades.

ASSIGNMENTS

The initial reading assignments are included in the Class Outline attached hereto. I may supplement these initial readings with additional materials when necessary. Such additional materials will be distributed via CANVAS.

I will assign questions from the casebook for classes after the first two classes. I will cold-call you on these questions, so be prepared to answer them in class. Questions will be assigned through CANVAS.

I will occasionally assign homework in the form of quizzes, drafting projects and case studies. These will be graded on a pass-fail basis and included in your class participation grade. These assignments will be distributed through CANVAS.

ATTENDANCE, PREPARATION AND PARTICIPATION

You will be requested to record your attendance and preparation on a sign-in sheet. **By signing in, you confirm that you are prepared for class.** It is your responsibility to sign-in and/or initial the sheet before class begins. **You may not sign the attendance sheet if you arrive in class after I have begun teaching.** It is a serious violation of the Academic Honesty policy to sign in for another person or to have others sign in for you.

If you fail to sign the sign-in sheet (either because you are absent or because you are unprepared) more than four times during the semester, I will lower your final grade by at least one-third of a point.

You do not need to tell me why you are absent or unprepared. If, however, you expect to be absent from class more than four times due to a family emergency or medical situation, please notify me. Observance of a University-recognized religious holiday does not count as an absence. However, please notify me of such absences in advance.

I expect each of you to attend class prepared. Preparation includes completing the assigned reading and thinking through assigned questions and problems. Consistent with American Bar Association Standard 310, you should expect to spend at least *six*

hours per week preparing for this three-hour course. **I expect you to come to class prepared to discuss how you would answer the questions and problems I assign from the casebook. I will cold call on these questions and problems.** Sometimes, I will ask you to discuss problems in groups in class before I call on someone.

Your grade may be affected by the quality of your participation in class. Exemplary participation means offering a few thoughtful comments or questions in more than half of all classes (at least 13 classes), listening to and engaging with ideas raised by other students, and exercising judgment to foster participation by your classmates. You do not have to agree with your classmates, but I expect you to treat them with respect.

USE OF LAPTOPS

You are permitted to use laptops to take notes in class, however any other use of laptops during class is prohibited. Impermissible uses include, but are not limited to, looking at emails or instant messages, visiting social media sites, or any other use of the Internet, unless I explicitly invite you to look something up. **Misuse of laptops during class may result in you losing the privilege of using a laptop in the classroom and may negatively affect the class participation portion of your grade.** I will make the PowerPoint slides used in class available to you on CANVAS. Studies have shown that students taking notes by hand perform better than students taking notes on computers. I have seen that anecdotally in my classes as well.

UNIVERSITY POLICIES:

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>.

Grading information and grading scale:

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 table describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent	Letter Grade	Point Equivalent
A (Excellent)	4.0	C (Satisfactory)	2.0
A-	3.67	C-	1.67
B+	3.33	D+	1.33
B	3.0	D (Poor)	1.0
B-	2.67	D-	0.67
C+	2.33	E (Failure)	0.0

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

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.

Online Course Evaluation Process:

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

CLASS OUTLINE

The following outline provides a general overview of the topics we will cover throughout the semester. Reading assignments, questions and other assignments for each class will be posted on CANVAS approximately one week in advance. References to “Chapter” are to chapters of Palmiter, Partnoy & Pollman’s *Business Organizations* text. Other materials will be available on CANVAS.

Class	Topic	Readings, Quizzes, Case Studies and Practice Assignments
Class 1 Tuesday, January 14	Intro to the Course Intro to Corporations Why do we have corporations? History of corporations Risk allocation in business	Spamann & Subramanian, <i>Corporations</i> (2018), pp. 5-10 [available in CANVAS on 1/10] Chapter 5, pp. 103 – 111 Chapter 1, pp. 9-21
Class 2 Thursday, January 16	The Purpose of Corporations The Corporation in Society	Chapter 6
Class 3 Tuesday, January 21	Basic Concepts of Corporate Law Vocabulary of Corporate Law Sources of Corporate Law Constitutional (or Constituent) Documents Internal Affairs Doctrine Federalism in Corporate Law	Chapter 4, pp. 71-88 Chapter 5, pp. 112-132
Class 4 Thursday, January 23	Incorporation Incorporation Process Corporate Powers & Ultra Vires Doctrine Corporate Actions Actions binding the corporation Director as agents of shareholders Board actions	Chapter 9 Chapter 10
Class 5 Tuesday, January 28	Corporate Accounting & Valuing the Corporation	Chapter 11
Class 6 Thursday, January 30	Corporate Capital Structure Capital Structure Distributions to Shareholders (Dividends)	Chapter 12

Class 7 Tuesday, February 4	Role and Rights of Shareholders: Shareholder Voting	Chapter 16, pp. 399-424 Chapter 18, pp. 475-478 (Rosenfeld case)
Class 8 Thursday, February 6	Role and Rights of Shareholders: Shareholder Proposals Shareholder Information Rights	Chapter 18, pp. 481-497 Supp. (Walmart case excerpt) Chapter 17, pp. 431-443
Class 9 Tuesday, February 11	Planning in the Close Corporation	Chapter 25
Class 10 Thursday, February 13	Review of Corporate Governance	Review Sections of DGCL Quiz on DGCL Provisions
Class 11 Tuesday, February 18	Dealing with Corporate Externalities: Limited Liability and Rights of Contract & Tort Creditors Limited Liability Piercing the Corporate Veil	Chapter 13
Class 12 Thursday, February 20	Agency: Definition and Creation of the Agency Relationship Rights and Duties Between Principal and Agent Fiduciary Duties: The Duty of Care and the Business Judgment Rule	Chapter 2, pp. 27-33 Chapter 20, pp. 543-576
Class 13 Tuesday, February 25	Fiduciary Duties: The Duty of Loyalty: Conflicts and Self- Dealing	Chapter 21, pp. 587-589, 594-602, and 605-623
Class 14 Thursday, February 27	Fiduciary Duties: The Duty of Loyalty: Corporate Opportunities	Chapter 21, pp. 623-635 Supp. (eBay case excerpt)
Class 15 Tuesday, March 10	Fiduciary Duties: The Duty of Loyalty: Good Faith and Oversight (Exec Comp)	Chapter 22, pp. 637-667

Class 16 Thursday, March 12	Fiduciary Duties: The Duty of Loyalty: Good Faith and Oversight (Corporate liabilities & risk management)	Chapter 23, pp. 669-706 Supp. (Marchand v. Barnhill case excerpt)
Class 17 Tuesday, March 17	Duties of Controlling Shareholders <u>Two different contexts:</u> Duties within Corporate Groups Oppression in Closely Held Corporations	Chapter 24, pp. 707-715 Chapter 26, pp. 771-808
Class 18 Thursday, March 19	Enforcement of Corporate Laws Shareholder Litigation, including: Shareholder Derivative Actions Demand Requirement Special Litigation Committees (SLCs)	Chapter 19, pp. 501-523
Class 19 Tuesday, March 24	Enforcement of Corporate Laws Shareholder Litigation, including: SLCs & Independent Directors Indemnification and Insurance Plaintiffs Policy Implications of Shareholder Litigation	Supp. (Oracle case excerpt) Chapter 19, pp. 536-541 Chapter 20, pp. 576-585 (about indemnification and insurance)
Class 20 Thursday, March 26	Sale of the Corporation & M&A Fiduciary Issues Voting Mechanics	Chapter 30
Class 21 Tuesday, March 31	Antitakeover Protections & M&A Takeover Defenses Heightened Scrutiny: <i>Unocal</i>	Chapter 31, pp. 937-958 Unocal Case Study
Class 22 Thursday, April 2	Antitakeover Protections & M&A Sale of Control: <i>Revlon</i>	Chapter 31, pp. 959-969 Revlon Case Study
Class 23 Tuesday, April 7	Deal Protection Devices & M&A Deal Protection Devices Heightened Scrutiny & Sale of Control	Chapter 32

Class 24 Thursday, April 9	Corporate Personhood Responsibilities of Personhood (Regulating Corporate Externalities): Corporate Criminality Corporate Environmental Liability	Chapter 14 Chapter 15
Class 25 Tuesday, April 14	Corporate Personhood Rights of Personhood: Corporation as Political Actor	Chapter 7
Class 26 Thursday, April 16	Corporate Personhood & Wrap-Up Rights of Personhood: Free speech Reviewing the Purpose of the Corporation	TBD
Final Exam: Thursday, May 7, 8:30 a.m. – 12:30 p.m.		