

Syllabus and Course Policies for
BUSINESS ASSOCIATIONS – LAW 234A

Class Meets: Mondays & Wednesdays

Time: 3:00 – 5:00 p.m.

Classroom Location: L841

Instructor: Stephen Hendricks
Email: smhendricks@wsulaw.edu
Phone: (714) 459-1142
Office Location: Main/FA Room 116
Office Hours: Appointments to meet with me can be made either through Calendly at <https://calendly.com/smhendricks>

SCOPE OF THE COURSE

Business Associations is a semester-long, four-unit course. The course will cover the laws governing modern business associations, which is derived primarily from various state statutes and judicial law, which tends to clarify the statutes and fill in any gaps left by the statute. While the laws differ from state to state, there are common doctrines and theories that pervade. This course will focus on those commonalities and highlight the important differences. Most corporations, and even limited liability companies, are incorporated or organized in Delaware, so we will focus mostly on Delaware law, while highlighting the differences in the law of states other than Delaware.

We will focus a great deal of time on the law of corporations and, to a lesser extent, other non-corporate business entities, including general partnerships, limited partnerships (LP), and limited liability companies (LLC), as well as the principal-agent problem that is the basis for the of the legal regulation of business entities. We will also discuss the effect of federal laws on corporate governance.

The course will cover the following topics:

- Agency Law
- Non-Corporate Entities (Partnerships (General & Limited) and Limited Liability Companies)
- Corporate Purpose and Formation
- Corporate Management & Control (including Fiduciary Duties)
- Derivative Litigation
- Disregarding the Limited Liability Shield
- Trading the Corporation's Securities

The statutes and judicial law covered in this course will frequently not be bright line rules, courts in different states often adopt different interpretations of common business law doctrines and some courts within the same state often interpret the same rule differently depending on the facts of the case. Thus, you will be tested on how well you have mastered these critical thinking skills, not just the black letter law.

We will explore the legal and practical issues that business lawyers encounter as they handle their clients' cases. You will learn both the litigation and the transactional side of being a business lawyer, including both the procedural and substantive rules. You will come to view these rules as comprising an integrated system that business lawyers use to achieve their clients' goals. You will learn the policies and goals behind the rules and will be challenged to articulate how well these rules achieve those policies and goals and whether they should be changed.

TEXTS AND MATERIALS

The required books must be brought to all classes. You may use either a hardcopy or ebook version of the textbook. You are expected to have read any statutes, rules, or Restatement sections to which the cases and material in the casebook refer.

Required Texts: WILLIAM T. ALLEN, REINER KRAAKMAN, COMMENTARIES AND CASES ON THE LAW OF BUSINESS ORGANIZATIONS (5th ed. 2016)¹

This is the main reading resource for the course. Note that I am recommending the 5th edition. There is also a newer version, 6th edition, that has no substantial differences in content, but a significant difference in price, so I decided to use the 5th edition. If you cannot find the 5th edition, the newest, 6th, is also fine, but it's more expensive. There is a small re-shuffling of chapters across editions, so you'll need to re-key them for any editions other than the 5th, but it's not a big project. The reading assignments are based on the 5th edition.

**Additional
Material:**

In addition to the required text, I have prepared various handouts for you with additional course materials. The handouts are required reading, which is indicated in the Reading Assignments beginning on page 7. The handouts can be accessed on TWEN.

COURSE WEBSITE

To facilitate class administration, I have set up a TWEN (Westlaw) site for this course. The website includes the Handout, and additional information related to the course, posted throughout the semester. You are required to register for the course as soon as possible, preferably before the beginning of the semester, as there is important information that will be useful to you before the first-class meeting. You are responsible for checking the website regularly and you will be responsible for all materials posted on it.

¹ You are expected to have read any statute, rule, or Restatement section to which the cases and material in the casebook refer. These statutes and rules are freely available for viewing and printing on Westlaw and LEXIS. For those of you who prefer the convenience of a hardcopy book containing these sections, there are many available for purchase. Any printed copy you find works just fine, if it contains the relevant statutes, rules, and Restatement sections. If you wish to skip a printed copy, and download the relevant statutes and rules provisions yourself, you are welcomed to do so.

EVALUATION AND FINAL EXAM

Grades for this course will be based on the midterm and final exams. In addition, I will factor class participation that is of high quality (not necessarily quantity) into students' final assessments. The final exam will account for 75% of your final grade for the course. The midterm exam will account for 25% of your final grade for the course.

You can find some of my previous exams posted to the TWEN site and I encourage you to access the previous exams early in the semester.

PREPARATION AND PARTICIPATION REQUIREMENTS FOR CLASS

In this course, the cases will be analyzed and illuminated through students' responses to questions during class. Emphasis will be on the factual context and the reasoning underlying the holdings in the cases, not simply the "black letter" rules derived from the holdings. You will, therefore, be expected to have carefully read and briefed each case and reviewed any applicable statutes, rules, or Restatement sections related to the weekly assigned reading. Additionally, students are required to prepare written answers to the questions and problems that are listed before and after most cases in the casebook.

Pursuant to ABA Standard 310, you are expected to devote at minimum two (2) hours of out-of-class time preparing for each hour of classroom instruction. It is estimated that, on average, the assigned reading and other classroom preparation should require four or more hours outside of class for each class session. The assignments each week have been calibrated for you to achieve this minimum requirement.

ATTENDANCE AND PARTICIPATION

Your attendance and participation in all classes are required. It is solely the responsibility of the individual student to personally sign the attendance sheet for each class. Failure to prepare for a class will count as an absence. Students who are absent from more than four classes will be academically withdrawn from the course.

VIDEO AND AUDIO RECORDINGS

Students are expressly prohibited from recording any part of this course without prior express permission from me. Meetings of this course might be recorded by me. Any recordings will be available to students registered for this class as they are intended to supplement the classroom experience. Students are expected to follow appropriate Western State College of Law policies and maintain the security of passwords used to access recorded lectures. Recordings may not be reproduced, shared with those not in the class, or uploaded to other online environments.

USE OF ARTIFICIAL INTELLIGENCE

It is a violation of the Western State College of Law Honor Code to misrepresent work or ideas that you submit or exchange with your instructor by characterizing them as your own, such as presenting work or ideas that do not acknowledge the use of generative AI tools (e.g., but not limited to, ChatGTP, DALL-E, etc.). Students shall give credit to AI tools whenever used, even if only to generate ideas. Please feel free to reach out to me with any questions you may have about the use of generative AI tools before submitting any content that has been informed by these tools.

WESTERN STATE COLLEGE OF LAW - PROGRAMMATIC LEARNING OUTCOMES

Western State College of Law's curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Associations, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student's chosen outcomes within this category will be varied based on the student's particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the

ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) **Legal Research**

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) **Communication**

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) **Advocacy of Legal Argument**

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) **Client Sensitivity and Cultural Competency**

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) **Legal Ethics**

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The **Disabilities** Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite located on the upper level of the library building. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Marisa Cianciarulo at mcianciarulo@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

ASSIGNMENTS

(Note: The Assignments are subject to change throughout the semester as needed, and at the sole discretion of your instructor. If there is a change, you will be given ample notice).

Planned assignments, including the date for which each is due, are set forth below. Unless otherwise notified, you should come to class prepared for a given assignment on the date specified.²

Class	Date	Topics	Casebook	Additional Material (<i>avail. on TWEN</i>)
1	1/17	Introduction and Course Structure	1-5	Introduction to Business Associations
2, 3	1/22, 1/24	The Law of Agency: Acting Through Others and the Franchising Problem	7-32	The Franchising Problem
4, 5	1/29, 1/31	The Law of Partnership: The Problem of Joint Ownership	33-63	None
6	2/5	Newer Forms of Business Associations: LP, LLP, LLC, and the Close Corporation	63-73	<ul style="list-style-type: none"> • The Law of Unincorporated Business Entities • Subchapter S Rules for Close Corporations • The LLC Operating Agreement
7, 8	2/7, 2/12	Corporations: The Corporate Form	75-101	<ul style="list-style-type: none"> • Corporate Personhood • Forming the Corporation and Pre-Incorporation Liability • Officer Authority
9	2/14	The Protection of Creditors	103-122 (skim); 122-141	Piercing the LLC Veil
10, 11	2/20 (note, this is Tues.), 2/21	Corporations: Normal Governance: The Voting System	166-181 (top); 201 (start at 6.8)-214	<ul style="list-style-type: none"> • Voting in Closely Held Corporations • Proxy Fights • Shareholder Proposals
12, 13	2/26, 2/28	Corporations: Normal Governance: The Duty of Care and the Business Judgment Rule; Indemnification	229-232; 239 (start at 7.4)-254; 233-239 (stop before 7.4)	<ul style="list-style-type: none"> • The Origins of the Duty of Care and the Business Judgment Rule • Delaware General Corporation Law § 102(b)(7)

² You are expected to have read any statute, rule, or Restatement section to which the cases and material in the Casebook refer. These statutes and rules are freely available for viewing and printing on Westlaw and LEXIS. Given the demands of law school, I believe that most of you would prefer the convenience of a hardcopy book containing these sections, and for this reason I strongly recommend the Statutes and Rules text listed in the Texts and Materials Section on page 2. If you wish to skip the printed copy, and download the relevant statutes and rules provisions yourself, you are welcomed to do so.

Business Associations Syllabus and Course Policies
Hendricks, Spring 2024

14	3/11	Midterm Exam. Comprehensive, partially opened-book exam covering classes 1-13	None	None
15, 16, 17	3/13, 3/18, 3/20	Corporations: The Duty of Loyalty; Theories of Corporate Purpose; Self-Dealing Transactions; The Corporate Opportunities Doctrine; Duty of Loyalty in Closely Held Corporations	283-342	<ul style="list-style-type: none"> • Delaware General Corporation Law § 144 • Safe Harbor Statutes Applied • Corporate Opportunities Doctrine Cases
18	3/25	Corporations: Oversight; Executive Compensation	265-281; 343-374 (skim 343-352 (top))	None
19, 20	3/27, 4/1	Corporations: Shareholder Lawsuits (Shareholder Derivative Litigation)	375-379; 385 (start at 10.3)-388 (stop before <i>Levine</i>); 400 (start at 10.4.2)-417; 425-426	<ul style="list-style-type: none"> • Shareholder Derivative Litigation Procedure • Shareholder Derivative Litigation Decision Tree
21	4/3	Corporations: Transaction in Control	427-458	None
22, 23	4/8, 4/10	Corporations: Fundamental Transactions: Mergers & Acquisitions	459-529	None
24, 25	4/15, 4/17	Corporations: Public Contests for Corporate Control	531-548 (stop at <i>Van Gorkom</i>)-554 (start at Note Introducing the <i>Revlon</i> Decision)-582; 597 (start at 13.8.2)-605	None
26, 27	4/22, 4/24	Corporations: Trading in the Corporation's Securities	617-660 (stop before 14.4.7); 663-666 (stop before 14.4.9); 670 (start at 14.5)-677 (stop before 14.5.2)	Insider Trading
28	4/29	Wrap up: Catch up and Review	None	None
N/A	TBA	Final Exam. Comprehensive, partially open-book exam covering the entire course. Check the final exam schedule for the date and time of exam.	None	None