

**WESTERN STATE COLLEGE OF LAW  
BUSINESS ASSOCIATIONS  
SECTION 234B, SPRING 2019**

**Professor:** Stephen Hendricks  
**Email:** [smhendricks@wsulaw.edu](mailto:smhendricks@wsulaw.edu)  
**Office Hours:** M (full semester), W (first four weeks) 5:45 p.m. – 6:30 p.m.;  
Occasional Th and Sa afternoons (will be posted as available)  
**Office Location:** First Floor Faculty Suites

**COURSE POLICIES & SYLLABUS**

**OBJECTIVES AND SCOPE OF THE COURSE**

This course is a survey of the law of the creation, governance and control of business associations, including limited partnerships, limited liability companies, and corporations. Its purpose is to acquaint students with the fundamental legal elements of these business relationships and entities. Finally, this course will examine some of the types of commercial practices and economic policies that have shaped this area of business law, to help you develop analytical skills that require you to think, write and problem-solve like a business lawyer.

**TEXTS**

**Required:** *Business Associations*, Ninth Edition  
William A. Klein, J. Mark Ramseyer, and Stephen M. Bainbridge  
Foundation Press

*Business Associations: Agency, Partnerships and Corporations - Statutes and Rules*, 2017 Edition  
William A. Klein, J. Mark Ramseyer, and Stephen M. Bainbridge  
Foundation Press

**Recommended:** *Corporate Law: Concepts and Insights Series*, Third Edition  
Stephen M. Bainbridge  
Foundation Press

**COURSE WEBSITE**

In order to facilitate class administration, I will setup a TWEN website for this course. The website will include supplemental materials and additional information related to the course, posted throughout the semester. You are required to register for the course as soon as possible after the beginning of the semester. You are responsible for checking the website regularly and you will be responsible for all materials posted on it.

## **TEACHING METHOD**

My primary teaching method is to use cases, problem-solving and collaborative group interaction to introduce new substantive topics and concepts.

## **PREPARATION REQUIREMENTS FOR CLASS**

Please bring the required texts and assigned readings to all classes. Some reading assignments are posted on the course website on TWEN. Most uniform and model laws, rules and statutes may be found in your statute book. Those that are not in the statute book, as well as the official comments to the assigned provisions, may be found in the law library or on WestLaw or Lexis. **You must read the applicable official comments.**

**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.** The assigned readings each week have been calibrated for you to achieve this minimum requirement. It is estimated that, on average, the assigned reading and other classroom preparation should require **six or more hours** outside of class for each class session.

## **ATTENDANCE AND PARTICIPATION**

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 the applicable model statutes in the weekly assigned reading. Additionally, students are required to prepare written answers to any assigned problem (as directed by the professor) in order to be able to discuss the answers in class or in groups. **Unless otherwise instructed, you are responsible for all materials assigned in the reading list and you are expected to prepare the readings assigned on the syllabus, regardless of where we are on the syllabus in the class discussions.**

**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 TWO (2) classes will be academically withdrawn from the course.**

## **EVALUATION AND EXAMS**

Each student will receive a numeric grade based on two exams. First, a midterm given during Week 6; second, a four-hour final given during final examination week. The midterm exam will count as 15% of the grade and the final exam will count as 85%.

### **Midterm Examination:**

The midterm examination will require analysis of the law and policy issues covered in the reading materials and class discussions through Class Meeting #9 (Week 6).

### **Final Examination:**

The final examination will require analysis of the law and policy issues covered in the reading materials and class discussions throughout the semester.

**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 119. Dean Espinoza's phone number and email address are: (714) 459-1117; [despinoza@wsulaw.edu](mailto: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 Allen Easley at [aeadley@wsulaw.edu](mailto:aeadley@wsulaw.edu) or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

**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 Association, 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.

**ARGOSY UNIVERSITY INSTITUTIONAL LEARNING OUTCOMES:****(1) Analytical Reasoning**

Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems.

**(2) Effective Communication**

Identify audiences, assess information provided, interpret needs, and present relevant information using appropriate written, oral, and listening skills and media to meet the needs of the situation.

**(3) Information Competency**

Gather, evaluate, and ethically use information from a variety of relevant technological and library resources to make decisions and take action.

**(4) Interpersonal Effectiveness**

Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals.

**(5) Personal and Professional Integrity and Ethical Behavior**

Demonstrate a multi-dimensional awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society.

**(6) Professional Competence**

Apply skills appropriate to program objectives and employ critical reasoning to contribute to one's field and profession.

**CLASS TOPICS AND ASSIGNMENTS:****Key:****KRB** = Business Associations, Ninth Edition**MCBA** = Model Business Corporation Act**DGCL** = Delaware General Corporation Law**ULLC** = Uniform Limited Liability Company Act**FRCP** = Federal Rules of Civil Procedure**Exchange Act** = Securities Exchange Act of 1934

**Note:** Some reading assignments are not available in either the casebook or the statute and rules book, but are available on the course web site on TWEN, as noted below.

<b><u>Class</u></b>	<b><u>Date</u></b>	<b><u>Class Topic(s) &amp; Assignments</u></b>
1	1/14/19	<p><b><i>Agency Law Review</i></b>  <b><i>Partnership Law Review</i></b>            KRB Chapters 1 &amp; 2 (review and <u>skim</u> only)</p> <p><b><i>Types of Business Associations and Sources of Law</i></b>            N/A</p> <p><b><i>The Corporation: Formation &amp; Governance</i></b>            MCBA Chapter 2; § 8.01(b)            DGCL § 141; § 115; § 109(b)            KRB 169-172            KRB 260-265</p> <p><b><i>The Role and Purposes of Corporations</i></b>            DGCL § 122            KRB 242-248</p> <p><b><i>The Concept of Limited Liability</i></b>            MBCA § 6.22            KRB 179-190</p>
2	1/16/19	<p><b><i>The Concept of Limited Liability (cont.)</i></b>            N/A — Continued from Class 1 assignment</p> <p><b><i>The Limited Partnership (LP) and the Limited Liability Company (LLC)</i></b>            KRB 157-167; 197-198            ULLC Article 2            KRB 259; 265-271; 277-283</p>
3	1/23/19	<p><b><i>The Fiduciary Duty of Care</i></b>            N/A</p>

3	1/23/19 (cont)	<p><b><i>The Duty of Care in Operational Decisions: The Business Judgment Rule</i></b> KRB 248-257; 299-302</p> <p><b><i>The Business Judgment Rule: The Obligation of an Informed Decision</i></b> DGCL § 141(a),(e) KRB 303-316</p> <p><b><i>Waiving the Duty of Care</i></b> DGCL § 102(b)(7)</p>
4	1/28/19	<p><b><i>The Duty of Loyalty</i></b> N/A</p> <p><b><i>The Duty of Loyalty in Interested Director Transactions</i></b> KRB 322-327 DGCL § 144 KRB 327-332; 351-358</p> <p><b><i>The Duty of Loyalty: Corporate Opportunities</i></b> KRB 332-342</p>
5	1/30/19	<p><b><i>The Obligation of Good Faith in Oversight of the Corporation</i></b> DGCL § 141(e) KRB 358-359; 374-381</p> <p><b><i>Shareholder Derivative Litigation: Direct vs. Derivative</i></b> <u>In re Medtronic, Inc. Shareholder Litigation</u> (available on TWEN) (18 pages)</p>
6	2/4/19	<p><b><i>Shareholder Derivative Litigation: The Requirement for Demand on the Directors</i></b> FRCP Rule 23.1 KRB 208-221</p> <p><b><i>Shareholder Derivative Litigation: The Role of Special Committees</i></b> DGCL § 141(a) KRB 221-233 <u>Delaware County Employees Retirement Fund v. Sanchez</u> (available on TWEN) (5 pages)</p>

7	2/6/19	<b><i>Shareholder Derivative Litigation: The Role of Special Committees (cont.)</i></b> N/A — Continued from Class 6 assignment
8	2/11/19	<b><i>Shareholder Derivative Litigation: Derivative Aspects</i></b> KRB 381-395
9	2/19/19	<b><i>Indemnification of Officers and Directors</i></b> DGCL § 102(b)(7); § 145 KRB 489-501
10	2/25/19	<b><u>Midterm Examination</u></b> (First 2 hours)  <b><i>Problems of Corporate Control: Introduction</i></b> N/A (Last hour)
11	3/11/19	<b><i>Problems of Corporate Control: Shareholder Voting</i></b> DGCL § 228(a),(e) KRB 503-513; 558-563 <u>Espinosa v. Zuckerberg</u> (available on TWEN) (4 pages)  <b><i>Problems of Corporate Control: Shareholder Proposals</i></b> SEC Rule 14a-8 <u>Trinity Wall Street v. Walmart</u> (available on TWEN) (12 pages) 527-537
12	3/18/19	<b><i>Problems of Corporate Control: Shareholder Inspection Rights</i></b> KRB 546-558  <b><i>Problems of Control: Shareholder Transactions</i></b> KRB 342-351
13	3/25/19	<b><i>Transfer of Control</i></b> KRB 653-666  <b><i>Mergers and Acquisitions: De Facto Merger and De Facto Non-Merger Doctrines</i></b> DGCL § 251; § 271 KRB 667-677; 703-707

14	4/1/19	<b><i>Mergers and Acquisitions: Controlling Shareholders' Fiduciary Duties</i></b> KRB 697-703
		<b><i>Mergers and Acquisitions: Hostile Takeovers and Defensive Strategies</i></b> KRB 712-733
15	4/8/19	<b><i>Mergers and Acquisitions: Hostile Takeovers and Directors' Duties</i></b> KRB 733-743; 752-771
16	4/15/19	<b><i>Insider Trading</i></b> SEC Rule 10b-5 KRB 455-472
17	4/22/19	<b><i>Insider Trading (cont.)</i></b> <u>Salman v. United States</u> (available on TWEN) (3 pages) KRB 472-480
		<b><i>Short-Swing Profits</i></b> Exchange Act § 16(b)
18	4/29/19	<b><i>Closely Held Corporations: Control by Contract</i></b> KRB 570-577
		<b><i>Closely Held Corporations: Fiduciary Duties in Closely Held Corporations</i></b> KRB 591-603; 606-609; 611-621
		<b><i>Closely Held Corporations: Control, Duration, and Statutory Dissolution</i></b> KRB 622-630; 643-648