Course Syllabus

Jump to Today

Syllabus for Corporations

Fall 2016

Professor James V. Feinerman

Office Hours: Wednesday 11 – 12 or by appointment

Required Texts


Supplemental handouts, posted in PDF and Word formats on Canvas webpage. Please note that any items on the syllabus not followed by a page number are supplemental; the page numbers are only for cases and materials in the Presser textbook.

Non-Required Study Aids


Bainbridge, Corporate Law (3d ed. 2015) (treatise that uses economic theory to explain structure and development of corporate law).


Grading Policies

The grade for this class is based on a 100-point scale and has two components. The breakdown is as follows:

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<th>Class Component</th>
<th>Points</th>
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<tr>
<td>Class Participation</td>
<td>10</td>
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<tr>
<td>Final Exam</td>
<td>90</td>
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Class participation and attendance (10 points). This course requires regular attendance and preparation. At the beginning of the first class I will pass out a seating chart. Please place your name on the space for the seat you will plan to occupy this semester. I will use this chart to call on students at random. Although the reading assignments are fairly light (usually 15 to 25 pages per class), they cannot be read in a cursory fashion. You are expected to come to class with (1) a good working knowledge of all relevant facts, (2) an ability to state the legal issues, the court’s holding and its rationale, and (3) an opinion on whether the court got it right. Further, because the readings serve as a basis for discussing a wide variety of salient business issues, your ability to follow the class discussion will be greatly enhanced by a slow, careful reading of each assignment.

In terms of class participation, your comments in class are not graded; class discussion is not a test. Every student who regularly attends class and is prepared when called on is presumptively entitled to a full 10 points. That said, sometimes it is difficult to be well prepared for every class on every day while also attending to extra-curricular activities and personal matters. I do not want students to skip class because they had to make a reasonable trade-off with some other pressing demand. To balance these competing interests, each student is allotted two absences and passes. If a student is unprepared and wants to attend class, they can take a “pass” by emailing me at least 30 minutes prior to class. Otherwise, any student who is called on and is unprepared may opt to pass when called upon in class, up to the limit. Combined absences and passes in excess of two will result in an automatic class participation deduction of 1 point per class. Finally, it is worth noting that class attendance is strongly correlated to performance on final exams.

Final Exam (90 points). The final exam will be a 3-hour in-class exam. The Registrar’s Office has scheduled the exam for December 9, 2016, in the afternoon examination (B) slot. The exam will be open book. There will be three or four essay questions drawn exclusively from assigned readings and class discussions. Student responses should preferably be typed (although you may also write your answers by hand neatly in bluebooks) and generally no more than 2,500 words. Prior exams and student model answers will be placed on the courseware site by mid-semester and will also be available on reserve in the library.

Tentative Course Outline

1. Agency, Partnership and Limited Liability Companies
2. Agency
3. Restatement (Second) of the Law of Agency, §§ 1, 2, 13, 26
4. 23-31 Croisant v. Watrud
5. 32-37, Tarnowski v. Resop
6. Partnership
7. 37-42, Martin v. Peyton
8. 42-45, National Biscuit Co., Inc. v. Stroud
9. 45-57, Meinhard v. Salmon
10. Giles v. Giles Land Company
11. Limited Liability Corporations

      57-68, Elf Atochem North America v. Jaffari and Malek, LLC

1. Fiduciary Obligations

      Restatement (Second) of the Law of Agency, §§ 13, 376-396

1. Piercing the LLC “Veil”

      Kaycee Land and Livestock v. Fisahive

1. Basics of Corporations
2. Choice of Entity 69-76
3. A Short History of the Corporation 76-83
4. The Purpose of the Corporation
6. 94-107, A.P. Smith Manufacturing Co. v. Barlow
7. Note on Delaware Incorporation 107-111
8. The Players in the Corporation: Shareholders, Directors and Officers
9. 111-130, Campbell v. Loew's Inc.
10. Boilermakers Local 154 Retirement Fund v. Chevron Corporation

III. Piercing the Corporate Veil

1. State Law
2. 131-141, Minnie B. Berkey v. Third Avenue Railway Corporation
3. 141-143, Bartle v. Home Owners Cooperative, Inc.
4. 143-150, Walkovsky v. Carlton
5. 151-160, Morris v. New York Department of Taxation and Finance
6. Federal Law

160-173, United States v. Bestfoods et al.

1. State Law on Fiduciary Duty of Directors and Officers
2. Nonfeasance

174-186, Francis v. United Jersey Bank

1. The Business Judgment Rule

1. Nonfeasance or the Business Judgment Rule?
2. 195-228, Smith v. Van Gorkom
3. Note on Settlements and Attorney’s Fees
4. Duty of Loyalty and Derivative Actions: The Demand Requirement
5. 228-248, Holden v. Construction Machinery Co.
7. Marx v. Akers
8. Note on “The Duty to Act in Good Faith”

248-252 The Disney Case

1. Directive Actions: The Role of the Special Committee
2. Auerbach v. Bennett
3. In Re Oracle Corp. Derivative Litigation
4. In Re China Agritech, Inc. Shareholder Derivative Litigation
5. Dominant Shareholders Problems and a Primer on Corporate Finance
6. Sinclair Oil Corp. v. Levien
7. Zahn v. Transamerica Corp.
8. Ratification
9. Flieger v. Lawrence
10. In re Wheelabrator Technologies, Inc. Shareholders Litigation

1. Federal Law Regarding Duties to Shareholders
2. Regulation by the Securities and Exchange Commission
3. Note on Definition of a Security
4. Note on SEC Registration Process
5. Note on Other Exemptions [under the Securities Act of 1933]
6. Note on Securities Act Civil Liabilities
7. Insider Trading
8. SEC v. Texas Gulf Sulphur
9. 253-270, United States v. O’Hagan
10. Rule 10b-5
11. Basic Inc. v. Levinson
12. Note on Judicial Limitations on Actions Under Rule 10b-5
13. The Federal Proxy Rules
14. Note on Proxy Fights
15. Sample of a Proxy Card
16. SEC Rule 14a-9, False or Misleading Statements [in Proxy Materials]
17. 270-274, Gaudioso v. Mellon
18. 274-291, J.I. Case Co. v. Borak

1. State Law Regarding Inspection of Books and Records

1. Sarbanes-Oxley
2. 302-307, Note on Sarbanes-Oxley
3. Welch v. Cardinal Bankshares Corp.

1. Close Corporations
2. Fiduciary Obligations in the Close Corporation
3. MBCA §§ 7.22, 7.30, 7.31, 7.32
5. Shareholder Agreements in the Close Corporation
7. 321-333, Galler v. Galler
8. Oppression in the Close Corporation


1. Special Statutory Treatment of the Close Corporation

346-355, Delaware Statute and Notes and Questions

VII. Control of Publicly Traded Corporations

1. Shareholder Proposals
2. SEC Rule 14a-8, Shareholder Proposals
3. Lovenheim v. Iroquois Brand, Ltd.
4. Separating Economic Rights from Voting Rights

Stroh v. Blackhawk Holding Corp.

1. Duties related to Transfer of Control

Zeitlin v. Hanson Holdings, Inc.

1. The Discretion of the Board in an “Endgame” Situation - Hostile Takeover Attempts and Management Defensive Tactics
3. 372-397, Paramount Communications, Inc. v. QVC Network, Inc.
4. Valuation

397-405, Piemonte v. New Boston Garden Corporation

1. Freeze-Out Mergers
2. Del. Gen. Corp. Law § 262
3. 405-421, Weinberger v. UOP, Inc.
4. In re MFW Shareholders Litigation
5. A Note on the Williams Act and State Statutes

422-424, Note

Assignments Summary:

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