Course Requirements, Class Preparation and Class Assignments

Please Read Carefully!!!

Please Note: Class begins at 5:50 and ends at 7:30

Course Requirements:
- Register for White Business Organizations Fall 2015 on TWEN
- Use your UBALT address as your TWEN e-mail address as per University Policy. You are responsible for all information posted on or disseminated from TWEN.

Email Communication: All e-mail communications with the Professor MUST be from your ubalt.edu account as per University of Baltimore policy.

TWEN Password: If you have not received an e-mail with the TWEN password for the course, you may email a request to Professor White’s Administrative Assistant, Shavaun O’Brien at sobrien@ubalt.edu.

Class Participation: Class Participation counts 20% towards your final grade

First Day of Class: You must come to the first day of class with your books and materials and with the first assignment prepared. Class Participation counts 20% towards your final grade and begins on the first day.

Please Note the following policies:

1. No Laptops, PDA’s, Cell Phones or any electronic communications devices are permitted in class except with prior permission of the instructor and only under exceptional circumstances.

2. All assigned books must be brought and out and open on your desk for each class, otherwise you will be considered unprepared for class.

3. You may bring any prepared notes, case briefs, etc. but only in non-digital format. You may bring any non-digital writing materials such as notebooks, paper, pens, pencils, etc. you wish to use during class.

4. There will be numerical calculations both during the semester and on the Final exam. You may bring to class and to the Final Exam a simple calculator that has no other function than to calculate numbers. The calculator may not have the capacity to be a communication device, a recording device -- visual or auditory-- or store any information. One can be purchased for approximately $5 at the UB Bookstore.

Disregard of the above requirements & polices may be treated as violations of the honor code and/or serve as grounds for not being allowed to sit for the final exam and/or to be dropped from the course.

Books assigned:

3. White, BUSINESS ORGANIZATIONS Fall 2015 Supplement. (Will not be in the book store until 2nd week of classes. Email will be sent out when ready.)

Please Note: The Publisher of the Hamilton Books: Thompson Reuters West, has indicated that rental and digital versions of their materials may be available for a lower cost than the UB bookstore from their website directly. Contact them directly for further information.

If digital versions of the materials are available, please note that you will have to print out the relevant materials for each class. As there are not a lot of pages assigned on any given day, that will not be too inconvenient.

You will still have to purchase the White, BUSINESS ORGANIZATIONS Fall 2015 Supplement at the UB Bookstore (Email notification will go out when ready.)
Class Preparation Requirements

1. You are responsible only for
   a. The Assigned Reading
   b. All sections of the code from the Model, Uniform and Maryland Codes as well as the Federal Statutes corresponding to the assigned readings.
   You are not responsible for the entire codes; they have been provided for your convenience and future use.

2. You must prepare each case and code assignment for each class equally carefully as it is through the preparation process that you do the bulk of your learning.

3. You are responsible for all cases and code sections in your assigned readings for the Final Exam, regardless of the extent and depth of coverage in class.
   Coverage in class for each case and code section will vary depending on what other cases and code are taught with it and the nature and/or difficulty of the material it introduces. Differences in depth of treatment in class does not imply that some cases or code sections are more or less important than others. It merely indicates that some of concepts contained therein have already been addressed or are not as difficult to master as others. Assigned material not covered in class, you are to learn on your own.

4. Please be sure, however, to raise any unaddressed questions you still have after class, or during my office hours (M & W: 4:30-5:30) or by appointment, or through e-mail: bwhite@ubmail.ubalt.edu or by phone: 410-837-4536.

5. As we will be actively using TWEN to address and discuss issues students raise outside of class, posting your query on TWEN will serve a very useful contribution. I will be monitoring and responding to queries on TWEN on a regular basis.

6. Occasionally readings will be listed as either recommended (REC:) or for your information (FYI:) to deepen one’s understanding or that might be of interest. They are not covered by the final exam.

Please Note the Following Class Preparation Requirements

- You must look-up and read every section of the codes that is mentioned in the readings and/or in the assigned notes. It is critical that you read the assigned notes for each class as that is where most of the sections of the codes you are responsible for are listed and discussed.

- It is critical that you refer to the Code Outline contained in White, Business Organizations Fall 2015 Supplement for corresponding sections of the Maryland Codes to the Uniform and Model Code sections referred to in the assigned notes and readings.

- You must read the Maryland versions of the code as well as the Uniform & Model Code sections assigned in your casebook in your preparation for each class.

   - ✓ Be sure to read all footnotes in assigned readings! ✓
The schedule below is approximate and subject to some adjustments as the semester proceeds.

Please note that the MBCA and MBCA 1984 are often used in the text interchangeably and are the same model code. Many of the sections are similar to the Maryland Code today. The MBCA (1969), however, is a different and earlier model code that also has sections comparable to Maryland’s code today. Why this is the case will be discussed in class.

****Read the cases and statutes in the order that they are assigned.

Read the code sections as they come up in your readings. Do not save them to read all at once after you have read the other assigned readings.

The order of the readings and code sections is the order in which they will most efficiently maximize your understanding and retention as well as the order to be covered in class.

√ Be sure to read all footnotes in assigned readings!

Read the following pages for important instructions in preparing your assigned readings.

A. Read carefully Introduction to the Supplement in White, Business Associations, (White Supplement) and locate each section described there in your supplement.

B. Read carefully the introduction to this Assignments section (previous two pages) to be sure to understand how to do the assignments properly.

C. Read each assigned Casebook section fully unless page or note limitations indicate otherwise.

D. Be sure to read each section of codes, etc and the corresponding MD codes as they arise in your readings.

REMEMBER: Class Participation counts 20% of your final grade and it begins on the first day of class.

√ Be sure to read all readings in the order they are assigned!

Week of August 17 (Be sure to look up and read all the statute sections in assigned readings and their Maryland equivalent- as per the Code Outline in your statutory supplement.)

Monday

I. Chapter One: Introduction
   A. The Subject in General
   B. An Introduction to Business Forms (Read Chapter Eighteen sections below concurrently with Limited Partnership part of this section.)
      (We will be going into more detail about Partnerships, Corporations and Limited Liability Companies later in the course.)

XVIII Chapter Eighteen: The Limited Partnership (Just read the assigned excerpts below)
   A. Introduction (up to, but not including, Note on Statutory “Linkage” and “De-Linkage”)
   B. Formation (Introductory reading and Note 1)
   C. Management and Operation (up to, but not including, sample Illinois partnership agreement language) (for this section, skip reading the UPA (Uniform Partnership Act) and skip RUPA sections at this time but be sure to read the RULPA sections)
   F. Limited Liability
      1. The Control Rule (Read introductory text, skip case and then read Note on the Statutory Evolution of the Control Rule only; skip all notes following)
      2. Control of the Entity (Exclude Problem and Notes)
      then back to:
   B. Formation (continued) (Note 8 (Master Limited Partnerships))

I. Chapter One: Introduction (continued)
II Chapter Two: Agency

A. Introduction

B. The Creation of the Agency Relationship

C. Liability from the Agency Relationship
   1. Tort Liability From the Agency Relationship (Notes 1, 3, 4)
   2. Contract Liability from the Agency Relationship
      a. Liability of the Principal to the Third Party
         (1) Actual Authority
         (2) Apparent Authority (Notes 1-4)
         (3) Inherent Authority (Notes 1-2)
         (4) Ratification (Notes 1-3)
      b. Liability of the Third Party to the Principal
      c. Liability of the Agent to the Third Party (Note)

D. Duties of the Agent and the Principal to Each Other
   1. The Agent's Duties to the Principal
   2. The Principal's Duties to the Agent

E. Termination of the Agent

Week of August 24

III. Chapter Three: Partnerships

A. Introduction

B. Formation
   1. Definition of Partnership
      *Martin v. Peyton* (Notes 1, 4)
   2. Partnership Agreement
   3. Entity v. Aggregate Views (Notes 1, 3, 4)
   4. Partnership By Estoppel
      *Smith v. Kelley* (Notes 1-3)

C. Management and Operation
   *Summers v. Dooley* (Notes 1, 2, 3)
   *National Biscuit Co. v. Stroud* (Notes 1, 2, 4, 5, 6, 7)
   RUPA §§ 603, 701, 801

D. Financial Rights and Obligations
   1. Partnership Accounting (Notes 1-3) ← Prepare carefully – First Encounter with Business Numbers!
   2. Sharing of Profits and Losses
      *Kessler v. Antinora* (Notes 1-3)
   3. Liability to Third Parties
      a. Liability of Partnership
      b. Liability of Partners (Exclude Problem)
         *Roach v. Mead* (Notes 1, 3, 6)
   4. Indemnification and Contribution

Week of August 31
E. Fiduciary Duties

1. Common Law
   *Meinhard v. Salmon* (This is a difficult and important case; be sure to work out the details for class) (Notes 1-3)

2. Statutory Developments and the Role of Contract
   a. Duty of Loyalty (skip)
   b. Duty of Care
      *Bane v. Ferguson* (Notes 1, 2, 4, 5)
   c. Contractual Limitations
      *Singer v. Singer* (Notes 1, 2, 4)

3. Duties When Leaving A Partnership
   *Meehan v. Shaughnessy* (Notes 1-3)

Week of September 7 (No Class Monday – Labor Day)

F. Ownership Interests and Transferability (Skip)

G. Dissociation and Dissolution
   1. Dissolution Under UPA (Notes 1, 2)
      *Collins v. Lewis* (Notes 1-4)
      *Bohatch v. Butler & Binion*
   2. Dissociation and Dissolution Under RUPA

I. Chapter One: Introduction (continued)


Week of September 14 (No Class Monday - Rosh Hashana)

IV Chapter Four: Development of Corporation Law (Read On Your Own)

V Chapter Five: The Formation of a Closely Held Corporation

A. Where to Incorporate

B. How to Incorporate
   *Articles of Incorporation* (Notes 1-10 (Prepare notes for class carefully)
      MD Title 7 §§ 7-101– 7-305 (Prepare carefully)
      Text Following Notes 1-10 (Read on Your own)

C. The Decline of the Doctrine of Ultra Vires
   *[711 Kings Highway Corp. v. F.I.M.’s Marine Repair Serv., Inc. – Exclude Case]*
      Notes 1, 2
   *[Sullivan v. Hammer - Exclude Case]*
   *Theodora Holding Corp. v. Henderson* (in *White, Business Organizations Fall 2015 Supplement*)

Week of September 21 (No Class Wednesday – Yom Kippur)

D. Premature Commencement of Business
   1. Promoters
      *Text*
      Notes 1-4 (note 3(c) in particular) (We will be covering the details of 10(b)5 when we cover Insider Trading at the end of the course)
      *Stanley J. How & Assoc., Inc. v. Boss*
      *McArthur v. Times Printing Co.* (in *White, Business Organizations Fall 2015 Supplement*)
      Notes 1-3, 5, 6, 7 (<– pay particular attention to the last line in note 6)
Week of September 28

Problem Review Session: Tax Problem Set (Wednesday, September 30, 4:45-5:45, Rm TBA)

2. Defective Incorporation

Robertson v. Levy

MBCA 1950 § 50 (See Code Outline in White, Business Organizations Fall 2015 Supplement)

MBCA 1984 §§ 2.03, 2.04

Notes 1, 4, 5, 7 (Prepare 7 in conjunction with excerpt of Cranson v. IBM in White, Business Organizations Fall 2015 Supplement). What reason would you give for why the court in Cranson followed a different line of reasoning than the court in Robertson?)

[Frontier Refining Company v. Kunkel's Inc. – Exclude]

VI Chapter Six: Disregard of the Corporate Entity

A. The Common Law Doctrine of Piercing the Corporate Veil

Bartle v. Home Owners Co-op.

DeWitt Truck Brokers v. W. Ray Flemming Fruit Co.

Notes 1-3

B. Should the Piercing Doctrine Be Abolished? – Exclude

C. The Piercing Doctrine in Federal/State Relations – Exclude

D. “Reverse” Piercing

[Cargill, Inc. v. Hedge - Exclude]

Pepper v. Litton

Notes 1-3

E. Successor Liability

Nissen Corp v. Miller (Notes 1-4)

Week of October 5

VII. Chapter Seven: Financial Matters and the Corporation ← Prepare whole chapter very carefully, Third Encounter with Business Numbers Issues and the most difficult part of the course.

A. Debt and Equity Capital

Debt & Equity Handout in White, Business Organizations Fall 2015 Supplement

B. Types of Equity Securities

1. Shares Generally

2. Common and Preferred Shares

3. Special Rights of Publicly Traded Preferred Shares

4. Classes of Common Shares and following text

C. Issuance of Shares: Herein of Subscriptions, Par Value and Watered Stock

1. Share Subscriptions and Agreements to Purchase Securities

2. Authorization and Issuance of Common Shares Under the MBCA

3. Par Value and Stated Capital

(Hospes v. Northwestern Mfg. & Car Co. case in text carefully as a full case. Be sure to diagram it out.) (Notes 1, 2)

Hanewald v. Bryan's, Inc. (Notes 1, 2 – Be sure to prepare notes carefully)

4. Eligible and Ineligible Consideration for Shares

Notes 1-4

(Be sure to prepare material and notes carefully)

5. Par Value in Modern Practice ← Prepare carefully! Pay particular attention to Balance Sheet analysis

Re-read Balance Sheet analysis in Chapter Three, Section D, Part 1: Partnership Accounting
Week of October 12

G. Issuance of Shares by a Going Concern: Preemptive Rights, Dilution & Recapitalizations

(Prepare Balance Sheets for the following two cases:

*** Be sure to look-up any terms you do not know and be prepared to be called on in class to define them

- Stokes v. Continental Trust Co. of City of New York (Notes 1-3)
- Katzowitz v. Sidler (Notes 1,2)

[ Exclude – Lacos Land Company v. Arden Group, Inc.]

[H. Distributions By a Closely Held Corporation--Excluded]

[I. REC: Legal Restrictions on Distributions]

[J. Non-Model Act Statutes – Excluded]

VIII. Chapter Eight: Management and Control of Corporation

A. The Traditional Roles of Shareholders and Directors

- McQuade v. Stoneham (Notes 2, 3 (pay attention closely to Clark v. Dodge and Long Park v. Trenton-New Brunswick Theaters))
- Galler v. Galler (Notes 1, 2, 3(a), (c), 4 (why do you think the court reached the result it did in Galler? Would that happen in Maryland?)

Compare with Maryland Title 4

- {Zion v. Kurtz - Exclude}
- {Matter of Auer v. Dressel - Exclude}

Note 1

Week of October 19

Problem Review Session: Balance Sheet Problem Set Part I (Wednesday, October 21, 4:45-5:45, Rm TBA)

B. Shareholders Voting and Shareholders' Agreements

- Salgo v. Matthews (Notes 1-4)
- MBCA §7.22

Cumulative vs. Straight Voting <- Prepare carefully!

Note – Pay special attention to Stancil note case – we will treat it like a regular case

- Humphrys v. Winous Co. (Notes 1-4)
- Ringling Bros.-Barnum & Bailey Combined Shows v. Ringling

Notes 1, 3

{New York–McKinney’s Business Corporations Law – Exclude}

Note 1, 5

REC: Brown v. McLanahan

Notes 1-3

REC: Lehrman v. Cohen

REC: Ling and Co. v. Trinity Sav. and Loan Assn.

Notes 1, 2

REC: Douglas K. Moll, Minority Oppression & The Limited Liability Company
Week of October 28

Problem Review Session: Balance Sheet Problem Set Part II (Wednesday, October 28. 4:45-5:45, Rm TBA)

C. Deadlocks
   Gearing v. Kelly (Note)
   In Re Radom & Neidorff, Inc. (Notes 1, 3)

D. REC: Modern Remedies for Oppression, Dissension or Deadlock

E. Action by Directors and Officers (note that most of the cases for this section are in White, Business Organizations Fall 2015 Supplement

  Directors:
  Baldwin v. Canfield (See case in White, Business Organizations Fall 2015 Supplement)
  Mickshaw v. Coca Cola Bottling Co.(See case in White, Business Organizations Fall 2015 Supplement)

MBCA 8.20. Meetings
MBCA 8.21. Action Without Meeting
MBCA 8.24. Quorum and Voting

Week of November 2

E. Action by Directors and Officers (continued) (note that the case below is in White, Business Organizations Fall 2015 Supplement

  Officers:
  Black v. Harrison Home Co. (See case in White, Business Organizations Fall 2015 Supplement)

  (Note that the next two assigned cases are to be read in reverse order than as printed in the casebook.)
  Lee v. Jenkins Bros. (Notes 1, 2, 4)
  In The Matter of Drive-In Dev. Corp. (Notes 1, 2)

{IX Chapter Nine: Control and Management in the Publicly Held Corporation – Exclude)
X. Chapter Ten: Duty of Care and the Business Judgment Rule

  Litwin v. Allen (Note)
  Shlensky v. Wrigley (Notes 1-5, 8)

Week of November 9

X. Chapter Ten: Duty of Care and the Business Judgment Rule (Continued)
   Smith v. Van Gorkom (Notes 1-4) (Important case - how corporate deals are made)
   Del. Gen. Corp. Law § 102(b)(7) (Notes 1, 2, 4)
   Gall v. Exxon (Notes 1-4)
   MBCA 8.25
   Note
   Zapata Corp. v. Maldonado (Note)
   Aronson v. Lewis (Note 1)
   Werbowski v. Collomb (Maryland case in White, Business Organizations Fall 2015 Supplement)

XI. Chapter Eleven: Duty of Loyalty and Conflict of Interest
   A. Self-Dealing
      Marciano v. Nakash (Be sure to read all footnotes!!)
      Notes: 1-8, 10 (Be sure to read all footnotes!!)
      Heller v. Boylan (Be sure to note and compare Rogers v. Hill discussed in main case)
Week of November 16

XI. Chapter Eleven: Duty of Loyalty and Conflict of Interest (cont’d)
   B. Corporate Opportunity
      Northeast Harbor Golf Club, Inc. v. Harris (Notes 1, 3)
      (C. Duties to Corporate constituencies Other than Common Shareholders – Exclude)

XII. Chapter Twelve: Transactions in Shares: Rule 10b-5, Insider Trading and Securities Fraud
   A. The Development of a Federal Remedy: Rule 10b-5
      Introductory paragraph
      Securities Exchange Act of 1934 §10b
      Rule 10b-5. Employment of Manipulative and Deceptive Devices
      Notes 1, 3, 4
      Text: introductory paragraph following notes only.
      (REC: In Re Enron Corporation Securities, Derivative & ERISA Litigation and Notes 1-3)
   B. Insider Trading
      Securities and Exchange Comm’n v. Texas Gulf Sulphur Co. (Notes 1, 2)
      Carlton & Fischel, The Regulation of Insider Trading (Notes 1-6)
      Chiarella v. United States (Notes 1-4, 6 (pay particular attention to the case Carpenter v. US and the analysis in Note 3 & 4–note the number of S. Ct. Justices deciding.)
      O’Hagan New York Times (see article in White, Business Organizations Fall 2015 Supplement).
      United States v. O’Hagan (Notes 1-6)
      Dirks v. SEC (Notes 1-4)
      Exclude subsequent material until Statutory section, below.
      Securities Exchange Act of 1934--§16 Directors, Officers, and Principal Stockholders
      Notes 1-9 (pay particular attention to the numbers in note 5)

Week of November 23 (Monday Class Only)

XIX. Chapter Nineteen: The Limited Liability Partnership (Read on your own)
   A. Introduction
   B. Formation (No Notes)
      (C. Limited Liability – Exclude)
   D. The Limited Liability Limited Partnership (Notes 1, 3, 4)
      What is available in Maryland for Limited Partnerships who want limited liability for everyone?
      See MD § 10-805 and all statutory sections referred to therein

XX. Chapter Twenty The Limited Liability Company
   For all the below readings – what are the rules in Maryland? See and read through Maryland Corporations and Associations, Title 4A §§ 101 - 607
   A. Introduction
      Susan Pace Hamill, The Limited Liability Company
      Notes 1-6
   B. Formation
      Notes 1,2,3, 11, 12
   C. Management and Operation
      1. General Governance
         Notes 1, 4, 6
      2. Authority
{Taghipour v. Jerez – Exclude}
Notes 7, 8, 9 – What is the situation in Maryland?

{3. Inspection and Information Rights – Exclude}

D. Financial Rights and Obligations
Note 5

{E. Entity Status – Exclude}

F. Limited Liability
{1. The Scope of Limited Liability – Exclude}
2. Piercing the Veil
{Kaycee Land & Livestock v. Flahive – Exclude}
Notes 1, 2

G. Fiduciary Duty
1. The Basic Duties
{VGS, Inc. v. Castiel – Exclude}
Notes 4-8
{2. The Role of Contract – Exclude}

H. Ownership Interests and Transferability
Notes 1-3

I. Dissociation and Dissolution
Douglas Moll, Minority Oppression & The Limited Liability Company
{Lieberman v. Wyoming.Com LLC – Exclude}
Notes 5-8

{J. The Nature of the LLC: Regulatory Issues – Exclude}

K. A Final Look