

BUSINESS ORGANIZATIONS, SPRING 2017
LAW 717-311
General Information and Syllabus
Professor Jaime Lee, University of Baltimore
As of 12/1/16

Course Logistics

Class: Monday and Wednesday, 1:30 pm – 3:20 pm. The room assignment is subject to change, so check the list just before classes begin.

Professor Lee's Contact Information:

- jlee@ubalt.edu
- 410-837-5390
- Office Hours: TBD (sign up in advance on TWEN). Alternatively, email me and I will happily schedule an appointment outside of regular office hours. I am in AL 418, but please enter on floor 2 by the glass elevators and ask the receptionist to call me when you arrive. Please also feel free to email me directly, or to use the TWEN forum, to ask me any questions that you may have.
- Administrative Assistant: Laurie Schnitzer, lschnitzer@ubalt.edu, 410-837-4689

Required Course Materials

1. Hamilton, Macey & Moll, The Law Of Business Organizations: Cases, Materials, and Problems, 12th edition (2014). You may purchase either the looseleaf version or the hardbound version. **Make sure you have the correct edition/year. If the correct book is not available at the bookstore, please contact me immediately.** The casebook readings assigned during and just after the drop/add period (the first four classes) will be posted on TWEN.

2. The "White Supplement" for Prof. Lee's Business Organizations course. The Supplement will be available shortly. Since the Supplement is non-refundable, the Supplement readings assigned during and just after the drop/add period (the first four classes) will be posted on TWEN.

Course Catalog Description

This class studies the various forms of business organizations and the laws governing them, with an analysis of choice of business entity decisions. Coverage includes the law of agency, partnerships, limited partnerships, professional corporations, limited liability companies (LLC's), limited liability partnerships (LLP's), limited liability limited partnerships (LLLP's), and corporations, with an emphasis on closely-held and smaller corporations. Topics include formation, governance and dissolution of the various entities as well as a comparison of the roles, obligations, fiduciary duties, rights and remedies of the owners, management and creditors under each business form. In addition, the course may include introductions to the following: the forms of financing the entity--equity (partnership interests,

membership interests, corporate stock or shares) and debt (bonds and debentures); and introductions to Federal Tax and Security Regulations, including corporate taxation, Subchapter S and insider trading.

Learning Outcomes

- Understand the legal relationships between people who work closely together to pursue a business purpose, including the legal roles, duties, rights, and remedies of business owners, managers, and funders, as reflected in the law of agency, partnerships, limited partnerships, corporations, limited liability companies (LLC's), and other entities.
- Understand the policy considerations that affect the legal rules governing how people form, own, manage, fund, and close down entities.
- Develop proficiency in reading, analyzing, and applying statutory provisions and case law related to business entities.
- Develop proficiency in identifying, analyzing, and resolving legal issues related to business entities.

Curriculum Planning Considerations

Business Organizations is required for the Business Law concentration at the University of Baltimore and is a pre-requisite for various other classes, which may include but may not be limited to the Community Development Clinic, Business Planning Workshop, Securities Regulation, Transactional Skills Workshop, and Advanced Business Organization Seminar (be sure to confirm all prerequisites through the course catalog and/or an academic advisor).

Business Organizations is tested on the Maryland and other bar exams and covers topics routinely encountered by lawyers in all areas of practice and study, including litigators; transactional attorneys; regulators and other government lawyers; legislators; public interest attorneys; “in-house” attorneys; and lawyers who become law firm partners, serve as directors of non-profit boards, and take other leadership roles within groups of people working together to achieve a common goal.

TWEN Site

You must register for this course on TWEN before class begins, and use your UBALT address as your TWEN e-mail address, per University Policy. You are responsible for all information posted on or disseminated from TWEN.

Exams/Grading/Participation

1. Eighty-eight percent of your grade will be based on the final exam, which will be an open-book exam given at the end of the semester. All or nearly all of the final exam will consist of time-pressured, issue-spotting essay questions.
2. Twelve percent of your grade will be based on periodic “mini-assessments” designed to test your knowledge and comprehension of the material at various points throughout the semester. There will be 2-3 of these graded mini-assessments over the course of the entire semester. They will include issue-spotting essays, but may also include written assignments or other kinds of exercises. They may be open book, closed-book, or limited material, and may be

conducted either in-class or outside-of-class. You will be given plenty of advance notice and clear instructions in connection with each mini-assessment. Each mini-assessment will be graded separately on a scale of “fail/low pass/pass/high pass,” and each will earn you an appropriate amount towards your overall grade. For example, if you receive a “high pass” on all mini-assessments, you’ll receive the full twelve percent; if you receive a “fail” on all mini-assessments, you’ll receive zero percent; “low passes” and “passes” will receive the appropriate percentage in between.

3. The two components just described add up to 100%. This “100% grade” will be *further adjusted* at the end of the semester based on class participation. Excellent class participation will result in a one-step “bump up” (from an A- to an A, for example). Good class participation will result in no change to your grade. Poor class participation will result in a one-step “bump down” (from an A- to B+, for example). Class participation takes into account: 1) your preparedness when called upon in class, 2) your voluntary responses to questions in class, 3) your voluntary questions about class material, whether asked in class or outside of class (including during office hours and by email/TWEN), and 4) your engagement during small-group discussions about Problems and cases during class. Please note that this is a considerable opportunity for an adjusted grade, and that in-class participation is not the only action on your part that will receive credit towards this component of your grade.

In accordance with School policy, grading for this class will average between 3.000 and 3.500.

Class Preparation

You are responsible not only for the assigned readings, but for actively working through the Notes and questions. As discussed elsewhere in this document, part of your grade is based on class participation.

It is very important that you prepare for class and keep your class preparation current throughout the semester. This is true starting with the very first day of class. This course involves difficult and complex rules and concepts, and many of the topics taught will be relevant again at later points in the semester, in a somewhat different form or shape. If you do not prepare adequately for any one class, you are likely to have further difficulty in those later classes.

Please discuss with me any questions that you may have about the course material during office hours, and/or by e-mail or phone. See the beginning of this document for how to sign up for office hours and how to contact me.

Attendance

Attendance will be taken at the beginning of each class. The attendance sheet is the only means of establishing your presence. Only you can sign in for yourself, in accordance with the School Honor Code. Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowable absences (for this class, five classes) may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of WA (administrative withdrawal) or a grade of WF (withdrawal failure).

Advanced notice of an absence is appreciated as a professional courtesy. However, please note that I do not distinguish between “excused” and “unexcused” absences for the purposes of the 5-absence policy. Therefore, any absence counts as an absence for the purpose of the policy, regardless of the reason and regardless of whether you told me in advance.

Lateness

Class will begin on time each day out of respect for those who arrive on time. Please have your notes, laptops and other materials out and ready by the start of class, and your cell phone ringers turned off. If you arrive late, you may be marked as absent, as permitted by School policy. Factors considered in determining whether a lateness counts as an absence include whether you left me an explanatory voicemail or email prior to the beginning of class, your frequency of late arrivals, and other relevant factors.

Computers

You can use a laptop for the final exam, using the School-sanctioned exam software.

You can also use a computer or other device during class, but only for note-taking, referring to readings and other learning materials, and any authorized classroom activity. I will revoke permission to use devices in class if students use them for non-class purposes.

I strongly encourage you to disable your internet connection during class to reduce temptation, or to use programs like Self Control (Mac) and Anti-Social (Windows and Mac) (available for free or for a nominal cost), which block you from distracting websites, while still giving you access to class-related websites like TWEN when necessary.

I may ask you to log onto the internet periodically during class to participate in classroom activities. You may check out a laptop from OTS to bring to class. If you don't expect to have access to a laptop during class this semester, please contact me and we will find a work-around.

Class Cancellation

If there is inclement weather, students should visit the University of Baltimore web page and/or call the University's Closing Line at (410) 837-4201. If the University is not closed, students should presume that classes are running on the normal schedule. If class is cancelled for a reason other than a School closing, notice will be sent to you via the University of Baltimore e-mail system and posted on the classroom door.

Academic Integrity

Pursuant to the Student Handbook and the Honor Code, students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or the School of Law. Violations of academic integrity include, but are not limited to: cheating on an examination or any academic assignment or competition (includes the actual giving or receiving of any unauthorized assistance or unfair advantage on any form of academic work);

plagiarism (includes the copying of the language, structure, ideas, or thoughts of another and representing the same as one's own original work); misuse of library materials; use of another's book or study materials without consent; material misrepresentation of one's academic history or standing; material misrepresentation of any academic matter; intentionally giving another student false or inaccurate information about class requirements; inappropriate discussion of exams; and misrepresenting or falsifying class attendance reports.

Disability Policy

If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director for Student Support in the Office of Academic Affairs at 410-516-5623 or via email at lmetzger@ubalt.edu.

Study Guides

Guides that students have found useful over the years are on reserve in the Law Library for your convenience. Guides must be read in conjunction with the assigned material, not as a substitute. Each is either on general reserve or on reserve for this particular class; check with the librarians.

Kleinberger, Agency, Partnerships and LLC's: Examples and Explanations, Aspen
Palmiter, Corporations: Examples and Explanations, Aspen
Hamilton & Booth, Corporations, Black Letter Series, West Publishing
Pinto & Branson, Understanding Corporate Law, 4th Edition, LexisNexis

Definitions

The readings often use financial terms. Free online dictionaries such as investorwords.com and investopedia.com can be helpful. Just keep in mind that such content merely provides guidance and cannot be relied upon for legal definitions, and that different industries may use terms differently. You may also find this guide of interest if you are particularly interested in business issues: Hamilton & Booth, Business Basics for Law Students: Essential Concepts and Applications, Aspen.

Assignment for the First Week of Classes

Prepare the assignment under topics I., II., and III.A. and III.B. of the Syllabus (see below) for the first week of classes (both Monday and Wednesday). Class participation/preparation count as of the first day of class! As noted above, since the Supplement is non-refundable, the Supplement readings assigned during and just after the drop/add period (roughly the first three classes) will be posted on TWEN. Note that the University is closed on Monday, January 24, which is during the second week of class.

Syllabus

All page assignments refer to pages within the Hamilton, et al. textbook. All section assignments refer to sections of the Maryland Corporations & Associations Code, contained in the White Supplement. This Syllabus is subject to adjustment.

I. INTRODUCTION: BUSINESS FORMS

pp. 1-6 (prior to Federal Income Taxation: Basic Principles)

II. AGENCY

pp. 15-22 (prior to Notes)

pp. 23-34 (prior to Notes)

pp. 35-41 (start after Notes)

Problem 1 (will be available on TWEN)

III. THE GENERAL PARTNERSHIP

A. Introduction and Formation

pp. 43-44

Martin v. Peyton (p. 44)

Notes (pp. 48-50): 3

pp. 50-53

Notes (pp. 53-54): 4

§§ 9A-101(i), (j), 9A-103, 9A-201, 9A-202, 9A-301, 9A-306(a)

Problem 2 (will be available on TWEN)

B. Management and Operation

Summers v. Dooley (p. 55)

Notes (p. 57-58): 1-3, 5

National Biscuit Co. v. Stroud (p. 58)

Notes (pp. 60-61): 1, 2, 6, 7

§§ 9A-301, 9A-102(a), (c), (d), 9A-303, 9A-401(c), (d), (e), (f), (j), 9A-403, 9A-103

Problem 3 (will be available on TWEN)

C. Financial Interests

1. Partnership Accounting

pp. 61-68

Notes (p. 68): 1

§ 9A-401(a)

Problem 4 (will be available on TWEN)

2. Sharing of Profits and Losses

pp. 69-70

Kessler v. Antinora (p. 70)
Notes (pp. 74-75): 1, 3, 4
§§ 9A-401(a), (b), (h), 9A-103
Problem 5 (will be available on TWEN)

D. Liability of Partners

pp. 75-76
Roach v. Mead (p. 77)
Notes (p. 80): 1
p. 82-83 (Indemnification and Contribution)
§§ 9A-306(a), (b), 9A-307 (omit (e), (f)), 9A-305, 9A-103, 9A-401(c)
Problem 6 (will be available on TWEN)

E. Duties of Partners

Meinhard v. Salmon (p. 83)
Notes (p. 89): 2, 3
pp. 89-90 (Statutory Developments and the Role of Contract)
ENE v. Superior Court (p. 90)
Notes (pp. 93-95): 1-3
Singer v. Singer (p. 100)
Notes (pp. 102-103): 2-4
§§ 9A-404, 9A-405 (omit (c), 9A-103)
Problem 7 (will be available on TWEN)

F. Ownership Interests and Transferability

p. 112
Notes (p. 112): 1
Notes (pp. 116-117): 4
§§ 9A-101(l), 9A-101(p), 9A-103, 9A-203, (skim 9A-204), 9A-401(i), 9A-501, 9A-502, 9A-503, 9A-504
Problem 8 (will be available on TWEN)

G. Dissociation and Dissolution

pp. 118-119 (start at G. and end prior to Notes)
pp. 144-146 (prior to *Saint Alphonsus*)
Collins v. Lewis (p. 120)
§§ 9A-601, 9A-602, 9A-603, 9A-701, 9A-702, 9A-703, 9A-704, 9A-801, 9A-803, 9A-802, 9A-804, 9A-805, 9A-806, 9A-807, 9A-103, 9A-101(k)
Problem 9 (will be available on TWEN)

H. Overview of Taxation and Partnership Taxation

No assigned reading.

IV. CORPORATIONS

A. Formation

1. Mechanics of Incorporation

§§ 2-101, 2-102 (omit (b)(3)), 2-103, 2-104, 2-106, 1-502(a), 1-504, 2-108(a), (skim §§7-101 – 7-305)
There is NO Problem 10.

2. Organizing the Corporation

pp. 178-179 (starting at : “What happens after...”)

Notes (pp. 180): 2

Note (p. 180-181)

§§ 2-109, 2-110, 2-111

3. [Omitted]

4. Premature Commencement of Business

a. Promoter Liability

pp. 191-193

Notes (pp. 193-194): 1-4

Stanley J. How & Assoc., Inc. v. Boss (p. 194)

Notes (pp. 199-200): 4, 5, 10

Problem 11 (will be available on TWEN)

b. Defective Incorporation

Robertson v. Levy (p. 200)

Notes (pp. 205-206): 3, 4

Cranson v. IBM excerpt (White Supplement)

§§ 1-206(a), 1-404

Problem 12 (will be available on TWEN)

B. Liability of Shareholders

1. In General

§ 2-215(a)

2. Piercing the Corporate Veil

DeWitt Truck Brokers v. W. Ray Flemming Fruit Co. (p. 215)

Bartle v. Home Owners Co-op. (p. 213)

Notes (pp. 220-223): 1-6

Baatz v. Arrow Bar (p. 224)

Notes (pp. 228-230): 1-3

Radaszewski v. Telecom Corp. (p. 230)

Notes (pp. 233-234): 1-5

Pepper v. Litton (p. 261)
Notes (pp. 264-265): 1-3

C. Financial Interests

1. Debt and Equity Capital

pp. 273-274 (prior to B.)
Debt & Equity (White Supplement)

2. Types of Equity Securities

pp. 274-281
Notes (pp. 281-282): 1-5
§ 2-105 (omit (c))
Problem 13 (will be available on TWEN)

3. Issuance of Shares

pp. 282-288
Notes (pp. 288-289): 1-2
Hanewald v. Bryan's, Inc. (p. 289)
Notes (p. 293): 1-2
pp. 293-294
pp. 294-295 (prior to "Still another factor was...")
§§ 2-201(a), (skim 2-202), 2-203 (omit (d)), 2-204(a), (b)(1), 2-206 (omit (d)), (skim 2-208, 2-209, 2-210, 2-211), 2-215, 2-216(b)
Problem 13A (will be available on TWEN)

4. Distributions

Dodge v. Ford Motor Co. (p. 341)
pp. 349-354
§§ 2-301, 2-309(b), 2-309(c)(2), 2-310(a)(1), (a)(2), 2-311
Problem 16 (will be available on TWEN) [NOTE: There are no Problems 14 or 15. We skip from 13A to 16.]

D. Management and Control

1. Shareholders

a. Voting

Notes (pp. 391-393): 1-4
§§ 2-501 (omit (b)), (skim 2-502), 2-502.1, (skim 2-503), 2-504(a), 2-505(a), (b), 2-

506, 2-507 (omit (c)(2) – (c)(4)), (skim 2-511), 2- 401, 2-402, 2-404,
2-405(a), 2-406, (skim 2-407)
Problem 17 (will be available on TWEN)

b. Traditional Roles of Shareholder Agreements and Close Corporations

McQuade v. Stoneham (p. 359)
Notes (pp. 362-365): 1- 3
Galler v. Galler (p. 365)
Notes (pp. 371-373): 1-4
§§ 4-101, 4-201, 4-301, 4-302, 4-303, 4-401, (skim 4-402, 4-403, 4-404, 4-501, 4-
502, 4-503, 4-504)

2. Directors

Baldwin v. Canfield (White Supplement)
Mickshaw v. Coca Cola Bottling Co (White Supplement)
§§ 2-401, 2-402, 2-403, 2-408, (skim 2-409, 2-410)
Problem 18 (will be available on TWEN)

3. Officers

Black v. Harrison Home Co. (White Supplement)
Lee v. Jenkins Bros. (p. 438)
Notes (pp. 444): 4
In The Matter of Drive-In Dev. Corp. (p. 436)
Notes (pp. 437-4438): 1, 2
§§ 2-412, 2-413, 2-414, 2-415(a)

E. Duties of Directors

1. Duty of Care and the Business Judgment Rule

Shlensky v. Wrigley (p. 551)
Litwin v. Allen (White Supplement)
Notes (pp. 556-558): 1-5
Smith v. Van Gorkom (p. 560)
Notes (p. 575): 1-2
In Re Caremark Intern. Inc. Derivative Litigation (p. 578)
Notes (pp. 588-589): 1-4
§§ 2-405.1

2. Duty of Loyalty and Conflict of Interest

a. Self-Dealing

Marciano v. Nakash (p. 605)

Notes (pp. 608-611): 1-5
Heller v. Boylan (p. 625)
Notes (pp. 647-650): 1-8
Sinclair Oil v. Levien (p. 650)
§ 2-419 (omit (e))
Problem 19 (will be available on TWEN)

b. Corporate Opportunity

Northeast Harbor Golf Club, Inc. v. Harris (p. 673)
Notes (pp. 683-684): 2, 4, 5

3. Liability Limitation and Indemnification

Del. Gen. Corp. Law § 102(b)(7) (p. 576)
Notes (pp. 576-577): 1, 2, 4
§§ 2-405.2, 2-418 (omit (h), (i))
Problem 20 (will be available on TWEN)

F. Transferring Shares

§§ 4-503(b), 2-105(a)(9)

G. Corporate Books and Records

§§ 2-512, 2-513, 2-313(a), (b)

H. Amendment of Articles of Incorporation and Bylaws

§§ 2-601, 2-602, (skim 2-603), 2-604, (skim 2-605, 2-606, 2-607, 2-608, 2-609, 2-611), 2-610, 2-109(b)

I. Statutory Appraisal Rights

§§ 3-201(f), 3-202 (omit (d), (e)), 3-203, 3-207(a), 3-208, 3-210, 3-211(a), (b)

J. Dissolution

§§ 3-401, (skim 3-402), 3-403, 3-404, 3-406, 3-407(a), 3-408, 3-410, (skim 3-411), 3-412 (omit(d)), 3-413, (skim 3-414), 3-419(a), (skim 3-501 to 3-519)

K. [Omitted]

V. LIMITED PARTNERSHIPS

A. Introduction

pp. 1115-1118

B. Formation

p. 1118-1119

Notes (p. 1119): 1-4
pp. 1127 (prior to Note)
§§ 10-101(g), (h), (i), (j), (k), (l), 10-102, 1-502(d), 10-108, 10-201

C. Management and Operation

pp. 1122-1123
§§ 10-302, 10-403

D. Financial Interests

pp. 1125-1126
§§ 10-503, 10-504

E. Liability of Partners

p. 1128 (prior to Gateway Potato Sales v. G.B. Investment Co.)
p. 1136 (Note on the Statutory Evolution of the Control Rule)
pp. 1140-1143 (Control of the Entity General Partner)
§ 10-303

F. Duties of Partners

pp. 1145-1147 (prior to Note)
pp. 1157 (Limited Partners)

G. Ownership Interests and Transferability

pp. 1165-1167

H. Dissociation and Dissolution

p. 1169 (Dissociation)
Notes (p. 1171): 1-2
p. 1172 (Dissolution)
§§ 10-602, 10-603

I. A Final Look

pp. 1174-1176

VI. LIMITED LIABILITY PARTNERSHIPS

A. Introduction

pp. 1177-1179

B. Formation

pp. 1179-1180
§§ 9A-101(g), 9A-1001 (omit (e)), 9A-1003, 1-502(c), 9A-1005(a)

C. Liability of Partners

Notes (pp. 1193-1194): 3
§ 9A-306(c), (d), (e)

D. Limited Liability Limited Partnerships

p. 1195
Notes (p. 1195-1196): 1-3
§§ 9A-1006, (skim 9A-1007), 10-805, 1-502(e)

VII. LIMITED LIABILITY COMPANIES

A. Introduction and Overview

pp. 1199-1200
Notes (pp. 1201-1202): 1-5
pp. 1337 (The Nature of the LLC)
Notes (pp. 1338-1341): 2, 5

B. Formation

pp. 1203
Notes (pp. 1204 and 1207): 2, 3, 11
pp. 1234 (Entity Status)
§§ 4A-101(c), (m), (n), (p), 1-101(t), 4A-102, 4A-201, 4A-202, 4A-203, 4A-204, 4A-206(a), 4A-208, 1-502(b), 4A-210(a), 4A-402
Problem 22 (will be available on TWEN)

C. Management and Operation

p. 1208
Notes (p. 1209): 1-6
pp. 1210 (Authority)
§§ 4A-401, 4A-403, 4A-404, 4A-406
Problem 23 (will be available on TWEN)

D. Financial Interests

p. 1233
Notes (p. 1234): 5
§§ 4A-501, 4A-502(a), 4A-503, 4A-101(e), (f)
Problem 24 (will be available on TWEN)

E. Liability of Members

pp. 1242-1243
Notes (pp. 1255-1256): 1, 2
§§ 4A-301, 4A-301.1

F. Duties of Members

pp. 1257

Notes (pp. 1263-1265): 4, 6-9

pp. 1268-1269 (The Role of Contract)

Notes (pp. 1282-1283): 4, 5

§§ 4A-405

Problem 25 (will be available on TWEN)

G. Ownership Interests and Transferability

p. 1299

§§ 4A-101 (j), (n), (o), 4A-601, 4A-602, 4A-603, 4A-604, 4A-607

H. Dissociation and Dissolution

pp. 1311-1312

Notes (p. 1327): 6-8

§§ 4A-605, 4A-606, 4A-606.1, 4A-901, 4A-902, 4A-903, 4A-905, 4A-906, 4A-908, (skim 4A-909, 4A-911)

I. A Final Look

pp. 1342-11344