

SYLLABUS

BUSINESS ASSOCIATIONS (Spring 2023)

PROFESSOR:	Robert J. Rhee
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CLASSROOM:	Holland 285B
CLASS TIME:	Mon., Tues., Wed.: 1:45pm to 3:00pm
OFFICE HOURS:	Mondays and Tuesdays: 12pm to 1pm ○ Office hours will always be consistent with the prevailing UF policy. ○ Office hours can be through Zoom, telephone, or in person (if UF policy permits), and there are no restrictions on any of these methods. ○ In-person office hours are freely available (if UF policy permits). In-person office hours can be in the professor's office, but because my office is a small physical space students must wear a mask in my office and abide by social distancing and the door must be kept open. If you do not wish to wear a mask in my office, we can hold in-person office hours outside or do it in a larger indoor space.
FINAL EXAM:	To be determined (4 hours)

TEXTBOOKS

Robert J. Rhee, LLCs, Partnerships, and Corporations (West 2021)

COURSE DESCRIPTION

This course provides comprehensive coverage of the major business organizations, including general partnerships, limited partnerships, limited liability companies, and corporations. It emphasizes the major differences among these entities and the role of contracting for the rules of internal affairs. Topics include rules dealing with formation,

agency, management structures, admissions and dissociations, fiduciary duties, corporate governance, shareholder litigation, and fundamental transactions.

STUDENT LEARNING OUTCOMES

An understanding of business associations is required to practice business law. Modern business law practice broadly uses the corporate form and noncorporate entities, including the limited liability company. This course teaches the major business organizations, including general partnerships, limited partnerships, limited liability companies, and corporations.

After completing this course, students should be able to:

1. Know and analyze the legal rules of internal affairs, including the distinction between default and mandatory rules, for all major business organizations.
2. Consider issues related to advising business organizers and managers with respect to formation and maintenance of business organizations.
3. Know the rules and principles of fiduciary duties applicable in different settings and business organizations.
4. Know the differences between the corporate form and noncorporate business entities.

REQUIRED READING MATERIALS

Please be sure to register for the Canvas course and have any required materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments.

COURSE EXPECTATIONS AND GRADING EVALUATIONS

Students will be evaluated based upon on a final exam. Grading will be consistent with College of Law policy. Your grade will be based on a final exam (100% of the final grade). Exam grades are done on a blind basis. All grades are final. There will be no regrading or revisions from me, except to correct any mathematical or clerical errors in computing the final score.

COMPLIANCE WITH UF HONOR CODE

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Law Honor Code located [here](#). The UF Law Honor Code also prohibits use of artificial intelligence, including, but not limited to, ChatGPT and Harvey, to assist in completing quizzes, exams, papers, or other assessments.

FINAL EXAM FORMAT

The final exam will follow UF's "limited open-book" policy for in-class exams. That policy reads: **"If a professor chooses this option, students may reference their assigned casebook(s), supplements, or rulebooks in the course, as well as any handouts provided by the instructor during the course. Students may not bring notes or outlines to the exam, although books that are annotated by hand in the margins may be used. Students will not be permitted to access the internet or any of their computer files during the exam."** This means that "students may NOT bring notes or outlines to the exam" but **MAY** use "assigned casebook(s) . . . as well as any handouts provided by the instructor during the course." Handouts provided by the instructor includes the PPT slides that the professor provided (but you may **NOT** annotate these handouts, and you are **only permitted to have hand annotations in your textbook**). Students will not have access to their computer programs such as Word, PowerPoint, or Excel. You **MAY** use a handheld calculator if you wish.

The final exam will have essay or essays, and multiple choice questions. Essay questions will be an issue-spotting, analysis, or problem-solving format typically seen in most law school exams. The issues and topics for exam questions will come from the course readings and class discussions. The exam will fairly reflect the work that is done in the course. This means that the best way to prepare for the exam is to do the class readings and to attend class.

EXAM DELAYS AND ACCOMMODATIONS

The law school policy on exam delays and accommodations can be found [here](#).

GRADING INFORMATION

The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent	Letter Grade	Point Equivalent
A (Excellent)	4.00	C (Satisfactory)	2.00
A-	3.67	C-	1.67
B+	3.33	D+	1.33
B	3.00	D (Poor)	1.00
B-	2.67	D-	0.67
C+	2.33	E (Failure)	0.00

The law school grading policy is available [here](#).

ABA OUT-OF-CLASS HOURS REQUIREMENTS

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. For each 1 credit hour in the course, students are expected to devote at least 2 hours of out-of-class preparation including reading the assigned materials, writing critical analyses (if any), and developing your final paper (if any).

CLASS ATTENDANCE POLICY

Attendance in class is required by both the ABA and the Law School. Attendance will be taken at each class meeting. Students are allowed **six** absences during the course of the semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. A student who fails to meet the attendance requirement will be dropped from the course. The law school’s policy on attendance can be found [here](#).

The single best thing that a student can do to maximize the possibility of doing well in the course in terms of a grade is to keep up with the class reading assignments and to attend class regularly. The final exam will draw from the work done in course and the class discussion.

Attendance will be taken online. A student may access the online attendance form at the beginning of class from the law school quick links page: <https://www.law.ufl.edu/student-life> or the <https://www.law.ufl.edu/attendance>. You will enter the requested information, including your UFID number, name and attendance code. Your professor will provide the attendance code for each class. The submissions are recorded. It is an Honor Code violation for giving the attendance code to a study who is not present in the class, either in person or online. Please do not violate this policy.

OBSERVANCE OF RELIGIOUS HOLIDAYS

UF Law respects students’ [observance of religious holidays](#).

- Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith.
- Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence.
- Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances.

STATEMENT RELATED TO ACCOMODATIONS FOR STUDENTS WITH DISABILITIES

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester. It is important for students to share their accommodation letter with their instructor and discuss their access needs as early as possible in the semester. Students may access information about various resources on the UF Law Student Resources Canvas page, available at <https://ufl.instructure.com/courses/427635>.

STUDENT COURSE EVALUATIONS

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](#) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluer.com/ufl/>. Summaries of course evaluation results are available to students [here](#).

RECORDING OF CLASS

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will work with faculty to determine when students may have access to these recordings, and the recordings will be password protected. It is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A "class lecture" is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation,

assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.”

COVID POLICY

The Covid-19 policy for the course is the prevailing University of Florida’s policy in effect during the entire pendency of the course. If the UF policy changes, the policy in effect for the course will also change.

ONLINE (ZOOM) CLASS SESSIONS

Per law school policy, our course must be mostly in-person class sessions, at least 2/3 of all class sessions. Consistent with this policy, we can have at most 1/3 of class sessions online through Zoom or other means. The following are scheduled Zoom classes.

Monday through Thursday, Feb. 6 to Feb. 9, 1:45pm to 3:00pm

Tuesday through Thursday, Feb. 14 to Feb. 16, 1:45pm to 3:00pm

Tuesday through Wednesday, Mar. 7 to Mar. 8, 1:45pm to 3:00pm

Monday through Wednesday, Mar. 20 to Mar. 22, 1:45pm to 3:00pm

Tuesday, Apr. 4, 4:00pm to 5:15pm

CLASS CANCELLATION AND MAKEUP

Class on Monday, February 13 (Class #12) is cancelled. Makeup class is on Thursday, February 9, 1:45pm to 3:00pm, via Zoom (this class session will be recorded and made available to all students).

Class on Wednesday, April 5 (Class #34) is cancelled. Makeup class is on Tuesday, April 4, 4:00pm to 5:15pm, via Zoom (this class session will be recorded and made available to all students).

Class on Monday, April 24 (Class #39) is cancelled. Makeup class is on Thursday, February 16, 1:45pm to 3:00pm, via Zoom (this class session will be recorded and made available to all students). By cancelling the last class and doing a makeup earlier in the semester, students will end this course 5 days earlier than under the regular UF Law schedule. This will permit students to get started on exam preparations 5 days earlier as well.

ASSIGNMENTS

IMPORTANT NOTE TO STUDENTS: This syllabus is offered as a guide to the direction of the course. Our pace will depend in part on the level of interest and the level of difficulty of each section and is subject to change. We have some Zoom classes. These classes are noted in this assignment list. The syllabus will be continuously updated throughout the course. The average class reading (1 hour 15 minutes of class time) is 23 pages (a total of about 870 pages over 39 class sessions). Please read at least 15 pages ahead of the current assignment for the class session in the event that a particular class moves faster than anticipated.

Class #	Topics, Issues, and Cases	Text pages
1	CHAPTER 1: OVERVIEW OF BUSINESS ENTITIES • Relevance of business entities • Differences between corporations and NBEs ◦ <i>Fraser v. Major League Soccer, LLC</i> • Taxonomy of corporations • Taxonomy of NBEs • Sources of law and internal affairs	1-25
2	CHAPTER 1: OVERVIEW OF BUSINESS ENTITIES • Sources of law and internal affairs ◦ <i>Azure Dolphin, LLC v. Barton</i> ◦ <i>Heaps v. Nuriche, LLC</i> • Problem: Friends Consider a Startup CHAPTER 2: FORMING THE ENTITY • Nature and essential attributes of business entities ◦ <i>Reynolds v. Lyman</i> ◦ <i>State v. Brelvis Consulting LLC</i> ◦ <i>Gould v. City of Stamford</i>	26-52
3	CHAPTER 2: FORMING THE ENTITY • Attorney engagement ◦ <i>In re Murrin Brothers 1885, Ltd.</i> • Forming general partnerships ◦ <i>Martin v. Peyton</i> ◦ <i>Minuit Maid Corp. v. United Foods, Inc.</i>	52-75
4	• Forming general partnerships ◦ <i>Energy Transfer Partners, L.P. v. Enterprise Prod. Partners, L.P.</i> • Forming limited liability entities ◦ <i>McDonough v. McDonough</i> ◦ <i>In re Delaware Sports Complex, LLC</i> ◦ <i>Guy Named Moe, LLC v. Chipotle Mexican Grill of Colorado, LLC</i>	76-101

5	- Partnership and operating agreements <i>In re Nantucket Island Assoc. Ltd. Partnership Unitholders Litig.</i> - Contract interpretation principles - Issues to consider for NBEs	101-124
6	CHAPTER 3: LIABILITY TO THIRD PARTIES - Rule of limited liability in corporations <i>Walkovszky v. Carlton</i> <i>ORT Associates v. IBC Services, Inc.</i> <i>Freeman v. Complex Computing Co., Inc.</i> - Rule of limited liability in NBEs <i>Gateway Potato Sales v. G.B. Investment Co.</i>	125-145
7	- Rule of limited liability in NBEs <i>Alphonse v. Arch Bay Holdings, LLC</i> - Direct liability for one's own conduct <i>Fifth Third Mortgage Co. v. Kaufman</i> <i>Cortez v. Bacco Material Handling Group, Inc.</i> - Veil piercing in NBEs <i>Dailey v. Ayers Land Development, LLC</i>	145-168
8	- Veil piercing in NBEs <i>GreenHunter Energy, Inc. v. Western Ecosystems Technology, Inc.</i> <i>In re Phillips</i> - Successor liability <i>Alsco, Inc. v. Fatty's Bar, LLC</i> - Issues to consider for NBEs - Problem: Entrepreneurs Think about Liability	168-190
9	CHAPTER 4: FINANCE - Introduction to equity financing - Shareholders - Members and partners <i>Kilpatrick v. White Hall on MS River, LLC</i> <i>In re Carlisle Etcetera LLC</i> - Capital accounts - Contributions <i>Fox v. I-10 Ltd.</i>	191-217
10	- Profit and loss, and distribution <i>Kessler v. Antinora</i> - Improper distribution and liability - Admissions and dissociations of partners and members - Interests as securities	217-234
11	Interests as securities	234-

	○ <i>SEC v. Merchant Capital, LLC</i> • Issues to consider for NBEs • Problem: Entrepreneurs Obtain Financing CHAPTER 5: AGENCY • Theory of agency and its costs • Legal definition of agency and agent ○ <i>Lang v. Lions Club of Cudahy Wisc., Inc.</i>	246 247- 259
12	CHAPTER 5: AGENCY • Legal definition of agency and agent ○ <i>Lang v. Lions Club of Cudahy Wisc., Inc.</i> ○ <i>Segal v. Genitrix, LLC</i> • Authority, estoppel, and ratification ○ <i>Gay Jensen Farms Co. v. Cargill, Inc.</i> • Principal's liability for agent's contracts and wrongful acts ○ <i>Thomas D. Philipsborn Irrevocable Ins. Trust v. Avon Capital, LLC</i> ○ <i>Ira S. Bushey & Sons, Inc. v. U.S.</i> ○ <i>Burlington Industries, Inc. v. Ellerth</i>	259- 288
13	• Agency and limited liability • Problem: Entrepreneurs Begin Managing CHAPTER 6: MANAGEMENT STRUCTURE • Three basic forms of management • Centralized management and corporations • Management structures of NBEs ○ <i>Florida R & D Fund Investors, LLC v. Florida BOCA/Deerfield R & D Investors, LLC</i>	288- 292 293- 316
14	CHAPTER 6: MANAGEMENT STRUCTURE • Voting rights • Insurance and indemnification ○ <i>Sandt v. Energy Maintenance Servs. Group I, LLC</i> ○ <i>Trascent Management Consulting, LLC v. Bouri</i> • Information rights • Issues to consider for NBEs • Problem: Entrepreneurs Think Seriously about Governance	316- 340
15	CHAPTER 7: FIDUCIARY DUTY • Introduction to fiduciary duties • Traditional approach to NBEs ○ <i>Meinhard v. Salmon</i> ○ <i>In re USACafes, L.P. Litigation</i> ○ <i>Red River Wings, Inc. v. Hoot, Inc.</i> ○ <i>In re Sky Harbor Hotel Properties, LLC</i>	341- 368

16	- Traditional approach to NBEs <i>Acorn v. Moncecchi</i> <i>Wilson v. Gandis</i> <i>McConnell v. Hunt Sports Enterprises</i> - Delaware approach to contracting for fiduciary duty	368-392
17	- Delaware approach to contracting for fiduciary duty <i>Bay Center Apartments Owner, LLC v. Emery Bay PKI, LLC</i> <i>Norton v. K-Sea Transp. Partners L.P.</i> - Obligation of good faith and fair dealing <i>Gerber v. Enterprise Prods. Hldgs., LLC</i> <i>Dieckman v. Regency General Partner LP</i>	393-414
18	- Fiduciary duty to creditors <i>CML V, LLC v. Bax</i> - Actions by partners and members <i>Fritchel v. White</i> <i>Anglo American Security Funds, L.P. v. S.R. Global International Fund, L.P.</i>	414-438
19	- Actions by partners and members <i>Saunders v. Briner</i> <i>Marx v. Morris</i> <i>Woodside Properties, LLC v. MKR Development, LLC</i> - Issues to consider for NBEs - Problem: Entrepreneurs Find a Deal and a Problem CHAPTER 8: TRANSFER OF INTEREST AND DISSOCIATION - Transfers of interest in corporation - Transfers of interest in NBEs <i>SP Investment Fund III, LLC v. Zell</i>	438-468 469-476
20	CHAPTER 8: TRANSFER OF INTEREST AND DISSOCIATION - Transfers of interest in NBEs <i>Bauer v. Blomfield Co./Holden Joint Venture</i> - Transfers of interest in NBEs <i>Northeast Communications of Wisconsin, Inc. v. CenturyTel, Inc.</i> <i>Weddell v. H2O, Inc.</i> <i>Law v. Zemp</i> <i>JPMorgan Chase Bank, N.A. v. McClure</i>	476-499
21	CHAPTER 8: TRANSFER OF INTEREST AND DISSOCIATION - Dissociation <i>United States v. Sanofi-Aventis U.S. LLC</i> <i>Gelman v. Buehler</i> <i>Fredericks Peebles & Morgan LLP v. Assam</i>	500-522

22	• Dissociation ◦ <i>Congel v. Malfitano</i> ◦ <i>IE Test, LLC v. Carroll</i> • Buy-sell agreements	522-546
23	• Issues to consider for NBEs • Problem: Entrepreneurs Learn that Ownership Is Not Permanent CHAPTER 9: DISSOLUTION AND MERGERS • Dissolution ◦ <i>Dysart v. Dragpipe Saloon, LLC</i> • Dissolution ◦ <i>Haley v. Talcott</i> ◦ <i>Styslinger v. Brewster Park, LLC</i>	546-569
24	CHAPTER 9: DISSOLUTION AND MERGERS • Dissolution ◦ <i>In re Carlisle Etcetera LLC</i> ◦ <i>Beaudry v. Harding</i> ◦ <i>Guenther v. Ryerson</i> • Mergers and conversions ◦ <i>Corwin v. KKR Financial Holdings LLC</i> ◦ <i>Allison v. Eriksson</i>	569-599
25	• Issues to consider for NBEs • Problem: Entrepreneurs Go Bigtime, Maybe CHAPTER 10: INTRODUCTION TO CORPORATIONS • Corporations in society ◦ <i>Citizens United v. Federal Election Commission</i> • Major differences between NBEs and corporations • Why corporations	599-604 605-626
26	CHAPTER 10: INTRODUCTION TO CORPORATIONS • Delaware corporation law CHAPTER 11: CORPORATE GOVERNANCE • Board of directors ◦ <i>Cinerama, Inc. v. Technicolor, Inc.</i> ◦ <i>Joy v. North</i> ◦ <i>Shlensky v. Wrigley</i> ◦ <i>Kamin v. American Express Co.</i>	626-632 633-642
27	• Board of directors ◦ <i>Kamin v. American Express Co.</i> CHAPTER 11: CORPORATE GOVERNANCE	642-664

	• Officers • Shareholders • Corporate governance ◦ <i>Bayer v. Beran</i>	
28	CHAPTER 12: DUTY OF CARE • Care, risk-taking and business judgment ◦ <i>In re Citigroup Inc. Shareholder Derivative Litigation</i> • Duty to be informed ◦ <i>Smith v. Van Gorkom</i> • Exculpation	665-686
29	CHAPTER 12: DUTY OF CARE • Aiding and abetting breach of duties ◦ <i>RBC Capital Markets, LLC v. Jervis</i> CHAPTER 13: DUTY OF LOYALTY • Self-dealing and conflict of interest transactions ◦ <i>Benihana of Tokyo, Inc. v. Benihana, Inc.</i> ◦ <i>Gantler v. Stephens</i>	688-694 695-709
30	CHAPTER 13: DUTY OF LOYALTY • Self-dealing and conflict of interest transactions ◦ <i>Broz v. Cellular Information Systems, Inc.</i> • Bad faith ◦ <i>In re Walt Disney Co. Derivative Litigation</i> ◦ <i>In re Caremark International Inc. Derivative Litigation</i> ◦ <i>Stone v. Ritter</i>	709-731
31	• Bad faith ◦ <i>In re Citigroup International Inc. Derivative Litigation</i> ◦ <i>Marchand v. Barnhill</i> ◦ <i>In re Massey Energy Co. Derivative Litigation</i> • Controlling shareholders ◦ <i>Sinclair Oil Corp. v. Levien</i>	731-752
32	• Controlling shareholders ◦ <i>Weinberger v. UOP Inc.</i> ◦ <i>Solomon v. Pathe Communications Corp.</i> ◦ <i>Kahn v. Lynch Communications System, Inc.</i> ◦ <i>Kahn v. M & F Worldwide Corp.</i>	752-776
33	CHAPTER 14: SHAREHOLDER LITIGATION • Information rights ◦ <i>Seinfeld v. Verizon Communications, Inc.</i> • Direct and derivative suits ◦ <i>Tooley v. Donaldson, Lufkin & Jenrette, Inc.</i> • Plaintiff standing in derivative actions	777-793

	○ <i>In re Fuqua Industries, Inc. Shareholder Litigation</i> ○ <i>Lambrecht v. O'Neal</i>	
34	• Demand and demand futility in derivative actions ○ Do not read <i>Aronson v. Lewis</i> on pages 796-802 (this case will be covered by professor's lecture) ○ Read instead <i>United Food and Commercial Workers Union v. Zuckerberg</i> (provided on Canvass) ○ <i>Cede & Co. v. Technicolor, Inc.</i>	793-795 802-808
35	• Demand and demand futility in derivative actions ○ <i>In re eBay, Inc. Shareholder Litigation</i> ○ <i>Beam ex rel. Martha Stewart Living Omnimedia v. Stewart</i> ○ <i>Kahn v. M & F Worldwide Corp.</i>	808-822
36	CHAPTER 15: ISSUES IN MERGERS & ACQUISITIONS • M&A basics ○ <i>Bove v. Community Hotel Corp. v. Newport, R.I.</i> ○	823-837
37	• Entrenchment and defenses ○ <i>Unocal Corp. v. Mesa Petroleum Co.</i> • Revlon and its progeny ○ <i>Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.</i> ○ <i>Paramount Communications, Inc. v. Time Inc.</i>	837-858
38	• Revlon and its progeny ○ <i>Paramount Communications, Inc. v. QVC Network</i> ○ <i>Air Products and Chemicals, Inc. v. Airgas, Inc.</i>	858-873
39	OPEN CLASS	
	FINAL EXAM: _____	