

Corporations & Business Organizations

Professor Goodenough

Fall, 2017

Course Information and Topic Summary

August, 2017

Here is a summary of the core topic and coverage expectations. The text is Cunningham, *Corporations and Other Business Organizations, 9th Ed.* The statutory supplement is Eisenberg & Cox, *Corporations and other Business Organizations, Agreements, Statutes, Rules, etc. 2017 Edition.* To the extent we also cover matters referred to in class (e.g. the news items discussed) or other supplemental readings and handouts, please give that your attention as well. Evaluation will be based principally on the final exam.

Individual assignments will be made through the “day sheet” which will be handed out in connection with each class, with the goal of providing sufficient advance notice to be useful for those reading ahead.

The normal course times are Monday and Wednesday afternoons, 3:35 – 5:30. To cover a couple of instructor professional travel requirements, we will explore possible make-ups, guest teachers and video options.

The course has five principal topic groups:

- A. An introduction to what business organizations try to do and some of the economic principles that govern business finance. In the course of these discussions we will develop and commit to memory the topic/organization form matrix that will help organize the course going forward.
- B. Legal technology – its impact and how to use it. Technology is effecting what our clients do and how we practice, and the contemporary lawyer needs to be able to understand the resources and challenges of legal technology.
- C. An exploration of the law of Agency. This topic cuts across all of the other forms, and is the baseline for the law of employees and of independent contractors.
- D. A review of the laws governing Partnerships, LLCs and Closely Held Corporations, using the matrix as an organizing principle. These forms have a great deal in common, as they all are designed to structure interactions among a relatively small group of “owners” on the basis of personal exchange principles and use contractual agreements as their legal format.
- E. A review of the laws governing traditional Corporations, using the matrix as an organizing principle. This form is designed to structure interactions among a relatively large group of “owners” on the basis of impersonal exchange principles

and uses procedural and financial rights established in stock and by-laws as their legal format.

In more detail, the topics and assignments are:

A. Introduction to Business Organizations, Economics, and Choice of Forms

What is a Business For? by Charles Handy, London School of Business, originally published HARVARD BUSINESS REVIEW, December 2002, available through http://papers.ssrn.com/sol3/papers.cfm?abstract_id=932676

The Social Responsibility of Business is to Increase its Profits, by Milton Friedman, originally published THE NEW YORK TIMES MAGAZINE, September 13, 1970, available at <http://www.colorado.edu/studentgroups/libertarians/issues/friedman-soc-resp-business.html>

The Problem of Corporate Purpose by Lynn A. Stout, BROOKINGS GOVERNANCE STUDIES 2012, available at https://www.brookings.edu/wp-content/uploads/2016/06/Stout_Corporate-Issues.pdf

Textbook: Introduction, pp xxv-xxiv Text: 5-9; 51-52; 81; 116-130; 178-180

Developing the issue matrix/grid

B. Using Legal Technology

1. Traditional: Finding law and document forms/templates
2. Future of legal practice and competitors

View: <https://www.youtube.com/watch?v=peU756mYfjQ>;
<https://www.youtube.com/watch?v=URUf2faaVlg>

Read: http://www.huffingtonpost.com/oliver-r-goodenough/justice-holmes-meet-dr-tu_b_7233772.html; <https://bol.bna.com/author/chartman/>;
<https://www.ft.com/content/aa77a9ec-9ace-11e6-8f9b-70e3cabccfae>;
https://en.wikipedia.org/wiki/Legal_expert_system;
<http://legislature.vermont.gov/assets/Documents/2016/WorkGroups/Senate%20Economic%20Development/Digital%20Corporations/W~Oliver%20Goodenough~Chapter%2014%20Rules%20for%20Growth~3-18-2015.pdf> ;
<https://newsroom.accenture.com/industries/financial-services/growth-in-fintech-investment-fastest-in-european-market-according-to-accenture-study.htm>

Consult and explore: <https://www.legalzoom.com/business/business-formation/>;
<https://www.nvsilverflume.gov/digitaloa/home>;

<https://www.sec.state.vt.us/corporationsbusiness-services.aspx>; and find others

C. Agency

1. Agency: Text: 5-50; Restatement of Agency 3rd: 1.01-1.04, 2.01-2.07, 3.01-3.03, 6.01-6.04, 7.01-7.08, 8.01-8.15 (not the commentary unless specifically assigned); DBA Form <https://www.sec.state.vt.us/corporationsbusiness-services/business-nonprofit-services/start-a-vermont-business/trade-name-dba.aspx> and https://www.sec.state.vt.us/media/661490/tname-1_reg1.pdf ; Power of Attorney Forms <https://www.nysba.org/WorkArea/DownloadAsset.aspx?id=22346> & http://www.expertlaw.com/library/estate_planning/limited_power_of_attorney.html; Independent Contractor Agreement at https://www.chapman.edu/research/institutes-and-centers/leatherby-center/_files/resources/Independent-Contractor-Agmt-for-Company.doc

D. Partnerships, LLCs, Closely Held Corporations/Agreement Based/Personal Exchange

1. Formation, Liability, Magic: Text 53-66; 75-89; 131-138, 191-200, 222-226; 279-300; 396-408; 411-424. Statutes: UPA: 6-7, 9-15; RUPA 103, 201-202, 305-306, 1001-1003; RULPA: 201, 303-304; ULPA 2001: 201, 303, 404; RULLCA 104, 105, 108, 110, 201-202, 206, 304; Del. 101-103, 341-344, 350-351, 354; RMBCA 2.01-2.03, 4.01, 6.22, 7.32. Form of Partnership Agreement (Eisenberg), LLC Operating Agreement (Eisenberg), Shareholder's Agreement (Handout)

2. Contributions/Money In, Accounting and Allocation, Distributions/Money Out and Tax: Text: 66-67; 90-98. Statutes: UPA 18, 19; RUPA 401, 402; RULPA 501-504, 601; RULLCA 401-406. Agreements: Partnership Secs 2, 3 and 4; LLC Articles 8 & 9; Tax videos and links (TBA).

4. Management and Control: Text: 67-68; 138-146; 368-371. Statutes: UPA 18-19, RUPA 401, RULPA 302 & Comment, 403, ULPA 2001 406, RULLCA 301, 407. Agreements: Sections on Management

5. Loyalty & Care: Text: 68-75; 147-161; 371-393. Statutes: UPA 21; RUPA 103(b), 404, RULLCA 110, 408, 409. Agreements: Partnership 5.2; LLC Article 5.

6. Liquidity and Dissolution: Text 98-115; 161-177; 268-278. UPA 27-28, 29-43; RUPA 103(b), 501-504, 601-603, 701-705, 801-807; RULLCA 110, 501-504, 601-603, 701-704; RMBCA 6.27; Del. 342(b), 347. Agreements; Partnership Agreement, Articles 7-10; LLC Agreement, Articles 10-12; Shareholder Agreement H & I

E. Traditional Corporations/Status Based/Impersonal Exchange

1. Money in/Money Out and Tax: Text 227-255; 445-468; 955-973. Del. ss 102(a)(4); 151-154; 161; 173. RMBCA 2.02; 6.01-6.03; 6.21; 6.25; 6.40. Tax videos and links (TBA).

2. Formation and Management: Pages 279-300; 302-352, 354-368. Forms of Certificate, By-Laws, Organization Meeting (Eisenberg). Del. 108-109, 141-142, 211-216, 228. RMBCA: 7.01-7.02; 7.04-7.08; 7.28; 8.01-8.10; 8.20-8.25; 8.41; 10.20; Vermont Digital Corporation provision Title 11A § 8.20.

<http://legislature.vermont.gov/statutes/section/11A/008/00008.20>

3 Care: Text 470-530; RMBCA 8.30-8.31 & Comments; Del 141(e), 144

4. Loyalty: Text 533-573; RMBCA 8.30-8.31 & Comments; Del 141(e), 144, 145

FINAL EXAM