Business Associations

(Law 250 – 4 units)

Stavros Gadinis Spring 2012 (M, Tue, W 2:10-3:25, Room [105/110])

In virtually every area of legal practice, some knowledge about the laws governing business organizations (and particularly corporations) proves helpful. This 4-unit survey course provides much of that orientation, examining the laws governing the modern business organization (with an emphasis on corporations). We will cover a number of topics, including rules of agency law, partnership law, corporate formation, corporate identity, rights of creditors, fiduciary duties, corporate governance, executive compensation, mergers and acquisitions and securities fraud. At core, this is a survey course, so many of the topics we will discuss also have specialized courses offering a more detailed treatment. Consequently, our key goal will be to understand the structure of each topic, and how the topics interrelate and in particular how corporate law regulates relationships among multiple different constituencies of the firm, including owners, managers, creditors, employees, customers, and suppliers. Viewed in this light, the governance of a corporation implicates the same challenges and concerns that affect any multi-party economic relationship, ranging from problems of collective action, free riding, private information, distribution and opportunism. The laws governing business organizations constitute an important set of rules, institutions, and practices that regulate and address these concerns.

The casebook required for the class is William T. Allen, Reinier Kraakman and Guhan Subramanian, Commentaries and Cases on the Law of Business Organization (3rd edition, 2009). Slides from each class will be posted on the course bspace website after each session. In class, we will refer to various statutes and rulemakings. If you prefer to find these statutory materials in a single volume, the recommended collection is the Statutory Supplement of the course casebook. Other materials (books, newspaper articles, corporate documents, etc.) will be placed on reference or posted on bspace. Unless specifically assigned for class, these materials are strictly optional.

Prof. Gadinis' office hours are Wednesday, 3:30 pm - 5:30 pm. His office is in Simon 691.

There will be one three-hour in-class exam at the end of the course. Your grade will be based on your performance in this exam, but I may adjust it for quality of class participation.

Below you may find an overview of the course.

Class	Date	Date Topics			
1.	Mon	1/9	Introduction to the Law of Enterprise Organization	Pages 1 - 13	
		., •	Acting Through Others: The Law of Agency		
2.	Tue	1/10	Introduction	15 - 29	
	140	1,710	Agency Formation, Termination, and Principal's	10 20	
			Liability		
3.	Wend	1/11	Liability in Tort	30 - 40	
			The Governance of Agency (The Agent's Duties		
			The Problem of Joint Ownership: The Law of		
			Partnership		
4.	Tue	1/17	Introduction to Partnership	41 - 55	
			Partnership Formation		
5.	Wend	1/18	 Relations with Third Parties 	55 - 69	
			Termination		
6.	Mon	1/23	Termination	69 - 83	
			Limited Liability Modifications of the Partnership		
			The Corporate Form		
7.	Tue	1/24	Introduction	85 - 99	
			Creation of a Fictional Legal Entity		
	14/1	1/05	Limited Liability		
8.	Wend	1/25	Transferable Shares Controlized Management	99 - 113	
			Centralized Management		
	Man	1/30	Debt, Equity, and Economic Value Capital Structure	115 - 130	
9.	Mon	1/30	Capital StructureBasic Concepts of Valuation	115 - 130	
			 Valuing Assets 		
			The Protection of Creditors		
10.	Tue	1/31	Mandatory Disclosure	131 - 140	
10.	Tue	1/01	Capital Regulation	101 140	
11.	Wend	2/1	Standard-Based Duties	140 - 151	
12.	Mon	2/6	Piercing the Corporate Veil	151 - 168	
13.	Tue	2/7	Multinationals and Veil Piercing	Handout	
			Normal Governance: The Voting System		
14.	Wend	2/8	The Role and Limits of Shareholder Voting	169 - 181	
			Electing and Removing Directors		
			Shareholder Meetings and Alternatives		
			Proxy Voting and Its Costs		
15.	Mon	2/13	Class Voting	181 - 192	
			Shareholder Information Rights		
			Techniques for Separating Control from Cash		
	T	0/1.1	Flow	100 001	
16.	Tue	2/14	Vote Buying Controlling Minority Structures	192 - 204	
17	Mand	0/15	Controlling Minority Structures The Collective Action Broblem	204 220	
17.	Wend	2/15	 The Collective Action Problem The Federal Proxy Bules 	204 – 220	
18.	Tue	2/21	The Federal Proxy RulesThe Federal Proxy Rules	220-238	
10.	Tue	2121	THE FEUERAL FLOXY NULES	220-230	

			State Disclosure Law	
			Normal Governance: The Duty of Care	
19.	Wend	2/22	IntroductionThe Duty of Care and the Need to Mitigate	239 - 250
			Director Risk AversionStatutory Techniques for Limiting Director and	
			Officer Risk Exposure	
20.	Mon	2/27	The Business Judgment Rule	250 - 268
			 The Board's Duty to Monitor: Losses "Caused" by Board Passivity 	
21.	Tue	2/28	The Board's Duty to Monitor: Losses "Caused"	268 - 294
			by Board Passivity	
			"Knowing" Violations of the Law	
		0.100	Conflict Transactions: The Duty of Loyalty	
22.	Wend	2/29	Duty to whom?Self-Dealing Transactions	295 - 314
23.	Mon	3/5	The Effect of Approval by a Disinterested Party	314 - 330
24.	Tue	3/6	Director and Management Compensation	330 - 350
			Corporate Opportunity Doctrine	
25.	Wend	3/7	D&O Duties in WaMu	Handout
			Shareholder Suits	
26.	Mon	3/12	Distinguishing between Direct and Derivative Claims	363 - 388
			 Solving a Collective Action Problem: Attorneys' 	
			Fees and the Incentive to Sue	
			 Standing Requirements 	
			Balancing Rights of Boards and Shareholders	
27.	Tue	3/13	Special Litigation Committees	389 - 407
28.	Wend	3/14	Settlement and Indemnification	407 – 412
			When Are Derivative Suits in Shareholders'	
			Interests?	
		0/10	Transactions in Control	440 400
29.	Mon	3/19	Seller of Control Blocks: The Seller's Duties	413 - 428
			Sale of Corporate OfficeLooting	
30	Tue	3/20	 Mergers & Acquisitions Tender Offers: The Buyer's Duties 	428 - 441
<u> </u>	Wend	3/20	Economic Motives for Mergers	443 - 462
51.	wend	0/21	 Evolution of the U.S. Corporate Law of Mergers 	440 - 402
			The Allocation of Power in Fundamental	
			Transactions	
			Overview of Transactional Form	
32.	Mon	4/2	Structuring the M&A Transaction	462 – 471
			The Appraisal Remedy	474 – 483
33.	Tue	4/3	The De Facto Merger Doctrine	483 - 497
			The Duty of Loyalty in Controlled Mergers	
34.	Wend	4/4	The Duty of Loyalty in Controlled Mergers	497 - 511

Public Contests for Corporate Control								
35.	Mon	4/9	•	Introduction	511 - 522			
			•	Defending Against Hostile Tender Offers				
36.	Tue	4/10	•	Private Law Innovation: The Poison Pill	522 - 540			
37.	Wend	4/11	•	Choosing a Merger or Buyout Partner: Revlon,	540 - 554			
				Its Sequels, and Its Prequels				
38.	Mon	4/16	•	Pulling Together Unocal and Revlon	554 - 575			
39.	Tue	4/17	•	Protecting the Deal	575 - 588			
40.	Wend	4/18	•	State Anti-Takeover Statutes	588 - 597			
41.	Mon	4/23	•	Proxy Contests for Corporate Control	597 - 613			
			•	The Takeover Arms Race Continues				
42.	Tue	4/24	•	Exam Review Session	Handout			
43.	Wend	4/25	٠	Exam Review Session	Handout			