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Essential Principles of Accounting and Finance in Business Litigation Syllabus

Fall Semester 2014

Mondays 6:25 – 8:15 p.m. Room 132

George H. Brown

Introductory Note.

Accounting and finance rules and concepts often influence significantly the outcome of business disputes. Courts and lawyers grapple with these concepts to varying degrees of success. The case law suggests that some judges frequently display a deep understanding of the underlying principles, while others could have benefited from more background on the topics of accounting and finance. A great deal rides on an appropriate understanding of accounting and finance in business disputes. Clients stand to win or lose cases based on interpretations of accounting and finance principles, often with the future of the underlying business dependent upon the outcome.

The goal of this course is to introduce students to the most important accounting and finance concepts that impact the outcomes of business disputes. We will study cases that apply a particular accounting rule or concept and review primary source materials where appropriate. We may have occasional guest lecturers who have expertise on particular subjects. We will also review actual company SEC filings and financial disclosures, to see how the accounting and finance principles are actually disclosed and explained. Students who take this course will develop greater comfort with reading and understanding financial statements and SEC filings, and a greater understanding of some of the key concepts in accounting and finance.

The course will review the sources and authoritative weight of Generally Accepted Accounting Principles, including the role of the SEC, FASB, PCAOB, and the accounting profession in setting rules and standards. We will also cover key concepts such as revenue recognition, depreciation and amortization, loss contingencies, and asset and goodwill impairment. We will review and discuss basic valuation principles, and see how they are applied in litigation settings.

Assignments will be posted each week on bcourse along with any required reading. My plan, subject to change based on unforeseen events, is to post the

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assigned reading and any advance notes each week on bcourse for the upcoming class. After each week's class I will also post on bcourse the notes, slides, and materials I display in class.

Grading in the course will be based on a final exam. The exam is a "take home" exam that can be completed within any four-hour window within the final examination period. The class is open to all students; however, prior coursework in business organizations or basic accounting and finance would be helpful.

There is no textbook for this course because this course is customized to cover selected topics of interest to business lawyers and does not track well with traditional accounting or finance classes. However, for those students who would like further background, I will provide a list of accounting and finance resources and put them on reserve at the Law Library. These materials are completely optional and will not be necessary for the final exam.

I typically will use a PowerPoint slide deck for each class. The slides will contain some excerpts from the assigned reading as well as questions and hypothetical examples that we will work through in class. The answers to the hypotheticals will often not be provided in the slide deck, in order to encourage students to work through the problems as illustrated during class. I will plan to post the final slide deck to bcourse after each class, and to facilitate your note taking during class, I will try to post the preliminary slide deck by early afternoon on each class day.

Week 1. Introduction - Fundamental Accounting Concepts

Reading:

- a. Week one advance notes;
- b. Tesla Motors Inc. Form 10-Q for quarter ending June 30, 2014, pp. 4-7;
- c. Hewlett-Packard Company – 2013 Financial Statement Excerpts, pp. 76-85;
- d. Merrill Lynch Guide to Understanding Financial Statements pp. 2-15, 22-26.

Week 2. Assets, Expenses and the Matching Principle

Reading:

- a. Week two advance notes;
- b. Tesla Motors Inc. Form 10-Q for quarter ending June 30, 2014, pp. 12, 30;
- c. Hewlett-Packard Company – 2013 Financial Statement Excerpts, pp. 90-91, 103;
- d. Accounting Standards Codification excerpts re Long Lived Assets and Inventory;
- e. *Microsoft* class action complaint re Surface Tablet write downs.

Week 3. Intangible Assets

- a. Week three advance notes;
- b. Accounting Standards Codification excerpts re intangible assets;
- c. Tesla Motors Inc Form 10-Q for quarter ending June 30, 2014, p. 31;
- d. Hewlett-Packard Company – 2013 Financial Statement Excerpts, pp. 92, 108-109;
- e. Handout re intangible assets.

Week 4. Goodwill and Goodwill Impairment

Reading:

- a. Week four advance notes;

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- b. Hewlett Packard Form 8-K filed August 8, 2012;
- c. Hewlett-Packard Company – 2013 Financial Statement Excerpts, pp. 105-107;
- d. ASC excerpts re goodwill and goodwill impairment;
- e. Accounting Standards Update 2014-02 – excerpt;
- f. *Dearborn Hgths. Pol. And Fire Ret. Sys. v. Align Tech., Inc.*, 2013 WL 6441843 (N.D. Cal. Dec. 2013);
- g. *Dudley v. Haub*, 2013 WL 1845519 (D. NJ Apr. 2013);
- h. *Fait v. Regions Financial Corp.*, 2011 U.S. App. LEXIS 17517 (2d. Cir. 2011).

Week 5. Liabilities and Equity

Reading:

- a. Week five advance notes;
- b. Accounting Standards Codification excerpts re debt and equity;
- c. Tesla Motors Inc Form 10-Q for quarter ending June 30, 2014, pp. 10-13, 15-16;
- d. Hewlett-Packard Company – 2013 Financial Statement Excerpts, pp. 101, 104, 126-129, 134-136;
- e. *Case excerpt: TBD.*

Week 6. Maybe, probably, possibly, unlikely: Accounting for Contingencies

Reading:

- a. Week six advance notes;
- b. Tesla Motors Inc. Form 10-Q for quarter ending June 30, 2014, pp. 21-22;
- c. Hewlett-Packard Company – 2013 Financial Statement Excerpts, pp. 147-157;
- d. Accounting Standards Codification excerpts re contingencies;
- e. BP SEC Form 20-F for year ending December 31, 2010, pp. 34-37;
- f. *Monroe Emp. Ret. Sys. v. Bridgestone Corp.*, 399 F.3d 651 (6th. Cir. 2005);

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- g. Handout re loss contingencies.

Week 7. I Know It When I See It: Revenue Recognition

Reading:

- a. Week seven advance notes;
- b. IMAX Corp. excerpts from SEC filings disclosures re revenue recognition;
- c. *In re IMAX Sec. Litig.*, 587 F.Supp.2d 471 (S.D.NY 2008);
- d. Tesla Motors Inc Form 10-Q for quarter ending June 30, 2014, pp. 8-9, 28-30;
- e. Hewlett-Packard Company – 2013 Financial Statement Excerpts, pp. 85-88;
- f. Accounting Standards Codification excerpts re revenue recognition;
- g. Accounting Standards Update 2014-09 - excerpts.

Week 8. An Introduction to Basic Valuation Concepts

Reading:

- a. Week eight advance notes;
- b. Financial Statement excerpts: TBD;
- c. Handout re basic valuation concepts.

Week 9. Long Live the King!: Discounted Cash Flow

Reading:

- a. Week nine advance notes;
- b. DCF model for apartment building;
- c. Handout re discounted cash flow method;
- d. *Gearreald v. Just Care, Inc.*, 2012 WL 1569818 (Del. Ch. 2012).

Week 10. Valuation of Companies – Part I

Reading:

- a. Week ten advance notes ;
- b. Financial Statement excerpts: TBD;
- c. Handout re company valuation concepts;

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- d. Handout re Efficient Capital Markets Hypothesis;
- e. *Global GT LP et al v. Golden Telecom, Inc.*, 993 A.2d 497 (Del. Ch. 2010)

Week 11. Valuation of Companies – Part II

Reading:

- a. Week eleven advance notes;
- b. Financial Statement excerpts: TBD;
- c. Excel model - Tesla Motors, Inc. valuation.

Week 12. ECMH in the Supreme Court

Reading:

- a. Week twelve advance notes
- b. *Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U.S. ____, slip. op. June 23, 2014 (*Halliburton II*);
- c. Law Professors' Amicus Brief in *Halliburton II*.
- d. *Empl. Ret. Sys. of Virgin Islands v. Regions Financial Corp.*, slip op., Case No. 12-14168, (11th Cir., Aug. 6, 2014)

Week 13. Measuring Investor Losses in Securities Class Actions – Part I

Reading:

- a. Week 13 advance notes;
- b. Excerpts of expert materials;
- c. Handout re Efficient Capital Markets Hypothesis pp. __ - __;
- d. Case excerpt: *Green vs. Occidental Petroleum Corp.*, 541 F.2d 1335 (9th Cir. 1976) (Sneed J., concurring);
- e. Case excerpt: *In re LTV Sec. Litig.* 88 F.R.D. 134 (N.D. Tex. 1980);
- f. Case excerpt: *Dura Pharmaceuticals, Inc. vs. Broudo*, 544 U.S. 336 (2005);

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- g. Article: Bradford Cornell, and R. Gregory Morgan, *Using Finance Theory to Measure Damages in Fraud on the Market Cases*, 37 UCLA L. Rev. 883 (1990).

**Week 14. Measuring Investor Losses in Securities Class Actions –
Part II**

Reading:

- a. Week fourteen advance notes.
- b. Excerpts of expert materials
- c. *In re Omnicom Group, Inc. Sec. Litig.*, 541 F. Supp. 2d 546 (S.D.N.Y. 2008);
- d. *Findwhat Investor Group v. Findwhat.com*, 658 F.3d 1282 (11th Cir. 2011).