

BUSINESS ASSOCIATIONS

Fall 2022

4 credits

(172-001): Tuesdays & Thursdays, 1:50 PM – 3:50 PM

Professor Paolo Saguato

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Office Hours: in person on Wednesdays or on zoom on Mondays and Fridays

Please book your appointment [here](#)

Class format

This course meets in person. However, if needed, we might have to convene some classes remotely on Zoom during the semester. You can find the zoom link on the Blackboard page of the course.

Course Overview

Welcome to Business Associations! This course introduces basic principles of business law and builds the foundations for advanced business law courses such as Securities Law & Regulation; Banking Law; Regulation of Financial Institutions; International Finance & Regulation; Corporate Acquisitions, etc. In this course we look at how economic activities can be organized, how the internal and external dynamics of the different firm's stakeholders affect the firm's organization, and we study the main forms of business entities. The course is divided in four sections.

1. In the first classes we focus on **Agency Law**. The relationship between principal and agent is the building block of any business entity.
2. The second section of the course discusses **Partnerships**. We will examine the organizational elements of a partnership, how losses and profits are shared among partners, what fiduciary duties partners owe to the partnership and to each other, and what happen when a partner wants to exit the partnership.
3. The third section is the core of the course and focuses on **Corporations**. We will unpack the corporate legal and economics attributes; we will look at the corporate structure and how entrepreneurs can use the corporate form to organize their business; we will analyze the different legal mechanisms that can be adopted to mitigate the costs of organizing a business in a corporate form (i.e. agency costs); we will study the relationship between

the firm, its shareholders, its directors, and its officers; and we will explore the mechanisms for corporate acquisitions, and specifically mergers and takeovers.

4. In the last two classes, the fourth section of the course will introduce **Limited Partnerships, Limited Liability Partnerships, and Limited Liability Companies**, important business entities.

Learning Outcomes

By the end of the course, you are expected to be able to:

1. define and use the business law lexicon;
2. demonstrate knowledge and understanding of the fundamental legal principles and rules of business law;
3. question the economics of business associations;
4. appreciate and think critically about the different benefits and costs associated with different forms of business associations;
5. navigate, identify, read, and analyze business law cases and statutes;
6. demonstrate the ability to identify and understand legal issues in business law fact patterns and apply the appropriate rules and standards to solve them;
7. provide organized and objective analysis or persuasive reasoning on business law issues;
8. outline and critically assess the main policy issues surrounding the organization of business firms and their effect on the economy and society.

Mandatory Pre-course Assignment

Please fill out the “Bio Sheet” by *Friday, August 19th*. **The earlier the better!** The form is a way for me to learn a bit more about you before we meet in person.

Here is the link: <https://forms.gle/PQ7FQotvdcZHPW3M9>.

You’ll also find the link in the Blackboard page of the course under the tab “Bio Sheet”

Required Reading Materials

- **Casebook:** The required text for this course is Hwang & Saguato, *Business Associations: A Modern Approach* (forthcoming with Foundation Press). The book is scheduled to be printed in 2023, and the publisher allowed me to share with you PDF copies on Blackboard. Please do not share these PDF copies. The book is free, the only thing I’m asking you in return is to **actively** use this link - <https://forms.gle/gqaGrNjfsWeQwFH6> - to flag me any typos or mistakes you might find in the documents, or if you want to share with me your comments or feedback on the book.

- The syllabus indicates a few provisions for you to review in the Restatement (Third) of the Law, the 1997 Uniform Partnership Act, the Delaware General Corporation Law, and other sources of the law.
 - Many provisions are already in the book.
 - In addition, I created a “Statutory Supplement” with some relevant provisions indicated in the syllabus – it is available on Blackboard under the tab “Course Packets.”
 - Also, all relevant statutes and rules can be easily accessed on Lexis, Westlaw, or in statutes books in the Law Library; the syllabus indicates the relevant statutes and rules that we will cover in class. With regard to the Delaware General Corporation Law (<https://delcode.delaware.gov/title8/c001/>) Prof. Lynn M. LoPucky published a reader-friendly version of the DGCL, LYNN M. LOPUCKY, THE READABLE DELAWARE GENERAL CORPORATION LAW, which I personally find quite helpful and it can be accessed for free and downloaded here: <https://ssrn.com/abstract=3891109>).
- **Other readings:** I might assign additional readings to supplement the casebook. Those materials will be posted to Blackboard, and I will announce in class when they are posted.

Optional Materials on Course Reserve

The following optional materials are available on course reserve in the library, you do not need to read them, but you might find them useful, and, most importantly, almost all of them are free. I hope you are aware that many *Study Aids are available for free here:* <https://subscription-westacademic-com.mutex.gmu.edu/>

Here the list of suggested optional readings.

- *Agency, Partnerships, & LLCs*, Stephen M. Bainbridge
- *Corporate Law*, Stephen M. Bainbridge
- *Business Organization and Finance*, William A. Klein & John C. Coffee, Jr.
- *Examples and Explanations: Agency, Partnership, and LLCs*, Daniel S. Kleinberger
- *Examples and Explanations: Corporations*, Alan Palmiter

Also, if you are interested in the area and you want some suggestions on interesting readings to dive more into the wonders of Business Associations, just email me, I’d be more than happy to share some of my favorites.

Recommended readings

I encourage you to read the business sections of the [New York Times](#), the [Wall Street Journal](#) or the [Financial Times](#) regularly (you can access them for free with your GMU credentials – check

this link: <https://libguides.law.gmu.edu/newspapers/newspapers>). Two good sources of business news are the daily newsletters of the [NYT DealBook](#) and the [Bloomberg View Money Stuff](#) by Matt Levine. Keeping up-to-date with business news can help you with job interviews, but, most importantly, shows you how the concepts, principles, and rules we study in class operate in the real world.

Course Requirements & Attendance

You are expected to attend classes, be prepared, and actively participate in class discussion. I will call on several students randomly during each class. If for any reasons, you know you will not be able to be prepared, please email me at least one hour before class at psaguato@gmu.edu. Your email should simply have in the subject line "Business Association Pass" and the date of the class.

[Academic regulation](#) requires you to attend at least 80% of classes in order to be eligible for credit in the course, put it differently you cannot miss more than 5 class sessions. **I will take attendance during each class.**

Please do **not** attend class if you have any cold or flu-like symptoms. Given current circumstances, we want to keep our community as healthy as possible and limit the spread of any illnesses. For those who experience any symptoms of illness during the semester, you will be able to watch the class live going on Blackboard and clicking on "LIVE Video Class", then "Class Capture", and then clicking on the class of the day.

In the event I have to cancel a class I will either record the class on Blackboard or we might have a make-up class.

Grading policy and Assessment

The final grade for the course will be based on the final exam. The final exam will take place on **Tuesday, Dec 6th at 12:00 PM.** More detailed about the structure of the exam will be shared during the course of the semester. The final exam will account for 100% of your grade, subject to a discretionary class participation adjustment. Your final grade may be increased as a result of exceptional class participation, or decreased as a result of repetitive absences, abnormal use of "passes," poor participation or for failure to be prepared. I strongly encourage you to use the Discussion Board on Blackboard to share reactions, questions, and comments on the cases and issues we discuss in class. Click on the tab "Discussion Board" and then on the relevant "Forum." Participation on the Discussion Board can be taken into account for the "participation bump;" but if you decide not to engage on that platform, that will not be evaluated negatively.

Office hours

During the semester, I will hold office hours both in person and virtual on Zoom. You can book your appointment [here](#). I'm always happy to discuss the class, law school more generally, legal practice, career opportunities, etc. I'd love to get to know you!

Feedback

If you have feedback or comments about the course, please do share them with me. Feel free to email me, or if you prefer to send anonymous comments, you can use this [link](#). This is routed via Google and I have no way of identifying your identity. Naturally, I will not be able to respond directly.

Students' resources

All students must comply with the Law School's [Honor Code](#) and [Academic Regulations](#). This is the challenging time for everyone, if there is anything I can do, please free to reach out to me. University Life (<https://ularlington.gmu.edu/>) provides support for students:

- Counseling and Psychological Services: <https://caps.gmu.edu/>
- Disability Services: <https://ds.gmu.edu/>
- Patriot Pantry: <https://ssac.gmu.edu/patriot-pantry/>
- Student Health Services: <https://shs.gmu.edu/>
- Student Support and Advocacy Center: <https://ssac.gmu.edu/>

Assignments

Notes: The following table sets the topics and reading assignments for the first 3 classes. *Remember*, if we do not finish the material for a particular day, we will finish it in the next class, although you will still be expected to complete the assigned readings. ***The assignment may change during the semester (I might add or remove some material).***

Abbreviations: AG, Agency packet; PART, Partnership packet; CORP, Corporations packet; and LLCs packet. RL: Restatement (third) the Law Third, Agency; RUPA: Uniform Partnership Act (1999); DGLC: Delaware General Corporation Law; SEA: Securities Exchange Act of 1934; ULLC: Uniform Limited Liability Company Act.

Date	Required readings	Relevant Provisions
AGENCY		
Class 1 Tues. Aug. 23	<ul style="list-style-type: none"> - Defining and Forming an Agency Relationship (AG pp. 1-10) <ul style="list-style-type: none"> o <i>Marya v. Slakey</i> o <i>A. Gay Jenson Farms v. Cargill, Inc.</i> - Fiduciary Duties (AG pp. 11-20) <ul style="list-style-type: none"> o <i>Prince, Yeates & Geldzahler v. Young</i> o <i>Pure Power Boot Camp, Inc. v. Warrior Fitness Boot Camp, LLC</i> 	RL 1.01, 1.02, 1.03, 3.02, 3.04, 3.05 RL 8.01, 8.02, 8.03, 8.04, 8.05, 8.08, 8.09, 8.10, 8.11, 8.15
Class 2 Thurs. Aug. 25	<ul style="list-style-type: none"> - Fiduciary Duties (cont'd) (AG pp. 20-25) <ul style="list-style-type: none"> o <i>Advantage Marketing Group v. Keane</i> - Principal's Liability in Contract (actual authority, apparent authority, inherent authority) (AG pp. 27-39) <ul style="list-style-type: none"> o <i>Castillo v. Case Farms of Ohio, Inc.</i> o <i>Tanner Co., Inc. v. WIOO, Inc.</i> o <i>Watteau v. Fenwick</i> 	RL 2.01, 2.02, 3.01 RL 2.03, 3.03 RL 2.06
Class 3 Tues. Aug. 30	<ul style="list-style-type: none"> - Principal's Liability in Contract (cont'd) (ratification, agency by estoppel) (AG pp. 39-45) <ul style="list-style-type: none"> o <i>Keams v. Tempe Technical Institute, Inc.</i> o <i>Hoddeson v. Koos Bros.</i> - Agent's Liability in Contract (AG pp. 46-47) - Termination of the Agency Relationship (AG pp. 48-50) <ul style="list-style-type: none"> o <i>Lichnovsky v. Ziebart International Corp.</i> - Principal's Liability in Torts (employer-employee relationship) (AG pp. 51-55) <ul style="list-style-type: none"> o <i>Narayanasamy v. Issa</i> 	RL 4.01-4.07 RL 2.05 RL 1.04, 6.01, 6.02, 6.03, 6.04, 6.10 RL 3.06, 3.09, 3.10, 3.11 RL 2.04, 7.01, 7.02, 7.03, 7.04, 7.08

<p>Class 4 Thurs. Sept. 1</p>	<ul style="list-style-type: none"> - Principal's Liability in Torts (cont'd) (scope of employment, franchise torts, inherently dangerous activities) (AG pp. 55-70) <ul style="list-style-type: none"> o <i>Ira s. Bushey v. United States</i> o <i>Clover v. Snowbird</i> o <i>Bartholomew v. Burger King Corp.</i> o <i>Hatch v. V.P. Fair Foundation, Inc.</i> - Review problems (AG pp. 71-72) 	<p>RL 7.07</p>
<p>Class 5 Tues. Sept. 6</p>	<ul style="list-style-type: none"> - Partnership (definition, property, formation) (PART pp.1-26). <ul style="list-style-type: none"> o <i>In re Marriage of Hassiepen</i> o <i>Southex Exhibitions, Inc. v. Rhode Island Builders Association Partnership</i> (formation) (PART pp. 10-20) o <i>Brodsky v. Stadlen</i> o <i>Martin v. Peyton</i> o <i>Young v. Jones</i> o <i>Batman v. Commissioner of Internal Revenue</i> 	<p>RUPA 101, 201, 202, 203, 204, 105, 308</p>
<p>Class 6 Thurs. Sept. 8</p>	<ul style="list-style-type: none"> - Fiduciary obligations of partners (PART pp. 29-48) <ul style="list-style-type: none"> o <i>Meinhard v. Salmon</i> o <i>Meehan v. Shaughnessy</i> o <i>Bohatch v. Butler & Binion</i> o - Problem (PART pp. 26-28) - Partner's Rights (PART pp. 49-51) 	<p>RUPA 409</p> <p>RUPA 301, 305, 401, 501, 502, 503</p>
<p>Class 7 Tues. Sept. 13</p>	<ul style="list-style-type: none"> - Partnership management (PART pp. 49, 51-57) <ul style="list-style-type: none"> o <i>National Biscuit Co. v. Stroud</i> o <i>Summers v. Dooley</i> o <i>RNR Investments Ltd. Partnership v. Peoples First Community Bank</i> 	<p>RUPA 301</p>

	<ul style="list-style-type: none"> - Distributing Profits and Losses (PART pp. 56-59) <ul style="list-style-type: none"> o <i>Kessler v. Antinora</i> - Partnership dissociation (PART pp. 60-68) <ul style="list-style-type: none"> o <i>Giles v. Giles Land Company</i> 	<p>RUPA 306, 307</p> <p>RUPA 601, 602, 603,</p>
<p>Class 8 Thurs. Sept. 15</p>	<ul style="list-style-type: none"> - Partnership dissociation (PART pp. 69-71) - Partnership dissolution (PART pp. 71-94) <ul style="list-style-type: none"> o <i>Owen v. Cohen</i> o <i>Pav-Saver Corporation v. Vasso Corporation</i> o <i>Collins v. Lewis</i> o <i>G&S Investments v. Belman</i> 	<p>RUPA 701, 702, 703, 704</p> <p>RUPA 801, 802, 804, 805, 806,</p>
<p>Class 9 Tues. Sept. 20</p>	<ul style="list-style-type: none"> - What is a Corporation (legal personality, birth and death) - Formation - Pre-Organization Transactions - Limited liability and Piercing the Corporate Veil 	
<p>Class 10 Thurs. Sept. 22</p>	<ul style="list-style-type: none"> - Financing the Corporation (sources of finance, dividends) - Corporate purpose - Shareholder franchise 	
<p>Class 11 Tues. Sept. 27</p>	<ul style="list-style-type: none"> - Shareholders Meetings and Voting - Shareholders Proposals 	

Class 12 Thurs. Sept. 29	<ul style="list-style-type: none"> - Shareholders Inspection Rights - Derivative Litigation (Direct or Derivative Suits; Demand Futility ; Demand Refusal) - Derivative Litigation (Demand Futility) 	
Class 13 Tues. Oct. 4	<ul style="list-style-type: none"> - Directors: Meeting, Committee, Independence - Derivative Lawsuits: Special Litigation Committees 	
Class 14 Thurs. Oct. 6	<ul style="list-style-type: none"> - Duty of Care; Indemnification 	
No class on Tues. Oct 11.	October 11, 2022 - Observe a Monday Schedule - No class	
Class 15 Thurs. Oct. 13	<ul style="list-style-type: none"> - Duty of Loyalty; Interested transactions - Self-dealing; Safe harbors - Duty of Loyalty: Corporate Opportunity 	
Class 16 Tues. Oct. 18	<ul style="list-style-type: none"> - Obligation of Good Faith 	
Class 17 Thurs. Oct. 20	<ul style="list-style-type: none"> - Oversight Liability 	
Class 18 Tues. Oct 25	<ul style="list-style-type: none"> - Duty of Loyalty of Dominant Shareholders 	
Class 19 Thurs. Oct. 27	<ul style="list-style-type: none"> - Mergers, Assets sales, and Freeze-out Mergers (Mergers with Controlling Shareholders) 	
Class 20 Tues. Nov. 1	<ul style="list-style-type: none"> - Takeover Defenses & Fiduciary Duties 	
Class 21 Thurs. Nov. 3	<ul style="list-style-type: none"> - Takeover Defenses & Fiduciary Duties 	
Class 22 Tues. Nov. 8	<ul style="list-style-type: none"> - Closely Held corporations 	

Class 23 Thurs. Nov. 10 1:30-4:00 PM	- LP, LLP, LLC	
Class 24 Tues. Nov. 15 1:30-4:00 PM	- Open Issues in Business Law (catch up with recent Delaware cases, brief intro to Securities Regulation, SPAC - ESG, etc)	
Class 25 Thurs. Nov. 17	Review Session 12:30-4:00PM	
Class 26 Tues. Nov. 22	No Class	
No classes on Nov. 24.	Thanksgiving Break (Nov. 23 - 25)	
Tues. Dec. 6 12:00 PM	EXAM 12:00 PM	