



# **NATIONAL PARALEGAL COLLEGE**

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## **Business Law & Bankruptcy**

### **PLG-105-1605**

#### **Syllabus and Course Guide**

The NPC Business Law & Bankruptcy course meets 15 times over the course of the 9-week term in the NPC interactive classroom. Each session consists of 45 to 60 minutes of online lecture by the course instructor. After the lecture, students may ask questions and make comments on the material being studied.

This class will meet on Mondays and Wednesdays, beginning on Monday, May 9, 2016. There will be TWO alternative lecture times for this course:

3:00 PM, Eastern Time – taught by Stephen Haas

8:00 PM, Eastern Time – taught by Eric Martinez

You may come to either of these classes based on your own schedule and convenience. Attendance at either class (and passing the in-class quiz) will satisfy the weekly interaction requirement. You may switch back and forth between lecturers. Both classes will be recorded. There is no need to attend or listen to more than one section on a given day, as they will cover the same material.

All class sessions are recorded and may be viewed by students at any time.

To successfully complete the course, each student must satisfactorily complete:

- 5 written assignments
- 3 examinations

Unless an extension has been taken pursuant to the NPC Extensions Policy (see the end of this syllabus), all assignments and exams must be submitted by the course deadline which appears later in this syllabus. No extensions may be taken or granted unless the student has submitted one or more assignments or exams in advance of the original deadline. In addition, extensions are subject to grade penalties and are limited to no more than 30 days from the date of the original deadline.

Please note that students are strongly encouraged to do their work as the course progresses rather than waiting for the days or weeks before the deadline to do all of their work. It is also critically important that students realize that:

1. A grade of “Incomplete” is the same as an “F” and is a failing grade.
2. A grade of “Incomplete” will result in a reduction in the student’s grade point average.
3. Student may have to pay to re-take or replace a course for which a grade of Incomplete is assigned.
4. Two consecutive Incompletes may subject the student to dismissal from the college under NPC’s chronic incomplete policy.
5. Students with a GPA of under 2.0 are not eligible to receive federal financial aid and cannot graduate until their GPA is at or above 2.0.

If a student is having trouble completing the course, the student is strongly encouraged to contact his or her student mentor or teacher as early as possible.

Please note also that:

- A student who receives an incomplete on his or her first course may be dismissed from NPC.
- A student who fails to complete at least one weekly interaction during the first 14 days of the course will automatically be withdrawn from the course per NPC policy. The student may re-join the class by prompt notification to NPC and by prompt completion of an interaction shortly thereafter.

## INSTRUCTORS

The instructors for this course are:

- Lecturers:
  - o Stephen Haas ([shaas@nationalparalegal.edu](mailto:shaas@nationalparalegal.edu))
  - o Eric Martinez ([ericm@nationalparalegal.edu](mailto:ericm@nationalparalegal.edu))
- Grader:
  - o Eric Martinez ([ericm@nationalparalegal.edu](mailto:ericm@nationalparalegal.edu)) – **exams**
  - o Haskell Rosenfeld ([haskell@nationalparalegal.edu](mailto:haskell@nationalparalegal.edu)) – **assignments and interactions**

## **COURSE DESCRIPTION:**

This course is designed to provide our students with a basic understanding of the principles of the most significant laws pertaining to business organizations.

The Business Organization Law component of the course will deal with the individual characteristics of various business organizations, including publicly held and closely held corporations, general partnerships, sole proprietorships, limited liability partnerships and limited liability companies. These various forms of business will be compared and contrasted to determine the advantages and disadvantages of creating and maintaining each form.

Students will become familiar with the laws governing the creation and operation of these various business entities, their dissolutions and liquidations, and their relationships to various categories of creditors and shareholders.

The Bankruptcy component of the course will acquaint our students with an understanding of the three most common forms of bankruptcy under Chapters 7, 11 and 13 of the United States Bankruptcy Code. Although bankruptcy law is primarily relevant to businesses, we will explore the entire spectrum of bankruptcy law, including individual bankruptcies under Chapters 7 and 13, in addition to an overview of the complexities of business bankruptcies under Chapters 7 and 11 of the Bankruptcy Code.

Certain practical matters to be covered will include the filing of bankruptcy petitions, motion practice in bankruptcy, the role and powers of the bankruptcy trustee, dischargeability of debts, reorganization of businesses, and the analysis and preparations of Statements and Schedules.

## **COURSE OBJECTIVES:**

At the completion of this course, the student should be able to:

- Describe the various documents that must be filed with government agencies in order to create various types of businesses.
- Explain the characteristics of various business formations, especially as they relate to tax and liability issues.
- Describe the formation of a corporation, including the certificate of incorporation and corporate bylaws.
- Determine which form of business is most appropriate in a particular situation.
- Describe the various remedies available to shareholders in claims of mismanagement against key personnel of the corporation.
- Describe the basics of mergers, acquisitions and hostile takeovers.
- Describe the procedures through which mergers and hostile takeovers are accomplished and apply some of the laws surrounding those events to hypothetical situations.
- Describe the functioning of the major stock exchanges, such as, the NY Stock Exchange and NASDAQ.
- Explain the various types of bankruptcy protection available under federal law.
- Identify the most appropriate type of bankruptcy protection to seek, given an individual's financial situation.
- Differentiate between the different types of bankruptcy filings, including liquidation bankruptcy under Chapter 7 of the Bankruptcy Code and reorganization under Chapters 11 and 13.
- Describe the bankruptcy process, including the various timetables involved.
- Describe and apply the rule of priority of creditors, and determine which debts will most likely have priority over others.

## **READING ASSIGNMENTS:**

All reading assignments refer to the NPC courseware, including the interactions attached to each subchapter. Cases and/or statutes that are specifically mentioned in the syllabus are required reading. The texts of these cases and/or statutes may be accessed directly from the courseware. In addition to the assigned courseware and cases, students should familiarize themselves with the various legal documents listed for each lecture. These documents can be found on the "Documents and Slides" page on the NPC student website. Some, but not all, of these documents will be discussed in class. Reading assignments for each class should be completed prior to the class where possible.

**Although all courseware is available online, you may order a physical copy of the courseware and all lecture slides here:**

**<http://www.freewebstore.org/npc-courseware-books/>**

**This is not mandatory, but may be useful for people who like to read from hard copies as it will save you the time and ink/paper necessary to print out the courseware and slides.**

### **School Virtual Library**

All NPC students are encouraged to take advantage of the NPC virtual library, which can be accessed from the “course materials” page on the student menu or directly through this link: <http://nationalparalegal.edu/Students/VirtualLibrary.aspx>.

The NPC virtual library gives students access to Lexis Advance, which is one of the premier online legal databases in the world. It is expected that most legal research can and should be done through Lexis Advance. Online tutorials in the use of Lexis Advance is available on the lower right portion of the default login screen for Lexis Advance.

NPC also subscribes to the Library Information Resources Network (LIRN), which allows our students access to scores of databases containing hundreds of thousands of academic articles and publications. For research that is not legal in nature (for example, for business and general education courses), it is anticipated that students will use LIRN to access reliable academic sources for research papers. Online training in the use of LIRN resources is available here: <http://www.lirn.net/training/>.

NPC students also have access to Computer Assisted Legal Instruction (CALI) lessons. Unless assigned in the course syllabus, these are optional, but can be very helpful.

## **WRITTEN ASSIGNMENTS:**

At the outset of the course, five assignments will be posted on the “assignments and exams” page. The 5 assignments will cumulatively count for 40% of the student’s grade for the course.

Please compose your answers to assignments on your own computer, remembering to save your work frequently. Once your assignment is complete, please submit by uploading it pursuant to the directions on the “Assignments and Exams” page within the NPC student site. Assignments may be submitted as PDF files, Microsoft Word documents, Open Office documents or PowerPoint presentations.

Each submitted assignment will be graded on the following scale:

4 - Excellent

3 - Good

2 – Satisfactory

1 – Poor

0 – Not acceptable (must resubmit)

(Half-points may also be awarded in assignment grading.)

Please see the “Assignment Grading Rubric” (the next page of this syllabus) for more detailed information as to how assignments are graded and the key elements of assignments that instructors look for when grading assignments.

In addition to a grade, students will receive written feedback from the instructor on their assignments, where appropriate.

***To the extent possible, it is recommended that students complete the assignments as the course proceeds rather than waiting until after the course ends.***

## Assignment Grading Rubric

Factor	4 (Excellent)	3 (Good)	2 (Satisfactory)	1 (Poor)	0 (no credit)	
<b>Thoroughness</b>	Answers all questions in the exercise completely and in the appropriate order.	Answers all questions in the exercise but not completely and/or not in the appropriate order.	Answers most of the questions in the exercise but not completely and/or not in the appropriate order.	Does not answer many of the questions in the exercise but does make some reasonable effort to do so.	Makes little or no reasonable effort to answer the questions posed in the assignment.	
<b>Demonstrates Understanding of the Assignment and has come to an appropriate conclusion</b>	Response demonstrates a thorough understanding of the exercise and the student has justified and enunciated an appropriate conclusion.	Response demonstrates an understanding of the exercise and comes to a conclusion.	Response demonstrates some understanding of the exercise. The conclusion that the student comes to may not be appropriately justified by the rest of the essay.	Response demonstrates some understanding of the exercise but shows a high level of confusion on the part of the student. The student's conclusion, if any, is not supported by the rest of the essay.	Response demonstrates a very poor understanding of the subject matter presented by the assignment.	
<b>Documentation/ Legal research (note: For assignments, sources should be those obtained through legal research; for exam essays, legal principles learned in class or the courseware is sufficient.)</b>	Student has cited at least two excellent sources and has applied them appropriately. Appropriate sources are documented and well cited and well integrated.	Student has cited one excellent source or two or more good sources but has missed at least one excellent source. Sources are integrated well in the assignment.	Student has cited appropriate sources but has missed the best available OR student has cited good sources but has done a poor job of integrating them.	Student has cited poor or inappropriate authorities or has failed to establish the relevance of the sources that he or she has cited.	Student has not cited any legal authorities or has cited authorities that are irrelevant.	
<b>Organization</b>	Essay is organized very well; the reader can clearly understand where the essay is going at all points and a cohesive easy-to-follow argument is made in the essay. Separate paragraphs are used for separate ideas.	Essay is well organized. The essay is coherent, though may not flow freely. Different components of the essay are broken up appropriately.	Essay shows some level of organization, but is difficult to follow. The essay is not as focused as it should be. Essay may go back and forth between points without using new paragraphs.	Essay is poorly organized and is very difficult to follow. The student did not appropriately separate thoughts and did not properly organize the essay.	Student's essay is in chaos. There is no reasonable attempt to organize the essay coherently.	
<b>Critical Thinking and Analysis</b>	Shows excellent critical thinking and analysis. The student is able to apply the cited law to the facts of the given case in a clear and convincing manner.	Shows good critical thinking and analysis. The student's points are well argued and well supported.	Shows adequate critical thinking and analysis. The student's points are supported by logic, but are not exceptionally convincing.	Shows minimal critical thinking and analysis. The student's arguments are weak and unconvincing.	Shows no effort at critical thinking or analysis. The student's points make no sense.	

Credit may also be taken off for poor spelling or grammar.

## EXAMINATIONS:

Examinations will be posted on the NPC website when indicated on the syllabus of the course. The examinations consist entirely of “short essay” questions. The 3 examinations will cumulatively count for 60% of the student’s course grade.

Examinations are non-cumulative; they cover only the material that has been covered since the previous examination. The instructor will provide specific information regarding the content of each examination as the examination time approaches.

All examinations are timed. A student may begin the examination any time after it is posted to the NPC website. Once begun, the examination must be completed within 4 hours.

Examinations will be graded on a conventional 0-100 scale. The number of points each question is worth is equal to 100 divided by the number of questions on the examination.

For each examination question, full credit will be awarded if the student:

- 1) Correctly identifies the legal issue(s) presented by the question
- 2) Applies the correct law to the legal issue(s) presented (note: full credit may also be awarded if the student’s answer comes to an “incorrect” conclusion if the student bases his or her analysis on correct law and supports his or her position in a convincing manner)
- 3) Presents his or her answer in a clear and understandable manner

The amount of partial credit to be awarded, if any, for an answer that is not complete and correct is at the discretion of the instructor. Instructors are instructed to award partial credit that is proportional to the level of knowledge and legal skill displayed by the student in answering the question.

*Please note that, even if not directly stated in the question, you must give reasons for your answers to open-ended questions. One word answers such as “yes” or “no” or answers that merely restate the question without explaining the answer given will not be credited.*

The following factors are generally NOT taken into account in grading examinations:

Legal research; Although research is a key component of assignments, examinations are graded on the student’s knowledge of the legal concepts taught and do not require independent research.

Grammar and spelling (unless they impact the ability of the graded to understand the student’s answer); Although these are essential skills for a paralegal, examinations test legal knowledge and ability to apply the skills learned, not necessarily the ability to write professional legal memoranda (assignments test this skill). In addition, because exams are taken under time constraints, we would rather see the students spend their time spotting legal issues and applying applicable law than on proofreading answers for typos and grammar mistakes.



For more information on assignments and examinations, please see the *NPC Student Handbook*.

***To the extent possible, it is recommend that students complete the exams as the course proceeds rather than waiting until after the course ends.***

### **Early Assignment Submission Incentive Policy**

NPC encourages students to submit their assignments as early as possible. In order to facilitate early submissions, students are advised that in exchange for submitting assignments in the first six weeks of the course, they will be awarded the opportunity to re-do or fix up an assignment after it is graded in order to increase the grade.

The following limitations apply:

1. When resubmitting an assignment, a student will only be able to increase his or her grade to a maximum of 3 or by one full point, whichever is greater. For example, if a student submits an assignment within the first six weeks of the course and receives a 1.5 or a 2.0, the student may make corrections suggested by the instructor and can potentially raise the grade to a maximum of 3. A student who initially receives a grade of 2.5 may raise the grade as high as 3.5 with a resubmission.
2. A student may exercise this option up to two (2) times per course.
3. Students are not guaranteed the maximum increase if their corrections do not merit such a change. The grader has the discretion to award a smaller or no increase if the student does not follow the grader's feedback.

To resubmit an assignment under this policy, please contact the course grader.

## NPC PLAGIARISM POLICY

All work done by NPC students on assignments, examinations and research projects is expected to be their own work. Quoting other sources as part of analyzing a subject is desirable and necessary in many cases. However, when other sources are quoted or used, they must be properly attributed to the original sources. This applies to direct quotes of sources and to paraphrasing other sources or using ideas obtained from other sources even if the exact text is not used.

Plagiarism means using the materials of others without appropriately citing the source and is an academic offence.

Under the NPC plagiarism policy, a student may not, as part of any assignment or exam submission:

- 1) Quote any text from any other source without:
  - a) putting quotation marks around the quoted material;
  - AND
  - b) appropriately citing the source of the quote.
- 2) Pass off the work of another as his or her own, even if the student does not directly quote from the other source.

Please note that the NPC plagiarism policy does not mean that you cannot quote language from the courseware, textbook or slides as part of an answer to a question on an exam. These are resources that are meant to be used on an exam when applied in an appropriate manner. However, quoting any sources ***without attribution*** is plagiarism.

For more information regarding the NPC Plagiarism Policy, penalties and due process rights where plagiarism is alleged, please see the NPC Plagiarism Policy at:

<http://nationalparalegal.edu/pages/PlagiarismPolicy.pdf>

## WEEKLY INTERACTION REQUIREMENT

To ensure that all students are involved and participating in the course as the course moves forward, each student enrolled in this course must, at least once during each week, either:

- 1) Attend a live lecture and take and pass a short quiz given during class (where applicable)  
OR
- 2) Submit at least one assignment  
OR
- 3) Take at least one examination  
OR
- 4) Answer a weekly “interaction” question or questions that will be posted on the “Assignments and Exams” page.

The weekly “interaction” question(s) will be straightforward and will cover material covered in class each week. Answers to these questions should be short (typically 1-3 sentences) and to the point.

The student’s response (which is necessary only if the student does not attend a live lecture or take an exam or submit an assignment in the given week) will be graded on a pass/fail basis. The interaction questions will be posted no later than Monday of each week and must be answered on or before the following Sunday.

Any student who does not fulfill this requirement during a given week will receive a reduction in his or her over-all grade of 2 percentage points (10 raw points).

Please also note that a student who does not fulfill an interaction during the first two weeks of a course will be automatically withdrawn from that course, as it will be assumed that the student who does not interact during the first two weeks has no intention of attending the course. The student may re-join the class by prompt notification to NPC and by prompt completion of an interaction shortly thereafter.

If an emergency prevents attendance in this period, please email Susan Israel ([susan@nationalparalegal.edu](mailto:susan@nationalparalegal.edu)) or Stephen Haas ([shaas@nationalparalegal.edu](mailto:shaas@nationalparalegal.edu)) as soon as possible.

***Fulfilling the weekly interaction requirement is particularly important for students receiving financial aid. Federal regulations require the school to withdraw students from financial aid who go 14 consecutive days without fulfilling an interaction requirement and to return any outstanding financial aid money to the government unless the student interacts with the school prior to the time that the withdrawal is completed. If you are unable to fulfill a weekly interaction requirement, it is critical that you stay in contact with the school so that other arrangements can be made.***

## COURSE GRADES

The following formula will be used to calculate final grades

$$\text{Cumulative exam scores} + (\text{assignment points} \times 10) = \text{raw score}$$

Because exams are worth up to 100 points and assignments up to 4 points each, the maximum raw score is 500. 10 raw points (2% of the raw point total) are deducted for each missed weekly interaction. Extra credit may be available for certain in class activities as may be announced by the instructor.

The following conversion chart is then applied based on the total raw points you have earned:

>474	=	A+
445-474	=	A
420-444	=	A-
395-419	=	B+
365-394	=	B
340-364	=	B-
315-339	=	C+
285-314	=	C
260-284	=	C-
230-259	=	D
<230	=	F

## OPTIONAL STUDY SESSIONS

In addition to the 15 classes listed below, instructors and/or graders may run 1 or 2 additional study sessions to discuss assignments and/or the course materials. Attendance and participation in at these sessions is optional and they will be recorded for those who cannot make it to the live sessions.

Please keep an eye on the course message boards to details as to when these will be held.

**All examinations and assignments are due no later than Sunday, August 7, 2016 at 11:59 PM EASTERN TIME; that's EASTERN time. That means 8:59 PM Pacific time, 9:59 PM Mountain time, 10:59 PM Central time, etc.**

**Please see the end of this syllabus for a note on NPC course extensions policy!**

## **Lecture and reading assignments schedule**

### **Class 1**

**Monday, May 9, 2016**

This class serves as an introduction to the corporate form and will provide an in depth look at the nature, formation, and role of the corporate form in American law and business. We will start by considering what it means to incorporate and the process of incorporation. We will discuss open and closed corporations and the various formalities that must be undertaken to legally form a corporation.

### **Courseware Reading**

#### **Chapter 1: The Corporation; Form and Features**

- A. Introduction to the Corporate Form
- B. Open versus Closed – Ownership of the Corporation
- C. Formation: People
- D. Formation: Paper
- E. Formation: Acts

### **Cases and Statutes:**

#### **8 Del C. § 342**

This Delaware statute defines close corporation and should be read to be able to compare and contrast the close corporation from the open corporation

#### **8 Del C. § 102**

This statute sets forth the Delaware law regarding the requirements for the contents of certificates of incorporation. This statute will be helpful in completing the assignment that will call for you to draft a certificate of incorporation.

## Class 2

Wednesday, May 11, 2016

To start this class, we will examine some of the documentation involved in forming a corporation. We will look at articles of incorporation for a standard and for a nonprofit corporation as well as at corporate bylaws. We will then turn to some of the important rules that govern corporations in general, including a look at corporate taxation and the liability shield generally afforded by corporations (and, of course, the times that it doesn't work).

### Courseware Reading

#### Chapter 1: The Corporation; Form and Features

F: Liability and the Corporation

G: Taxing the Corporate Form

#### Cases and Statutes:

##### Greenfield v. Colonial Stores

This Georgia court of appeals case discusses the extent of the liability of a corporation for the torts committed by its employees. In discussing this case and others like it, we will analyze the extent to which the traditional tort *respondeat superior* rules apply to corporations

#### Documents for Review:

- Certificate of Incorporation
- Corporate Bylaws
- Articles of Incorporation for a Not-for-profit Corporation

**Assignment # 1 can be completed at this point.**

## Class 3

Monday, May 16, 2016

This class will consist of a Lexis tutorial/ assignment walkthrough. The instructor will use a research assignment from a past or current course to demonstrate the manner in which an assignment should be researched and composed.

The instructor will walk the students through the various Lexis databases and explain to students how to most efficiently use the Lexis system to complete research assignments. Various general aspects of navigating Lexis, including Shepardizing, seeking and finding appropriate search databases, getting a document by citation, etc., may be explored.

The Instructor will also discuss how to most effectively plan, outline, organize and draft research assignments. Model answers and/or past student submissions may be used to illustrate what a “4” assignment looks like and how to compose one.

## **Class 4**

**Wednesday, May 18, 2016**

In this class, we will begin our discussion of the various forms that a client may choose when deciding on which business entity under which to operate a business. We will start by discussing sole proprietorships and the basic (general) partnerships. We will look at the Uniform Partnership Act and discuss some default rules that apply to general partnerships. We will also look at the limited partnership as a form of business under which investors in a business can maintain a liability shield from debts of the partnership itself.

### **Courseware Reading:**

#### Chapter 2: Other Business Forms

- A. Introduction
- B. Sole Proprietorship
- C. Partnerships
- D. The Limited Liability Partnership

### **Cases and Statutes:**

#### Uniform Partnership Act of 1997 § 402

This section deals with the rights and duties of partners. In most states, you can assume that these rules mirror the default rules for partnerships if something different is not decided by the partners.

#### Delaware Revised Uniform Partnership Act § 15-1001

This statute sets out the general requirements for the formation of a Limited Liability Partnership under Delaware law.

### **Documents for Review:**

- General Partnership Agreement

## **Class 5**

**Monday, May 23, 2016**

In this class, we will continue with our discussion of business organizations with a discussion of the Limited Liability Company, the Professional Corporation (P.C.) and the Subchapter S corporation. We will discuss the requirements and strengths and weaknesses of these business forms and the facts that may lead to a client choosing one business form over another.

### **Courseware Reading:**

Chapter 2: Other Business Forms

E. The Limited Liability Companies

F. The Professional Company

G. The S-Corp

### **Cases and Statutes**

#### § 805 ILCS 180/5-5

This represents a typical statute setting forth the requirements for the formation of a Limited Liability Company (LLC), which is the fastest growing form of business in today's world.

### **Documents for Review:**

- LLC Articles of Organization
- S-Corporation Status – Kit
- Operating Agreement for a Limited Liability Company

**Assignment # 2 can be completed at this point.**



This class will begin our discussion of the various individuals charged with running a corporation. In this class, we will look at directors and officers and focus specifically on the duties and responsibilities that they owe to the corporate shareholders.

**Courseware Reading:**

Chapter 3: Directors and Officers

- A. Introduction to Directors and Officers
- B. The Duty of Loyalty
- C. The Duty of Care

**Cases and Statutes:**

Broz v. Cellular Information Systems, Inc.

In this case, the Delaware Supreme Court dealt with the question of what constitutes a “corporate opportunity.” This case demonstrates how a court must analyze when a director may take an opportunity for him or herself and when doing so would be a breach of the fiduciary duty of loyalty. Specifically, when can a corporate director or officer assume that his or her corporation would have no interest in an opportunity and thus be allowed to take advantage of it without presenting the opportunity to the corporation?

**Examination # 1 will be posted at this point.**

**PLEASE NOTE THAT THERE IS NO CLASS ON MONDAY, MAY 30!**

Next, we will continue our discussion of officers and directors. We will look at the all-important “business judgment rule” and discuss its application in today’s business world. Next, we will discuss when a court will “pierce the corporate veil,” namely, when the court can and will hold the corporate directors liable for corporate debts. Finally, we will discuss to what extent a corporation may indemnify its directors for lawsuits brought against the directors by shareholders.

**Courseware Reading:**

Chapter 3: Directors and Officers

D. The Business Judgment Rule

E. Piercing the Corporate Veil

F. Indemnity

**Cases and Statutes:**Smith v. Van Gorkum

This Delaware Supreme Court case threw the business community for a loop. Here, the highest court in one of the most corporation-friendly states said that a board of directors can be held liable for making a hasty decision, even if there were sound business reasons for that decision. This is based on the duty on the corporate director to perform “due diligence” before entering into a corporate transaction. Van Gorkum must be included in any discussion of the business judgment rule.

**Assignment # 3 can be completed at this point.**

## **Class 8**

**Monday, June 6, 2016**

This class will consider the role of the shareholder in the various functions of the corporation. The shareholder also has a variety of rights with regard to the corporate form and needs to be aware of these rights and how they are exercised. We will also discuss corporate dividends, and when and how they are declared.

### **Courseware Reading:**

#### Chapter 4: Rights and Roles of Shareholders

- A. Shareholder Voting
- B. Voting by Proxy
- C. Dividends
- D. Appraisal Rights

### **Cases and Statutes:**

#### 8 Del. C. § 170

This Delaware statute describes when corporate dividends can be declared and the procedure for declaring them.

### **Documents for Review:**

Shareholder Proxy Agreement Form

## **Class 9**

**Wednesday, June 8, 2016**

In this class, we will continue to discuss the role of the shareholder of a corporation. We will discuss the debts shareholders are personally liable for and the major remedies that shareholders enjoy when aggrieved by actions of the directors or officers. We will look at the shareholder derivative action, when it is appropriate and its process.

### **Courseware Reading:**

Chapter 4: Rights and Roles of Shareholders

E. Liability of Shareholders

F. The Derivative Suit

### **Cases and Statutes:**

#### Dumas v. InfoSafe Corp.

In this case, the South Carolina Supreme Court discusses when a court should pierce the corporate veil to hold shareholders liable for employees' wages. This is an important read because it shows nicely how courts strike a balance between the interest of making sure that employees get their wages and the interest in encouraging commerce by protecting the corporate entity. Also, the court discusses the "fault" factors on behalf of the shareholders that will make courts more likely to pierce the corporate veil.

#### Federal Rules of Civil Procedure: Rule 23.1

This federal rule sets forth the procedure that must be followed when a shareholder sues the directors of a corporation on behalf of the corporation for violating a fiduciary duty owed to the corporation.

**PLEASE NOTE THAT THERE IS NO CLASS ON MONDAY, JUNE 13!**

This class will consider changes to the corporate form via merger, sale, and other combination. In addition, we will also consider several means of defense that can be used by the corporation to defend from hostile takeover.

**Courseware Reading:**

Chapter 5: Mergers and Acquisitions

- A. Mergers and Acquisitions
- B. Share Exchanges and Combinations
- C. Purchase of All Assets
- D. The Hostile Takeover
- E. Poison Pills

**Cases and Statutes**

8 Del. C. § 251

This is the Delaware statute on the requirements of and procedures for mergers and acquisitions.

Bank of New York Co. v. Irving Bank Corp.

How far may a corporation go in adopting a “poison pill”? Not as far as restricting the actions of future boards (a “dead hand” poison bill), says the New York County Supreme Court. Pay attention, while reading this case, to the manner in which the court justifies its decision by pointing out that the “greater evil” of tying the hands of future directors outweighs the rights of the current directors to act freely in adopting their own plans.

This class will provide an introduction to how the corporation raises funds for its operation along with an overview of the various securities laws and markets. We will also look at the SEC Acts, their background and how they apply today. We will especially focus on the insider trading rules and how they operate.

**Courseware Reading:**

## Chapter 6: Securities Laws

- A. Financing the Corporation
- B. Introduction to the Securities Laws
- C. The Offering Process
- D. The Securities Markets and their Governance
- E. Insider Trading

**Cases and Statutes**15 USCS § 78b

This section of the United States Code (which was originally promulgated as part of the SEC Act of 1934) sets forth the reasons for the necessity of regulating the trading of securities both on the exchanged and “over the counter.”

15 USCS § 78f

This statute sets forth the rules for Securities Exchanges. Don’t try to read this whole thing; it’s very long. But, notice the stringency of the requirements and how the law is designed to protect the investor to the highest degree that it practical.

Securities and Exchange Commission v. Texas Gulf Sulphur Co.

This important Second Circuit Court of Appeals case analyzes “insider trading” as it relates to information obtained by employees in the course of their employment (as opposed to directors and officers). When skimming this case, think about whether the insider trading rules are fair with regard to restricting the freedom of action of employees of a company who are not charged with fiduciary duties to the company.

**Documents for Review:**

- Corporate Stock Certificates – Kit
- Stock Purchase Agreement

**Examination # 2 will be posted at this point.**

**Assignment # 4 can be completed at this point.**

This class will begin the bankruptcy component of this course. We will look at the background of the bankruptcy rules and will focus on the structure of the bankruptcy code (Title 11 of the United States Code). We will also discuss general bankruptcy law issues, such as federal court jurisdiction, automatic stays and adequate protection. Then, we will focus on “liquidation” bankruptcy under Chapter 7 of the Bankruptcy Code.

**Courseware Reading:**

## Chapter 7: Bankruptcy

A. Introduction to the Bankruptcy Laws

B. The Chapter 7 Filing

**Cases and Statutes**11 USCS § 507

This statute in the Bankruptcy Code lists the priority of creditors. This is one of the most important statutes in the code because the main point of contention in any bankruptcy proceeding is which creditors get what from the bankruptcy estate. This statute provides many of the answers.

11 USCS § 362

This, the “automatic stay” provision, allows the bankrupt debtor relief from creditor harassment from the time that the bankruptcy petition is filed until the proceeding is completed. Since relief from creditor harassment is usually the reason that people file for bankruptcy in the first place, this is a key provision.

11 USCS § 727

Here is put forth the all-important provision for the bankruptcy “discharge.” This section determine when and under what circumstances the debtor can obtain what is the purpose of the bankruptcy proceeding- the elimination of the debtor’s debts.

**Documents for Review:**

- Power of Attorney to Act as Representative in Bankruptcy Negotiations
- Chapter 7 Discharge Order
- United States Bankruptcy Court Involuntary Petition
- United States Bankruptcy Court Voluntary Petition
- Instructions for Completing Official Form 1 - Voluntary Petition
- List of Creditors for Bankruptcy Petition

## **Class 13**

**Monday, June 27, 2016**

In this class, we will focus on “reorganization” bankruptcy proceedings. Specifically, we will focus on business reorganization bankruptcy (Chapter 11) and non-liquidation personal bankruptcy (Chapter 13).

### **Courseware Reading:**

Chapter 7: Bankruptcy

C. The Chapter 11 Filing

D. The Chapter 13 Filing

### **Cases and Statutes**

#### 11 USCS § 1121

This statute discusses the preparation of a bankruptcy plan so a debtor (almost always an organization) can get bankruptcy protection and still stay in business by working with the creditors to develop a plan that is satisfactory to all parties.

### **Documents for Review:**

- Ballot for Voting on Chapter 11 Plan
- Notice of Creditors in a Chapter 11 Bankruptcy Case
- Notice of Creditors in a Chapter 13 Bankruptcy Case



We will next turn to a discussion of the general rules regarding the creditor-debtor relationship and their competing rights. We will discuss the rights of creditors in the collection of debts, especially as they relate to collateral and secured transactions. We will look at the federal Fair Debt Collections Practices Act. Finally, we will look at the priority rules between creditors who are attempting to collect the same collateral or assets from the same debtor.

**Courseware Reading:**

Chapter 7: Bankruptcy

E. Creditors' Rights and Secured Transactions

F. Priority in Foreclosure and Debt Collection

**Cases and Statutes**U.C.C. § 9-304

This statute sets forth the parameters for perfection of a security interest. Perfection is critical for a creditor because those creditors that perfect their interests have priority over those creditors who do not perfect their interests. Of course, even those who do not perfect their interests often have priority over those creditors who are unsecured.

U.C.C. § 9-402

This statute explains the procedure (and even gives an example) for the preparation and execution of the all-important financing statement which must be used to secure the interests of the secured creditor.

**Assignment # 5 can be completed at this point.**

**PLEASE NOTE THAT THERE IS NO CLASS ON MONDAY, JULY 4!**

The final class will review several specialized areas within a corporate legal practice in addition to providing an introduction to other major players in the business world – specifically accountants and investment bankers.

**Courseware Reading:**

Chapter 8: Special Issues in Business Law

- A. Introduction to Special Topics
- B. Venture Capital
- C. Leveraged Buyouts
- D. The Role of Accountants
- E. Investment Bankers

**Cases and Statutes**

SEC v. General Refractories Co.

This case discusses the standard that the SEC must meet in asking for injunctive relief against a corporation to stop them from engaging in questionable practices regarding its disclosure of information and/or accounting practices. In light of the recent corporate and accounting scandals, such as the Enron and Arthur Anderson debacles, this case becomes especially relevant and important to analyze.

**Documents for Review:**

- Joint Venture Agreement
- Debtor's Statement of Financial Affairs

**Examination # 3 will be posted at this point.**

**All examinations and assignments are due no later than Sunday, August 7, 2016 at 11:59 PM EASTERN TIME; That's EASTERN time. That means 8:59 PM Pacific time, 9:59 PM Mountain time, 10:59 PM Central time, etc.**

***Please see the NPC EXTENSIONS POLICY (next page) for details on extensions to complete your work.***

## **NPC EXTENSIONS POLICY**

1) Extensions that conform to the rules below may be requested from the “Assignments and Exams” page on the NPC student website.

2) No extensions are possible unless the student has first submitted at least one assignment or examination by the course deadline.

3) The maximum possible extension allowed under the NPC system are as follows:

- A student who has submitted one assignment or exam may take an extension of up to seven (7) days.
- A student who has submitted two assignments or exams (or any combination) may take an extension of up to seven (7) additional days (14 days total).
- A student who has submitted three assignments or exams (or any combination) may take an extension of up to seven (7) additional days (21 days total).
- A student who has submitted four assignments or exams (or any combination) may take an extension of up to seven (7) additional days (28 days total).
- A student who has submitted five assignments or exams (or any combination) may take an extension of up to two (2) additional days (30 days total).
- No extensions of more than thirty (30) days beyond the deadline are possible for any reason at all.

4) Requested extensions are granted automatically. It is not necessary to give any reason for the request. However, for each day of extension you request, you will be penalized 3 raw points (of 500 that determine your final grade). This accounts for 0.6% of your course grade, per day of extension. This is necessary to compensate for the advantage that students who take more time to do their work enjoy over those who complete their work on time. This also means that a short extension (e.g., a day or two) is unlikely to affect your grade, but a long extension (e.g., two weeks) is guaranteed to affect your grade.

5) The penalty referenced in Paragraph 4 may be waived by the dean in extreme cases only. Extreme cases include circumstances beyond the control of the student that caused the student to be unable to complete work for *a significant period of time*. Circumstances such as being busy at work or at

home, vacations, family occasions or power or internet outages lasting a few days, are foreseeable life circumstances. Extensions may be taken for these reasons (or, for that matter, for any reason at all), but the grade penalty will not be waived for anything short of a true, unforeseeable emergency. However, please note that the course deadline cannot be extended more than 30 days for any reason at all.