
Elective materials include the paperback book by Professors Klien and Coffee- *Business Organization and Finance, Legal and Economic Principles*, 9th Ed (which is a nice foundation in the important finance aspects of business organization – good especially for the beginning of the course). Other supplemental books that can be reviewed but are not necessary to purchase, include: *Corporate Law* by Robert C. Clark (Little Brown –Aspen, 1986)(a bit out of date but it is a wonderful work – readable and thoughtful); Easterbrook & Feischel *Economic Structure of Corporate Law* (1991).

Class 1: Economic Organization and the Cost and Benefits of Agents
The goal of the law of business organization and measures for its achievement;
Kalgoo-Hicks efficiency;
The promise and problems of acting through agents;
Controlling costs of agents;
Minimizing agency costs does not equal maximizing Principals returns;
Fairness and efficiency in corporation law.
On seeing business organization law in its real context: markets, contracts and relationships.

Reading: Chapter 1, Allen & Kraakman.
Class 2  Law of Agency
    Formation
    Authority
    Termination
    Principal’s liabilities to third parties
        Contracts by agents beyond express powers
        Tortious Acts by agents

Reading: Chapter 2 A&K
    Restatement of Agency in Statutory Supplement

Class 3  Law of Agency
    Liability of Agent to Principal: Fiduciary Duties
    Liability of Principal to Agent

Reading: same as Class 2

Class 4  Law of Partnership
    Economic Reasons for Partnership Form
    Formation; Default Powers of Partners
    Authority: how is the Partnership bound
    Liability of Partnership and Partners to third Parties
    Liability of Partners Among themselves

Readings A&K 39-60
    Stat Supp.

Class 5  Law of Partnership
    Partnership Dissolution
    New Forms – growth of limited liability

Readings A&K 60-80
    Stat Supp

Class 6  Corporate Form:
    Economic reasons for evolution of corporate form
    Enabling philosophy and free incorporation
    The Incorporation process
    The Federal Role and State Role in U.S. Federalist System
    Debate on Why Delaware Dominates
    Governance Role of the Certificate and bylaws
Central Role of Management/board
The Shareholder Collective Action Problem and
Evolution of Institutional Investor Voice
Role of Statute and Role of Fiduciary duty

Reading: A&K 81-106

Class 7  Corporate Form: Raising Capital
Capital structure:
Characteristics of Debt and Equity
Optimal Capital Structures???
  Costs of Debt & Equity
  Equity Opportunism

Finance module
  Risk and return.
  Asset Valuation; Discounted Cash Flow Technique
  Efficiency of modern markets in shares: The
    Relatively Efficient Market Hypothesis.

Readings A&K 111-129

Class 8  Raising Capital: Protections for Creditors
  Whom do creditor protections help?
  Sources of Risk and Protections (Finance, Contract & Law)
  Minimum capitalization rules: What purpose could they serve?
  Restrictions on Dividends
    Balance sheets and real economic value
  Fraudulent Conveyances
  Equitable remedy: Piercing Corporate Veil
  Equitable remedy: forced subordination

Readings A&K 129-161

Class 9:  Raising Capital: Protection for Equity Investors (summary)
  Protection From What Risks?
  Market constraints on agency costs
  Legal Protections: Shareholders rights to Sell, Vote, or Sue
Shareholders Collective Action Problem

Why Is It Shareholders Who Vote?
Voting in General:
- Voting rights
  - Amend certificate
  - Amend bylaws
  - Elect board
  - Mergers
  - Sale of all assets
  - Dissolution
- Call meetings
- Remove directors
- Fill Vacancies
- Information rights

Selling shares as an equity protection in general: Theory
Suing in General: Introduction to Fiduciary Duties in corporate context

Readings Statutory Supplement DGCL: See e.g. DGCL §§ 211, 212(a), 220, 222, 223, 225, 228, 241(b)(2), 251(c).

Class 10 How Do Shareholder Protections Get Enforced: Procedural Aspects of Shareholder Litigation
- Types of suits
- Attorney’s Fees as a (Partial Solution) to Collective Action Problem
- Agency costs of shareholder plaintiffs
- Pre-suit demand and when it is excused
- Settlement procedures

Readings A&K 349 - 387

Class 11 Corporate Directors and the Fiduciary Duty of Care: The Basics
- Nature of the Duty of Attention and Care
- The Modern Problem: diversified investors and risk
- Business Judgment Rule
- D&O Insurance
Indemnification
Waiver of liability for due care
Readings pp 239-260

Class 12 Duty of Care (continued)
The Delaware Approach: Cede v. Technicolor
Passivity: Duty to Monitor
Duty to Obey Positive Law
Readings 262-284

Class 13 Board and the Fiduciary Duty of Loyalty: Good Faith and the
Basics of Self-Dealing
Safe Harbor Statutes;
Parent Sub Mergers and Evolution of Special Committees
Weinberger
Readings 285-316; 463-483

Class 14 Duty of Loyalty and the Corporate Opportunity Doctrine
Readings 329-337 Supp ___

Class 15 Director & Officer Compensation
Readings 318-329

Class 16 Shareholder Voting as a Constraint on Agency Costs
Collective Action Problem (again)
Electing Directors – Majority or Plurality?
Staggered Boards
Cumulative Voting
Class Voting
Reducing coordination costs
Proxies and Proxy solicitation
Reimbursement of proxy expenses
Readings 171-190 and 210-239

Class 17 Judicial Protection of the Vote from Manipulation
Schnell v. Chris Craft Industries
Blasius v. Atlas
Speiser v. Baker
Vote Buying Then and Now
Schreiber v. Pennzoil
Problem based on Mylan v. King
Pharmaceutical
Readings 558-564; 190-203.

Class 18: Insiders’ Dealing in the Companies Shares
Common law:
Sections 16
Section 10 of the ’34 Act
Readings: 577-598

Class 19 Dealing in the Company’s Shares (10b-5 con’t)
Readings : 598-652

Class 20 Extraordinary Transactions : Mergers and Acquisitions
Economics of fundamental transactions
Structure of Acquisition Agreement
Statutory mergers
Triangular mergers
Law of Sale of all assets
De Facto Merger Doctrine
Readings : 423-452 459-463.

Class 21 Appraisal Actions
Theory
Market out
Valuation techniques
Readings: 452-459.

Class 22 Tender Offers and Defenses to Them
Williams Act: Disclosure Regulation: Section 13 & 14 of ’34Act
Implied actions Under Section 14(e)
State Law Help to Managers: State Takeover Statutes
Defenses
Poison Pills: What are they; how they work and their current status.
Section 203 and similar statutes
Readings: 413-419; Sat Supp Rule 13(d)(g); Rule 14(e); 557-548-557.

Class 23 Evolution of Business Judgment Rule In M&A Transactions
Johnson v. Trueblood
Smith v. Van Gorkom
Unocal and the “enhanced” business judgment rule
Moran v Household Industries
Readings: 497-505; 508-513

Class 24 Revlon Case and the Evolution of the Auction Idea.
Readings 513-548

Class 25 Paramount v. QVC.; Cede v. Technicolor
Readings 523-554.

Class 26 Private Changes in Corporate Control: What duties does a controlling Shareholder Owe to Others if he sells his control block?
Readings 393-408
Mendell v. Carroll 651 A2d 69 (Del.Ch 1994)

Class 27 Review

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