

TEACHING METHODOLOGY

Professor Johnson uses a modular approach in teaching to integrate practical skills such as creative problem solving and applied reasoning into the curriculum. A modular approach to teaching is problem-based, meaning that the lessons are placed in the context of problems. Professor will also use practice questions to review material.

COURSE MATERIALS

The required textbook for the class is Corporations Including Partnerships and Limited Partnerships, Tenth Ed. by Robert W. Hamilton. The Tenth Edition is different than the Ninth Edition, but the cases assigned are the same with minor differences, although the page numbers are different. Students should also get the Statutory Supplement to Cases and Materials on Corporations, also by Robert W. Hamilton, which is a good reference, particularly if you plan to practice in this area. You can use an older version.

Students should purchase a license from the Bookstore. You will receive your user name and password through your law.cwsl.edu email account to access The Dealmaker module. The course will also have a web page, which can be accessed from the CWSL web page, www.cwsl.edu, Faculty, then Johnson web site. The website will include a class list with email addresses, Class Materials, which reflect the professor's notes and overheads used in class, and tips for using the Dealmaker program.

Students should bring their Statutory Supplement and Class Materials to class. Students will refer to sections in the Statutory Supplement and will be expected to be familiar with the covered provisions. Students may exclude the notes at the end of each section unless specifically assigned.

GRADING

The class will be conducted by lecture and class discussions. Students will also negotiate and draft a deal memo in small groups. Students will be assigned to brief a case in class. Class attendance and preparation is mandatory and points will be deducted for repeated and unexcused absences, or lack of preparation. Students will be graded on The Dealmaker, a Deal Memo, and a final.

Grades will be computed as follows:

The Dealmaker -----	20 points
Deal Memo -----	30 points
Final-----	50 points

	100 points

The Deal Memo will require students to work in small groups to negotiate an agreement. Students will be assigned to groups of up to 10 persons. A team leader will be responsible for coordinating activities within each group. Students who volunteer as team leaders for the exercises can get up to 1 point extra credit, which will be added to their raw score.

READING ASSIGNMENTS: Reading assignments may be shortened or omitted as time requires. All notices of any changes in the reading assignments will be in writing.

PART I: SELECTING THE BUSINESS ENTITY

I. AGENCY & PARTNERSHIP

Students will be introduced to two brothers, Andrew and Bob, who desire to start a retail computer software business. We will examine the different types of business relationships that they can enter into while conducting business. You will learn about basic agency and partnership principles.

Week of 1/5/10

A. INTRODUCTION TO AGENCY & PARTNERSHIP:

1. Chapter 1 pp 1-7
2. Notes 1-8 pp 7-8, pp 9-14, notes 1-4 pp 14-15, notes 1-2 p 29
3. Statutory Supp. pp 1-5
4. Statutory Supp. RUPA §§201-204, 301, 306, 401, 404-406
5. Class Materials
 - a. Types of Business Entities-----1
 - b. CONTEXT: AB Software Store-----2
 - c. Other Types of Business Relationship --- 3
 - d. Review of AB Software Store-----4

B. PARTNERSHIPS: SCOPE OF RIGHTS

1. Statutory Supp. pp 6-10
2. Class Materials
 - a. Partner's Liability of Losses-----5
 - b. Apparent Authority-----6

C. PRACTICE OF LAW- Who is the Client?

1. Chapter 2 pp 34-35, pp 37-38, 41-46, 49-50, note 1-5 pp 50-51

2. Limited Liability Partnerships p 49-50
3. Class Materials
 - a. ABA Model Rules of Prof. Conduct--- 7

Week of 1/12/10

D. PARTNERSHIP MANAGEMENT AND LIABILITY

1. Chapter 2: National Biscuit v. Stroud pp 52-54
2. Smith v. Dixon pp 54-55
3. Note 1-3 p 55
4. Roach v. Mead pp 60-64
5. Statutory Supplement UPA §§18, 40, RUPA §§307, 401, 404, 807
6. Class Materials
 - a. Partnership Liability-----9
 - b. Summary of Partnership Liability ---10

E. PARTNER'S RIGHTS AND DUTIES

1. Chapter 2: Meinhard v. Salmon pp 64-69
2. Notes 3 p 69
3. Partnership Property pp 72-73, notes 2-4 p 73-74
4. Partnership Accounting pp 75-80, notes 1-3 pp 80-81
5. Class Materials
 - a. Property Rights-----11
 - b. Formulas for Partnership Accounting-----12
 - c. Instructions for The Dealmaker-----13

Week of 1/19/10

F. DISSOLUTION & DISASSOCIATION

1. Chapter 2 pp 81, Note 2 pp 82
2. Collins v. Lewis pp 82-86, notes 3-4 p 86
3. 8182 Maryland Assoc. LP v. Sheehan, pp 95-100
4. Gibbs v. Breed,pp 104-109
5. Bohatch v. Butler & Binion pp 109-115, notes 1-3 p 116
6. Supp. §§601-603, 801-804
7. Class Material
 - a. Events of Dissolution -----15
 - b. Review of Agency & Partnership -----18
 - c. Issues to Address in Partnership
Question-----20
 - d. Agency & Partnership Review Q-----20

II. TYPES OF BUSINESS ENTITIES

Students will look at different types of business entities, i.e., partnerships, corporations, limited liability companies, including the advantages and disadvantages and the steps needed to create each type of entity.

A. LIMITED PARTNERSHIPS

1. Chapter 3 Corporate General Partners pp 135-141
2. 21st Century Partnership pp 147-150
3. In re Spree.com pp 150-152
4. In re USA Cafes pp 141-144
5. Notes 1-2 p 144
6. Class Materials
 - a. Converting Legal Entities-----21
 - b. Partnerships-----22
 - c. Checklist for Partnerships-----23
 - d. Essential terms of Partnership----24

B. LIMITED LIABILITY COMPANIES

1. Chapter 4 pp 154-156, 159-162
4. Blackmore Partners pp 162-166
5. ELF Atochem N.A. pp 166-172
6. Marie L. Kasten pp 185-188
5. Final Look pp 189-191
6. Supp ULLCA §§301-303, 602-603, 902-903
7. Class Materials
 - a. Comparison Between LPs and LLCs-----25
 - b. Characteristics of LLCs -----26
 - c. Limited Liability Companies-----27
 - b. Checklist for Limited Liability Companies---28

Week of 1/26/10

C. CLOSE CORPORATIONS

1. Chapter 6: pp 212-214, 220-227
2. Supp. MBCA (1984) §§ 2.02, 1.23, 2.05-2.06, 4.02, 5.01
3. Class Materials
 - a. Necessary Terms of Agreement -----29
 - b, Types of Corporations-----30
 - c. Close Corporations-----31
 - d. Checklist for Corporations-----32
 - e. Essential terms of shareholder----- 33
 - f. By Laws-----34

(Work on the Dealmaker Program)

III. UNDERSTANDING THE DEAL

This section focuses on understanding the parties' interests, including obtaining financing and tax matters associated with starting a business.

A. FINANCIAL MATTERS

- 1. Chapter 8: pp 314-321
- 2. Hanewald v. Bryan's Inc. pp 328-331
- 3. Consideration of Shares pp 331-333
- 4. Debt Financing & Leverage pp 338-343
- 5. Planning pp 343-344, notes 2-4 pp 347
- 6. Supp MBCA §§ 6.01-6.03, 6.21-6.24
- 7. Class Materials
 - a. Basic Terms -----35
 - b. Contributions -----36
 - c. Disposition of Investor's Money-----37
 - d. Basic Terms-----38
 - e. Comparison of Debt and Equity-----39
 - f. Types of Equity Shares-----40
 - g. Distributions, Preferences & Preemptive
 - h. Disposition of Shares----- --41

B. FINANCING A BUSINESS

- 1. Class Materials
 - a. Sources of Capital-----42
 - b. Types of Commercial Paper-----43
 - c. Issues in Getting Financing-----44
 - d. Types of Collateral-----45
 - e. Credit Information-----45
 - f. Concept of Leverage-----46
 - g. Exercise: Access to Capital-----47

Week of 2/2/10

C. TAX MATTERS

- 1. Chapter 3 pp 123-128 (exclude notes)
- 2. Class Materials
 - a. Tax Terms-----49
 - b. Taxation Rules-----50
 - c. Tax Implications-----51
 - d. Tax Hypotheticals-----52

(Work on the Dealmaker Program)

D. BUY-SELL AGREEMENT

- 1. Chapter 9: Note 3 p 476
- 2. Buy-Sell Agreements Notes 2-3 pp 488-490
- 3. Note 3 p 490
- 4. Supp. MBCA §§7.31-7.32
- 5. Class Materials
 - a. Three Points Re Buy-Sell Agreements—56
 - b. Buy-Sell Agreements-----57
 - c. Exercise of Rights-----59

Week of 2/9/10

E. SELECTING THE BUSINESS ENTITY

- 1. Class Materials
 - a. Factors in Selecting a Business Entity---60
 - b. Charts Comparing Business Entities-----61
 - c. Hypotheticals -----64

F. DEALMAKER NEGOTIATION

Complete Dealmaker Program by 2/9/10

- 1. Class Materials
 - a. AB Software- Ownership Interest-----66
 - b. Computing Equity Interest-----67
 - c. Provisions to incl. in Ownership Agreement-68
 - d. Introduction to Yes----- 71

Individual Deal Memos due 2/23/10. Email your Memo to alj@cwsj.edu using your identification number to identify yourself, party name and group number. Negotiations on 2/10/10-2/11/10

2/18/10

Complete negotiations

IV. CLOSE CORPORATIONS

Students will focus on close corporations, including pre-incorporation steps and promoter liability, disregarding the corporate entity, and the steps necessary in getting financing, and agreements regarding disposition of shares.

Week of 2/23/10

A. PROMOTERS

- 1. Chapter 6: pp 236-238
- 2. Stanley J. How & Assoc. v. Boss pp 239-243
- 3. Notes 1-6 pp 243-244
- 4. Class Material
 - a. Promoter Liability Rules-----74
 - b. Promoter Rules-----76
 - c. Promoter Question----- 77

B. DISREGARD CORPORATE ENTITY

1. DeWitt Truck Brothers pp 260-264
2. Note 1-2 pp 264-265
3. U.S. v Best Foods pp 289-299
4. Class Material
 - a. Disregard of Corporate Entity-----78
 - b. Test for Alter Ego-----78

C. DEADLOCK AND DISSENSION

1. Chapter 9: Gearing v. Kelly pp 491-492
2. Davis v. Sheerin pp. 499-503
3. Lee v. Jenkins pp 513-516
4. Class Materials
 - a. Review Shareholder Control of Corp.---79

Week of 3/2/10

D. SALE OF CONTROL

1. Chapter 9, Debaun v. First W. Bank pp 519-525
2. Note 1 pp 525
3. Supp. MBCA §§11.01-11.03, 12.30
4. Class Materials
 - a. Sale of Shares-----80

E. DISTRIBUTIONS, MANAGEMENT, AND CONTROL

1. Chapter 8: Wilderman v. Wilderman, pp 391-394
2. Donahue v. Rodd, pp 397-406 , notes 1-2 pp 406-407
3. Model Business Corporation Act pp 410-415
4. Galler v. Galler pp 424-429
5. Zion v. Kurtz pp 433-435
6. Supp. MBCA §§6.27-6.40
7. Class Materials
 - a. Ways of Exercising Voting Rights-----53
 - b. Proxy Regulation-----54
 - c. Mandatory Ownership Provisions-----55

(Work on the Dealmaker Program)

PART 2: PUBLIC CORPORATIONS

I. CORPORATE GOVERNANCE

Students will focus on the governance and regulation of public corporations, including the fiduciary relations of corporate officers directors and shareholders; and the federal regulations that govern disclosures made to the public in the sale of securities; and the process and duty of directors and shareholders in mergers, acquisitions and takeovers.

A. PUBLIC OFFERINGS (SECURITIES ACT 1933)

- 1. Chapter 8: pp 347-351
- 2. SEC v Ralston Purina pp 353-355
- 3. Securities Act Release 33-5450, pp 356-358
- 4. Securities Act Release 33-6389, pp 358-359
- 5. Regulation D - Securities Act of 1933, pp 359-364
- 6. Smith v. Goss pp 365-368
- 7. Class Materials
 - a. Three Basic Points-----1
 - b. General Provisions-----2
 - c. Definitions under Securities Act of 1933-3
 - d. Regulation D----- 4
 - e. Questions Related to SEA of 1933-----5

Week of 3/9/10

B. OVERVIEW OF CORPORATE GOVERNANCE

- 1. Chapter 10: pp 538-543, 545-546, 548-549
- 2. "Outside Directors" pp 564-566
- 3. "More Effective Directors" pp 566-578
- 4. Supp. MBCA §§8.25, 8.30
- 5. Class Materials
 - a. Basic Concepts-----6

C. SARBANES-OXLEY CORPORATE ACCOUNTABILITY

- 1. Corporate Governance in 2007 pp 571-588
- 2. Class Materials
 - a. Overview of Sarbanes-Oxley-----7

D. DUTY OF CARE & BUSINESS JUDGMENT RULE

- 1. Chapter 11: In re Caremark Intern. Inc. pp 690-699
- 2. Stone v. Ritter pp 701-703
- 3. Aronson v. Lewis pp 724-733
- 4. Cuker v. Mikalauskas pp 740-751 (Incl. Appendix)
- 5. Supp. MBCA §§7.40-7.44, 8.30
- 6. Class Materials
 - a. Three Basic Points re Director's Duty-----10
 - b. Duty of Care-----11
 - c. Interested Directors -----12
 - d. Review Questions (Handout)

E. SELF-DEALING

- 1. Chapter 12: Marciano v. Nakash pp 756-759
- 2. Notes 1-3 pp 759-760
- 3. Brehm v. Eisner pp 767-772, 773-779
- 4. Weinberger v. UOP pp 785-796
- 5. Notes 1-2, 5-8 pp 797-798
- 6. Class Materials
 - a. Self-Dealing-----13
 - b. Self-Dealing Rules of Thumb-----14
 - c. Questions on Business Judgment Rule

Week of 3/16/10

F. CORPORATE OPPORTUNITY

- 1. North Harbor Golf pp 799-807
- 2. Class Materials
 - a. Corporate Opportunity Doctrine -----15
 - a. Overview of Corporate Opportunity Tests-16
 - b. Review Questions-----17

II. PURCHASE AND SALE OF SHARES

Students will focus on the regulations that govern the purchase and sale of securities under the Securities Exchange Act of 1934, including prohibitions against fraud, deceptive practices and insider trading under Rule 10b5; and strict liability for certain trades under Rule 16 for officers, directors and shareholders.

A. RULE 10B 5

- 1. Chapter 13: pp 813-814
- 2. Blue Chip Stamps v. Manor Drug Stores Note 1 pp 817-820
- 3. Ernst & Ernst Note 2 pp 820--823
- 4. Notes 3(b) pp 827
- 5. In Re Enron pp 829-840
- 6. Class Materials
 - a. Three Basic Points re Inside Info-----18
 - b. Rule 10b5-----19
 - b. Summary of Rule 10 b5-----20
 - c. Understanding Context of 10b5 Reg.-----21
 - d. 10b5 Remedies-----22

B. INSIDER TRADING

- 1. Chapter 13 SEC v. Texas Gulf pp 842-851, notes 1-2 pp 852-853
- 2. Chiarella v. U.S pp 857-862
- 3. Notes 1-3 pp 864-866, note 6 pp 867-868
- 4. U.S. v. O'Hagan pp 868-877 note 3 pp 879-880
- 5. Dirks v. SEC pp 881-888
- 6. 1934 SEC Act pp 902-904
- 7. Notes 4-5 pp 905; SEC 1934 (20A) pp 907
- 8. Basic v. Levinson pp 915-925, notes 1, 3 pp 930-931
- 9. Class Materials
 - a. Example of 10b5 Remedies-----23
 - b. Texas Gulf Chronology-----24
 - c. Rules re Director and Officer Investment—25
 - d. William Act 14e-----26
 - e. Tipper-Tippee Liability-----27
 - f. Post O'Hagan Rules-----28
 - g. Tipper-Tippee Questions-----29

Week of 3/23/10

C. SECTION 16

- 1. Securities Exchange Act of 1934 pp 909-910
- 2. Notes 1-2, 5-6 pp 910-912, 8c-d p 91
- 3. Class Materials
 - a. Three Basic Points re 16b----- 30
 - b. General Rule on Section 16(b)----- 31
 - c. Distinctions Between Section 16b & 10b5---32
 - d. Questions on Rule 16 b-----33
 - e. Summary -----34

III. SECURITIES ACT OF 1934

Students will understand how proxies are used; the rules regarding disclosures made in proxy or solicitation materials; the conflicts that arise when directors and shareholders have competing agendas; and how proxy fights and struggle for control are resolved. Students will focus on the Williams Act and the Securities Act of 1934.

A. PROXY REGULATION

- 1. Chapter 10: pp 589-590, pp 595-602
- 2. False Statements: Regulation 14a p 609-610
- 3. TSC Industries v. Northway pp 619-622
- 4. Supp. MBCA §§7.04-7.22
- 5. Rauchman v. Mobile Corp pp 648-651
- 6. Regulation 14a- Solicitation: pp 638-643, 653-654
- 7. Regulation FD pp 655-658
- 8. Class Materials
 - a. Three Basic Points-----35

b. Proxy Regulation-----	36
c. Contents of Proxy Solicitation-----	37
d. Proxy Solicitation Rules-----	38
c. Board Approval of Proposals-----	39

3/30/10

B. PROXY FIGHTS & FRAUD

a. Chapter 15 pp 976-979	
b. Class Materials	
a. Proxy Fights-----	40
b. Proxy Fights Requirements-----	41
c. Elements of Proxy Fraud-----	42

C. CORPORATE BOOKS AND RECORDS

- Chapter 16 pp 1054-1056
- Thomas & Betts Corp pp 1056-1063

Last Day of Class

D. REVIEW PRACTICE EXAMS (4/7/10)