

BUSINESS ORGANIZATIONS: Transactional Track
Section 1
Professor Rubin
University of La Verne College of Law
Spring, 2019
3 Units

Professor

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Class Time and Place

Meeting days: Monday and Wednesdays
Meeting time: 1:30 p.m. to 3:00 p.m.
Location: tbd

Office Hours

Mondays: 10:00 a.m. – noon; Tuesdays: 10:00 a.m. – noon and 2:00 p.m. to 4:00 p.m.; and Thursdays: 10:00 a.m. to 2:00 p.m. In addition, the professor is available by appointment by either calling Lisa Oropeza at ext. 2021 or emailing the professor directly at the above email.

Course Description

This course examines the laws governing modern business entities, including agency, partnership, and limited liability companies. The course also examines legal issues relevant to the control and management of a corporation, with a focus on public corporations.

This course is part of the Transactional Track which integrates Business Organizations, Sales, and Negotiation. Business Organizations introduces the student to basic business principles starting with agency/principal and the various business entities available to carry on a business, including sole proprietorships, partnerships, limited partnerships, joint ventures, limited liability partnerships (LLPs), limited liability companies (LLCs), and the corporation in its various iterations. These entities are examined through the lens of an attorney who must advise his or her client on the advantages and disadvantages of operating in the various business forms. We will examine operational issues both from the perspective of owner/managers and from a creditor's standpoint associated with various business entities. We will also explore liability issues associated with breach of common law duties and liability associated with Federal

Securities violations under the Securities Act of 1933 and The Securities Exchange Act of 1934.

The course is a primer in basic business terminology, attorney/client relationships, and touches on basic accounting and finance principles.

Students are not expected to develop expertise in the field of business law from this survey course. The course will, however, provide the foundation for further study and practice in the area of business law.

Basis of Grade

Examinations: There will be a three-hour final exam at the end of the semester worth 80% of your final course grade. It is currently contemplated that the examination will consist of both essay and objective questions, two essay questions and a multiple-choice section, students will be informed if a different format is going to be used. Numeric grades will be assigned in accordance with College of Law guidelines as set forth in the MAPP.

Participation and non-graded Assessments: Students will be given multiple non-graded assignments that are formative assessments, designed to monitor your progress towards mastery of the material. These assessments may be administered in class or as a take home. Each assignment is to be turned in by the designated time and completed with appropriate diligence. In addition, students are to come to class with their own **written briefs** ready to participate in classroom dialog. (See briefing requirement below.) Participation and non-graded assessments will constitute 10% of your final course grade. Missing more than four class sessions for any reason will negatively impact your participation component of your course grade.

Graded Assessments: In addition, graded assessments in the form of in-class quizzes, midterms, or take-home assignments may be administered for an additional 10% of your grade. The final exam will therefore be worth from 90% to 80% of your final course grade.

Grading: Assignments and problems, graded or ungraded, are to be turned in on time, done in good faith, and according to instructions. **No assignment will be accepted after the due date and time.** As future attorneys, you have a professional obligation to both your client and the court, to meet deadlines. If you are unable to attend a class the day an assignment is due, it is your responsibility to submit it to me via email or by physical delivery to a faculty secretary, no later than the day and time due. If you are absent during a class in which a graded or ungraded assignment is administered, you will not receive credit.

Required and Suggested Materials

The Law of Business Organizations, Macey, Moll, Hamilton, Thirteenth Edition, West American Casebook Series

California Corporations Code 2019: Annotated, by Thomas Reuters

Course Objectives

1. Students will learn how to read and brief complex business-related opinions;
2. Students will learn how to organize and answer a bar-type essay question in the area of business organizations and securities regulations;
3. Students will learn the difference between the various business entities under which a client can conduct business.

Course-Specific Learning Outcomes

At the conclusion of the course, students will be able to do the following:

1. Demonstrate an understanding of the basic differences between a general partnership under RUPA and a limited liability company (LLC), including formation, management, sharing of profits and losses, personal liability and dissolution.
2. Demonstrate an understanding of the basic differences between an LLC and a closely held corporation.
3. Demonstrate an understanding of the basic advantages and disadvantages of conducting a business as a partnership, a limited partnership, a limited liability partnership, a limited liability company, or a closely held corporation.
4. Articulate and apply relevant sections of the California Corporations Code relative to the [Revised] Uniform Partnership Act of 1994, limited partnerships, LLPs, LLCs, and closely held corporations.
5. Articulate and apply common law principles relative to the operation of the various business entities with particular emphasis on the closely held corporation.
6. Articulate the common law duties that affect the relationship of Directors and officers towards the corporation and its shareholders.
7. Articulate and apply key sections of The Securities Exchange Act of 1934 and those rules promulgated by the SEC thereunder, including Rule 10b-5, Section 16(b), and Rule 14e-3(a).

Disability Accommodations Statement

Students with disabilities should refer to the policies described at the University of La Verne Disabled Student Services Handbook [as of September 13, 2017 located at <https://sites.laverne.edu/disabled-student-services/disabled-student-services-handbook/>, which can be found on the website of the University of La Verne Disabled Student Services website (<https://sites.laverne.edu/disabled-student-services/disabled-student-services-handbook/>)] or at their office. Temporary accommodations are offered on a case by case basis. All required documentation must be submitted by the student before any formal accommodations and should be made directly to the Director of Student Affairs.

Any student eligible for and requesting academic accommodations due to a documented disability (or a suspected disability) is asked to contact the College of Law Director of Student Affairs and Americans with Disability Act Compliance Officer, Akita Mungaray by email at amungaray@laverne.edu or by phone at (909) 460-2017. Her office is located on the first floor of the College of Law, Office # 107. You can also contact Cynthia Denne at the University of La Verne Disabled Student Services office at (909) 448-4441. The office is located at the La Verne campus Health Center. In order to be considered for accommodations, disabilities must be documented and the proper medical evaluations must be submitted. The office is here to help you succeed in law school. Visit it online at <https://sites.laverne.edu/disabled-student-services/>.

Course-Specific Policies

1. Many of the cases we will cover involve factual situations occurring in unfamiliar business settings and the corresponding use of unfamiliar business terminology. This, coupled with the compressed nature of the coverage, requires students to diligently read all assigned materials, including materials posted on TWEN, and, if necessary, to read supplemental materials to enhance the mastery of the topics BEFORE coming to class. It is also highly advisable that you access CALI lessons on topic areas covered in the course. You should always familiarize yourself with relevant terminology. The better prepared the students, the better the classroom experience will be for everyone, including the professor. Students are required to prepare their own written briefs for each major case assigned in the casebook as well as those cases that are required to be read on TWEN. Those briefs are to be brought to class. Well-written briefs facilitate more robust classroom discussions. **NO BOOKBRIEFING; NO CANNED BRIEFS.** If you are unprepared when called upon or if you do not have a written brief of your own creation, you may be given either a full or half absence for that class. **NOTE: Briefing is not optional...it is mandatory. WARNING: Briefs will be collected periodically.**

Your professor is a firm believer in preparation, attendance, and participation. The classroom experience in general and the Transactional Track in particular are designed to enhance your mastery of the subject matter. The experience is marginalized when students show up to class unprepared and unwilling to engage in thoughtful dialogue.

Briefing Format: You should use the briefing methodology as instructed in your 1L year. However, classroom discussion will often be focused on key facts, issue, holding, and reasoning. **NOTE:** you should be extracting legal rules from the briefs...rules that are given meaning because they are provided in a factual context.

2. **TWEN:** Sign up for TWEN immediately and check it often. Additional materials, including relevant cases, will be posted for your consideration. Some of those cases you will be required to brief. You will be held responsible for all material posted on TWEN.
3. **Attendance:** Attendance is mandatory. There are no “excused” absences. The College of Law policy regarding attendance will be strictly adhered to, which means you cannot

miss more than 20% of our classes. As a practical matter, you shouldn't miss any classes if you want to maximize your chances of success in the class. Should a student be unprepared when called upon in class, the student will be given either a full or half absence for that class. **YOU MAY BE INDIVIDUALLY OR COLLECTIVELY ASKED TO HAND IN A BRIEF.** If it does not reflect a good faith effort on your own behalf, or if you do not have a brief, you will be marked absent. If you cannot prepare for class due to an unforeseen exigency, please notify the professor BEFORE the start of class and you will not be called on nor marked absent. No more than one "pass" is available per semester. It is important that you arrive on time. Being late to class is no more acceptable than being late for court and will result in an absence, either a full or a half depending on how egregious. We have a lot of material to cover in a relatively short period of time and it is critically important that you are in your seat, ready to go, by start of class. In addition, class exercises, especially work by your law firms, require your attendance and participation. **No freeloading.** Every student is expected to actively contribute to the success of the class.

Please note that missing four or more classes will negatively impact the participation component of your final grade.

4. **No Laptop Policy:** A laptop can be a valuable tool in the learning process. However, in many instances, it impedes the learning process as students tend to get wrapped-up in mindlessly transcribing everything being said in class, or, conversely, using the laptop for purposes unrelated to the class. Therefore, no laptops, tablets, or any other electronic device can be used during class time. In order to get the most out of the classroom experience, students must be fully engaged. Anyone caught using such a device will be asked to leave the classroom and/or receive an absence for the class.
5. **Review Sessions:** There will be bi-weekly review sessions conducted by a TA. Those sessions are highly recommended. In addition, Professor Rubin will conduct a review session at the end of the semester.

Reading Assignments

Due to the integration of Business Organizations and the Transactional Workshop, reading assignments will remain fluid. Weekly assignments will be posted on TWEN during the first few weeks with the balance of reading assignments for the semester posted thereafter. As a rule of thumb, we will try to cover 40 to 50 pages of material in the casebook each week. The topic areas we will be covering are listed below.

Topics Covered

- I. Agency: principal/agent; authority; tort & contract
- II. Partnerships: UPA & RUPA. CA CORP 16101 et seq
- III. Limited Liability Companies (LLC): Revised LLC Act CA CORP section 17701.01 et seq.
- IV. Corporation Basics
 - A. Formation: “C”, “S”, “Close Corporation” options.
 - B. *Ultra Vires* Doctrine
 - C. Internal Affairs Doctrine
 - D. Pre-incorporation Issues
 - E. Piercing the corporate veil
 - F. Deep rock doctrine & equitable subordination
 - G. Shareholder rights
 - H. Financing the corporation: debt/equity & public Subscriptions, Par Value, and Watered stock
Planning the capital structure: thin capitalization
 - I. Director’s duty of care and the business judgment rule.
 - J. Directors duty of loyalty: self-dealing; executive compensation and “waste”; conflict of interest; and the corporate opportunity doctrine.
 - K. Shareholder derivative suits and the business judgment rule.
 - L. Issuance of shares: preemptive rights & Distributions (dividends and selective stock redemptions.)
 - M. Voting Trusts; Shareholder agreements; & cumulative voting
 - N. Public Offerings: Securities Act of 1933
Defining “securities.”
 - O. The Publicly Held Corporation
Sarbanes-Oxley Act (SOX)
 - P. The Securities Exchange Act of 1934
Section 12 Corporation
 - Q. Proxy regulation including Rule 14a-9 and disclosure requirements: MD & A
 - R. Securities Fraud: Rule 10b-5
Insider trading: classic theory and misappropriation theory of liability.
Traditional Rule 10b-5 violation: manipulation of market price.
 - S. Transactions in controlling shares.
 - T. Defensive posturing by management: defending the corporate bastion or entrenchment?
 - U. Poison pills and the modified business judgment rule: Unocal, Revlon, and Unitrin. (Time permitting.)

Appendix of Mission, Values and Learning Outcomes

University of La Verne Mission and Values

It is the mission of the University of La Verne to provide opportunities for students to achieve their educational goals and become contributing citizens to the global community.

The University of La Verne shares four core values that promote a positive and rewarding life for its students through fostering a genuine appreciation and respect for:

1. **Values Orientation.** The University affirms a philosophy of life that actively supports peace with justice, the health of the planet and its people. Therefore, in light of this affirmation, it encourages students to become reflective about personal, professional, and societal values. It also encourages values-based ethical behavior.
2. **Community and Diversity.** The University promotes the goal of community within a context of diversity. Therefore, it encourages students to understand and appreciate the diversity of cultures that exists locally, nationally, and internationally. It also seeks to promote appreciation and preservation of biodiversity by helping students understand the impact/dependence of human beings on their environment.
3. **Lifelong Learning.** The University commits itself to promoting education that facilitates lifelong learning. Therefore, it teaches students how to learn, to think critically, to do constructive research, and to access and integrate information in order to prepare them for continued personal and career growth.
4. **Community Service.** The University believes that personal service is a primary goal of the educated person. Therefore, it encourages students to experience the responsibilities and rewards of serving the human and ecological community.

University of La Verne College of Law Vision, Mission, and Values

VISION

La Verne Law is an incubator for innovation in legal education, thought, and advocacy for individuals passionate about serving their communities and promoting access and justice.

MISSION

The mission of La Verne Law is to guide our students in the discovery of law and self as they prepare for the practice of law or other professional careers. Our faculty of scholars and teachers is committed to creating an innovative, collaborative learning environment designed to develop the knowledge and skills relevant to achieving individual and professional success.

Our mission encompasses educating, as well as enhancing the professional lives of, the members of the local, regional, national, and international communities we encounter – students, faculty, staff, administrators, alumni, members of the bench and bar, and others who pursue social justice.

Our mission is grounded in the core values of the University of La Verne – life-long learning, ethical reasoning and decision-making, diversity & inclusivity, and community & civic engagement.

Difference-making is our legacy.

CORE VALUES

University Values: As a College within the University of La Verne we adopt and endorse the University core values of Lifelong Learning, Diversity and Inclusivity, Community Engagement, and Ethical Reasoning.

College of Law Core Principles and Values: As an institution dedicated to teaching and training the next generation of lawyers and leaders, we operate institutionally and individually on the principles of professionalism, innovation, ethics, student centeredness and community enhancement. In our actions and interactions, we are and seek to be affirming, respectful, humble, accountable, committed, inclusive, empathetic, responsive, passionate, and positive.

University of La Verne College of Law Program Objectives

- A. Upon completion of the program of legal education, students will possess the skills and knowledge to enable them to pass any bar examination of their choosing.
- B. Upon completion of the program of legal education, students will possess those skills to participate as respected members of the legal profession.
- C. Upon completion of the program of legal education, students will model ethical, responsible, and professional behavior.
- D. Upon completion of the program of legal education, students will embrace cultural differences and civic and community engagement.

American Bar Association Standard 302: LEARNING OUTCOMES

A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:

- (a) Knowledge and understanding of substantive and procedural law;
- (b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;
- (c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and
- (d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

In compliance with ABA Standard 302, the University of La Verne College of Law has established the following.

University of La Verne College of Law Program Learning Outcomes

1. Students shall demonstrate knowledge and understanding of substantive and procedural law.
2. Students shall demonstrate competence in legal analysis and reasoning.
3. Students shall demonstrate competence in conducting legal research.
4. Students shall demonstrate competence in problem-solving.
5. Students shall demonstrate competence in written and oral communication.
6. Students shall be able and motivated to exercise proper professional and ethical responsibilities to clients, the legal system, and the wider community.
7. Students shall demonstrate competent litigation skills.
8. Students shall demonstrate competent transactional skills.
9. Students shall apply cultural competency while exercising their legal skills.
10. Students shall demonstrate competence in answering bar-style multiple-choice, essay, and performance test questions.