George Mason University School of Law
Instructor: Hutchison
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Office Hours: By appointment
Faculty Assistant: Jane Barton
Contact information for Jane Barton is: her email address is jbartol@gmu.edu and her phone number is 703-993-8030.

Classroom: 225
Class Hours: Tuesday and Thursday, 2:00-3:50

Classes Scheduled from August 15, 2013 through November 22, 2013.

Thanksgiving Recess/Reading Days: November 25-December 1, 2013.

Final Exam: December 2, 2013 at 6:00 pm

Required Sources of Authority:


(4) A few law review articles.

Course Description:

This course focuses principally on state corporate law, although consideration is also given to a number of federal securities laws. In addition, this course will briefly consider agency & partnership law as well as Limited Liability Companies. The course will focus on agency costs, fiduciary duties, shareholder derivative suits, abuse of control, directors' duties generally and the impact of human nature on the structure of a transaction.

Seating Chart (Hazel Hall, Room 225): I will pass out a seating chart.
• Please note that you are responsible for ensuring that you receive your book on time. If the casebook and statutory supplement are available in the GMUSL Bookstore, I intend to hold you accountable for the reading material whether you are in actual possession of a casebook or not.

This is a tentative outline of course coverage. I may add or omit material during the semester. This course covers a significant amount of material and the complexity of the material will increase. Please ensure that you review your notes before class. Excuses predicated on the claim that you read the assigned material weeks ago, and accordingly, you are not prepared, will not be considered sympathetically. Also note that this class will be treated separately from the evening section of Business Associations and also note that the reading assignments and schedules may also differ. Lastly, the final exam for this section will be constructed differently from the final exam for the evening section.

PARTICIPATION:

- Individuals who are seeking a rigorous and a demanding course which covers a wide variety of material should find this course invigorating and challenging.
- All students, whether or not they are called upon to formally recite, will be encouraged to participate. Consistent with George Mason University School of Law policies, I reserve the right to adjust students’ grades up or down by one step based on my assessment of a student’s overall preparation or lack of preparation. Adjustments will be based on participation, attendance, compliance with course policies including notifying the instructor and his faculty assistant, in advance of one’s absence. My assistant is Jane Barton. Her email address is jbartol@gmu.edu and her phone number is 703-993-8030.
- Downward adjustments are not a statement about a student’s worth but, instead represent an assessment of a student’s overall contribution to this class, which emphasis the Socratic Method.
- I reserve the right to call on students randomly. Each student is allowed to request a pass for up to four class periods.
- Since you will be on call each and every day, if you know you will be either absent or unable to prepare, you should email me prior to the class and sign up to volunteer for two additional classes. If a student is absent or unprepared but fails to notify me beforehand, his or her final grade will be lowered one step. (The first time this happens, a student can avoid a penalty by preparing a 4-page analysis of the following day’s reading assignment. This analysis must be legible, clear and thoughtful. If a student is unprepared without notifying me beforehand a second time, the penalty cannot be avoided.) If the Business Association course is nearing the end of the term so that an insufficient number of class periods are left in the term in order to comply with the requirement to volunteer for two additional class periods, then students must submit the above-referenced 4-page analysis for the next class period, or if no class periods are left a 4 page summary of the Hutchison & Alley article referenced infra. Please note that I reserve the right to raise grades one-step based on exceptional class participation.
Attendance will be taken. Ensure that you attend the section that you are registered in. Attending the evening section will not count as attendance.

**CLASS PREPARATION IS MANDATORY**

- **Laptop Policy**: In order to reduce the level of distractions, **COMPUTERS MAY NOT BE USED DURING CLASS IN THIS COURSE.**
  - Students can use their computer to write their final exam.
  - No recording devices can be used during class. A violation of this policy is an honor code violation unless the student attains prior permission.

- **PLEASE PREPARE FOR THE CLASS LIKE YOU MIGHT PREPARE FOR A COURTROOM PRESENTATION.** Make sure you understand the facts, the law and the policy implications associated with a case or a law review article.
  - Final Exam: Scheduled for December 2, 2013 at 6:00pm.

**READING ASSIGNMENTS**: Casebook readings will likely average roughly 25-40 pages per class. Note: during some weeks additional outside reading may be long and difficult. Note: you are responsible for the materials included in the reading assignment whether we cover the material in class or not.

**FIRST DAY ASSIGNMENT** (August 15). Read KRB 1-20, 69-78 (introduction to agency) and 79-84. Also read the Restatement of Law (Second) Agency in the statutory supplement.

- Pay careful attention to the following issues: the **distinction** between a principal and agent, the distinction between a master, servant and independent contractor, the distinction between power and authority, the rule governing agents as a fiduciary, the creation of authority, ratification, the rule governing when a master is liable for torts of his servant, the definition of a servant, the general rule with respect to scope of employment, the general rule with respect to duties of agent to principal, the duty of care and skill, the duty of loyalty, the duty to account for profits arising out of employment, Section 395, Using or Disclosing Confidential information, and section 399 remedies of the principal.
- **Second Day Assignment** (August 20): KRB, 93-103, 166-168, 169-181. In the statutory supplement read the material covering the *Uniform Partnership Act (1914)*. Pay careful attention to the definition of a partnership, rules for determining the existence of a partnership, partnership property rules, section 9, governing partner as agent of partnership as to partnership business, sections 11-15 and make sure you understand the nature of a partner’s liability, and section 20-22 with a special focus on the fact that a partner is accountable as a fiduciary. What is the difference between a general partnership and a limited partnership? How does a corporation differ from a partnership? What is the metaphysical meaning of limited liability?

- **Third Day Assignment** (August 22): KRB: 181-198. What is a fiduciary? Do we need shareholder derivative suits? Why or why not?

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<tr>
<th>Week of</th>
<th>Reading Assignment</th>
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<tr>
<td>August 27</td>
<td>Read: KRB: 198-230. What is a fiduciary? Should shareholders be able to take control of the litigation and allowed to sue on behalf of the corporation? Why or why not? Are directors generally accountable to shareholders? Are Directors agents of the firm? Are Director’s principals? What are the fiduciary duties of officers?</td>
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**Note:** we may or may not cover the Butler Article in class. Questions to consider include: Do we need the firm? Why isn’t the price system sufficient to organize production without the creation of the firm? What is the role of transaction cost reduction in the creation of the firm? What might happen as the firm gets larger? What is the role of incentives? |
<p>| September 10 | Read: KRB: 268280, 292-297, 303-326. Why is the concept of limited liability important as an alternative to the corporate and general partnership form? |
| September 17 | Read: KRB-326-350, 355-368 |</p>
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<tr>
<th>Date</th>
<th>Reading Notes</th>
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<tr>
<td>September 23</td>
<td>Read: KRB: 368-401</td>
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<td>October 1</td>
<td>Read: KRB: 401-433</td>
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<td>October 8.</td>
<td>Read: KRB: 433-466</td>
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<td>October 15 (observe Monday schedule on Tuesday)</td>
<td>Read: KRB: 466-485. <em>Does imposing a disclosure obligation on a firm ensure that the underlying securities issued by the firm are in fact secure?</em></td>
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<td>October 22</td>
<td><strong>Read: KRB: 485-502. Read: KRB 503-527</strong></td>
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<td>Why not let managers and directors <em>trade on the basis of inside information?</em></td>
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<td><em>Please make sure you understand the questions on page 502, which means that you need to solve the questions before class! Students will be called on to solve these problems in class.</em></td>
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<td>Read: Harry G. Hutchison &amp; Sean Alley's article:</td>
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<td>The High Costs of Shareholder Participation</td>
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<td></td>
<td><em>University of Pennsylvania Journal of Business Law, Vol. 11, No. 4, pp. 941-966, Summer 2009</em>(available on SSRN or on Westlaw).</td>
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<td><em>Note we may or may not cover the Hutchison &amp; Alley article in class.</em></td>
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<td>November 5</td>
<td>Read: KRB: 582-620. <em>What temptations confront leading/controlling shareholders or shareholder groups in closely-held corporations? What is wrong with a little shareholder abuse? Should we impose fiduciary obligations on shareholders as a general rule? Why or why not?</em></td>
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<td>November 12</td>
<td>Read KRB: 620-655</td>
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<td>November 19</td>
<td>Read KRB: 655-674</td>
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<td>November 25</td>
<td>Thanksgiving/reading days</td>
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<td>December 2</td>
<td>Final exam</td>
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**Final Exam.**
The final exam will likely consist of a combination of multiple choice and essay questions. The exam will be graded anonymously. The multiple choice component will be more heavily weighted than the essay. The final exam should be a challenging experience and students should commence preparing for this experience early in the term by outlining and categorizing the material. Again you may use your laptop for the final.

2013 Fall Semester (Academic Calendar)

- **Friday, August 9 - Saturday, August 10** — Orientation
- **Thursday, August 15** — Fall semester classes begin. Last day to pay fall tuition without late fee. Last day to file Domicile Appeal for the Fall 2013 semester.
- **Friday, August 23** — Last day to add fall courses. Last day to drop a course and receive a 100% tuition refund.
- **Friday, August 30** — Last day to drop fall courses without academic approval. Last day for 67% tuition refund (33% tuition liability).
- **Monday, September 2** — Labor Day - University Closed
- **Friday, September 6** — Last day to drop a course (with academic approval) and receive a 33% tuition refund (67% tuition liability). **After September 6, there is no tuition refund and 100% tuition liability.**
- **Tuesday, October 1** — December graduation applications distributed. Due in Records Office by October 18.
- **Monday, October 14** — Fall Recess.
- **Tuesday, October 15** — Observe a **MONDAY** schedule.
- **Thursday, November 21** — Observe a **MONDAY** schedule.
- **Friday, November 22** — Observe a **TUESDAY** schedule. Fall semester classes end.
- **Monday, November 25 - Sunday, December 1** — Thanksgiving recess/Reading days.
- **Monday, December 2 - Wednesday, December 18** — Examinations. (The last scheduled exam is Monday, December 16. December 17 & 18 are reserved for make-up exams due to schedule conflicts and inclement weather.)
- **Thursday, December 19** — Fall graduation. (Note: The 2014 Spring commencement ceremony includes all academic year 2013-14 graduates.)
- **December 24 - January 1** — University Closed