

**UNIVERSITY OF PENNSYLVANIA
THE WHARTON SCHOOL
LEGAL STUDIES/MANAGEMENT DEPARTMENT
LGST/MGMT 213 COURSE SYLLABUS, FALL 2009
LEGAL ASPECTS OF ENTREPRENEURSHIP**

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Wharton Office Hours: Wednesdays, 2 pm to 3 pm

Class Hours: Wednesdays, 3 pm to 6 pm

Legal Aspects of Entrepreneurship is a practical and intensive course that examines critical legal issues confronting start-up and emerging growth companies. Extensive readings and detailed lecture presentations are at the core of the course. The course provides perspective on how the law impacts business risk, the deployment of resources and shareholder value.

Topics include the U.S. legal system, including the process and economics of a lawsuit and issues of court jurisdiction; the business risks created by the basic “business torts” (torts between two businesses), and how contract law and insurance law allow management of those and other risks; the nature and enforceability of non-competition and other restrictive employment-related agreements; choice of the legal form for your business, including the legal, financial and basic tax advantages and disadvantages of general partnerships, limited partnerships, corporations and limited liability companies; creditors’ rights and duties; securities law; venture capital and private equity financings; mergers and acquisitions; employment law; and intellectual property law including copyrights, trademarks, trade secrets and patents.

There will be one mid-term examination, and one final examination. Each examination will be equally weighted and each will be a closed-book, closed-note examination.

Required Materials: Required readings are available in Bagley & Dauchy, *The Entrepreneur’s Guide to Business Law* (3rd ed. 2007) and on webCafé. The Syllabus lists the readings in the order in which they should be read, and the webCafé readings are numbered in the order in which they should be read. The Bagley book is recommended as a general reference even as to the portions that are not required reading.

Optional Materials: Two works are optional: (1) Polinsky, *An Introduction to Law and Economics* (3rd ed. 2003); and (2) Smith, *Start-Up & Emerging Companies: Planning, Financing, and Operating the Successful Business* (updated through Release 21, 2008). The Syllabus will specify optional readings from Polinsky that you may find illuminating. The Syllabus will not specify readings from the Smith treatise. The Smith treatise, which has a detailed table of contents, instead should be consulted in the event that you would like a more in-depth and advanced examination of the course topics. The Bagley, Polinsky and Smith books are all available in the Reserve section at Lippincott Library.

Note that there are 14 actual class periods in the semester but only 13 classes listed in the Syllabus. The extra class period will be used either before or after the mid-term, as the case may be, to deal with slippage in the schedule and ensure that we adequately cover all of the class topics listed below.

TOPICAL ASSIGNMENTS

CLASS 1 U.S. LEGAL SYSTEM I: THE STRUCTURE OF U.S. LAW AND THE U.S. COURT SYSTEM; THE PROCESS AND ECONOMICS OF LITIGATION

Required Readings: Bagley, Chapter 1

Introductory Hypothetical and U.S. Legal System I materials on webCafé

Bagley, Chapter 3

Suggested Readings: Polinsky, Chapters 1-3 and 16

CLASS 2 U.S. LEGAL SYSTEM II: JURISDICTION OF U.S. COURTS

Required Readings: U.S. Legal System II materials on webCafé

Bagley, Chapter 9, pp. 257-261 (focus on “The U.S. Approach to Jurisdiction”)

CLASS 3 THE COMMON LAW AND BUSINESS RISKS: THE BASIC “BUSINESS TORTS” AND MANAGING RISKS WITH CONTRACT LAW AND INSURANCE LAW

Required Readings: Bagley, Chapter 11 (focus on p. 353, “Defamation,” pp. 357-359, “Torts That Protect Certain Economic Interests and Business Relationships,” pp. 362-363, “Vicarious Tort Liability and *Respondeat Superior*,” and pp. 379-383 starting with “Insurance”; *skip* pp. 366-379, “Antitrust Violations” through “Computer Crime and the CFAA”)

Bagley, Chapter 8, p. 181, “Choice of Law,” pp. 188-190, “Advantages of Putting a Contract in Writing,” pp. 201-205, “Allocating Risk,” “Arbitration and Mediation,” “Choice of Law and Forum” and “Attorneys’ Fees,” and pp. 209-212, focusing on “Consequential Damages and Liquidated Damages” and “Specific Performance and Injunctions”

Common Law and Business Risks materials on webCafé

Optional Readings: Polinsky, Chapters 7, 8 and 15

CLASS 4 DUTIES TO YOUR FORMER EMPLOYER: COMMON LAW DUTIES AND NON-COMPETE AND OTHER RESTRICTIVE EMPLOYMENT-RELATED AGREEMENTS

Required Readings: Bagley, Chapter 2

Bagley, Chapter 14, pp. 494-503, “Trade Secret Protection”

Duties to Your Former Employer materials on webCafé

CLASS 5 CHOICE OF BUSINESS FORM I: SOLE PROPRIETORSHIPS, GENERAL PARTNERSHIPS AND LIMITED PARTNERSHIPS, INCLUDING BASIC TAX ISSUES

Required Readings: Bagley, Chapter 4

Choice of Business Form I materials on webCafé

CLASS 6 CHOICE OF BUSINESS FORM II: CORPORATIONS AND LIMITED LIABILITY COMPANIES, INCLUDING BASIC TAX ISSUES

Required Readings: Bagley, Chapter 5

Bagley, Chapter 6, pp. 116-121, “The Responsibilities of the Board” through “Business Judgment Rule”

Bagley, Chapter 8, pp. 184-185, “Authority” and pp. 197-198, “Signatures”

Bagley, Chapter 10, pp. 321-322, “Employer Liability for Employees’ Acts”

Choice of Business Form II materials on webCafé

CLASS 7 MID-TERM EXAMINATION (NO EXCEPTIONS) – DATE TO BE DETERMINED

CLASS 8 FINANCING A BUSINESS: CREDITORS' RIGHTS AND DUTIES

Required Readings: Bagley, Chapter 7, pp. 132-150 up until “Rights of Holders of Preferred Stock”

Bagley, Chapter 12, pp. 388-401, “Types of Loans” through “Personal Guaranties”

Bagley, Chapter 8, p. 218, “Loan Agreements”

Creditors’ Rights and Duties materials on webCafé

CLASS 9 FINANCING A BUSINESS: SECURITIES LAW

Required Readings: Bagley, Chapter 7, pp. 157-179 including Table 7.1 (*skip* “Blue Sky Laws” including Table 7.2)

Securities Law materials on webCafé

CLASS 10 FINANCING A BUSINESS: VENTURE CAPITAL AND PRIVATE EQUITY INVESTMENTS

Required Readings: Bagley, Chapter 13

Bagley, Chapter 7, pp. 154-156, “Charter Amendment” and “The Stock Purchase Agreement and Related Agreements”

Venture Capital and Private Equity materials on webCafé

CLASS 11 BUYING OR SELLING A BUSINESS: MERGERS AND ACQUISITIONS AND “DEAL LITIGATION”

Required Readings: Bagley, Chapter 16

Mergers and Acquisitions materials on webCafé

CLASS 12 EMPLOYMENT LAW: INDEPENDENT CONTRACTORS VERSUS EMPLOYEES; “AT WILL” VERSUS CONTRACT EMPLOYMENT; EMPLOYMENT DISCRIMINATION

Required Readings: Bagley, Chapter 10 (*skip* pp. 306-322, “The Employment Agreement” through “Employer Liability for Employees’ Acts”)

Employment Law materials on webCafé

CLASS 13 INTELLECTUAL PROPERTY LAW

Required Readings: Bagley, Chapter 14 (read the “Patents” material last; note that pp. 494-503, “Trade Secret Protection,” was assigned for Class 4)

Bagley, Chapter 9, pp. 255-257, “Unfair Competition”

Intellectual Property materials on webCafé

Optional Readings: Polinsky, Chapters 17-19

FINAL EXAMINATION: TIME AND LOCATION TO BE DETERMINED BY REGISTRAR (NO EXCEPTIONS)