

BUSINESS LAW II (BLAW 308) revised 9.25.09

Professor Scheffel
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For email messages, type "BLAW 308" in the reference portion
Office Hours: Saturdays 8:00 a.m. – 9:00 a.m. and by appointment
Text: *Business Law: The Ethical, Global and E-commerce Environment*, Mallor *et al.*, 14th ed., (2009). Available hardcopy at the campus bookstore and elsewhere. The text is also available at a discount online at:
<https://ebooks.primisonline.com/eBookstore/CustomEBooks.jsp>.

The Study Guide that accompanies the 14th ed. is highly recommended.

Classroom: JH1234

Objectives of the Course

Learning Goals and Objectives for All Business Law Courses: Classes are taught using the Socratic method, with its goal of participatory learning and the development of reasoning skills. This active learning process requires students to articulate, develop and defend positions, to think critically and to engage in problem-solving. Students learn to formulate an effective legal analysis by synthesizing information, identifying legal issues, distinguishing relevant from irrelevant facts, using facts and law to support argument, reasoning by analogy and reaching conclusions based on analysis. In addition, students in all courses study ethical issues in a business context, with actual topics depending on course content.

BLAW 308: Business Law II (3 units). Study of the role of law in business including the study of legal institutions and their role in facilitating and regulating business. Includes agency and employment law, the various forms of business organizations and securities law.

You will analyze how law applies to factual settings. You will read court decisions, prepare written briefs of the decisions, orally defend your interpretations of the cases, answer hypothetical questions in open class discussion, and write papers in which you analyze contract disputes related to agency and business organizations. You will learn to distinguish the application of rules depending on changing circumstances in various cases and hypothetical situations. You will learn to argue alternate sides of a dispute regardless of personal belief. You will learn to identify the functions, policies, and trends in the law, and to consider social, economic and ethical influences on the law.

Exams are composed of one or more essay questions that require you to analyze factual scenarios, identify legal issues and apply the law in determining the outcome of hypothetical cases. Exams sometimes include multiple-choice questions.

Course topics

- I. Agency and Employment Law
 - A. Agency
 1. Agency Relationships
 - a. Nature of Agency
 - b. Formation of Agency

- c. Duties of Agent toward Principal
 - d. Duties of Principal toward Agent
 - e. Termination of Agency
 - 2. Third-Party Relations
 - a. Contract Liability of the Principal
 - b. Contract Liability of the Agent
 - c. Tort Liability
 - d. Criminal Liability
 - B. Employment Law
 - 1. Legislation Protecting Employee Health, Safety and well being: worker's compensation, OSHA, FMLA
 - 2. Legislation Protecting Wages, Pensions & Benefits: Social Security, Unemployment Compensation, ERISA, and FLSA
 - 3. Equal Opportunity Legislation
 - 4. Title VII
 - 5. Employee Privacy
 - 6. Job Security
- II. Business Organizations
- A. Choosing a Form of Business: Sole Proprietorships, Partnerships, LLPs, Ltd. Partnerships, Corporations, Professional Corporations, LLCs
 - 1. Liability Considerations
 - 2. Tax Considerations
 - B. Partnerships
 - 1. Creation of Partnerships
 - 2. Creation of Joint Ventures
 - 3. Partnership Property
 - 4. Operation of Partnerships
 - a. Fiduciary Duties
 - b. Authority
 - c. Liability for Torts & Crimes
 - 5. Dissolution and Winding Up
 - C. LLCs, Limited Partnerships, LLLPs
 - 1. LLCs: Tax Treatment, Formation, Rights and Liabilities, Dissolution
 - 2. Limited Partnerships and LLLPs: Creation, Rights and Liabilities, General Partners distinguished, Dissolution
 - D. Corporations
 - 1. History and Nature of Corporations
 - a. Forms
 - b. Piercing the Corporate Veil
 - 2. Organization and Financial Structure of Corporations
 - a. Promoters and Preincorporation Contracts
 - b. Incorporation Process
 - c. Finance
 - d. Consideration for Shares
 - e. Share Subscriptions, Issuance, Transfer
 - 3. Management
 - a. Corporate Powers
 - b. Directors' Powers & Duties
 - c. Officers' Powers & Duties
 - d. Managing Close Corporations
 - e. Liability for Corporate Torts and Crimes
 - f. Insurance and Indemnification

4. Shareholders' Rights and Liabilities
 - a. Meetings, Elections
 - b. Fundamental Rights
 - c. Inspection and Information Rights
 - d. Preemptive Rights
 - e. Distributions: Dividends
 - f. Shareholder Direct Suits cf. Shareholder Derivative Suits
 - g. Shareholder Liability
 - h. Dissolution and Termination
- E. Securities Regulation
 1. Definition of Security
 2. Registration
 3. Insider Trading

Class Preparation

The assignments are listed separately. Normally we complete one assignment each class. Always stay one full assignment ahead. If, for instance, we begin but do not finish an assignment, prepare the next full assignment for the next class. Assignments include reading from the text.

Briefs: There are cases and problem cases which must be briefed in writing. A "case" is a court case which is contained in the text. A "problem case" is an end-of-chapter case, which, again, must be briefed. These problem cases are also actual court cases, but do not include the court's decisions - that will be your job to analyze. When a case problem contains questions, simply ignore them, and instead brief the case. If you have questions about the assigned material, please ask. Finally, there are periodic assignments that you find or research a topic. In that case, you will turn in the result of your search.

You will be called on at random throughout the semester to read your briefs and problems in class. You will not be graded on the briefs or problems. These are learning tools, not finished product. However, if you are unprepared or absent, this will affect your grade as discussed below. It is your responsibility to be prepared for every class. If you are absent, it is still your responsibility to be prepared. Once during the term you may give me a note at the start of class stating that you are unprepared and no negative mark will be made. You must be present in class to give such a note - it is not available as an excuse for an absence. You may not tape record the class without permission.

Written Assignments ("WA"): Periodically, you may turn in particular assignments. For assignments that are listed as "WA" you must print out a hard copy and turn it in no later than the start of class on the date due. You may turn it in early, of course. If you are absent when a written assignment is due, you may turn it in no later than the date due by the start of class. Email followed by a hard copy submission is acceptable.

Briefing Cases

To brief cases, case problems and questions, use the following "IRAC" format:

Issue: What question must be answered in order to reach a conclusion in the case? This should be a legal question which, when answered, gives a result in the particular case. Make it specific (e.g. "Has there been a false imprisonment if the plaintiff was asleep at the time of 'confinement'?") rather than general (e.g. "Will the plaintiff be successful?") You may make it referable to the specific case being briefed (e.g. "Did Miller owe a duty of care to Osco, Inc.?") or which can apply to all cases which present a similar question, (e.g. "Is a duty owed whenever there is an employment relationship?") Most cases present one issue. If there is more than one issue, list all, and analyze all issues raised.

Rule: The rule is the law which applies to the issue. It should be stated as a general principal, (e.g. A duty of care is owed whenever the defendant should anticipate that her conduct could create a risk of harm to the plaintiff) not a conclusion to the particular case being briefed, (e.g. "The plaintiff was negligent.")

Application: The application is a discussion of how the rule applies to the facts of a particular case. While the issue and rule are normally only one sentence each, the application is normally paragraphs long. It should be written debate - not simply a statement of the conclusion. Whenever possible, present both sides of any issue. Do not begin with your conclusion. The application shows how you are able to reason on paper and is the most difficult (and, on exams, the most important) skill you will learn.

Conclusion: What was the result of the case?

With cases, the text gives you a background of the facts along with the judge's reasoning and conclusion. When you brief cases, you are basically summarizing the judge's opinion. With case problems, the editors have given you a summary of the facts of an actual case, but have not given you the judge's opinion. Your job is to act as the judge in reasoning your way to a ruling, again using the IRAC format.

Most briefs are one page long. They must be brought to class on the day they are to be discussed. Once an assignment has been discussed, you no longer need to bring it to class. Since the briefs are not normally turned in, they may be either handwritten or typed.

Exams and Grading

There will be one midterm, two papers and a final. The final exam is cumulative and will be given on the last day of class. The grade allocation is as follows:

Agency/ Partnership Law Assignment: 10% of course grade

Participation (including the WA): 10% of course grade

Midterm: 35% of course grade

Final exam: 45% of course grade

Your grade is affected by whether you have been prepared when called on for case briefs. As noted above, you may give a note once during the term stating that you are unprepared, and no negative mark will be made. However, if you are called on and have not given an "unprepared" note or are absent you will receive an "unprepared" mark. If you are absent when called on you are "unprepared." Any unprepared marks will cause your negatively impact your participation points.

At the professor's sole discretion, your course grade may be raised based on classroom participation and improvement.

Grading System (taken from "Regulations", CSUN catalog)

GRADE	DEFINITION	GRADE POINTS
A	Outstanding	93-100
A-		90-92
B+	Very Good	87-89
B		83-86
B-		80-82
C+		77-79

C	Average	73-76
C-		70-72
D+		67-69
D	Barely Passing	63-66
D-		60-62
F	Failure	0 - 59

General Instructions on Taking Exams

Answer each question fully, clearly, and in the order given. Mere conclusions receive no credit. You should:

- Discuss the issue.
- Define and discuss any principles of law, legal theories, etc., relevant to the question.
- Fully apply the given facts to the legal principles on which you rely. Do not ignore any facts, even if they do not support your conclusions. Do not assume that I know that you know something - tell me in your exam what you know, defining every legal term used.
- The actual conclusions you reach could be the least important part of your answer - but you must base your conclusions on complete and intelligent applications of the facts to the legal principles involved.
- If further facts could affect the outcome of the problem, state with particularity what they are, and how they could affect the outcome.
- You may either use the "IRAC" format or write in straight paragraph form. Students earning higher grades tend to use essay format that incorporates the IRAC process. Discuss the issues involved, the applicable legal rules, and an application of the law to the facts to reach your outcome. Discuss all issues - some questions have more than one issue.
- If you need scratch paper to make notes, use your exam itself. Although you must turn it in, it will not be graded. You may also designate a page of your bluebook as "notes" and it will not be graded.

Please note:

- Use non-erasable dark blue or black ink for your essays. Do not use pencil, white-out or tear pages out of your blue book.
- Bring two large bluebooks to the midterm. Bring two large bluebooks and one 882 scantron to the final. Write your name on the bluebook. Write on every line of the blue book. Write on only one side of each page; however you may use the facing page to insert information. Write your name on the exam itself. When you complete the exam, place the exam and scantron inside your bluebook and turn in the whole as a package. Failure to follow all of these directions will cause a 0.1 reduction in your exam grade. Failure to return the exam itself will result in a grade of "F" for the exam and may be referred to the Dean's office for further proceedings.
- All exams are closed book but limited open note. You may bring to the exam **one (1) handwritten** page of notes (8 ½ by 11 only) that **you** wrote. You may write on both the front and back page. **NO EXCEPTIONS TO THIS POLICY.** Note: all cases of cheating will result in a grade of "F" for the course and are referred to the Dean's office for further action.

Assignments

Week	Date	Class topics	Work due
1	8/22	Introduction	Read ch. 1
2	8/29	Agency	Read ch. 35 Brief Eisenberg, PC ¹ 1, 3
3	9/5		No Class – Labor Day Holiday
4	9/12		ch. 35: brief Abkco, PC 4, 5, 6 & 9
5	9/19		Read ch. 36 Brief Treadwell, PC 2, 8
6	9/26		Ch. 36: brief PC 9, 10, 11
7	10/3	Midterm	
8	10/10	Business Organizations	No formal class meeting; Read ch. 37.
9	10/17		ch. 37. Brief PC 2, 3, 7, 8, 9, 10
10	10/24	Partnerships	Read ch. 38. Brief Moren, PC 4, 5, 7 & 10
11	10/31		Read ch. 39. Brief Schwartz, PC 1, 4, 6 & 8 Read ch. 40. Brief Katris, PC 2, 3 & 8
12	11/7	LLCs, LLPs, LPs, Corporations	Read ch. 41. Brief Hildreth, PC 4, 8 & 9
13	11/14		Read ch. 42. Brief Coyle, PC 3, 5, 9, & 10
14	11/21		Read ch. 43. Brief Brehm, Guth, U.S. v. Jensen, PC 1, 3 & 7; Read ch. 44. Brief Dodge, Zapata, Brodie, PC 9.
15	11/28		No Class- Thanksgiving Holiday
16	12/5	Employment Law	Read ch. 51 Brief Darco, Becknell, PC 3 & 4 WA ² : <u>Using Lexis</u> , locate <i>Miller v. Dept. of Corrections</i> (2005) 36 Cal. 4 th 446. Brief it. Turn in your hardcopy brief along with the first page of <i>Miller</i> . WA assignment goal: (1) to learn to use Lexis, (2) to see changes to California law Ch. 51: Brief TBG & Cisco Agency/ Partnership Assignment (DUE TODAY)
17	12/12		FINAL EXAM

¹ “PC” refers to the problem cases at the end of each chapter. Ignore any questions given by the editors. Instead, these should follow IRAC format, with your analysis based on readings.

² “WA” refers to writing assignments. These are due, hardcopy at the start of class. They are credit/no credit.