

**SYLLABUS**  
**Unincorporated Business Associations**

*Spring Semester – 2010*  
Tuesdays & Thursdays 10:30-11:45 Room 675

**Professor:** Anne Tucker Nees  
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Office Hours: Tuesdays 1-3  
Wednesdays 10-12  
*And by appointment*

**Required Text**

**Unincorporated Business Entities, 4<sup>th</sup> Edition, Ribstein & Lipshaw**

**Supplemental Reading**

The Law of Agency & Partnership, William Gregory  
*May suggest a supplement for LP/LLC/LLP materials later in the semester.*

**Course Description**

This course will explore small business forms that are alternatives to corporations.<sup>1</sup> We will begin the course with a brief overview of Agency & Partnership, and then focus the remainder of the semester on LP's, LLC's, and LLP's. We will end the semester with several weeks focusing on how these issues arise in the context of law firms, which will prepare you for your own experience as future partner, as well as, will teach you principles applicable to other forms of small businesses.

Working with businesses is a crucial part of many legal practices—whether you want to focus exclusively on transactions or small business planning, envision working in a small law or starting your own firm where you will be expected to perform a variety of legal work, or whether you want to be a litigator. Even family law and estate planning practices require some familiarity with these issues.

In this course, we will depart from the traditional law-school course format. We will read relatively few cases, focusing instead more on the originating statutes, and practice problems applying the rules discussed in the casebook. In class we will focus our energy on applying the rules, which means that we will employ several different techniques including cold calling on students, group discussions, un-graded quizzes, and small drafting assignments.

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<sup>1</sup> Please consider taking Corporations (offered in the Fall, Spring, and Summer) for an opportunity to learn about the unique laws affecting corporations as well as additional instructions about the formation requirements for Agency and Partnerships.

All business entities (other than sole proprietorships) have a root somewhere in a state statute, so we will spend a significant amount of time on the statutes governing these entities. The statutes are in the back of the casebook.

### **Course Objectives**

1. Understand alternative (to corporations) business formats—how to form and the consequences (both negative and positive) of each form.
2. Identify the various sources of law affecting business entities so that when faced with a client question (transactional or litigation) you can efficiently research the issue.
3. Understand the analysis required for planning questions with unincorporated business associations.
4. Understand the rights, obligations, and liabilities of business actors in various unincorporated business forms for purposes of business planning and generating liability theories.
5. Gain experience drafting legal documents.

### **Important Class Policies**

#### **THE RULE OF COMMON SENSE**

Upon entering law school, you became a member of the legal profession. Therefore, I expect you to act like a lawyer when in class—be prepared, be diligent, be courteous. When in doubt as to the appropriate course of action, use common sense whether it be in regards to electronic devices, arrival time, classroom conduct, or any other myriad of issues that may arise during the course of the semester.

#### **ATTENDANCE AND PREPARATION**

Attendance and preparation are critical to your success in this course, and are therefore, mandatory. At the beginning of each class you will be expected to sign an attendance sheet. To keep things honest, please do not sign in for a neighbor or friend. If you have more than 5 total absences, I reserve the right to exclude you from the exam. Please reference the College of Law's 2009-2010 Bulletin available at [http://law.gsu.edu/registrar/pdf/College\\_of\\_Law\\_Bulletin\\_2009-2010.pdf](http://law.gsu.edu/registrar/pdf/College_of_Law_Bulletin_2009-2010.pdf) for additional information regarding attendance policies.

On the second day of class, students will select an assigned seat for the duration of the course. Class will begin promptly at 10:30 am. Please be in your seat and ready to learn.

Note taking is strongly encouraged, whether it is by laptop or pen and paper. Dictation, however, is strongly discouraged—try to put the lecture notes in your own words. Similarly, audio recordings of class are prohibited pursuant to the policies stated in the Bulletin. Please come see me in advance of classes conflicting with a religious holiday or other significant events so that we can make appropriate arrangements.

If assignments are collected for participation points, they must be turned at the date and time requested. No late assignments. No exceptions. All assignments collected will be

reviewed on a  $\sqrt{}$ ,  $\sqrt{+}$ , or  $\sqrt{-}$  basis. If you are absent from class, you may email the homework **before** the start of class.

During class, students will be called on to answer questions, as well as will be given the opportunity to volunteer. If you are not prepared for the day, please come see me or email me **before** class. Otherwise, if you are called upon and are not prepared (by admission or obvious inability to answer questions), then your attendance record may be deducted by  $\frac{1}{2}$  for the day and counted towards your total unexcused absences referenced above.

Assignments and class participation are a factor in your final grade. The number of points earned by each student will be added to their final grade. The total number of points available depends upon the number of assignments, among other factors, but typically accounts for sufficient points to potentially increase or decrease your letter grade by  $\frac{1}{3}$  (e.g., with assignment/participation points, a B could become a B+ or a B-). Please note that the determinative factors of participation points are consistent attendance, preparation, and quality (not necessarily quantity) of contribution. Instructions for assignments will be on a per-assignment basis.

*As with any policy, those stated herein are guidelines meant to inform your decisions and actions over the course of the semester. If you have any questions, or special circumstances that you believe may warrant an exception to a stated policy, please come see me immediately.*

#### ACADEMIC MISCONDUCT

Please refer to the College of Law's Honor Code for a full discussion of what constitutes academic misconduct and the consequences for failure to comply. The Honor Code is available at <http://law.gsu.edu/registrar/bulletin/honorcode.php>.

#### TWEN

Please sign up for the TWEN page that corresponds with this course. On the TWEN website, you will find reading assignments, homework problems, directed reading questions, class announcements, and supplemental readings. Please contact the Westlaw Representatives, or me, if you have questions about registering for or using the course website.

#### AVAILABILITY

You are invited to come visit me during my posted office hours (Tuesdays 1-3 & Wednesdays 10-12), which I will keep throughout the semester. In addition, I am available by appointment and will generally try to keep an open door policy (meaning that if my door is open, just knock and come on in!). You may also email me questions. Basically, my approach is to be available at a time and forum that is convenient for you. In addition to these traditional forums to ask specific questions, you may have lunch with me during one of two brown bag lunches throughout the semester (at noon on February 9 and March 16). During these brown bag lunches, you will bring your lunch and have an informal conversation with me and some of your classmates on all things ranging from

the course, to career plans, to life outside of the law school. Sign up sheets are posted on the TWEN course site. Please note that participation in a brown bag lunch will not be considered when assessing participation points (it's a brown bag, not a brown nose session).

### EXAM

Your exam will be a 3-4 hour limited open book (e.g., individually prepared outlines and statutory supplements). The exam will be comprised primarily of essay questions, however, I reserve right to include multiple choice and short answer questions as a part of the exam. To assist in preparations for the exam, I will make available a practice essay question with a sample answer. Additionally, I will host a review session, to be scheduled at a later date.

### Course Overview

During this course, our readings and class time will answer the following questions:

### FIRST DAY READING ASSIGNMENT

pp. 1-9, 309-315

Complete the Student Data Sheet (available on TWEN) before class

*Note, reading lists for each unit will be individually posted on TWEN.*

### Introduction:

Approx. 1 class

Why Study Unincorporated Business Forms?

- A. What are the Characteristics and Components of Choice of Form?
- B. What are the roles of the Lawyers and Agreements in business law issues?

### Unit 1: Agency:

Approx. 2 classes

- A. What is an Agency Relationship?
- B. What are the consequences of determining an Agency Relationship
- C. When is a Principal Liable for the Agent's Acts
  - a. In contract
  - b. In tort

### Unit 2: Partnership

Approx. 4 classes

- A. What is a Partnership & how is it formed?
- B. What are the default rules of a partnership?
  - a. Formation
  - b. Term
  - c. Financial and Management Rights
  - d. Property rights
  - e. Fiduciary Duties
- C. How can those rules be changed by private agreements?
- D. What are the Remedies available for actions arising out of Partnership conflicts?

**Unit 3: Limited Partnerships**

Approx. 5 classes

- A. What is a Limited Partnership & how is it formed?
- B. What are the default rules for Limited Partners and for General Partners?
  - a. To what extent do Partners enjoy Limited Liability?
  - b. Financial and Management rights
  - c. Property rights
  - d. Fiduciary duties
- C. How can a Partner Dissolve or Disassociate from an LP?
- D. What are the Remedies available for actions arising out of LP conflicts?

**Unit 4: LLC**

Approx. 7 Classes

- A. What is an LLC and how is it formed?
  - a. To what extent do Members enjoy Limited Liability?
- B. How are LLC managed?
- C. What are the property rights of LLC Members?
- D. How can interests in LLCs be transferred?
- E. To what extent do Members owe each other Fiduciary Duties?
- F. How can LLCs be dissolved or how can a Member Disassociate from an LLC?

**Unit 5: LLP**

Approx. 1 class

- A. What is an LLP?
- B. How does it differ from the other forms?
- C. How is it formed?

**Unit 6: Law Firm Issues**

Approx. 4 classes

- A. How is compensation set?
- B. How Partnership Accounts are created and maintained.
- C. What is the rights of partners to vote?
- D. What are the Buyout Issues and other exit scenario solutions?
- E. How to expel a non-performing partner and what are the rights of that partner?
- F. How to address compensation issues after withdrawal?

**Unit 7: Advanced Unincorporated Association Issues**

Approx. 1 class

- A. What other sources of law are implicated?
- B. What are the roles of tax and securities law in business planning issues?