

# 15.615 – Essential Law for Business

## Spring 2019 – Preliminary Syllabus and Reading List

[As of 01/28/19]

Instructors: John Akula and Lou Rodriques

Mon/Wed 8:30-10:00; E51-145

Meets full semester; 9 units; Letter-graded

Graduate students, undergraduates, and researchers  
from ALL MIT departments welcome

No prerequisites required or recommended; No prior knowledge of law expected

### Overview

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This course is a broad-gauged introduction to business law. It provides a solid grasp of the ways in which law shapes opportunities and risks in the business world. It considers key law-sensitive junctures faced by young and mature companies. It considers these issues from the perspectives of the company; of individual managers who are both guiding their organizations and planning their own careers; and of investors, lenders, consultants and advisors. Complex deals and finance get a bit of special attention.

The primary focus is US law, but US law will be viewed in a comparative perspective, and some time will be spent on transnational issues in connection with many of the topics.

The instructor was for many years a practicing attorney, and the focus throughout is on realistic problems and opportunities, and practical skills and tools.

For some classes, we will have leading practitioners come in to share their expertise.

### Class-by-class topical outline

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**Note:** Each semester when I put this course together, the topics are arranged at first in a logical order. However, practitioner guest lecturers are a vital part of this course, and their schedules sometimes requires juggling of the order of topics (before or during the semester). If the order looks scrambled or is scrambled later, that is usually why. Apologies in advance, but I think it is worth it to have their hands-on expertise.

Class	Topic
1 W 2/6	<b>Introduction</b>
2 M 2/11	<b>The Law of Duties (I)</b>
3 W 2/13	<b>The Law of Duties (II)</b>
<i>No class Monday 2/18 but Monday classes moved to Tuesday</i>	
4 Tu 2/19	<b>Contracts and the Law of the Deal (I)</b>
5 W 2/20	<b>Contracts and the Law of the Deal (II)</b>
6 M 2/25	<b>The Hard Edge of Regulation (I)</b>
7 W 2/27	<b>The Hard Edge of Regulation (II)</b>
8 M 3/4	<b>The Hard Edge of Regulation (III)</b>
9 W 3/6	<b>Insider Trading</b> <i>Guest: Lisa Wood, partner, Foley Hoag</i>

10 M 3/11	<b>M&amp;A (I) – Buying and Selling the private company</b>
11 W 3/13	<b>M&amp;A II – Inside the Target Public Company Board Room</b> <i>Guest: Jackie Mercier, partner, Goodwin Procter</i>
<i>No classes Monday 3/18 and Wednesday 3/20 – Sloan Innovation Period (SIP)</i> <i>No classes Monday 3/25 and Wednesday 3/27 – Spring Break</i>	
12 M 4/1	<b>Overview of US legal system / litigation</b>
13 W 4/3	<b>Employment Law and Your Career (I)</b>
14 M 4/8	<b>Employment Law and Your Career (II)</b>
15 W 4/10	<b>Employment Law and Your Career (III)</b>
<i>No class Monday 4/15 – Patriots Day Holiday</i>	
16 W 4/17	<b>Employment Law and Your Career (IV)</b>
17 M 4/22	<b>Venture Capital</b> <i>Guest: Heather Stone, partner, Locke Lord</i>
18 W 4/24	<b>Commercial Lending; Financial Distress; Bankruptcy &amp; Reorganization (I)</b>
19 M 4/29	<b>Financial Instruments and Derivatives</b> <i>Guest: Leigh Fraser, partner, Ropes and Gray</i>
20 W 5/1	<b>Commercial Lending; Financial Distress; Bankruptcy &amp; Reorganization (II)</b>
21 M 5/6	<b>Competition Policy (I)</b>
22 W 5/8	<b>Competition Policy (II)</b>
23 M 5/13	<b>New Technologies and Intellectual Property (I)</b>
24 W 5/15	<b>New Technologies and Intellectual Property (II); Wrap-up</b>

## Prerequisites and prior experience

There are no prerequisites required or recommended. You are not expected to have any prior understanding of law or of any particular business topics. Whatever background you need will be provided in class. Both graduate and undergraduate students from all departments outside of Sloan are welcome.

The law has its own terminology, and this may be a concern for students for whom English is a second language. However, a special effort has been made in designing the readings and deliverables to minimize this problem – this course is intended to be English-second-language friendly.

## Expectations of students

There is no final exam or any other course obligation after the last meeting of the class. Students must take this course for credit. The general rule is that Listener status is not allowed. The graduate P/D/F option is not available.

Any student requiring an academic accommodation can contact the instructor.

Sloan students are generally familiar with the guidance for course-related conduct provided by “Sloan Values in Practice.” However, that might not always be true and there are usually some students in this course from outside Sloan. So those guidelines have been posted on Canvas under the “General” materials tab, and any student who is not familiar with those guidelines

must read through them and plan to conduct himself or herself accordingly. The guidelines can also be found at

<https://mysloan.mit.edu/offices/deans/values/Pages/CoreValues.aspx>

**Class attendance:** Much of the most important material in this course is presented only in class and not in the readings, so students should plan on attending all classes. Classes will begin promptly at 8:35. Attendance will be a factor in grading. Absences for good cause (such as job hunting or family obligations) will not be penalized, so long as the number of such absences is not excessive. "Excessive" depends on the circumstances; however, more than 1 excused absence will get a hard look. You should e-mail the TA before or shortly after the class in question, with a "cc" to the instructor, to request an excused absence. (You do not need to include in the e-mail any personal details -- just a general statement of the reasons, e.g., job interview, family obligations).

*Under no circumstances should a student sign in for anybody but himself or herself.*

*Please do not use laptops or cell phones during class.*

*You may not register for this class and any other class with a meeting time which conflicts with this class. (We are aware that such scheduling conflicts are sometimes allowed at MIT, but there is a Sloan rule against such conflicts, and that rule applies to all students in this course.)*

**Class participation:** All students are encouraged to participate in class discussion. The instructor may use what is sometimes called "soft" cold calling. (By a "cold call," we mean calling upon a student to respond to a question even if the student has not volunteered by raising his or her hand. By a "soft" cold call, we mean that if the student does not wish to respond he or she can simply "pass" without penalty. Soft cold calling is a technique for encouraging widespread class participation.) Failure to participate will not result in a downward adjustment to a grade, but participation which is thoughtful, especially participation which demonstrates a firm grasp of the readings, will be a positive factor in grading. There may be feedback polls on some of the classes for which you will be required to submit a response.

**Written Exercises:** There are 2 Written Exercises, one around the middle of the semester and one towards the end. The exercises are done outside of class at the times shown below. As to each of the Written Exercises, a student may elect to do that Exercise either as an individual or as part of a team of up to 3 members. The Written Exercises may be done at any location, but if done as a team the entire team must be gathered at one location.

Each Written Exercise will present realistic business situations and requiring an assessment of their law-sensitive aspects.

The time allotments for the exercises are generous enough so you do not have to write fast to do well. This may be of special importance for students for whom English is a second language.

Copies of Written Exercises from recent years will be posted.

Both Written Exercises are "open book." The sources you may consult are the following: (i) the readings for the course; (ii) any other published source (but since in grading the exercise I will be looking for indications that you have done the readings assigned in this course, consulting other sources is not likely to do you much good); and (iii) any notes prepared by you, or by any other student currently enrolled in the class with whom you have prepared for the exercise. During the entire period for which each exercise is available, a student may not consult with any other person, except for team members, about the exercise.

The Written Exercises are tentatively scheduled for the times shown below. Students should plan to be available at those times. Alternative arrangements can be made to do a Written

Exercise at another time, but only for compelling reasons, so you should block out those times on your calendar.

**e-Learnings:** There will be several “e-Learning” exercises which will consist of short-answer questions, probably on-line. The e-Learning exercises must be done individually by every student. Details will be provided on the first day of classes.

	<b>Written Exercise Schedule</b>	<b>Material covered</b>
First Written Exercise	To be done Monday, March 11, 7-9pm	Classes 1-9
Second Written Exercise	To be done Monday, May 6, 7-9pm	Classes 10-20

## Grading

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Grading is not tied to a formula, but will be based approximately as shown below:

First Written Exercise	25%
Second Written Exercise	50%
Class attendance/participation	25%
e-Learnings	?

**Note:** In the normal course attendance and participation will count for only about 25% of the grade. However, you should expect a substantial downward adjustment in your grade if your attendance is poor.

**Note:** The e-Learnings are a new feature and somewhat experimental. We will provide you with further information on the first day of classes about the role they will play in grading.

## Textbook and Canvas

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Students are advised to purchase *The Entrepreneur’s Guide to Law and Strategy* by Constance Bagley and Craig Dauchy (5th ed.; 2018; print year 2017; Cengage Learning; ISBN: 978-1-285-42849-9). The textbook is used more heavily in the second half of the semester.

The book will be at the Coop, and is available new for about \$97 on Amazon. Other material will be posted on Canvas or distributed in class.

## Contact information

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<p><b>John Akula</b> E62-316 jakula@mit.edu 617 452 3619 (office) 857 928 4488 (cell)</p> <p><b>Lou Rodriques</b> E62- 313 louisrod@mit.edu 617-939-1750 (cell)</p>	<p><b>Course Teaching Assistant</b> (Marimer) Maria Mercedes Guevara Llatas marimer.guevara@gmail.com</p> <p><b>Faculty Administrative Support (for both John and Lou):</b> Patty Charest pcharest@mit.edu E62-355 617 253 5701</p>
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## PRELIMINARY READING LIST

**Note:** Some classes have heavier readings and some have none. For the classes with heavy readings, we will generally point out in advance which readings are important to do before the meeting of that class, and which can be put off.

**Note:** You do not need to read the “Putting It Into Practice” segment at the end of each Bagley chapter.

**Note:** Unless otherwise indicated, all readings below except for the Bagley selections will be posted on Canvas.

Class	Topic
1 W 2/6	<p><b>Introduction</b></p> <ul style="list-style-type: none"> <li>• UCC Disaster at Bhopal (please read this before the first class)</li> <li>• Akula, “The US legal system in a Peanut (Note: There is a class later in the semester which will provide an overview of the US legal system in more detail. But in the meantime this item will provide some useful background. It is not necessary to read this for the first class, but please read it at some point during the first two weeks.)</li> </ul>
2 M 2/11	<p><b>The Law of Duties (I)</b></p> <ul style="list-style-type: none"> <li>• Akula, “The law of duties in a Peanut”</li> <li>• Wickline v. California (early case on liability in the context of managed care)</li> </ul>
3 W 2/13	<p><b>The Law of Duties (II)</b></p> <ul style="list-style-type: none"> <li>• Kozup v. Georgetown (liability for AIDs-tainted blood transfusion)</li> <li>• Bagley, pp. 320-327 (Sec 10.6 on “Strict Liability for Defective Products)</li> <li>• Tom Foster, “Sure, Self-Driving Cars are Smart. But Can They Learn Ethics?” Inc., October 30, 2018 at <a href="https://www.inc.com/magazine/201811/tom-foster/artificial-intelligence-ethics.html">https://www.inc.com/magazine/201811/tom-foster/artificial-intelligence-ethics.html</a></li> </ul>

<i>No class Monday 2/18 but Monday classes moved to Tuesday</i>	
4 Tu 2/19	<b>Contracts and the Law of the Deal (I): Focus on “busted” M&amp;A deals</b> <ul style="list-style-type: none"> <li>• Akula, “Contracts - The law of the deal in a Peanut”</li> <li>• IBP v. Tyson (walking away from a signed M&amp;A deal)</li> </ul>
5 W 2/20	<b>Contracts and the Law of the Deal (II): Focus on “busted” M&amp;A deals</b> <ul style="list-style-type: none"> <li>• Hexion v. Huntsman (walking away from a more complex signed M&amp;A deal)</li> <li>• Delchi v. Rotorex (computing damages)</li> </ul>
6 M 2/25	<b>The Hard Edge of Regulation (I)</b> <ul style="list-style-type: none"> <li>• Akula, “Business Crime: What to Do when the Law Pursues You” (Sloan Management Review)</li> </ul>
7 W 2/27	<b>The Hard Edge of Regulation (II)</b> <ul style="list-style-type: none"> <li>• In the Matter of John Gutfreund (managing a compliance problem)</li> <li>• Bernie Ebbers and WorldCo (pressure to break the law)</li> </ul>
8 M 3/4 SIBA	<b>The Hard Edge of Regulation (III)</b> <ul style="list-style-type: none"> <li>• Daiwa Bank (compliance complicated by a transnational dimension)</li> </ul>
9 W 3/6 [SIBA]	<b>Insider Trading</b> <b>Guest: Lisa Wood, partner, Foley Hoag</b> <ul style="list-style-type: none"> <li>• Akula, “The law of insider trading in a Peanut”</li> <li>• Salman v. US (most recent US Supreme Court case on insider trading)</li> </ul>
10 M 3/11	<b>M&amp;A (I) – Buying and Selling the private company</b> <ul style="list-style-type: none"> <li>• Bagley, Ch 16, "Buying and Selling a Business": EXCEPT SKIP Sections 16.6 (Tax Treatment of Business Combinations); 16.9 (Securities Law Requirements); 16.10 Accounting Treatment; and “Putting It Into Practice”</li> <li>• Hexion Huntsman Agreement Table of Contents</li> </ul>
11 W 3/13	<b>M&amp;A II – Inside the Target Public Company Board Room</b> <b>Guest: Jackie Mercier, partner, Goodwin Procter</b> <ul style="list-style-type: none"> <li>• No additional readings</li> </ul>
<i>No classes Monday 3/18 and Wednesday 3/20 – Sloan Innovation Period (SIP)</i> <i>No classes Monday 3/25 and Wednesday 3/27 – Spring Break</i>	
12 M 4/1	<b>Overview of US legal system / litigation</b> <ul style="list-style-type: none"> <li>• Akula, “The US legal system in a Peanut” (previously assigned in class 1)</li> </ul>
13 W 4/3	<b>Employment Law and Your Career (I)</b> <ul style="list-style-type: none"> <li>• Sample offer letter</li> <li>• Glaz v. Ralston Purina</li> </ul>
14 M 4/8	<b>Employment Law and Your Career (II)</b> <ul style="list-style-type: none"> <li>• Bagley Chapter 8, pp. 201-222</li> </ul>
15 W 4/10	<b>Employment Law and Your Career (III)</b> <ul style="list-style-type: none"> <li>• Bagley, Chapter 8, pp. 193-201,</li> <li>• Stanton v. Lighthouse Financial</li> </ul>
<i>No class Monday 4/15 – Patriots Day Holiday</i>	
16 W 4/17	<b>Employment Law and Your Career (IV)</b> <ul style="list-style-type: none"> <li>• Sample NDA:</li> <li>• Augat v. Aegis</li> </ul>

17 M 4/22	<b>Venture Capital and Private Equity</b> <b>Guest: Heather Stone, partner, Locke Lord</b> <ul style="list-style-type: none"> <li>• Bagley Ch 13 “Venture Capital” EXCEPT STOP at p. 487</li> </ul>
18 W 4/24	<b>Commercial Lending; Financial Distress; Bankruptcy &amp; Reorganization (I)</b> <ul style="list-style-type: none"> <li>• Akula, “The legal framework of business distress – Opportunities and risks in a Peanut,” Parts I-III</li> </ul>
19 M 4/29 IPADE	<b>Financial Instruments and Derivatives</b> <b>Guest: Leigh Fraser, partner, Ropes and Gray</b> <ul style="list-style-type: none"> <li>• ?</li> </ul>
20 W 5/1 IPADE	<b>Commercial Lending; Financial Distress; Bankruptcy &amp; Reorganization (II)</b> <ul style="list-style-type: none"> <li>• Akula, “The legal framework of business distress – Opportunities and risks in a Peanut,” Parts IV-V</li> </ul>
21 M 5/6	<b>Competition Policy (I)</b> <ul style="list-style-type: none"> <li>• Akula, “U.S. antitrust law in a Peanut”</li> <li>• Varta Bosch (EU merger case)</li> </ul>
22 W 5/8	<b>Competition Policy (II)</b> <ul style="list-style-type: none"> <li>• US v. Microsoft (“monopolization” in the most important US antitrust case involving Microsoft)</li> </ul>
23 M 5/13	<b>New Technologies and Intellectual Property (I)</b> <ul style="list-style-type: none"> <li>• For classes 23 &amp; 24, Bagley Ch. 14 on “Intellectual Property and Licensing” should be read in its entirety (pp 496-568) except for “Putting It into Practice.” The sections most relevant to Class 16 are Section 14.3 on “Patents” (at pp. 523-541); Section 14.2 on “Copyrights” (at pp. 509-523); and Section 14.9 on “Special Issues Associated With Software Licenses, Open-Source Software, and Online Terms of Use” (at pp. 564-568).</li> <li>• Lotus v. Borland (copyright and software)</li> </ul>
24 W 5/15	<b>New Technologies and Intellectual Property (II); Wrap-up</b> <ul style="list-style-type: none"> <li>• No additional readings</li> </ul>

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