

# **15.615 – Essential Law for Business**

## **Spring 2021 – Preliminary Syllabus and Reading List**

**[as of 2/10/21]**

Instructors: John Akula and Louis Rodriquez

Mon/Wed 8:00-9:30am; All Remote  
Meets full semester; 9 units;

Letter-graded (as modified by special MIT rules for Spring 21)

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

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

### **Overview**

---

This course is a broad-gauged introduction to business law, providing a solid grasp of how law shapes opportunities and risks in young and mature companies. We consider the perspectives of the company; of managers guiding organizations and planning careers; and of investors and lenders.

There are 9 modules, dealing with the critical law-sensitive aspects of:

- Negotiating and managing contracts
- Navigating critical career junctures and risks
- Building a team and managing a workforce
- Doing complex deals
- Navigating financial distress in your company and its surroundings
- Understanding the risks and opportunities of entrepreneurship and innovation
- Managing liability for harm to others
- Regulatory compliance and criminal sanctions - How to stay out of trouble
- Big data, analytics and information governance

Both instructors have been practicing attorneys, and the guest lecturers are top practitioners. The emphasis is on realistic concerns and practical advice and skills.

The focus is US law, but with some attention to comparative and transnational dimensions.

### **Important adaptations to this semester's special circumstances**

The instructors have made some adjustments that we think will make this course more valuable and less burdensome in our current special circumstances. The key points:

- As has always been the case, consistent class attendance is critical, because most of the highest-value takeaways are communicated in class. You are expected to attend synchronously whenever feasible, but if you cannot, you can attend asynchronously. However, you should expect to attend ALL classes, one way or the other.
- Required readings have been reduced, to include only essential items directly relevant to class discussion. Students should expect to do all required readings before class.
- The main deliverable will be "e-Learnings" (short-answer exercises) designed to help students focus on key takeaways from the readings and discussions.

## Class-by-class topical outline

		Topic
1	Wed Feb 17	<b>Module I - Negotiating and managing contracts (I-III):</b> Contracts as the law of the deal. Simple and complex transactions and long-term relationships. How contracts are negotiated and formed. Interpreting and administering a contract. What happens when a deal breaks down? “Busted” M&A deals. On-line contracting – how is it different?
2	Mon Feb 22	
3	Wed Feb 24	
4	Mon Mar 1	<b>Module II - Navigating critical career junctures and risks (I-II):</b> The real meaning of offer letters and employment agreements relating to non-disclosure, invention assignment, and non-competition. How to leave a job for a competitor or to launch a competing venture.
5	Wed Mar 3	
Mon 3/8 classes moved to Tues 3/9		<b>Module III - Building a team and managing a workforce (I-III):</b> Hiring and firing. Antidiscrimination law in the workplace. Privacy in the workplace. The “gig” economy. Employment issues special to the startup world and building a new venture’s workforce.
6	TUES Mar 9	
7	Wed Mar 10	
8	Mon Mar 15	
9	Wed Mar 17	<b>A pause for perspective - An Overview of the US legal system:</b>
No class M 3/22		<b>Module IV - Doing complex deals (I-IV):</b> Outside practitioners will discuss deal strategies and structures relating to: <ul style="list-style-type: none"><li>• <b>(I) Private equity and LBOs</b> Guest: Heather Stone, partner, Locke Lord</li><li>• <b>(II) Buying and selling a hi-tech venture</b> Guest: Erica Rice, partner, Foley Hoag</li><li>• <b>(III) Derivatives and risk management</b> Guest: Leigh Fraser, partner, Ropes &amp; Gray</li><li>• <b>(IV) A venture capital financing</b> Guest: Ed Pease, partner, Mintz</li></ul>
10	Wed Mar 24	
11	Mon Mar 29	
12	Wed Mar 31	
13	Mon Apr 5	
14	Wed Apr 7	<b>Module V - Navigating financial distress in your company and its surroundings (I-II):</b> Security, priority and subordination among lenders. Liquidation and financial and operational reorganization under US bankruptcy law. The impact on contract counterparties, suppliers, customers, competitors, lenders, and investors. Distressed company M&A. Trading in distressed assets. Start-ups: winding down and minimizing the risk of personal liability.
15	Mon Apr 12	
16	Wed Apr 14	<b>Module VI - Understanding the risks and opportunities of entrepreneurship and innovation (I-III):</b> Legal problems critical to the startup context. How startups find and work with lawyers. Rights in innovations as protected by patent, copyright, trade secret law, and contracts. The division of rights between companies and individual innovators.
No class M 4/19		
17	Wed Apr 21	
18	Mon Apr 26	

19	Wed Apr 28	<b>Module VII - Managing liability for harm to others (I-III):</b> The duty to respect certain generally protected interests, such as health and safety, privacy, and reputation. The allocation of Liability and accountability between a company and its managers and employees. The application of these principles to new business models and technologies. How savvy managers approach these risks.
20	Mon May 3	
21	Wed May 5	<b>Module VIII - Regulatory compliance and criminal sanctions - How to stay out of trouble (I-III):</b> The use of criminal sanctions against companies and managers as a tool of business regulation. Corporate compliance programs. How internal investigations work. The attorney-client privilege. Your lawyer and the company's lawyer. Whistleblowing. Staying out of trouble.
22	Mon May 10	
23	Wed May 12	<b>Module IX: Big data, analytics and information governance (I-II):</b> Legal issues raised by big data and analytics in decision support. Examples: healthcare and criminal justice. Privacy rights and the collection and dissemination of information. Special rules for digital platforms – The debate over freedom of speech, Section 230 and who can tweet what.
24	Mon May 17	
25	Wed May 19	<b>Wrapping up:</b> Key takeaways

### 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. Both graduate and undergraduate students from all departments 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-as-a-second-language friendly.

### Expectations of students

There is no final exam or any other course obligation after the last meeting of the class.

The general rule is that listener status is not available in this course for any student enrolled in a degree program.

Graduate students enrolled in a degree program must take this course for a letter grade. Undergraduates interested in any other grading option should contact the instructor.

Any student requiring an academic accommodation should please contact the instructor.

All students in the course are expected to conduct themselves in accordance with the “Sloan Values in Practice,” which are posted on the course Canvas site and 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 in class, so students should attend ALL classes, synchronously or asynchronously. You should attend synchronously whenever practical.

If it is not practical for you to attend a class at the usually scheduled time, you should, prior to that class or shortly thereafter, email the TA and explain your absence. (You do not need to include in the e-mail any personal details -- just a general statement of the reason, e.g., time zone problem, illness, or family obligation.) If the reason applies to more than one meeting of

the class, your email can explain that and will be sufficient for missing multiple classes. If you have missed a scheduled class meeting, you should, within 72 hours of the scheduled class, watch the video of that class and email to the TA a copy of your notes from viewing the video. Your notes can be typed or handwritten. (For handwritten notes, photos of the notes will be sufficient.) When this procedure is followed, a student will be considered to have attended the class.

**Schedule conflicts:** 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 preparation:** In order to reduce Zoom fatigue, required readings have been greatly reduced. However, most of the assigned readings will be the basis for class discussion, and students are expected to do the all readings before the class for which they are assigned.

**Class participation:** All students are encouraged to participate in class discussion. In addition, students will be asked to be “On Deck” for certain classes. An “On Deck” student will be expected to prepare for that class with extra care, and may be called on.

**e-Learnings:** There will be approximately 7 “e-Learnings” administered through Canvas. Each e-Learning will be a short quiz-like exercise designed to provide focus on the key takeaways from a reading or a class. It may include multiple choice or short-answer questions. Each e-Learning exercises must be done individually by every student.

Each e-Learning should be completed by the end of the day of the due dates shown below, in Boston time. Students in other time zones must comply with the Boston time deadlines. If complying with the deadline is a hardship, please contact the TA in advance of the deadline.

The tentative schedule for the e-Learnings:

E-learnings	TOPIC	POSTED	DUE
1	Classes 1-3: Contracts	Mon March 1	Thur March 4
2	Classes 4-8: Careers and managing a workforce	Wed March 17	Sat March 20
3 S	Classes 10-13: Complex deals	Wed April 7	Sat April 10
4	Classes 14-15: Financial distress	Wed April 14	Sat April 17
5	Classes 16-18: Entrepreneurship and innovation	Wed April 28	Sat May 1
6	Classes 19-20: Managing liability	Wed May 5	Sat May 8
7	Classes 21-22: Compliance and crime	Tues May 11	Fri May 14

## Grading

---

The course will be letter-graded, as modified by special MIT rules for Spring 21. Grading is not tied to a formula, but will be based approximately as shown below:

Attendance (mostly) and participation (may be a positive impact in some cases)	40%
e-Learnings	60%

*You should expect a substantial downward adjustment in your grade if your attendance is not consistent.*

## Readings and Canvas

---

There is no required textbook. Except as noted on the reading list, all required readings will be posted on Canvas and available through StudyNet.

For students interested in delving deeper into this course's topics, the Reading List provides references to optional readings. Many of these references are to "Bagley," by which is meant The Entrepreneur's Guide to Law and Strategy by Constance Bagley and Craig Dauchy (paperback; 5th ed.; 2018; print year 2017; Cengage Learning; ISBN: 978-1-285-42849-9). Price for paperback new; about \$45, and ebook and rentals also available. There are some short selections from Bagley which are required, and these are posted on Canvas and included in the StudyNet packet.

## Contact information

---

<b>John Akula</b> E62-316 jakula@mit.edu 617 452 3619 (office) 857 928 4488 (cell)	<b>Course Teaching Assistant</b> Eun-Ah Choi eunah@mit.edu
<b>Louis Rodriques</b> E62-310 louisrod@mit.edu 617-939-1750 (cell)	<b>Administrative Support for both John and Lou</b> Patty Charest pcharest@mit.edu E62-355 617 253 5701

## PRELIMINARY READING LIST

**Note:** Unless otherwise indicated, all readings are required and will be posted on Canvas and available through Study.net. All required readings should be completed before the class for which they are assigned unless otherwise indicated

For students interested in delving deeper into this course's topics, the Reading List provides references to optional readings. Many of these references are to "Bagley," by which is meant The Entrepreneur's Guide to Law and Strategy by Constance Bagley and Craig Dauchy (paperback; 5th ed.; 2018; print year 2017; Cengage Learning; ISBN: 978-1-285-42849-9). Price for paperback new; about \$45, and ebook and rentals also available. There are some short selections from Bagley which are required, and these are posted on Canvas and included in the StudyNet packet.

**Note:** Some of the readings below are court cases. These are accessible on the internet but you should use the versions provided for this class, which have usually been heavily edited for length.

1	Wed Feb 17	<b>Negotiating and managing contracts (I)</b> Required: <ul style="list-style-type: none"> <li>• IBP v. Tyson (leading case on grounds for walking away from a signed M&amp;A deal)</li> </ul>
2	Mon Feb 22	<b>Negotiating and managing contracts (II)</b> Required: <ul style="list-style-type: none"> <li>• Akula, "Contracts - The law of the deal in a Peanut"</li> <li>• Fteja v. Facebook (leading case on what constitutes agreement to an online platform Terms of Use)</li> </ul>
3	Wed Feb 24	<b>Negotiating and managing contracts (III)</b> Required: <ul style="list-style-type: none"> <li>• AT&amp;T Mobility v Concepcion (US Supreme Court case on arbitration)</li> <li>• Delchi v Rotorex (key facts of famous damages case)</li> </ul>
4	Mon Mar 1	<b>Navigating critical career junctures and risks (I)</b> Required: <ul style="list-style-type: none"> <li>• Sample offer letter</li> <li>• Glaz v. Ralston Purina</li> </ul>
5	Wed Mar 3	<b>Negotiating critical career junctures and risks (II)</b> Required: <ul style="list-style-type: none"> <li>• Sample "Employee Noncompetition, Nondisclosure and Developments Agreement"</li> <li>• Augat v. Aegis</li> </ul> Recommended for further study: <ul style="list-style-type: none"> <li>• Bagley, Ch 2 ("Leaving Your Employer," pp. 16-37)</li> </ul>
<i>Note: Monday March 8 MIT holiday BUT Monday classes moved to Tuesday March 9</i>		
6	Tues Mar 9	<b>Building a team and managing a workforce (I)</b> Required: <ul style="list-style-type: none"> <li>• From Bagley Chapter 8 ("Marshalling Human Resources"), Section 8.2 ("Major Employment Civil Rights Legislation and the Role of the EEOC," pp. 201-222)</li> <li>• Bostock v. Clayton County</li> </ul>

7	Wed Mar 10	<b>Building a team and managing a workforce (II)</b> Required: <ul style="list-style-type: none"> <li>Stanton v. Lighthouse Financial</li> </ul>
8	Mon Mar 15	<b>Building a team and managing employees (III)</b> Required: <ul style="list-style-type: none"> <li>College-Town v. MCAD</li> </ul>
9	Wed Mar 17	<b>A pause for perspective -- Overview of the US legal system</b> Required: <ul style="list-style-type: none"> <li>Akula, "The US legal system in a Peanut"</li> </ul>
<i>Note: No class Monday March 22 – MIT holiday</i>		
10	Wed Mar 24	<b>Doing complex deals (I) – Private Equity</b> Required: <ul style="list-style-type: none"> <li>TBA</li> </ul>
11	Mon Mar 29	<b>Doing complex deals (II) - Buying and Selling a hi-tech venture</b> Required: <ul style="list-style-type: none"> <li>Sample deal documents               <ul style="list-style-type: none"> <li>M&amp;A definitive agreement Table of Contents (note major sections)</li> <li>M&amp;A closing checklist (skim for sense of timing)</li> <li>M&amp;A Due diligence checklist (posted on Canvas – not in StudyNet Packet – does not need to be read closely – just quickly skim)</li> </ul> </li> </ul>
12	Wed Mar 31	<b>Doing complex deals (III)– Derivatives and risk management</b> Required: <ul style="list-style-type: none"> <li>From Chisholm, <u>Derivatives Demystified</u> (Wiley; 2020; 2<sup>nd</sup> ed), excerpts (pp 1-13) from Ch 1. (especially for students who do not understand the fundamentals of derivatives.).</li> </ul>
13	Mon Apr 5	<b>Doing complex deals (IV)– A venture capital financing</b> Required: <ul style="list-style-type: none"> <li>Sample VC term sheet</li> </ul> Recommended for further study: <ul style="list-style-type: none"> <li>National Venture Capital Association annotated sample VC term sheet (posted on Canvas and included in StudyNet packet)</li> </ul>
14	Wed Apr 7	<b>Navigating financial distress in your company and its surroundings (I)</b> Required: <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>
15	Mon Apr 12	<b>Navigating financial distress in your company and its surroundings (II)</b> Required: <ul style="list-style-type: none"> <li>Akula, "The legal framework of business distress – Opportunities and risks in a Peanut," Part IV</li> </ul> Recommended for further study: <ul style="list-style-type: none"> <li>Ch.1 ("What is Bankruptcy?") pp 5-31. from Steven Elias and Leon Bayer, "The New Bankruptcy – Will It Work for You?" (Nolo, 2013) (in introduction to the law of personal bankruptcy)</li> </ul>

16	Wed Apr 14	<b>Understanding the risks and opportunities of entrepreneurship and innovation (I)</b> Required: <ul style="list-style-type: none"> <li>Excerpts from complaint that initiated civil law suit brought by Waymo (Google subsidiary) against Uber relating to Anthony Levandowski and driverless car technology)</li> </ul> Recommended for further study: <ul style="list-style-type: none"> <li>From Bagley Ch. 14, Section 14.1 ("Trade Secret Protection," pp.498-509).</li> <li>From Bagley, Ch. 14, Sections 14.4 ("Trademarks," pp, 541-551) and 14.5 ("Domain Names and Cybersquatting," p. 552)</li> </ul>
<i>Note: No class Monday April 19 – MIT holiday</i>		
17	Wed Apr 21	<b>Understanding the risks and opportunities of entrepreneurship and innovation (II)</b> Required: <ul style="list-style-type: none"> <li>From Bagley Ch 14, Section 14.3 ("Patents," pp.523 -541)</li> </ul>
18	Mon Apr 26	<b>Understanding the risks and opportunities of entrepreneurship and innovation (III)</b> Required: <ul style="list-style-type: none"> <li>Lotus v. Borland (foundational case on copyright and software)</li> <li>From Bagley Ch 14, Sections 14.2 ("Copyrights," pp. 509-523) and 14.9 ("Special Issues Associated with Software Licenses, Open-Source Software, and Online Terms of Use," pp. 364 – 367)</li> </ul>
19	Wed Apr 28	<b>Managing liability for harm to others (I)</b> Required: <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>
20	Mon May 3	<b>Managing liability for harm to others (II)</b> Required: <ul style="list-style-type: none"> <li>Akula, "Olympic Pipeline"</li> </ul> Recommended for further study: <ul style="list-style-type: none"> <li>Bagley, pp. 320-327 (Sec 10.6 on "Strict Liability for Defective Products)</li> </ul>
21	Wed May 5	<b>Regulatory compliance and criminal sanctions - How to stay out of trouble (I)</b> Required: <ul style="list-style-type: none"> <li>Akula, "Business Crime: What to Do when the Law Pursues You" (Sloan Management Review)</li> <li>Bernie Ebbers and WorldCom (pressure to break the law)</li> </ul>
22	Mon May 10	<b>Regulatory compliance and criminal sanctions - How to stay out of trouble (II)</b> Required: <ul style="list-style-type: none"> <li>In the Matter of John Gutfreund (managing a compliance problem)</li> </ul>
23	Wed May 12	<b>Big Data, Analytics and Information Governance (I)</b> Required: <ul style="list-style-type: none"> <li>"Machine Bias," ProPublica, May 23, 2016 (analysis of "Compas" algorithm used in the criminal justice system)</li> <li>Ruha Benjamin, "Assessing risk, automating racism," <i>Science</i> (Vol 366 Issue 6464; Oct 25,2019; pp. 421-422)</li> </ul>



24	Mon May 17	<b>Big Data, Analytics and Information Governance (II)</b> Required: <ul style="list-style-type: none"> <li>• “Section 230: The little law that defines how the Internet works” (The Washington Post, Dec 20, 2020)</li> <li>• “Social media liability law is likely to be reviewed under Biden” (The Washington Post, Jan 18, 2021)</li> <li>• Test of Section 230 as originally enacted in 1996</li> <li>• La Liberte v Reid (section 230 immunity and defamation)</li> </ul>
25	Wed May 19	<b>Wrapping up</b>

*[end]*