

FOCUS CASEBOOK SERIES

*BOUCHOUX
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**BUSINESS
ORGANIZATIONS LAW
IN FOCUS**



Wolters Kluwer

Focus Casebook Series

Business Organizations Law in Focus

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This book is dedicated to the memory of Philip John Sgarlata

*The first member of his family to go to college
The first member of his family to get a law degree
The winner of the Albany Law School Prize for Highest Standing in
Corporation Law
An expert on health law
And, the best father in the world*

and

to Donald Robert Bouchoux

*The most wonderful husband to me and most loving father to his children and
grandfather to his grandchildren*

The Focus Casebook Series

Help students reach their full potential with the fresh approach of the **Focus Casebook Series**. Instead of using the “hide the ball” approach, selected cases illustrate key developments in the law and show how courts develop and apply doctrine. The approachable manner of this series provides a comfortable experiential environment that is instrumental to student success.

Students perform best when applying concepts to real-world scenarios. With assessment features, such as Real Life Applications and Applying the Concepts, the **Focus Casebook Series** offers many opportunities for students to apply their knowledge.

Focus Casebook Features Include:

Case Previews and Post-Case Follow-Ups — To succeed, law students must know how to deconstruct and analyze cases. Case Previews highlight the legal concepts in a case before the student reads it. Post-Case Follow-Ups summarize the important points.

Case Preview



In re Hlavin

As the hypothetical of Mary Jones and her loaves of bread illustrates, the number of potential disputes about the kinds of debt that are or are not to be considered consumer debts is simply limitless. The lawyer has to recognize when the issue matters and can be contested. As you read *In re Hlavin*, a case involving the 11 U.S.C §707(b) dismissal for abuse provision,

consider the following questions:

1. Why is it the debtors and not the bankruptcy trustee who are arguing that their home mortgage is not a consumer debt?
2. What does this court say about the mortgage is or isn't a consumer debt?

Post-Case Follow-Up



Is this opinion making a distinction between the reposessor himself disturbing the peace and his committing an act that motivates another to disturb the peace once the reposessor is gone? Would the result in this case have been different if the activities of the reposseors had awakened the debtor or the neighbor and the one awakened had shouted at them out of a window something like, “Stop, thief! I’ve called the police”?

See *Robinson v. Citicorp National Services, Inc.*, 921 S.W.2d 52 (Mo. Ct. App. 1996), and *Chrysler Credit Corp. v. Koontz*, 661 N.E.2d 1171 (1996). If the debtor’s husband had raced outside with a firearm while the reposseors were pulling away from the property? If he or the neighbor had fired a firearm at the fleeing reposseors? If a sleeping child had been in the car unseen by the reposessor when the car was driven off? See *Chapa v. Traciers & Associates*, 267 S.W.3d 386 (Tex. App. 2008)? If the reposessor had violated a driving ordinance in the course of repos-

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Real Life Applications — Every case in a chapter is followed by Real Life Applications, which present a series of questions based on a scenario similar to the facts in the case. Real Life Applications challenge students to apply what they have learned in order to prepare them for real-world practice. Use Real Life Applications to spark class discussions or provide them as individual short-answer assignments.

In re Hlavin: Real Life Applications

1. Would the result in *Hlavin* have been different if the loans secured by their home had originally been taken out to fund a failed business venture? What if they had been taken out for home improvement or a vacation but then actually used to fund a business venture? Would it matter if they told the bank the money was being borrowed for home improvement or vacation but intended it to be used to fund a business venture? What if the home loans had been taken out for mixed personal/business reasons?
2. If the debtors in *Hlavin* had 30 different consumer debts totaling \$75,000 and only one business debt totaling \$76,000, would that court find that they had "primarily consumer debts" under §707(b)(1)? What would be the result if a court utilized one of the alternative approaches to this question mentioned in *Hlavin*?

Applying the Concepts — These end-of-chapter exercises encourage students to synthesize the chapter material and apply relevant legal doctrine and code to real-world scenarios. Students can use these exercises for self-assessment or the professor can use them to promote class interaction.

Applying the Concepts

1. Assume you are consulted by the following potential bankruptcy clients. Which of these appear at first blush to be candidates for a consumer bankruptcy filing as opposed to a non-consumer or business filing?
 - a. The individual owners of an unincorporated video rental store whose business has plummeted due to the popularity of Internet movie-streaming services.
 - b. A married couple both employed but who have abused their credit card spending and now owe more than they make together in a year.
 - c. A recently divorced woman with two children whose ex-husband is unemployed and not contributing child support and who is having trouble paying her monthly living expenses.
 - d. A married couple, one of whom has suffered major health problems resulting in medical expenses in excess of what they can expect to earn in ten years.

Preface

Ensure student success with the Focus Casebook Series.

THE FOCUS APPROACH

In a law office, when a new associate attorney is being asked to assist a supervising attorney with a legal matter in which the associate has no prior experience, it is common for the supervising attorney to provide the associate with a recently closed case file involving the same legal issues so that the associate can see and learn from the closed file to assist more effectively with the new matter. This experiential approach is at the heart of the *Focus Casebook Series*.

Additional hands-on features, such as Real Life Applications, Application Exercises, and Applying the Concepts provide more opportunities for critical analysis and application of concepts covered in the chapters. Professors can assign problem-solving questions as well as exercises on drafting documents and preparing appropriate filings.

CONTENT SNAPSHOT

This text is intended to provide readers with a thorough understanding of the forms of organization that business people use when establishing and operating for-profit businesses in the United States. Chapter 1 sets the stage for our study by providing an overview of each of the various forms of organization, focusing on key attributes, advantages, and disadvantages of each form. Chapter 1 also discusses considerations that drive choice of form decision making, including management and governance structures, liability risks and rules, tax considerations, and funding and financing needs. Chapter 2 focuses on agency law issues. Chapters 3 to 5 focus on general partnerships and partnership variants. Chapters 6 to 11 focus on corporations, including formation basics (Chapter 6), corporate finance basics (Chapter 7), corporate governance (Chapters 8 and 9), shareholder rights and closely held corporations (Chapter 10), and changes in corporate structure and corporate combinations (Chapter 11). Chapter 12 covers the limited liability company form. Chapter 13 addresses issues arising under the federal securities laws, including issues associated with the Sarbanes-Oxley Act of 2002 and the Dodd-Frank Wall Street Reform and Consumer Protection Act. In several chapters, we address “hot topics” arising under business organizations and the federal securities laws. We have also included “spotlight” sections addressing corporate inversions, so-called

“unicorns” (i.e., a start-up business, usually in the technology space, with a valuation of at least \$1 billion), and insider trading. The text also includes charts and diagrams demonstrating key principles of business organizations, sample forms that illustrate the topics discussed, and excerpts of documents from well-known companies such as General Electric Company and Microsoft Corporation to highlight critical business concepts.

RESOURCES

Casebook: The casebook is structured around text, cases, and application exercises. Highlighted cases are introduced with a *Case Preview*, which sets up the issue and identifies key questions. *Post-Case Follow-Ups* expand on the holding in the case. *Real Life Applications* present opportunities to challenge students to apply concepts covered in the case to realistic hypothetical cases. *Application Exercises* offer a mix of problem solving and research activities to determine the law of the state where the student plans to practice. State law application exercises better prepare the student to actually handle cases. The *Applying the Concepts* feature demands critical analysis and integration of concepts covered in the chapter.

Other resources to enrich your class include: Practice Skills Exercises, or supplementary material such as *Business Organizations* by J. Mark Ramseyer. Ask your Wolters Kluwer sales representative or visit the Wolters Kluwer site at wklegaledu.com to learn more about building the product package that's right for you.

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