

MPHM – 720 Principles of Hospitality Law

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Office hours: Available by Appointment

Room Number: TBD. Unless otherwise announced in advance, all classes will be held at

640 Massachusetts Avenue, NW

Schedule: Tuesdays, 5:20 – 7:50pm

Term: Spring 2017

Course Description

Domestic and international hospitality businesses—including hotels, restaurants, travel, and conference/event companies—are subject to a variety of laws and frequently challenged by legal issues. These challenges can be daunting for any person, but especially one unfamiliar with the legal landscape. Designed for non-attorney professionals in the corporate and small business space, this course provides an overview of laws and legal issues most frequently invoked by relationships within the hospitality industry. The course is divided into four parts: Part I will focus on relationships among the "industry players": owners of hospitality outlets, companies that operate them, franchisors of the brands under which they operate and lenders that finance acquisitions and development of hospitality facilities. Part II will explore numerous legal issues related to a hospitality company's relationships with its guests and customers. Part III will focus on a hospitality company's relationships with its employees, providing an overview of the many labor and employment legal issues that confront the industry. Finally, Part IV will explore some of the regulatory matters that define a hospitality company's relationship with governments.

Course Objectives

- Examine and develop familiarity, from the perspective of a hospitality business professional, with several areas of law that impact the hospitality industry and challenge hospitality businesses, to become a more well-rounded, strategic leader within the industry.
- Explore contracts and the process of negotiating them, focusing on types of contracts that are frequently used in the hospitality industry.

- Identify certain legal issues, analyze factual scenarios invoking those issues, apply relevant laws to those scenarios, and formulate responsive steps to place a business in the best legal position and minimize liability.
- Demonstrate an ability to work effectively with attorneys to respond to a company's legal challenges.
- Demonstrate familiarity with the legal system in the United States, as it relates to business (and especially as it relates to the hospitality industry).
- Develop an ability to effectively:
 - o advocate for your company's positions in matters involving legal issues;
 - o negotiate agreements that serve your company's objectives; and
 - o counsel your employees to take steps to prevent liability.

Teaching Philosophy

A familiar metaphor that can be applied to any complex set of professional endeavors is that of a forest and trees. Each tree is an individual project that may rightly capture a professional's attention for an extended period of time. The professional is likely to become very familiar with the finite number of trees on which he or she focuses during a period of his or her career. From time to time, it is appropriate for any professional to obtain an overview of the forest as a whole, to understand how his or her trees fit in. Professional education is an opportunity to do this, whether it is pursued at the onset or at a later stage of a career.

Broadening this metaphor, you might think of the hospitality industry as an ecosystem tended to by professionals, as in a national park. Think of the body of laws relevant to the industry as a forest stretching throughout that park. The forest is one of several essential components of the ecosystem. Think of attorneys as horticulturists who maintain the trees. Just as different attorneys specialize in different legal fields, different horticulturists focus on different categories and species of trees. As non-legal professionals in the industry, you will also play roles in managing the ecosystem: keeping water clean, managing wildlife, providing direction to tourists, etc. Some of you may become senior park rangers who oversee it all. Although trees are not likely to be the focus of your roles within this park, the forest will have a significant impact on the other resources you manage. From time to time, you will need to work with horticulturists on projects related to different kinds of trees. If you know more about the trees and how they affect the resources you manage, you will be able to work with the horticulturists more effectively.

For us as attorneys, teaching this course is a rare opportunity to get in an airplane and survey the forest as a whole. However, the primary purpose of our flight is to give you a guided tour. We believe this overview will be valuable to you later, when you're back on the ground navigating through different parts of the forest. So, buckle your seatbelts, ready your binoculars and prepare for takeoff.

Design of Course

We have designed this course not for attorneys or law students, but for business professionals like our own clients. We will approach the course with a style that reflects legal training in some ways (e.g. by requiring you to read some cases). However, it is not our objective to train you to practice law. Rather, we want to train you to be better business people, by having a general understanding of the laws that regulate your industry, and knowing how to work more effectively with your organizations' attorneys to confront legal challenges.

The course will consist of a combination of lecturing, class discussions and practical exercises. The roles you will play in these exercises will not be those of lawyers, but of business people working with lawyers.

Required Readings

Jefferies, Jack P. and Banks Brown, *Understanding Hospitality Law* (5th Ed. 2010), ISBN: 978-0133076905

Migdal, Nelson, Hotel Law (2015), ISBN: 978-1138779525

Other assigned readings are identified below or will be identified later. These will be posted on Blackboard.

Assignments¹

Assignment	Due Date	Percentage of Grade	Description
In-Class Discussion: Negotiating a Commercial Lease	Jan. 17	0% (except as it contributes to your overall class participation grade)	A hypothetical restaurant lease scenario will be presented. We will discuss key terms in a lease and you will develop and negotiate a term sheet. A "term sheet" is a short document that summarizes, in plain English, the principal business terms of a contract to be negotiated later. At the end of this class, a proposed lease will be distributed. You will be asked to review and mark up the lease with comments for discussion during the next class.
In-Class Discussion of Commercial Lease Distributed on January 17 In-Class Discussions: Negotiating Services Agreements	Jan. 24	0% (except as it contributes to your overall class participation grade)	Discuss the lease distributed during the last class. Be prepared to identify problematic provisions and changes you would consider demanding in negotiations. A hypothetical scenario will be presented involving a restaurant tenant entering into an agreement with a pest control company. We will discuss key terms in a services agreement. A form of spa services agreement will then be distributed. You will be asked to provide comments on the form.

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¹ Assignments identified by bold typeset will be graded.

Turn in Comments on Draft Spa Services Agreement In-Class Exercise: Discuss Comments on Draft Spa Services Agreement	Jan. 31	0% (except as it contributes to your overall class participation grade)	We will discuss your comments on the draft spa services agreement distributed at the end of the last class.
In-Class Group Exercise: Negotiating Term Sheet for Hotel Management Agreement	Feb. 14	20%	The class will be split into two groups. Each group will be presented a group-specific fact pattern and set of common facts. (Each group will be prohibited from disclosing its group-specific fact pattern to the other group.) Each group will develop a proposed term sheet for a hotel management agreement. The groups will and then negotiate and finalize an agreed-upon term sheet. The term sheet and the groups' process of negotiating it should demonstrate an understanding of the terms that define the relationship between a hotel owner and a hotel management company (especially those that are frequently subject to negotiation) and the interests of these respective parties.
In-Class Group Exercise: Negotiating Changes to a Draft Franchise Agreement for a Restaurant	Feb. 28	0% (except as it contributes to your overall class participation grade)	We will distribute a form franchise agreement from a major restaurant brand before this class, with a fact pattern on the circumstances and objectives of a franchisee. Students should come prepared to propose revisions to the form that the franchisee should consider demanding.
In-Class Group Exercise: Negotiating at Term Sheet for an Event Agreement	Mar. 28	20%	The class will be split into two groups: one representing a hotel and convention center, and the other representing a company planning a large conference. Each group will be presented a group-specific fact pattern and set of common facts. (Each group will be prohibited from disclosing its group-specific fact pattern to the other group.) Each group will develop a proposed term sheet for an event agreement. The groups will then negotiate and finalize an agreed-upon term sheet. (See the above definition of "term sheet.") The term sheet and the groups' process of negotiating it should demonstrate an understanding of terms frequently negotiated

			between an organization sponsoring an event (e.g. a company or trade association) and a hospitality company conducting the event (e.g. a hotel or convention center).
Case Presentations	See schedule below.	20%	Each student will be asked to present and discuss a single case at the beginning of one class during the semester. By "case," we mean the majority opinion of an appellate court explaining the court's holding (the rationale for its judgment) in a case invoking one or more legal issues that are significant within the hospitality industry. To perform well in this exercise, you should demonstrate familiarity with the facts of the case that are relevant to the legal issues considered; identify the issues themselves; be familiar with the laws addressing those issues (to the extent that the laws are discussed in the case and other reading materials assigned for that day's class); explain how the court applied these laws to the facts of the case to resolve the issues presented; and summarize the conclusions reached by the court. The only reading required (or recommended) for this assignment will be the reported judicial opinion (from which we will remove portions not relevant to the hospitality-related issues) and the assigned reading for that day's class.
Final Exercise: Preparing for Litigation; Settling a Dispute	May 9	30%	The class will be split into two groups. Each group will be presented a group-specific fact pattern and set of common facts. The facts will relate to a dispute involving issues discussed during the previous three classes. Part 1: Present facts and theories to your attorney to prepare him or her to make arguments in support of your claim or defense. In this exercise, you should demonstrate an understanding of: (a) which facts are most relevant to the dispute (and your company's position within it); (b) the legal issues presented; and (c) the applicable laws. You should demonstrate an ability to apply those laws to the facts of your case in a way that supports the best possible outcome for your company.

			Part 2: Assume the case is heading to trial. However, even while the parties' attorneys are preparing for trial, each party would prefer to settle the case, as favorably as possible. Negotiate a term sheet for a settlement agreement. In this exercise, you should continue demonstrating all of the same understandings identified above, as well as an ability to advocate for your company's position and negotiate a settlement agreement that will likely include some compromise, but that achieves a favorable outcome for your company, given the facts and the law at hand.
Class Participation	Throughout semester	5%	We will assign each student a grade for his or her overall class participation throughout the semester, including on exercises that are not individually graded.
Networking Events	Throughout semester	5%	All students are required to attend two faculty-approved networking events per semester. For each networking event, students should complete a 500-word reflection essay discussing the connections made and content learned.

Grading

40% Negotiating Term Sheets (x2)

20% Case Presentation

30% Final Exercise

05% Participation

05% Networking Assignment

100% Total

Grading Summary

Graduate course grades include: A, A-, B+, B, B-, C, and F only. There are **no grades** of C+, C-, or D at the graduate level.

Numeric breakdown for final grades:

Α	100-93	B-	82.99-80
A-	92.99-90	С	79.99-70
B+	89.99-88	F	69.99-0
В	87.99-83		

If a student is taking a graduate course pass/fail (for a satisfactory, S, or unsatisfactory, U), the student must earn a solid B or higher to be assigned the S grade.

Grading Criteria

Professional challenges related to law rage from negotiation of contracts, to compliance with regulations, to resolution of disputes. Despite the variety of these challenges, confronting any of them will, to varying degrees, involves a logical sequence of the same five steps: (1) identifying and assessing the factual background in which the challenge arises; (2) identifying the legal issues presented; (3) identifying and understanding the laws applicable to those issues; (4) analyzing the challenge by applying those laws to the relevant facts; (5) drawing conclusions and pursuing (and hopefully achieving) an outcome based on those conclusions. The outcome you pursue may be language you seek to negotiate into a contract, a corporate policy to ensure compliance with regulations, an argument in litigation or arbitration, or a strategy related to settlement of a dispute.

For each of the graded assignments in this course, (other than the networking events), we have developed grading criteria that accounts equally for each of these five steps. For any of these assignments, twenty percent of the credit will be given to each of the five steps.

	Identifying Relevant Facts (0-20 pts)	Identifying Legal Issues (0-20 pts)	Understanding and Explaining Applicable Laws (0-20 pts)	Applying Applicable Laws to the Facts (0-20 pts)	Outcome Pursued/ Achieved² (Advice Rendered, Position Taken and/or Deal Sought) (0-20 pts)
Exemplary (15-20 pts)	Identification of all or nearly all of the facts within a scenario that are relevant to legal issues presented, and not becoming distracted by facts that are not relevant.	Identification of all or nearly all of the legal issues presented by a scenario.	Thorough and accurate understanding (for a non-attorney) of the laws applicable to a scenario.	Thorough, articulate, convincing and sound application of laws to applicable facts.	As favorable an outcome as possible. (Excellent advice, an extremely favorable deal or a highly effective argument, given the facts presented and applicable laws.)
Accomplished (11-14 pts)	Identification of most of the facts within a scenario that are relevant to legal issues presented.	Identification of most of the legal issues presented by a scenario.	Good understanding (for a non-attorney) of the laws applicable to a scenario.	Good application of laws to applicable facts.	A good outcome. (Good advice, a favorable deal or a good argument, given the facts presented and applicable laws.
Developing (6-10 pts)	Identification of some of the facts within a scenario	Identification of some of the legal	Some understanding of laws applicable to a scenario.	Some demonstrated ability to apply	Merely placing your company in a somewhat better

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² We appreciate, and will account for, the fact that ultimate outcomes in legal endeavors are beyond the ability of any single professional to fully control. For example, in negotiation of a contract, your company may not have enough bargaining power to attain all of the terms you seek.

	that are relevant to legal issues presented.	issues presented by a scenario.		legal principles to facts.	position than if you had not been involved at all. (Some accurate advice, a deal that is better than none at all, or an argument that an argument that, if followed, would make your company incrementally better than if you had made no argument at all.
Beginning (0-5 pts)	Identification of little-to-no facts that are relevant to a legal challenge, and poor ability to distinguish these from facts that are not relevant.	Identification of few- to-none legal issues presented by a scenario.	Little-to-no understanding of laws applicable to a scenario.	Little-to-no demonstrated ability to apply legal principles to facts.	Leaving the company worse off than it would have been if you had never become involved.

Each of the above five steps will involve oral and/or written communication. Therefore, part of your grade will be based on how effectively you communicate. For all oral communications, your presentation style and use of language will be considered. For written communications (other than term sheets, which are intended to be informal), we will expect you to use correct grammar and spelling. In all communications (formal and informal), we will consider how clearly, accurately and convincingly you express ideas.

Course Schedule

Class Date	Subject	Assigned Reading ³			
	PART I: RELATIONSHIPS AMONG "INDUSTRY PLAYERS": HOSPITALITY OUTLET OWNERS, MANAGEMENT COMPANIES, FRANCHISORS AND LENDERS				
Jan. 17	Introduction: Introduction of Instructors and Students Introduction to Course	Jefferies chapter 1 (The Common Law Basis for Laws Governing the Hotelkeeper) and chapter 2 (The Hotelkeeper and the Law of Contracts)			
	Commercial Leasing: For most of this session, we will discuss subjects addressed in a commercial lease, including	Migdal chapter 1 (Evolution of the Hotel Management Agreement) and chapter 2 (Hotel Acquisition and Sale)			

³ The reading assignment for each session should be completed *before* the session. Each session will be taught with an assumption that all students have completed the corresponding reading assignment.

	subjects particular to restaurant leases.	
	In-Class Group Exercise: Negotiating a Term Sheet for a Commercial Lease	Article: Steiner, Beat U., "A Quick Review of a Commercial Lease: Ten Questions, Ten Traps, Ten Tips," 29 <i>Probate & Property</i> <i>Magazine</i> 3 (2015)
Jan. 24	In-Class Exercise: Discuss Comments on a Draft Commercial Lease	
	Services Agreements In-Class Group Exercises: Comment on Short Draft Extermination Agreement Begin Commenting on Longer Draft Spa Services Agreement	Article: Battle, Claire K, "Purchasing with Peace of Mind: Tips for Procurement Counsel," ACC Docket, October 2011, p. 80.
	Concession Agreements	[Article to be assigned]
Jan. 31	Hotel Management Agreements (Owner's Perspective)	Migdal chapter 3 (Hotel Management Agreements)
	Guest Speaker: Nelson F. Migdal, Co-Chair, Hospitality Group, Greenberg Traurig LLP	
	Turn in Comments on Draft Spa Services Agreement	
	In-Class Exercise: Discuss Comments on Draft Spa Services Agreement	
Feb. 7	Marketing: Legal Issues	Cottle, Elyse, "How the Law and Hotel Marketing Fit Together,"
	Guest Speaker: Melissa Landau Steinman, Partner, Venable LLP	Law Practice Today, Feb. 13, 2015, available at: http://www.lawpracticetoday.org/a
	Hotel Management Agreements (Management Company's Perspective)	rticle/law-hotel-marketing-fit- together/
	Case Presentation	Migdal chapter 4 (Essential Management Agreement Case Law)

Feb. 14	Franchising (Franchisor Perspective) Guest Speaker: Chris Wallace, Assistant General Counsel, Franchising, Choice Hotels International, Inc.	Class at Headquarters of Choice Hotels International, One Choice Hotels Circle, #400, Rockville, MD (Rockville Metro Station—Red Line) Jefferies chapter 38 (Understanding Franchising); Migdal chapter 5 (Franchise Agreement Basics). Skim Panera, LLC Franchise Disclosure Document for Panera Bread (to be distributed)	
	Graded In-Class Group Exercise: Negotiating Term Sheet for Hotel Management Agreement		
Feb. 21	Franchising (Franchisee Perspective) Guest Speaker: Frederick D. McKalip, Senior Vice President & General Counsel, RLJ Lodging Trust	Read more carefully selections of Panera Bread Franchise Disclosure Document that we will identify on Feb. 17.	
	 Lending Issues: Notes, Mortgages, Guarantees Subordination Agreements and Comfort Letters Case Presentations	Migdal pp. 129-139 (re SNDAs and Comfort Letters)	
Feb. 28	Antitrust Laws		
	Guest Speaker: Katrina Robson, Partner, O'Melveny & Myers LLP In-Class Group Exercise: Negotiating Changes to a Draft Franchise Agreement for a Restaurant	Jefferies chapter 37 (Antitrust Laws and Hospitality Companies)	
PART II: HOSPITALITY PROVIDERS' RELATIONSHIPS WITH GUESTS AND CUSTOMERS			

Mar. 14	Laws of Torts and Negligence, and Risk Management; Guest Reservations, Privacy Issues	Class to be held at the Headquarters of Marriott International, Inc., 10400 Fernwood Road, Bethesda, MD
	Insurance and Indemnification	20817
	Guest Speaker: Nermine Demoupolos, Senior Director, Insurance, Marriott International, Inc. Case Presentations	Jefferies chapter 3 (The Hotelkeeper and the Laws of Torts and Negligence), chapter 5 (Guest Reservations) chapter 7 (The Guest's Right to Privacy), chapter 36 (Warranties and Product Liability) and Chapter 27 (Maintenance of Guest Registers)
		Los Angeles v. Patel, U.S, 135 S.Ct. 2443, 192 L.Ed.2d 435 (2015).
		Review Jefferies chapter 1
		[Article re insurance and indemnification to be assigned]
Mar. 21	Event Agreements and Sales Intermediaries	Jefferies chapter 6 (Convention and Group Contracts with the Hotel)
		Additional materials on sales intermediaries (e.g. event planners and on-line travel agencies) to be assigned.
Mar. 28	Graded In-Class Group Exercise: Negotiating an Event Agreement	
	Duties of an Innkeeper	Jefferies chapter 4 (The Hotel's Duty to Receive Guests and its
	Case Presentation	Right to Refuse Guests), Chapter 8 (The Hotel's Right to Evict), Chapter 10 (The Hotel's Duty to Protect Guests), Chapter 11 (The Hotel's Liability Regarding Guests' Property) and chapter 13 (Safekeeping Facilities)
PART III:	HOSPITALITY COMPANIES' RELATIONSHI	PS WITH EMPLOYEES

Apr. 4	Wage and Hour Laws, FMLA, Compensation and Withholding Statutes, Use of Independent Contractors Guest Speaker: Corrie Fischel Conway, Vice President and Senior Counsel, Marriott International, Inc. Case Presentations	Jeffries chapter 19 (Wage and Hour Laws), chapter 20 (Family and Medical Leave Act), chapter 25 (Federal Social Security, Unemployment Insurance, and Workers' Compensation) and chapter 26 (Federal Income Tax: Withholding and Reporting Requirements)
Apr. 11	Anti-Discrimination Laws, Collective Bargaining, Immigration Guest Speaker: Frank Connolly, Vice President and Senior Counsel, Hilton Worldwide, Inc. Case Presentations	Class to be held at the Headquarters of Hilton Worldwide, Inc., 7930 Jones Branch Drive, suite 1100, McLean, VA (Metro: Silver Line, Tyson's Corner stop) Jefferies chapter 21 (Laws against Discrimination in Employment), chapter 23 (National Labor Relations Act) and chapter 24 (Immigration Reform and Control Act of 1986)
	HOSPITALITY COMPANIES' RELATIONSHI IENTS (REGULATORY ISSUES)	PS WITH FEDERAL, STATE AND LOCAL
Apr. 18	Federal Regulations Guest Speaker: Minh Vu, Partner, Seyfarth Shaw LLP Case Presentation	Jefferies chapter 9 (Americans with Disabilities Act), chapter 30 (Occupational Safety and Health Act) and chapter 33 (Copyright Laws)
Apr. 25	State and Municipal Regulations: Redevelopment of Historic Buildings Case Presentation	Jefferies chapter 29 (Public Health and Safety Requirements), chapter 31 (Licensing and Regulation of Hotels by Cities) and chapter 34 (Fire Safety Laws)
	Guest Speaker: TBA	[Article on redevelopment of historic buildings to be assigned]
	Dispute Resolution: Litigation and Arbitration	Review Jefferies chapter 1 [Article on litigation and arbitration]

May 9	Final Graded Exercise: Preparing for Litigation; Settling a Dispute

Attendance Policy

Missing more than two classes will result in a final grade reduction of one level (for example, an A will be converted to an A-). Absences for classes, beyond the initial two, will result in further reduction of the final grade. If you are absent for more than four classes, you will be in danger of failing this course

Instructional Continuity

If the university closes on the schedule date of a session (due to inclement weather or for any other reason), we will notify you by email at least three hours before the scheduled time of the class whether the class will be rescheduled or, in the alternative, held by teleconference.

Additional Information and Resources

Academic Resource Center: If you believe you have a disability, please contact the Academic Resource Center before the start of classes to allow their office time to review the documentation and make recommendations for appropriate accommodations. If accommodations are recommended, you will be given a letter from ARC to share with your professors. You are personally responsible for completing this process officially and in a timely manner. Neither accommodations nor exceptions to policies can be permitted to students who have not completed this process in advance. The Academic Resource Center (ARC) offers an array of academic support services, including study skills workshops, individual consultations and tutoring. If a student is experiencing challenges with their coursework, they are encouraged to consult with an ARC administrator who will be able to address their individual needs and outline a plan of action. The contact information for the SCS ARC is: C129; 202.687.8354; arc@georgetown.edu; http://academicsupport.georgetown.edu. The main campus ARC's contact information is: Leavey Center, Suite 335; 202-687-8354; arc@georgetown.edu; http://ldss.georgetown.edu/index.cfm.

Research on Human Subjects includes not only work in the sciences but also projects in the social and behavioral sciences (e.g. surveys, interviews, etc.) as well as biomedical sciences. Federal law requires that all proposed research involving human subjects first be reviewed by a formal and authorized institutional body in order to ensure that adequate protections are provided. At Georgetown, the only authorized body is the Institutional Review Board.

Georgetown University Honor Pledge: In the pursuit of the high ideals and rigorous standards of academic life, I commit myself to respect and uphold the Georgetown University Honor System: To be honest in any academic endeavor, and to conduct myself honorably, as a responsible member of the Georgetown community, as we live and work together.

Georgetown University Writing Center: Please contact the Writing Center for support in preparing your written assignments. The SCS Writing Center is located in SCS Student Services Suite C106. Students can make appointments at writingcenter.georgetown.edu.