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AFRA AFSHARIPOUR*

Integrating the Financial Crisis in the Business Associations Course: Benefits and Pitfalls

I. INTRODUCTION

In a time of economic turmoil, teaching business law classes can be both inspiring and precarious. The inspiration is easy to come by; in a class that students once took somewhat begrudgingly, they are now engaged and participating in impassioned discussions. At the same time, one cannot ignore the difficulties that can arise when discussing such tumultuous activity. The challenges of teaching about economic turmoil are magnified when teaching about a global financial crisis, the likes of which the world has not seen in many decades.[1] It is often difficult to balance conveying the essential substantive material that should be covered in a class with the undertaking to help students comprehend the crisis, especially at a time when its causes and full effects are not yet fully understood.[2]

These challenges are particularly pronounced in the introductory Business Associations course, which already and independently poses a quandary for law teach-

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1. *See* Posting of Miriam Cherry to Concurring Opinions, http://www.concurringopinions.com/archives/2008/10 (Oct. 31, 2008, 03:36 EST) (noting that teaching Business Associations amidst the financial crisis has been "fascinating yet challenging"); *see also* Edmund L. Andrews, *Forget Aloof, Bernanke Goes Barnstorming*, N.Y. Times, July 27, 2009, at A1 (noting the recent financial crisis as the worst one since the Great Depression); David Wessel, *Medicine Is Working, but the Economy Isn't Healthy Yet*, Wall St. J., Aug. 13, 2009, at A2.

2. *See* Eamonn K. Moran, *Wall Street Meets Main Street: Understanding the Financial Crisis*, 13 N.C. Banking Inst. 5, 7 (2009) (noting that while the financial crisis may have arisen from the combination of an unstable housing market and poor lending practices, there is still confusion over the crisis); *see also* Douglas W. Arner, *The Global Credit Crisis of 2008: Causes and Consequences*, 43 Int'l Law. 91, 91 (2009) ("While the ultimate economic impact of this financial crisis is still unknown . . . it is now unlikely that either the global or any major domestic financial system will collapse, causing the onset of an economic depression of the sort unseen since the 1930s.").

ers.[3] There has been, and will likely continue to be, much discussion about the role of this course in the law school curriculum, as well as about its length, breadth, and depth.[4] In fact, at a recent national conference on Business Associations, almost half a day was devoted to assessing the role of the course, with luminaries from the field reflecting on what the course is and where it is going.[5]

This soul-searching is important. As reported in a recent survey of law teachers, the vast majority of law students take the Business Associations course, in particular, because the course is viewed as a "bar course."[6] The course tends to be a broad survey class that presents to students, among other topics, the key concepts of agency, partnerships, and corporations.[7] In an early empirical study, Professor Thompson noted that Business Associations "provides students with what may be their first encounter with collective decision-making in the private sphere (in contrast to the more individual transactions of most first-year courses)."[8] Furthermore,

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3. *See* Richard A. Booth, *Fiduciary Duty, Limited Liability, and the Law of Delaware*, 34 Ga. L. Rev. 431, 431 (2000) ("The most basic challenge in teaching corporation law is constructing a framework for students with little or no understanding of business and finance.").

4. The most recent Mid-Year Meeting of the Association of American Law Schools (AALS) focused on Business Associations. *See* Ass'n of Am. Law Sch., Event Information: 2009 Mid-Year Meeting, http://aals.org/midyear2009. Earlier in this decade, a symposium at the University of Georgia focused on different approaches to teaching business law, including the Business Associations course. Charles R.T. O'Kelley, *Foreword: The Many Passions of Teaching Corporations*, 34 Ga. L. Rev. 423, 426 (2000). The AALS had previously held a workshop also focused on Business Associations in 1998. Ass'n of Am. Law Sch., *supra*.

5. Ass'n of Am. Law Sch., Mid-Year Meeting: Conference on Business Associations 5 (2009), *available at* http://www.aals.org/documents/2009midyear/09midyear.pdf [hereinafter AALS Conference]. The first panel of the conference, moderated by Professor Larry Ribstein, was entitled "Role of Basic Course: What It Is and Where It Is Going." *Id.* The speakers were William J. Carney (Emory University), Christine Hurt (University of Illinois), Jeffrey M. Lipshaw (Suffolk University), Robert B. Thompson (Vanderbilt University), and Cheryl L. Wade (St. John's University). *Id.* Each panelist presented a fascinating perspective into the basic course, and Professor Ribstein posed an important question that deserves thorough examination beyond the scope of this short essay, "Are we training the Main Street lawyers of tomorrow to be the Wall Street lawyers of yesterday and, if so, why?" Posting of Larry Ribstein to Ideoblog, http://busmovie.typepad.com/ideoblog/2009/06/teaching-the-basic-business-associations-course.html (June 8, 2009, 08:30 EST).

6. *See* National Conference of Bar Examiners: MEE, http://www.ncbex.org/multistate-tests/mee/ (last visited Sept. 10, 2009) (stating that Business Associations is an area of law covered on the Multistate Essay Examination); *see also* Douglas K. Rush & Hisako Matsuo, *Does Law School Curriculum Affect Bar Examination Passage?*, 57 J. Legal Educ. 224, 226 & n.11 (2007) (noting that the Florida Coastal School of Law requires upper division students to take Business Associations).

7. *See, e.g.*, UNC Sch. of Law, Business Associations, http://www.law.unc.edu/academics/courses/details.aspx?cid=23 (last visited Sept. 10, 2009) (providing a course description that includes an "introduction to corporate law and other business entities, with some attention given to partnership and agency law"); HLS: Courses, http://www.law.harvard.edu/academics/courses/2009-10/?id=6707 (last visited Sept. 10, 2009) (stating that the corporations survey course reviews "[a]spects of the law of agency, partnership, and closely held corporations"); Maryland Law: Course Catalog, http://www.law.umaryland.edu/academics/program/curriculum/catalog/course_details.html?coursenum=572C (last visited Sept. 25, 2009) ("This course is a survey of the law relating to corporations and other forms of business organization and related aspects of basic tax law, securities regulation, and corporate finance.").

8. Robert B. Thompson, *The Basic Business Associations Course: An Empirical Study of Methods and Content*, 48 J. Legal Educ. 438, 438 (1998).

for many of these students, this is their first, and perhaps only, introduction to business law and business concepts.[9]

While some students only take Business Associations to learn the substantive law to pass the bar, my experience shows that integrating current events piqued their interest, allowed me to better incorporate a transactional law perspective into the course, and helped show students how the concepts covered in Business Associations are relevant to their lives and future careers. Of course, few people dispute integrating current events into the classroom; in fact, many do so.[10] Law professors typically note that "students respond well to discovering a news item that implicates their learning."[11] However, there has been surprisingly little systematic or empirical research on the use of current events in law schools.[12]

While this essay does not provide such analysis, it does provide a first-hand account of the use of current events, highlighting the example of the financial crisis, in the Business Associations course. In this essay, I discuss the reasons and ways that I incorporated the financial crisis into my Business Associations course and some of the successes and challenges I have faced, and expect to continue to face, doing so.[13] I use the example of the financial crisis, without a doubt an extraordinarily pertinent event for the Business Associations course, to illustrate the benefits and pitfalls of using current events in doctrinal classes. In sharing my insights, I do not claim that these are particularly unique, but they do highlight some of the ways in which discussion of current events such as the crisis can enrich the Business Associations course. In addition to providing this first-hand account, my goal in articulating the benefits of incorporating the financial crisis in the Business Associations course is to advocate for the inclusion of discussions about the crisis in the basic course so that such discussions are not relegated solely to upper level seminars.

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9. Tina L. Stark, *My Fantasy Curriculum and Other Almost Random Points*, 2009 Transactions: Tenn. J. Bus. L. 3, 5; Posting of Gordon Smith to The Conglomerate, http://www.theconglomerate.org/2009/06/case-studies-in-business-associations.html (June 8, 2009) ("[M]ost law students have no prior business experience, but they need to understand business if they want to become effective business lawyers."). *See generally* Afra Afsharipour, *Incorporating "Business" in Business Law Classes*, 8 U.C. Davis Bus. L.J. 1 (2007) (discussing the integration of business and transactional practice skills in a law school curriculum). At U.C. Davis School of Law, where I have taught since 2007, I found that many of my students generally began the course with little interest in and exposure to business and business law and were taking the course as bar preparation.

10. *See, e.g.*, Joan MacLeod Heminway, *Caught in (or on) the Web: A Review of Course Management Systems for Legal Education*, 16 Alb. L.J. Sci. & Tech. 265, 292–93 (2006) (describing ways in which the professor would handle use of current events).

11. *E.g.*, Laura E. Little, *Teaching Federal Courts: From Bottom Line to Mystery*, 53 St. Louis U. L.J. 797, 799 (2009).

12. *See id.* at 799 n.19.

13. In addition to Business Associations, I taught Antitrust and Mergers and Acquisitions, two courses in which current events are obviously relevant. I incorporated examples and lessons from the crisis, as well as the potential impact of the crisis on some of the concepts we were learning, into all of the courses, but attempted to tailor the way I worked these examples into each course based on where I believed the students were, in their evolution as law students.

II. THE BENEFITS OF INCORPORATING CURRENT EVENTS

Numerous benefits arise from incorporating current events into the classroom, especially in a class such as Business Associations, which is often viewed by students as being inaccessible. First, by framing the theoretical and doctrinal issues raised in the Business Associations course within the lens of high-profile current events, law professors can more easily engage students with course materials and facilitate a deeper understanding of these materials.[14] Second, current events can be a helpful tool for professors who aim to teach the course with a transactional lawyering perspective.[15] Third, a classroom discussion of current events, like the financial crisis, can provide important tools for students who will most likely be affected, if not already affected, by the ramifications of such events.[16]

Many law professors, and law schools, have undoubtedly determined that there is a need to incorporate current events into the classroom. For example, given the significance of recent economic events, law professors around the country are using a variety of resources and methods to discuss the financial crisis in their courses.[17] Furthermore, law schools are conducting town-hall-style meetings on the meltdown, putting forth presentations by practitioners regarding the impact of the crisis on legal practice and offering new classes that address the global financial crisis.[18] Individual faculty members are incorporating the crisis into their syllabi and working on case studies based on recent events.[19]

A. *Engagement & Perspective*

Including discussions about relevant current events gives students context for the fundamental legal concepts they are learning, provides real-world examples of these

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14. *See infra* Part II.A.

15. *See infra* Part II.B.

16. *See infra* Part II.C.

17. *See, e.g.*, Banking Law Prof Blog: Ideas for Teaching Banking Law When Everything Is Changing, http://lawprofessors.typepad.com/banking/2009/07/how-to-teach-banking-law-when-everything-is-changing.html (July 3, 2009). *See generally* Francesca Jarosz, *None of Your Business? No*, Bus. L. Today, Sept.–Oct. 2006, at 35, 35 (commenting on the need for law schools to update the teaching of business law).

18. *See, e.g.*, Univ. of Cal. Davis Sch. of Law, Faculty Panel Discusses Economic Crisis, http://www.law.ucdavis.edu/news/news.aspx?id=1824 (last visited Oct. 13, 2009) (providing an overview of a discussion by a panel of faculty experts on the financial crisis); Town Hall Meeting: The Housing Crisis: Who to Trust and Where to Turn, http://tampabaymortgagecrisis.wusf.usf.edu/?p=202 (last visited Sept. 29, 2009) (announcing a town hall meeting at Stetson University Law School, which featured government representatives, local lawyers, and community leaders); University at Buffalo Law School Weblog, http://ublaw.wordpress.com/2008/10/09/experts-to-discuss-us-financial-crisis/ (Oct. 9, 2008, 18:19 EST) (announcing a school-sponsored panel discussion on the financial crisis); *see also* Course Offerings, http://www.law.uchicago.edu/courses (last visited Sept. 10, 2009) (search "Greenberg Seminar: The Global Financial Crisis"); Yale Law School, Financial Crisis Lecture Series, http://www.law.yale.edu/cbl/9652.htm (last visited Sept. 10, 2009); Yale University Bulletin, Yale Law School 2009–2010 Course Offerings, http://www.yale.edu/bulletin/html/law/course-offerings.html (last visited Sept. 10, 2009) (follow "International Financial Crisis" under "Fall Term").

19. *See, e.g.*, Cherry, *supra* note 1; andré douglas pond cummings, Business Organizations 2 (Fall 2009) (unpublished syllabus, on file with the *Journal of Business & Technology Law*), *available at* http://www.law.utah.edu/_personfiles/7045/SYLLABI/5002.pdf.

concepts in action, and allows active engagement with the course materials in a way that traditional Socratic and judicial opinion analysis methods do not allow.[20] Furthermore, many students expect their professors to assist them in understanding and evaluating the important current events of the day.[21] I found that incorporating stories from the financial crisis grabbed the attention of my Business Associations students in an incredibly profound way and enriched their understanding of some of the core issues addressed in the course.

Although little academic work has been published regarding the specific integration of the current financial crisis into business law classrooms,[22] many scholars have discussed the pedagogical benefits of including active learning methods and real-world examples in the classroom.[23] Students tend to learn best when they can fit a new theoretical concept into context by "applying it to an experience or specific situation, real or simulated."[24] Integrating outside reading and in-class examples are helpful in providing students with such context.[25] Further, students also

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20. There has been much discussion and criticism of the methods used in teaching law students. *See, e.g.*, William M. Sullivan et al., Educating Lawyers 17–18 (2007) [hereinafter Carnegie Report] (explaining that the book is a result of the authors' "understanding of the achievements and the shortcomings of American legal education" and recommending methods for the "improvement of the preparation of lawyers"); Roy Stuckey et al., Best Practices for Legal Education 3 (2007), *available at* http://cleaweb.org/documents/bestpractices/best_practices-full.pdf ("It is time for legal educators, lawyers, judges, and members of the public to reevaluate our assumptions about the roles and methods of law schools and to explore new ways of conceptualizing and delivering learner-centered legal education."). *See generally* Antoinette Sedillo Lopez, *Leading Change in Legal Education—Educating Lawyers and Best Practices: Good News for Diversity*, 31 Seattle U. L. Rev. 775 (2008) (discussing how both the Carnegie Report and Best Practices for Legal Education make the same general conclusions about the problems in legal education and advocating their recommendations for change). This criticism is not new and dates back to at least the 1980's. *See* N. William Hines, *Ten Major Changes in Legal Education Over the Past 25 Years*, AALS Newsletter (Ass'n of Am. Law Sch., Washington, D.C.), Nov. 2005, *available at* http://www.aals.org/services_newsletter_presNov.05.php ("Throughout the decade of the 1980s . . . the practicing bar continued to pressure law schools to do even more to prepare graduates to enter practice with higher levels of practical skills. This pressure gained focus and momentum with the publication of the McCrate Report in 1992 . . . ."); *see also* Am. Bar Ass'n, Section of Legal Educ. and Admissions to the Bar, Legal Education and Professional Development—An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap (1992), *available at* http://www.abanet.org/legaled/publications/onlinepubs/maccrate.html.

21. *See supra* note 18 (listing new courses aimed at discussing the current financial crisis).

22. *See* Symposium, Corporate Governance and Securities Law Responses to the Financial Crisis, 5 J. Bus. & Tech. L. (2010) (featuring a roundtable discussion of teaching strategies for integrating reactions to the current financial crisis into the business law classroom).

23. *See, e.g.*, Stuckey et al., *supra* note 20, at 123–24, 186; Afsharipour, *supra* note 9, at 6; Gerald F. Hess, *Principle 3: Good Practice Encourages Active Learning*, 49 J. Legal Educ. 401, 402 (1999) ("Researchers and leaders in postsecondary pedagogy agree that students learn better when they are actively involved in the learning process. In particular, active learning is effective in achieving many of the goals of legal education." (citation omitted)).

24. Joan Catherine Bohl, *Generations X and Y in Law School: Practical Strategies for Teaching the "MTV/Google" Generation*, 54 Loy. L. Rev. 775, 784 (2008).

25. *See* Afsharipour, *supra* note 9, at 6 ("Regular reading of business law journals can often help lawyers gain access to current and valuable legal and business analysis."); Posting of Gordon Smith, *supra* note 9 ("In my experience, case studies are much more effective than judicial opinions at teaching business context.").

learn better when they can apply concepts to their own lives.[26] For example, I found that students were much more engaged in the Business Associations course because many have been affected by or know people who have been affected by the financial crisis.

As I, and many others, teach Business Associations, the class is essentially a course about business relationships and the significance of the type of legal forms used on the governance of these relationships.[27] The type of association defines the types of players in the firm, their relationships to one another, and their relationships to outside third parties.[28] It means choosing a package of legal rights and duties among internal actors and to third parties with whom the firm does business.[29] The financial crisis illustrates the myriad of issues that can arise in all of these relationships.[30]

One of the most exciting aspects of the crisis was the ability to use the day's news in getting students to focus on one of the recurring themes of the Business Associations course, corporate governance and the relationships between shareholders, directors, and officers in the entity.[31] By looking at specific examples of companies immersed in the crisis, students had a greater ability to think about some of the issues, such as conflicts of interest, definitions of independence, and principal-agent problems, generally addressed in the course. For example, one of the fundamental issues raised by many about the economic crisis was about the role and culpability of corporate boards in precipitating the crisis.[32] In my class, we used the example of Lehman Brothers' collapse to delve into the role of the board and management in corporate governance.[33] We discussed whether there was any indication,

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26. Bohl, *supra* note 24, at 784 ("[A]dult learners learn best when they can fit new concepts into the context of their past experiences.").

27. This relationship point is emphasized by many other law teachers. *See* Posting of Usha Rodrigues to The Conglomerate, http://www.theconglomerate.org/2009/06/business-associations.html (June 8, 2009) ("[M]indful of all the non-business, math-fearing law students out there, I always open my first class with: 'Don't be scared. All we're going to talk about is relationships. Relationships between partners; relationships between shareholders, managers, and directors; family relationships, particularly in the close corporations context. It's just relationships.'"). As cleverly put by Professor Hurt at the AALS mid-year meeting: "In BA we teach stories of people who hate each other. They didn't before, but now they do." *Id. See generally* Robert W. Hamilton, Business Organizations 4 (1996) ("The legal form selected for a specific business has a variety of implications and consequences for the business and its owners. It defines the legal relationship between the proprietor or owner of the business and the business itself.").

28. Hamilton, *supra* note 27, at 4.

29. *Id.*

30. *Cf.* Yale Law School 2009–2010 Course Offerings, *supra* note 18 (offering "International Financial Crisis," a course that will explore the legal causal factors of the crisis, including corporate governance issues).

31. *See* Cherry, *supra* note 1. *See generally* Thompson, *supra* note 8, at 444 (finding that corporate governance is the most recurring theme in Business Associations courses).

32. *E.g.*, Posting of Dennis K. Berman to Deal Journal, http://blogs.wsj.com/deals/2008/09/15/where-was-lehmans-board/ (Sept. 15, 2008, 16:45 EST) (noting that Lehman Brothers' external board of directors "carried the health of the world's financial system on their shoulders" prior to "the unprecedented Lehman Brothers liquidation").

33. For a series of articles about the Lehman Brothers' bankruptcy in the fall of 2008, see Ianthe Jeanne Dugan, *Crisis on Wall Street: At Lehman, 25,000 People Worry About Their Futures*, Wall St. J., Sept. 16, 2008,

at least as could be gleaned from Lehman's proxy disclosure, that the board was focused on risk assessment with respect to certain aspects of Lehman's business. We evaluated the company's proxy statement to determine whether the proxy disclosure about the Lehman directors and their professional experience indicated that they had the necessary expertise to fairly assess the risks that the company faced.[34] We also explored the role of Lehman's lawyers in drafting the proxy disclosure and in advising the company's board in satisfying its fiduciary duties.[35] The Lehman example also served as a useful tool to explore the justifications of the business judgment rule presumption and the availability of shareholder litigation to hold directors accountable.[36]

B. *Teaching Business Associations from a Transactional Perspective*

There has long been criticism of law schools for falling short in teaching future transactional lawyers.[37] Several scholars have examined the pitfalls of teaching Business Associations using an exclusively judicial opinion intensive approach.[38] As Professor Smith has stated: "When I teach Business Associations, I want the students to understand why parties to business relationships behave the way they do. Legal doctrines are an important part of that story, but focusing on judicial opinions exaggerates [their role]."[39] After all, "judges are paid to decide cases, not to describe business relationships."[40] Furthermore, while teaching theory is a useful place to introduce students to business law concepts, it is also vital to examine "those as-

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at C5; Jeffrey McCracken et al., *Lehman in New Talks to Sell Assets to Barclays*, Wall St. J., Sept. 16, 2008, at C1; Damian Paletta et al., *Lehman Fate Spurs Emergency Session*, Wall St. J., Sept. 13, 2008, at A1; and Louise Story & Ben White, *The Road to Lehman's Failure Was Littered with Lost Chances*, Wall St. J., Oct. 6, 2008, at B1.

34. *See* Lehman Brothers Holdings, Inc., Proxy Statement (Form DEF 14-A), at 9–11 (Mar. 5, 2008).

35. *See* George W. Dent, *Business Lawyers as Enterprise Architects*, 64 Bus. Law. 279, 297 (2009) (describing the non-transactional work done by business lawyers, including "housekeeping" work such as advising boards in connection with shareholder meetings and advising companies during extraordinary events such as proxy fights).

36. *See* David Rosenberg, Supplying the Adverb: The Future of Corporate Risk-Taking and the Business Judgment Rule (Sept. 11, 2008) (unpublished working paper, available at http://ssrn.com/abstract=1266723) (arguing that the business judgment rule should not continue to protect excessively risky decisions made by the board of directors); *cf.* Omnicare, Inc. v. NCS Healthcare, Inc., 818 A.2d 914, 927–28 (Del. 2003) ("The business judgment rule is a 'presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.'" (quoting Unitrin, Inc. v. Liquid Audio, Inc., 651 A.2d 1361, 1373 (Del. 2003))).

37. Michael Woronoff, *What Law Schools Should Teach Future Transactional Lawyers: Perspectives from Practice* 3–4 (Univ. of Cal. Los Angeles Sch. of Law, Law Econ. Research Paper No. 09–17, 2009) *available at* http://ssrn.com/abstract=1430087) (dividing the skills necessary to be an effective transactional lawyer into three categories: (1) substantive knowledge, such as corporate law, (2) practical skills such as contract drafting and negotiation, and (3) expertise, such as the ability to exercise judgment under pressure).

38. Posting of Gordon Smith, *supra* note 9; *see* Afsharipour, *supra* note 9.

39. Posting of Gordon Smith, *supra* note 9.

40. *Id.*

pects where theory breaks down."[41] In fact, many law schools have started to incorporate real-world and practical application into their once theory-heavy curricula.[42]

I do not think that the Business Associations class is the ideal forum for extensive teaching of practical skills, but it is a useful class in which to introduce a transactional perspective in the process of teaching substantive law. For me, bringing a transactional perspective through the use of current events meant both addressing the process involved in the deals covered in the day's news and using these deals to reinforce our study of the "substantive legal rules that influence[d] or constrain[ed] planning, negotiating, and document drafting" in connection with these transactions.[43]

I found that the first step in bringing a transactional perspective into Business Associations was to utilize stories about the crisis to familiarize students with common business terms and concepts. While the Business Associations course does not prepare law students to run a business, students need to understand business terminology in order to practice business law since clients expect, and assume, an understanding of basic business terms.[44] Understanding business concepts is important whether the attorney represents a large corporation in complex transactions or a small start-up company in drafting an operating agreement. In fact, small non-public firms who have "no flock of business advisers" often want "a lawyer who understands their business and can offer financial advice."[45] However, most students in introductory business classes have little to no knowledge about the business world.[46]

By selectively using the financial crisis, I was better able to incorporate business law terminology and knowledge about the business world into the class. For example, we used news stories about companies that paid dividends and engaged in share repurchases during the boom before the crisis to move beyond the basic

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41. Victor Fleischer, *Deals: Bringing Corporate Transactions into the Law School*, 2002 Colum. Bus. L. Rev. 475, 482.

42. *See* Darhiana Mateo, *When Theory Meets Practice: Tweaking Business-Law Education*, Bus. L. Today, Mar.–Apr. 2006, at 57, 57 ("Recently, some of the nation's top law schools have begun to infuse their traditional business law curriculums [sic], once very theory heavy, with a much more real world and practical approach."); *see, e.g.*, Jonathan C. Lipson, *Doing Deals in School*, Bus. L. Today, Sept.–Oct. 2005, at 51, 55 (describing a course offered by the author).

43. AALS Conference, *supra* note 5.

44. *See generally* Afsharipour, *supra* note 9 (discussing the incorporation of corporate transactional practice into the business law curriculum); Stephen Bainbridge, Reflections on Twenty Years of Law Teaching: Remarks at the Rutter Award Ceremony 3–4 (Apr. 21, 2008) (unpublished manuscript, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1122577) ("Transactional lawyers must understand the business, financial, and economic aspects of deals so as to draft workable contracts and disclosure documents, conduct due diligence, or counsel clients on issues that require business savvy as well as knowing the law.").

45. Dent, *supra* note 35, at 298.

46. Stark, *supra* note 9, at 5 ("Most students know next to nothing about the business world. Most of them have never even read the *Wall Street Journal*.").

description of dividends and share repurchases.[47] We discussed the various business incentives for paying dividends or engaging in a repurchase program, as well as the roles of different shareholder groups, such as hedge funds, and of earnings releases in decisions by company management to engage in such activity. These discussions also allowed us to explore the need for the business lawyer to understand "the business context in which the client operates."[48]

To take another example, we used blogs and news stories from the *Wall Street Journal* and the *New York Times* about the surge in hostile takeover activity in 2008 to augment discussions about the business climate that helped facilitate hostile takeovers.[49] Many students found that news stories and blog posts are a terrific way to gain greater insights into the real-world activity that was occurring. Using these resources, I familiarized students with the relevant vocabulary in the area and tied together substantive rules and regulations that we had studied earlier in the course. We discussed the reasons why buyers would engage in hostile takeover activity, the legal process involved in launching a hostile takeover, and the role of lawyers in advising their clients in such transactions. In addition, we addressed the options that target boards may have in defending against a hostile transaction. This was an effective way to review mechanisms, such as poison pills, that were critical to judicial opinions we had analyzed as part of learning about board fiduciary duties.

The use of these types of current-events stories also helped in other ways to frame the Business Associations course in a transactional law perspective.[50] Scholars have long noted the shortcomings of traditional law school methods in adequately preparing students for careers in transactional law.[51] Learning and understanding

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47. *See, e.g.*, Peter A. McKay & Michael Rapoport, *Moving the Market—Tracking Numbers, Outside Audit: For Cash-Rich Firms, Buybacks Are All the Rage*, Wall St. J., May 24, 2005, at C3.

48. Dent, *supra* note 35, at 310; *see also* Afsharipour, *supra* note 9, at 5.

49. *See, e.g.*, Miguel Helft & Andrew Ross Sorkin, *Bid for Yahoo Is Withdrawn by Microsoft*, N.Y. Times, May 4, 2008, at A1; *see* Bhattiprolu Murti, *Corporate News: More Companies Adopt Poison-Pill Defenses*, Wall St. J., Oct. 27, 2008, at B4 (explaining the correlation between the rise in poison pill adoptions and the increasing number of hostile takeover bids); Andrew Ross Sorkin, *Hostility Has Its Rewards*, N.Y. Times, Mar. 11, 2008, at C1 (proof that hostile takeovers can work).

50. Legal academics and law schools have been giving greater attention to preparing students to become transactional lawyers. For example, in May 2008, over 150 law professors attended a conference at Emory University School of Law entitled "Teaching Drafting and Transactional Skills: The Basics and Beyond." Emory School of Law, More Than Practice: Teaching Drafting and Transactional Skills Conference, http://www.law.emory.edu/centers-clinics/center-for-transactional-law-practice/teaching-drafting-and-transactional-skills-conference-may-30-and-may-31-2008.html (last visited Sept. 2, 2009) (discussing the scope and objectives of the conference); *see also* Karl S. Okamoto, *Teaching Transactional Lawyering*, 1 Drexel L. Rev. 69, 71 n.3 (2009) (noting that law schools are paying more attention to preparing students to be transactional lawyers and discussing his attendance, along with more than 170 other law professors, at the Emory University School of Law Conference). Furthermore, part of the three-day workshop at the 2009 Mid-Year Meeting of the Association of American Law Schools was dedicated to teaching transactional lawyering. *See* AALS Conference, *supra* note 5 (discussing the schedule of the meeting and purpose of attending).

51. *See* Rachel Arnow-Richman et al., *Teaching Transactional Skills in Upper-Level Doctrinal Courses: Three Exemplars*, 2009 Transactions: Tenn. J. Bus. Law. (Special Report) 367, 381 ("Students do not receive sufficient transactional skills training. Schools need to increase their skills training options. . . . [but] for skills training to be effective, the student needs some level of prior substantive knowledge."); Dent, *supra* note 35, at

substantive law is important, but students also need to see how the law applies or has applied to particular situations or problems.[52] Importantly, this approach can help them assess how they would advise a client about legal risks given the economic climate.[53] For example, it would be fairly difficult for a lawyer advising a client on an acquisition to draft and negotiate a material adverse change clause without some understanding about the economic situation and the risks the client would face in the event of further economic deterioration.[54]

News stories about deals done as a result of the financial crisis were also a useful tool for teaching students about the role of junior transactional lawyers. For example, we spent some time in my class exploring the concepts of due diligence, drafting, schedules, and asset purchase transactions as a result of news stories about contracts that junior lawyers at a prominent firm erroneously included as assets in connection with Barclays Capital's purchase of certain assets of Lehman Brothers' in bankruptcy proceedings.[55] The stories served as a jumping off point to explain

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284 (discussing an emphasis on finance and transaction cost economics in the legal education); Fleischer, *supra* note 41, at 483 (discussing law students' minimal background in the cash flows and economics of transactions); Ronald J. Gilson, *Value Creation by Business Lawyers: Legal Skills and Asset Pricing*, 94 Yale L.J. 239, 303–04 (1984) (discussing law school's failure to teach future business lawyers how to facilitate private ordering); Debra Pogrund Stark, *See Jane Graduate. Why Can't Jane Negotiate a Business Transaction?*, 73 St. John's L. Rev. 477, 490 (1999) (discussing students' lack of transactional skills training); Tina L. Stark, *Thinking Like a Deal Lawyer*, 54 J. Legal Educ. 223, 232 (2004) (discussing law students' lack of experience in business prior to leaving law school).

52. *See* William J. Carney, *Teaching Problems in Corporate Law: Making It Real*, 34 Ga. L. Rev. 823, 827–33 (2000) (advocating the problem-solving method of teaching corporate law, which requires that the student synthesize and integrate a series of cases to understand one legal doctrine, as opposed to teaching two, polar opposite cases to illustrate a single legal doctrine).

53. *See* Donald C. Langevoort & Robert K. Rasmussen, *Skewing the Results: The Role of Lawyering in Transmitting Legal Rules*, 5 S. Cal. Interdisc. L.J. 375, 380 (1997) (discussing an economic analysis that shows the lawyer's incentive to overstate legal risks to clients). The authors point out that "the more legal risk there is, the more necessary and valuable legal services are." *Id.* at 377.

54. The closing conditions section of the vast majority (if not close to all) acquisition agreements traditionally give a buyer the right to refuse to close a transaction in the event a "material adverse change" (MAC), as defined in the agreement, has occurred with respect to the seller between signing and closing. *See* A.B.A. Sec. Bus. L., Private Equity Buyer/Public Target Mergers & Acquisitions Deal Points Study 4 (2007), http://blogs.law.harvard.edu/corpgov/files/2007/09/20070914-private-equity-deal-points-study.pdf. (discussing the analysis of acquisition agreements for U.S. publicly traded targets by private equity acquirers for deals announced in 2005 and 2006). Typically, a MAC is defined as:

> [A]ny change, event, violation, inaccuracy, circumstance or effect that is materially adverse to the business, assets, liabilities, financial condition, results of operations or prospects of the Target and its Subsidiaries taken as a whole, other than as a result of: (i) changes adversely affecting the United States economy (so long as the Target is not disproportionately affected thereby); (ii) changes adversely affecting the industry in which the Target operates (so long as the Target is not disproportionately affected thereby); (iii) the announcement or pendency of the transactions contemplated by this Agreement; (iv) the failure to meet analyst projections, in and of itself; (v) changes in laws; (vi) changes in accounting principles; or (vii) acts of war or terrorism.

Id. at 19.

55. Debra Cassens Weiss, *Excel Error by a Cleary Gottlieb Associate Alters Lehman Asset Deal*, A.B.A. J., Oct. 16, 2008, http://abajournal.com/news/excel_error_by_a_cleary_gottlieb_associate_alters_lehman_asset_deal1 (discussing an Excel spreadsheet error made by a Cleary Gottlieb associate that mistakenly added 179 contracts to an agreement to buy Lehman Brothers' assets).

why junior lawyers perform due diligence projects—for example, so that the buyer can better understand the business of the seller—and the relationship between that diligence process and the deal documents negotiated in the transaction—for example, to make sure that the business is in the condition represented by the seller in the asset purchase agreement. We discussed how the information gained during due diligence is used by the buyer to assess or validate the price it expects to pay for the seller or the seller's assets and to assess the legal and financial risks and liabilities that the buyer will assume once the acquisition has closed. These stories also allowed us to explore the actual process and documentation involved in negotiating acquisition transactions, i.e., "the context of the practice" including "the language and structure of transactions."[56] Incorporating current events in this manner does not go so far as to provide students with a simulated due diligence or drafting exercise, but it does allow the professor to introduce these concepts in a course that aims primarily to teach the substantive law of business associations. In evaluations, students commented that they found that this approach gave them important insights into their role as junior lawyers and into the contexts in which they would be performing these tasks.

C. The Vast Ramifications of the Financial Crisis on Law Students

As a faculty member teaching about core concepts in Business Associations and the assumptions underlying the legal doctrine and policies that we analyze each day, I felt the need to try, as much as possible, to help my students grapple with the causes and lessons of the crisis. In addition to the pedagogical reasons articulated in Parts II.A and II.B above, there were two somewhat inter-related reasons for my decision to use the financial crisis as a pedagogical tool. First, the diversity of my students meant that I needed to reach out to them and help them understand an economic crisis that would likely result in significant damage to their communities.[57] Second, I hoped that facilitating their understanding of the crisis could empower them with information that could be used by them to make well-informed career decisions. To put it bluntly, it is fairly difficult to be a successful lawyer, and in today's market, a successful law student, without having some understanding of current economic events.

The need to integrate current business events is particularly important in today's diverse classroom where many students may not have had an opportunity to learn about some of these concepts through their earlier educational and life experiences.[58] As one of my students recounted, she came into law school with very little business experience. Her family did not discuss investments or stock options at the

56. Woronoff, *supra* note 37, at 3.

57. *See* Kellye Y. Testy, *Adding Value(s) to Corporate Law: An Agenda for Reform*, 34 Ga. L. Rev. 1025, 1029–30 (2000) (discussing how reaching out effectively must involve recognizing students' diversity).

58. Stark, *supra* note 9, at 5 (discussing what should be added to the business curriculum to teach students about business, company functions, and historical business deals).

dinner table; she did not know about how corporations were managed, the role of board members in a corporation or the importance of their fiduciary duties; and although she worked for an LLP before attending law school, to her, an LLP was simply a collection of letters after the law firm's name.

As Dean Testy noted earlier in this decade, when discussing the need for business law professors to recognize race, gender, and class issues in teaching corporate law, to reach out to present day law students, we must honor their diversity for failing to do so means silencing and alienating our students.[59] This point is particularly important at a time like the present. For some students, especially those from lower income communities, the financial crisis has adversely and disproportionately impacted their families and their personal lives.[60] In a recent speech, Federal Reserve Chairman Ben Bernanke summed up the impact of the crisis as follows:

> *The financial crisis . . . has severely affected the cost and availability of credit to both households and businesses. Credit is the lifeblood of market economies, and the damage to our economy resulting from the constraints on the flow of credit has already been extensive. With recent job losses exceeding half a million per month, this year's college graduates are facing the toughest labor market in 25 years.*[61]

Some students have faced difficulties obtaining educational loans, and for some the crisis did not just result in their family's retirement investments being reduced by substantial amounts, but also in their family members having lost their homes or their jobs.[62]

Almost every sector of the economy has been adversely affected by the financial crisis, and of course law practice and legal academia have not been immune.[63] It is rare to have a week where one does not come across yet another article about layoffs or rescinded offers, reduced pay, and other cutbacks both in practice and in the academy.[64] One simply could not ignore the financial crisis given its vast ramifi-

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59. Testy, *supra* note 57.

60. *See* Peter S. Goodman, *Consumer Thrift in U.S. May Last After Recession*, N.Y. Times, Aug. 29, 2009, at A1 (noting the effect of the economy on low-income households).

61. Ben S. Bernanke, Chairman, Bd. of Governors of the Fed. Reserve Sys., Address at the Morehouse College: Four Questions About the Financial Crisis (Apr. 14, 2009) (transcript available at http://www.federalreserve.gov/newsevents/speech/bernanke20090414a.htm).

62. *See* Jonathan D. Glater, *Big Changes on the Way in Lending to Students*, N.Y. Times, Feb. 27, 2009, at A19 (discussing students' difficulty in obtaining educational loans as a result of the credit crisis); Peter S. Goodman, *Big Spenders? They Wish*, N.Y. Times, Sept. 13, 2009, at BU1 ("Millions of Americans have lost homes, jobs and savings to the financial crisis and recession.").

63. *See, e.g.*, Gerry Shih, *Downturn Dims Prospects Even at Top Law Schools*, N.Y. Times, Aug. 26, 2009, at B1 (describing the competition for law students as the worst in 50 years).

64. *See, e.g.*, Michael J. de la Merced, *The Legal Profession Feels the Pain of the Recession*, N.Y. Times, Mar. 26, 2009, at F2 (discussing the layoffs within the legal industry).

cations on the legal profession, in particular.[65] For law students, the financial crisis has had and will likely continue to have significant ramifications for their career prospects.[66] Undoubtedly, law students are entering the toughest job market in decades.[67] Law firms, at all levels, federal and state agencies, and non-profit organizations have reduced or eliminated recruiting.[68] In essence, it was hard to ignore the sullen faces of students as more and more bad news flooded the Internet, newspapers, and airwaves, and as it became clear through the fall of 2008 that obtaining jobs would present unexpected challenges.[69] Among my own students, some have lost jobs, some have had summer associate interviews cancelled or offers rescinded, and some have just been plain unable to secure full-time employment.

An understanding of business terminology and the current economic climate can help students in job interviews and instill skills that can later assist them in adding value as lawyers who can better appreciate their clients' business models, objectives, and risk acceptance.[70] For example, a law student who can demonstrate knowledge about the business issues facing technology companies as a result of the crisis will be much more impressive to a law firm that represents these companies than a student who walks into an interview with little background about the firm's clients. Even for those students that do not aim to become business lawyers, learning about the financial crisis is necessary for both career planning and for devising ways to assist their employers.[71] For example, numerous non-profit organizations have had significant fundraising and funding issues due to the crisis.[72] Many of these organizations have cut back on programs and reduced the number of employees in the organizations.[73] Applicants who have an understanding of the crisis can better assist

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65. *See id.*

66. *See, e.g.*, Alan Feuer, *Bleak Day at the Bar*, N.Y. Times, June 7, 2009, at MB1 (discussing top law firms who have either closed or reduced their staff numbers and the reduction in law firms' profit margins).

67. Shih, *supra* note 63.

68. *See* Ameet Sachdev, *Big Firms Cut Back on Law School Recruiting*, Chi. Trib., Sept. 1, 2009, at C20.

69. *See, e.g.*, Steven Pearlstein, *Labor Pains Are Not Easily Shared*, Wash. Post, Dec. 31, 2009, at D1 ("Underperforming partners are quietly being 'de-equitized' (a euphemism for being kicked out of the partnership), associates have been laid off, offers of employment to new associates have been rescinded and summer programs for law students are being curtailed.").

70. *See generally* Testy, *supra* note 57, at 1033–34 (suggesting that incorporating business law terminology in class can help students, who are less familiar with those terms and who may also be from lower socioeconomic backgrounds, become more comfortable with business concepts).

71. *See* Rachel M. Zahorsky, *Pooling Practices: Law Firms Are Creating Task Forces to Meet Demands of a Fast-Developing Crisis*, A.B.A. J., Jan. 2009, at 64, 65 (describing attorneys' increasing awareness of the economy in the operation of law firms).

72. *See, e.g.*, Shelly Banjo, *Weathering the Storm (A Special Report)—Helping Themselves: With Fewer Donations and Declining Investments, Nonprofits Are Thinking Creatively About Cutting Costs and Raising Revenue*, Wall St. J., Apr. 23, 2009, at R6 (discussing nonprofit cuts in aid and losses suffered as a result); *see also* Mary Jo Patterson, *In Downturn, Charities Face Needs of Their Own*, N.Y. Times, Nov. 23, 2008, at NJ1 (discussing the impact of the economy on nonprofits).

73. *See, e.g.*, Julie Bosman, *From Ranks of Jobless, a Flood of Volunteers*, N.Y. Times, Mar. 16, 2009, at A1 (discussing how nonprofit organizations have had to cut back on projects).

as team members who may be able to devise new fundraising and cost-containment strategies.

III. PEDAGOGICAL PITFALLS

Of course, including current events comes with numerous challenges. These challenges are magnified when teaching about a global financial crisis the likes of which the world has not seen in many decades. While there are numerous pedagogical benefits of using such events to teach Business Associations, time management, course structure, and balancing substantive law with real-world hot topics can all serve as difficulties for incorporating examples and active learning methods into the classroom.

A. Practical Impediments: Course Materials

Consistent and pervasive incorporation of current events generally requires a significant investment of time by the faculty member, which may present obstacles for many faculty members. One of the primary challenges that professors face with discussing real-time events is finding appropriate materials. I found that gathering appropriate materials to incorporate the financial crisis in Business Associations was, to say the least, a work in progress. In the fall of 2008, none of the casebooks had yet been updated to include even a cursory overview of the crisis. There also was no adequate coverage of past economic crises in casebooks, even important events such as the Asian financial crisis of 1998 or the Great Depression, which one could use to anchor discussions about the current crisis. Most students lacked either a comparative or historical background to place the 2008 crisis in context and to understand how and whether this crisis differed from other crises.

While I may have known more about the crisis than some of my students, gathering accurate and relevant information was a time-consuming and difficult task.[74] At times I felt that it was almost a full-time job to keep up with the growing complexity of the problem and to learn more about how the various portions of the problem interacted with each other.[75] Obviously, there are multiple layers of causality of the crisis and various theories put forth as to the roots of the crisis.[76] Di-

74. *See* Floyd Norris et al., *U.S. Bank Bailout to Rely in Part on Private Money*, N.Y. Times, Feb. 9, 2009, at A1 (discussing the limited public information available regarding which banks own which assets); Sandy B. Lewis & William D. Cohan, Op-Ed., *The Economy Is Still at the Brink*, N.Y. Times, June 7, 2009, http://www.nytimes.com/2009/06/07/opinion/07cohanWEB.html (questioning why the Obama administration has not given the public more information about the financial markets).

75. *See generally* Nelson D. Schwartz, *One World, Taking Risks Together*, N.Y. Times, Oct. 21, 2007, § 4, at 3 (observing that the current financial crisis fits the pattern of historical financial crises, both in complexity and leverage); Robert J. Shiller, *Financial Invention Vs. Consumer Protection*, N.Y. Times, July 19, 2009, at BU2 (discussing the complexity of the financial system).

76. *See, e.g.*, Annelena Lobb et al., *Executive Education: Lessons That Fit the Times—Financial Meltdown Prompts Business Schools to Retool Some Courses*, Wall St. J., Aug. 20, 2009, at B5 (discussing several theories on the economic crisis).

gesting and evaluating these theories, and then explaining them to students was rather challenging when coupled with the demands of the basic Business Associations course.

I was deeply aware of three other hurdles while gathering materials that could help me incorporate the financial crisis into the classroom: the already heavy burden on law students with respect to the financial costs of law school; the demands of existing reading assignments in both my classroom and other classes; and the vastly differing knowledge levels of students. Therefore, I strived to find material that was free, that discussed the crisis succinctly, and that could be understood by students with various levels of business and economics expertise. In addition to sending students copies of news articles from the *New York Times* and the *Wall Street Journal*, I sent them links to blogs by legal academics and economists discussing the crisis.[77] I also found the various programs on National Public Radio and PBS to be useful in providing a quick overview of the crisis and the basic theories about the role of various factors that may have led to the crisis.[78] Furthermore, using company-specific disclosures from regulatory filings, such as Form 8-K "current report" filings with the Securities and Exchange Commission (SEC), allowed me to teach them not only about the SEC's function and the role of disclosure in our regulatory system, but also about specific problems that a particular company was facing.[79]

B. Balancing Current Events with the Fundamentals

Even after compiling appropriate materials, other predicaments remain. In any course, professors will need to be careful of spending too much time discussing current events and not enough time discussing the fundamental concepts required for students to understand the relevance of such events.

One of the great challenges of the Business Associations course is how to devote sufficient time to foundational concepts that must be covered in the course, while giving the class real-world relevance. The Business Associations course is generally offered as a 4-credit, and sometimes a 3-credit course, thus time is of the essence.[80] The course involves learning an enormous amount of substantive law, covering,

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77. One such blog is The Conglomerate, available at http://www.theconglomerate.org/, which features posts by five professors: Gordon Smith, Christine Hurt, Lisa Fairfax, David Zaring, and Usha Rodrigues, exclusively focused on business, law, economics, and society.

78. *See The Origins of the Financial Crisis* (NPR radio broadcast Mar. 11, 2009) (transcript available at http://www.npr.org/templates/story/story.php?storyId=101751604).

79. For the current rules under Form 8K, see U.S. Sec. & Exch. Comm'n, OMB No. 3235-0060, Form 8-K (2009), available at http://www.sec.gov/about/forms/form8-k.pdf.

80. Woronoff, *supra* note 37, at 8. A recent survey by Professor Thompson found that the course is often a 4-credit course. *See* Robert B. Thompson, Professor, Vanderbilt Univ. Law Sch., Who We Are and What We Teach: A Survey on the Basic Course, Remarks at the 2009 AALS Conference on Business Associations, *available at* http://www.aals.org/documents/2009BusAssoc/Thompson.pdf ("The Business Associations course is most often a 4 hour course and the 4 hour share of the market has grown . . . to 68% . . . .").

among other topics, agency, partnerships, limited liability companies, both closely and publicly held corporations (including corporate governance and fiduciary duties concepts with respect to these entities), and financial structure.[81] Given this extensive coverage, there is considerable debate about whether it is possible to adequately teach all of the subjects covered by the Business Associations course.[82]

In introductory survey courses such as Business Associations, professors already struggle with covering all the information, theory, and black letter law that law students need to learn.[83] Incorporating current events examples into classrooms inevitably removes valuable time professors could spend on teaching the basics. For example, in a recent article on addressing corporate social responsibility ("CSR") in business law classes, Professor Faith Stevelman explained the lack of emphasis on CSR in part due to structural impediments in basic business law courses:

> *Limited time is the first challenge to teaching CSR. In the basic Corporations and Securities Regulation courses, I feel a significant responsibility to help my students prepare for the nuts and bolts of corporate and securities law practice. Corporate law is especially doctrinally challenging because it incorporates and builds upon several areas of law—contract, property, tort, trust, civil procedure, professional responsibility, and federal securities law, for example. . . . It seems essential to proceed slowly in the basic business law courses, to involve students in sifting through the legal doctrines as applied to precise transactional settings. In this fashion students can begin to prepare themselves for the live version. Nevertheless, this immersive approach to the basic Corporations and Securities Regulation courses leaves little time for bigger policy discussions, including those relevant to CSR.*[84]

Similarly, in a blog post last fall, Professor Miriam Cherry discussed her goal of incorporating the financial crisis in Business Associations classes.[85] Professor Cherry mentioned that she wanted to spend time talking about the "lumbering elephant swinging its trunk and trying to get into [her] classroom," but she also

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81. As evidenced by the survey undertaken by Professor Thompson, these are of course not the only topics covered in the Business Associations course. *See generally* Thompson, *supra* note 8 (reporting the results of a survey of teachers regarding the Business Associations course).

82. *See* William J. Carney, Professor, Emory Univ. Sch. of Law, The Role of the Basic Course: What Is It and Where Is It Going?, Remarks at the 2009 AALS Conference on Business Associations, *available at* http://www.aals.org/documents/2009BusAssoc/Carney.pdf (lamenting that it is impossible to "do justice to corporations and LLC's in the same [four-hour, basic] course").

83. *See* Janet Koven Levit, *Walking the Walk*, 56 Am. J. Comp. L. 499, 503 (2008) (reviewing John A. Spanogle et al., Global Issues in Contract Law (2007)) (discussing first year contracts professors' frustration with being unable to include all course material in class).

84. Faith Stevelman, *Globalization and Corporate Social Responsibility: Challenges for the Academy, Future Lawyers, and Corporate Law*, 53 N.Y.L. Sch. L. Rev. 817, 819–20 (2008/2009).

85. Cherry, *supra* note 1.

recognized that she needed to go through the basic business law doctrines.[86] She tried to strike a balance by engaging in a "few limited discussions" on the causes of the crisis.[87] However, although she did not "want to ignore that rather large creature with wrinkly gray skin," she also "[did not] want to do much more."[88] Her blog post serves as excellent insight into some of the pedagogical pitfalls of incorporating the financial crisis, or current events generally, in the classroom.

In addition to balancing current events discussions with the nuts and bolts of Business Associations, devising an adequate course structure could also prove difficult for professors. Students need to understand the underlying legal concepts before they can understand the importance of real-world examples and before they can attempt to solve case-method problems based on current events.[89] These problems are coupled with the enormous complexities involved with respect to the issues related to the crisis. The complexities of the financial crisis often meant that the situation was evolving at a rapid pace, so that it was often extremely difficult, if not impossible, to know how problems would evolve when structuring the class.[90]

Lastly, incorporating real-world examples into the classroom can lead to tangential class discussions. While discussion is important in the classroom, professors may find it difficult to prevent the discussion from overrunning the classroom. Further, each class seems to have students who tend to engage in discussions more often than others.[91] While this is true of all classes, the very personal impact of the financial crisis on students may also lead particularly impassioned students to lead discussions astray. Professors will need to be particularly mindful of assuring that one group of students does not dominate the conversation.

IV. CONCLUSION

From presentations at this roundtable, it is clear that law professors are examining the global financial crisis through various disciplinary lenses and from multiple perspectives. No doubt, market and government responses to the crisis will continue to challenge law faculty and raise fundamental questions about the long-term implications, both of the crisis and of the solutions put forth, on the doctrine and concepts taught in the Business Associations course.

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86. *Id.*
87. *Id.*
88. *Id.*
89. *See* Woronoff, *supra* note 37, at 3–4.
90. *See* Walter Stuber et al., *International Securities and Capital Markets*, 43 Int'l Law. 613, 634–35 (2009) (discussing the SEC's response to the "rapidly evolving financial crisis"); *see also* Neil Irwin & Steven Mufson, *Economic Indicators Continue Nose Dive; Half-Million Jobs Cut: Worst Month Since 1974*, Wash. Post, Dec. 6, 2008, at A1 (discussing the speed of the economic decline).
91. *See* Michael Hunter Schwartz, *Teaching Law Students to Be Self-Regulated Learners*, 2003 Mich. St. DCL L. Rev. 447, 453 (2003) (observing that many students do not learn what law professors "wish" they would learn, while other students are self-regulated learners, who are always prepared and comment frequently in class).