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## I. INTRODUCTION

Business entities are structured in a variety of legal forms, including corporations, partnerships, and limited liability companies, among others. The purpose of this guide is to help researchers locate helpful primary and secondary sources available through the Goodson Law Library on matters related to business entities (also known as “business associations” or “business organizations”), such as choice of entity, corporate formation and governance, and Delaware law.

Business associations are formed and governed largely under state law, and this guide therefore focuses primarily on state law resources. Businesses are also, of course, subject to extensive regulation under federal securities and tax laws. See the Goodson Law Library’s research guides to Securities Law (<https://law.duke.edu/lib/researchguides/securities/>) and Federal Tax (<https://law.duke.edu/lib/researchguides/fedtax/>) for further information about researching those topics.

### *Online collections of materials on business associations*

Bloomberg, Lexis Advance, and Westlaw all offer comprehensive business associations practice centers or areas, which are convenient starting places for research. These practice centers collect both primary and secondary sources.

- On **Bloomberg Law**, the *Corporate* practice center includes state and federal cases, statutes, and regulations, Delaware Chancery Court dockets, drafting guides, forms, and secondary sources from the American Bar Association, Practising Law Institute, and Bloomberg BNA, among others. In the *Corporate Law Resource Center* on **Bloomberg BNA**, researchers can find news, portfolios, and practice tools like sample documents and checklists, along with cases and statutes.
- On **Lexis Advance**, the *Business & Corporate Law* practice area collects cases, statutes, regulations, and secondary sources. **Lexis Practice Advisor** (accessible under the tiles to the left of the Lexis Advance Research button) offers a transactional view of business associations materials in its *Corporate and M&A* and state-specific *Business & Commercial* practice areas. The state-specific business law materials presently include California, Florida, New York, and Texas, with more states to be added in the future.
- On **Westlaw**, cases, statutes, regulations, secondary sources, and forms can be found both in the *Corporations* and *Corporate Governance* practice areas. Additional forms, practice notes, and checklists are available in the *Corporate and M&A* practice area in **Practical Law**.

## II. PRIMARY SOURCES

### *A. State Statutes and Model/Uniform Acts*

Many states' laws on the formation and governance of business entities are based on model or uniform acts. The Delaware Corporation Law (8 Del. Code §§ 101-398, <http://delcode.delaware.gov/title8/c001/>) also serves as a model for some states.

The *Model Business Corporation Act* ("MBCA") from the Corporate Laws Committee of American Bar Association's Section of Business Law serves as a drafting guide for state legislatures, and many states have adopted current or previous versions of the MBCA. The current text of the MBCA (2016 revision) is available in print (KF1404 .A15 A44) and on Bloomberg Law. A free, unannotated version of the MBCA can also be found at the Corporate Laws Committee's website ([https://www.americanbar.org/content/dam/aba/administrative/business\\_law/corplaws/2016\\_mbc\\_a.pdf](https://www.americanbar.org/content/dam/aba/administrative/business_law/corplaws/2016_mbc_a.pdf)).

The *Model Business Corporation Act Annotated*, 4th ed. (KF1414 .A513 and on Bloomberg Law), is generally preferred for research purposes because along with the text of the Act and

official commentary, it also provides lists of states that have adopted each section, case citations, and statutory comparisons between the MBCA and each state's statutes as adopted. It has not, however, been updated yet to reflect the 2016 revision of the MBCA.

The Uniform Law Commission ("ULC") and the American Law Institute have promulgated several uniform laws pertaining to unincorporated business entities (*i.e.*, entities other than corporations), including the Revised Uniform Limited Liability Company Act, the Uniform Partnership Act, the Uniform Limited Partnership Act, and the recent Uniform Business Organizations Code ("UBOC"). To see all of the acts pertaining to business entities at the ULC's website, (<http://uniformlaws.org/Acts.aspx>), select "Business Organizations & Regulations" under Category.

The current legislative status of each uniform law (*i.e.*, which states have introduced or adopted each act) can be found at the individual act's page on the ULC's website. See, for example, the UBOC page (<http://www.uniformlaws.org/Act.aspx?title=Business%20Organizations%20Code>). Each page also provides the text of the act and a "Legislative Information Kit," which includes a summary of the legislation and information about the reasons it should be adopted.

Current and historical versions of uniform laws are also available comprehensively in the *Uniform Laws Annotated* (Reference KF879 .A45 U51 and on Westlaw). This collection includes the text of each act, official comments, cross references to West topics and key numbers and *Corpus Juris Secundum*, and notes on state adoptions and variations. In print, the uniform laws on business associations are found in the Business and Nonprofit Organizations and Associations Laws volumes.

Once adopted, state statutes on business associations are found in state codes. Annotated versions of every state's codes are available in print on the third floor of the library and on Lexis Advance and Westlaw. More narrowly, databases containing only the portions of state codes dealing with business entities are available in the practice centers on Bloomberg Law, Lexis Advance, and Westlaw described in Part I above. Of particular note is the *State Forms of Business* section of the *Corporate* practice center on Bloomberg Law, which quickly takes researchers to business entity laws and corporate forms for all 50 states and the District of Columbia. Similarly, links to free, unannotated versions of all states' corporate statutes are also available at the Cornell Legal Information Institute ([https://www.law.cornell.edu/wex/table\\_corporations](https://www.law.cornell.edu/wex/table_corporations)).

To locate state statutes on narrower aspects of the law of business associations, researchers can use 50-state surveys. On **Bloomberg Law**, 50-state surveys on limited liability companies, limited partnerships, and benefit corporations are found under Chart Builders & Surveys in the *Corporate* practice center. Additional 50-state surveys on corporate compliance, governance, legal departments, and forms of business are available in the *Corporate Law Resource Center* on **Bloomberg BNA**. The *50 State Surveys: Statutes and Regs* database on **Lexis Advance** covers laws and regulations pertaining to several types of business associations, including corporations, limited liability companies, limited liability partnerships, non-profits, and professional associations. Finally, on **Westlaw**, surveys on issues such as corporate formation, dissolution, and shareholder protections are available in the *50 State Statutory Surveys* database. To identify additional 50-state surveys and secondary sources that function as 50-state surveys on very narrow

issues, consult Cheryl Nyberg's *Subject Compilations of State Laws* (Reference KF1 .F67 and on HeinOnline).

## ***B. Administrative Materials and Company Filings***

Business entities that are either incorporated or doing business in a state are typically regulated by the corporations division of the state's Secretary/Department of State. State regulations pertaining to business associations are located in state administrative codes, in print or online. Current state administrative codes and registers are available comprehensively on Bloomberg Law, Lexis Advance, and Westlaw.

Narrower databases containing only state regulations and other administrative materials dealing with business associations are also available in the practice centers on Lexis Advance and Westlaw described in Part I above. Some states' corporations divisions also make current business regulations available on their websites. Regulations of the North Carolina Secretary of State's Corporations Division are located in Title 18, Chapter 4 of the *State of North Carolina Administrative Code*, which is available in print in the State Codes area or free online at the website of the NC Office of Administrative Hearings (<http://reports.oah.state.nc.us/ncac.asp?folderName=\Title%2018%20-%20Secretary%20of%20State\Chapter%2004%20-%20Corporations%20Division>).

Business entities are required to make annual filings with the corporations division of the Secretary of State in the state(s) in which they are incorporated or licensed to do business. Recent annual filings and other company documents, like charters/articles of incorporation and bylaws, are increasingly available online at many corporations divisions' websites. (Documents dated before the early 2000s are often available only on microfiche.) At the North Carolina Corporations Division's website (<https://www.sosnc.gov/search/index/corp>), which is typical of such sites, users can search by company name to obtain company filings and other documents, as well as information about a company's corporate citizenship, status, address, officers, and registered agent. (For information about publicly-traded companies' required federal securities filings, see the library's research guide to Securities Law, <https://law.duke.edu/lib/researchguides/securities/>.)

## ***C. Cases***

### **1. Appellate decisions**

State and federal appellate decisions on matters related to business associations can be found with other cases in standard state, regional, and federal reporters, in print and online. In addition, each of the practice centers discussed in part I above provides access to subject-specific databases of state and federal cases.

## 2. Decisions of specialized business courts

Some states have created separate trial courts (or separate dockets within trial courts of general jurisdiction) to handle commercial and business disputes, with the goal of speedy resolution of cases by judges with expertise in business and commercial law. The Delaware Court of Chancery, a court of equity established in 1792, has long been known as “the nation’s principal forum for the resolution of internal corporate governance disputes.” Decisions of the Delaware Chancery Court can be found in *West’s Atlantic Reporter*, in print or online. More recently, the Delaware Superior Court established a Complex Commercial Litigation Division, which handles business disputes not covered by the Chancery Court’s jurisdiction. Decisions of Delaware courts of all levels are available at the state court system’s website (<http://courts.delaware.gov/opinions/>).

In the last 20 years, many other states have followed Delaware’s lead in establishing specialized business courts. For example, the North Carolina Business Court (<http://www.ncbusinesscourt.net/>) hears cases “involving complex and significant issues of corporate and commercial law.” A comprehensive list of links to business and commercial courts can be found at the website of the Business Courts Subcommittee of the ABA’s Business Law Section (<https://apps.americanbar.org/dch/committee.cfm?com=CL150011>), and recent opinions are often found at the courts’ websites.

## III. SECONDARY SOURCES

### A. Books and Treatises

#### 1. Introductory works

Researchers new to the law of business associations may wish to consult a study guide. Study guides in the law library’s collection include *Agency, Partnership, and the LLC in a Nutshell*, 6th ed. (Reserves KF1375 .Z9 H95 2016), *Business Associations in a Nutshell*, 3d ed. (Reserves KF1355 .S53 2010), *The Law of Corporations in a Nutshell*, 7th ed. (Reserves KF1414.3 .H35 2016), *Mastering Corporations and Other Business Entities*, 2d ed. (KF1355 .H37 2016), and *Understanding Corporate Law*, 5th ed. (KF1414 .P56 2018).

A more substantial introduction to business associations is found in Professors James D. Cox and Thomas Lee Hazen’s *Business Organizations Law*, 4th ed. (Reserves KF1414 .C694 2016). This student hornbook is an adaptation of the treatise *Cox & Hazen on Corporations* (described below).

#### 2. Comprehensive works on corporations

The leading treatise on corporations is James D. Cox and Thomas Lee Hazen’s *The Law of Corporations* (also known as *Treatise on the Law of Corporations* and *Cox & Hazen on Corporations*), 3d ed. (Reserves/Faculty KF1414 .C69 2010 and on Westlaw). This four-volume treatise analyzes all areas of corporate law and major provisions of federal securities laws and covers the Model Business Corporation Act and major non-Model Act jurisdictions, including California, Delaware, and New York.

William Meade Fletcher's *Fletcher Cyclopaedia of the Law of Corporations*, permanent ed. (KF1411 .F544 1931 and on Westlaw) is a subject-specific encyclopedia. This heavily-footnoted work covers state and federal corporate law and includes cross references to *Fletcher Corporation Forms Annotated* (Practice & Procedure KF1411 .F544 and on Westlaw).

### 3. Narrower works

Many other treatises focus on narrower aspects of the law of business associations. Examples include:

*BNA Corporate Practice Series* (on Bloomberg Law). This series of practitioner-oriented portfolios covers corporate compliance, corporate governance, corporate legal departments, financial reporting, and forms of business. Portfolios provide detailed analysis, practice tools like checklists and sample documents, and extensive bibliographies.

Russell M. Robinson II, *Robinson on North Carolina Corporation Law*, 7th ed. (KFN7613 .R622 and on Lexis Advance). A comprehensive treatise on corporations under the North Carolina Business Corporation Act, from formation through dissolution.

Some frequently-researched business associations subtopics include corporate governance, the related subject of duties and liabilities of corporate officers and directors, alternative forms of business entities, and, due to Delaware's prominent role in the development of corporate law, Delaware law.

#### Corporate governance

American Bar Association, *Handbook for the Conduct of Shareholders' Meetings*, 2d ed. (KF1450 .H36 2010 and on Bloomberg Law). This handbook is intended "to provide concise and practical guidance on organizing and conducting shareholders' meetings for management, shareholders and counsel," including both the annual meeting and special meetings of shareholders, with an emphasis on state law, particularly the MBCA and Delaware corporate law. A short glossary appears at the end, followed by several appendices including sample documents, a planning checklist, and charts on the proxy voting process.

American Law Institute, *Principles of Corporate Governance: Analysis and Recommendations* (Reserves KF1422 .A947 2008; current edition on Westlaw; drafts, current edition, and updated case citations on HeinOnline). Similar to a *Restatement*, this work provides black letter law and practice recommendations on the duties and responsibilities of corporate officers and directors, along with illustrations, commentary, and reporter's notes for each section.

Amy L. Goodman and Steven M. Haas, eds., *Corporate Governance: Law & Practice* (on Lexis Advance). This treatise covers the history of corporate governance, state and federal sources of law, the roles of committees of boards of directors, stockholders' rights, and executive compensation, among other topics.

## Officers and directors

Edward Brodsky and M. Patricia Adamski, *Law of Corporate Officers and Directors: Rights, Duties, and Liabilities* (KF1423 .B762 2017-2018 and on Westlaw). This annual publication “attempts to explore the state of the law concerning the major areas of responsibility, and potential liability, of officers and directors under state law and under the federal securities laws,” including legal issues and practical problems.

William E. Knepper and Dan A. Bailey, *Liability of Corporate Officers and Directors*, 8th ed. (KF1423 .K543 and on Lexis Advance). A detailed treatment of the duties and liabilities of officers and directors, as well as sources of limitation of liability, indemnification, and insurance. Appendices include sample corporate documents, charts of state statutes on indemnification and limitation of liability, and summaries of major D&O settlements and judgments.

Stephen A. Radin, *The Business Judgment Rule: Fiduciary Duties of Corporate Directors*, 6th ed. (KF1423 .Z9 2009). A four-volume, heavily-footnoted treatise on the duties of corporate directors (and controlling shareholders), covering the origins of the business judgment rule, its scope, and its application in specific situations such as financial difficulties, takeovers, and shareholder derivative litigation.

*Restatement of the Law Third, Agency* (KF 395 .A413 A7 2006 and on HeinOnline). Reported by Professor Deborah DeMott, “[t]his work offers valuable guidance on business relationships, including those between officers and corporations, employees and employers, and real estate and other specialized agents and their clients.”

## Forms of business entities

J. William Callison and Maureen A. Sullivan, *Partnership Law and Practice: General and Limited Partnerships* (on Westlaw and in print, but no longer updated, at KF1375 .C352 2014). This one-volume annual publication covers choice of entity; formation, management, and dissolution of various kinds of partnerships; and partnership taxation. Includes checklists and forms and reproduces the texts of relevant uniform laws.

Zolman Cavitch, *Business Organizations with Tax Planning* (on Lexis Advance and in print, but no longer updated, at KF1366 .B87). Covers the formation and operation of various types of business entities with an emphasis on federal and state taxation.

Robert W. Hillman and Mark J. Loewenstein, eds., *Research Handbook on Partnerships, LLCs and Alternative Forms of Business Organizations* (K1303 .R47 2015). An overview of domestic and foreign alternatives to incorporation, covering topics such as fiduciary duties, tax treatment, and dissolution. Includes a chapter by Professor Deborah DeMott on the application of the common law of agency to general and limited partnerships and limited liability companies.

Ryan Honeyman, *The B Corp Handbook: How to Use Business as a Force for Good* (HD60 .H655 2014 and as an audio book). A guide to creating and operating Certified B Corporations (“B Corps”), which are companies that have been certified to meet standards of “social and

environmental performance, accountability, and transparency.”

F. Hodge O’Neal and Robert B. Thompson, *O’Neal and Thompson’s Close Corporations and LLCs: Law & Practice*, rev. 3d ed. (KF1466 .O583 and on Westlaw). This treatise covers the characteristics, organization, control, and operation of closely-held businesses. It emphasizes planning and drafting of organizational documents, and many forms for charters, bylaws, shareholder’s agreements, and other documents are found in Chapter 10.

Robert R. Keatinge and Larry E. Ribstein, *Ribstein and Keatinge on Limited Liability Companies*, 2d ed. (KF1380 .R542 and on Westlaw). This treatise describes the history of and policies underlying the LLC as a form of entity and focuses on the legal and tax aspects of forming and operating LLCs. Appendices include sample operating agreements for various kinds of LLCs and a formation checklist.

## **Delaware law**

R. Franklin Balotti and Jesse A. Finkelstein, *The Delaware Law of Corporations & Business Organizations*, 3d ed. (KFD213 .B352 and on Westlaw). One of the leading scholarly treatises (along with *Folk*, below) on the Delaware General Corporation Law. Volumes 1 and 2 cover the formation, operation, and dissolution of Delaware corporations (including Blue Sky law and taxation of corporations), statutory trusts, LLCs, and limited partnerships. Volume 3 consists of numerous forms corresponding to chapters in the treatise. The print version is accompanied by an annual statutory deskbook that reproduces relevant Delaware statutes.

A. Gilchrist Sparks III and Frederick H. Alexander, *The Delaware Corporation: Legal Aspects of Organization and Operation* (Corporate Practice Series Portfolio 1-5th, on Bloomberg Law). A practitioner-oriented guide to incorporating and organizing a Delaware corporation. Also addresses the roles of stockholders and directors. Forms and sample documents are available in the practice tools at the end of the volume.

Edward P. Welch, *Folk on the Delaware General Corporation Law*, 6th ed. (KFD213. F593). This treatise was originally written by one of the drafters of the Delaware General Corporation Law. Volumes 1-3 of the current edition provide a section-by-section analysis of the DGCL. Volume 4 covers limited liability companies and limited partnerships.

Additional treatises on the law of business associations can be found in the practice centers described in Part I above or located by subject through the Goodson Law Library’s online catalog. Some helpful catalog subject headings include:

- *Business enterprises--Law and legislation*
- *Corporation law--Delaware*
- *Corporation law--United States*
- *Directors of corporations--Legal status, laws, etc.--United States*
- *Executives--Legal status, laws, etc.--United States*
- *Limited partnership--United States*
- *Limited liability--United States*

- *Partnership--United States*
- *Private companies*

## ***B. Periodicals and Blogs***

### **1. Law reviews**

Many general law journals (e.g., *Duke Law Journal*) publish articles and student notes and comments on the law of business associations. Other scholarly journals focus specifically on the law of business associations and related topics. Such journals can be identified in the library catalog using the subject headings *Corporation law--United States--Periodicals* and *Business enterprises--Law and legislation--United States--Periodicals*. Examples include:

***Business Lawyer*** (recent issues in Periodicals; on HeinOnline, Lexis Advance, and Westlaw). This peer-reviewed journal published quarterly by the American Bar Association Section of Business Law includes articles on a variety of corporate and business law topics, including securities law, corporate governance, bankruptcy, and the Uniform Commercial Code. Issues include scholarly articles, reports of ABA committees and subcommittees, and surveys of current law.

***Delaware Journal of Corporate Law*** (recent issues in Periodicals; on Bloomberg Law, HeinOnline, Lexis Advance, Westlaw, and at the journal's website, <http://www.djcl.org/archives>). A journal from Widener University's Delaware Law School publishing articles on topics within the scope of the ABA's Section of Business Law, along with Delaware Court of Chancery decisions. Accompanied by a blog (<http://www.djcl.org/blog>) covering recent opinions from the U.S. Supreme Court, the Delaware Supreme Court and Court of Chancery, and others.

***Harvard Business Law Review*** (on HeinOnline, Lexis, Westlaw, and at the journal's website, <http://www.hblr.org/>). Issued in partnership with the Harvard Law School Program on Corporate Governance, this twice-annual print publication is accompanied by the ***Harvard Business Law Review Online***, which publishes shorter articles throughout the year. Together, the journals publish articles by "scholars, practitioners, and policymakers on corporate law and governance, securities and capital markets law, financial regulation and financial institutions, law and finance, financial distress and bankruptcy, and related subjects."

***Journal of Corporation Law*** (recent issues in Periodicals; on Bloomberg Law, HeinOnline, Lexis Advance, and Westlaw). A practitioner-oriented journal specializing in corporate law published by the University of Iowa College of Law.

### **2. Current awareness sources**

Newsletters and magazines can help researchers stay on top of current developments in the law of business associations. Examples include:

***Business Law Today*** (volumes 13-19 in Periodicals; volumes 1-19 on HeinOnline and Westlaw; current articles at <https://businesslawtoday.org/>). Previously a practitioner-oriented monthly magazine, *Business Law Today* is now the digital platform of the ABA's Section of Business Law. Peer-reviewed articles and videos cover practice areas such as securities law, M&A, business

litigation, forms of business entities, and Internet law.

***Corporate Law & Accountability Report*** (on Bloomberg Law). A weekly newsletter covering “significant legal developments affecting officers and directors, executive compensation, financial reporting, corporate disclosure, shareholder litigation and activism, risk management, and other matters.” Other newsletters of interest available on Bloomberg Law include *Corporate Counsel Weekly* and *Mergers & Acquisitions Law Report*.

***Westlaw Journal Delaware Corporate*** (on Westlaw). Summarizes rulings of Delaware state and federal courts on corporate issues including disclosure, bylaws, fiduciary duty, proxy issues, appraisal, indemnification, and partnership disputes.

### **3. Blogs**

***Business Law Prof Blog*** ([http://lawprofessors.typepad.com/business\\_law/](http://lawprofessors.typepad.com/business_law/)). Part of the Law Professor Blogs Network, this blog features posts on topics such as alternative forms of entities, major business litigation, and securities regulation, as well as notices of calls for papers, open faculty positions, and upcoming conferences.

***Corporate & Securities Law Log*** (<http://www.corporatesecuritieslawblog.com/>). A blog from the Sheppard Mullin law firm on “mergers and acquisitions, securities, finance, tax, and bankruptcy for corporations, start-ups, venture capitalists, private, public and emerging companies and family owned businesses.”

***Delaware Business Litigation Report*** (<http://www.morrisjames.com/blogs-Delaware-Business-Litigation-Report>). “Summaries and analysis of recent Delaware court decisions concerning business-related litigation” from Delaware law firm Morris James LLP.

Additional blogs on the law of business associations can be found in the ABA’s blawg directory (<http://www.abajournal.com/blawgs/>) under the topics *Business Law* and *Corporate Law*.

### ***C. Forms and Checklists***

Forms and checklists, available in print and online, can be helpful aids in drafting documents for business entities. Some helpful forms sets in this area include:

Robert Dick Douglas, ***Douglas' Forms*** (NC Area KFN7468 .D682 and on Lexis Advance). Volume 1 of this collection of North Carolina civil practice forms covers business transactions, including the formation of various types of business organizations, as well as debt-financing, employment agreements, and powers of attorney, among other topics. Notes provide practice guidance and references to sections of the N.C. General Statutes.

William Meade Fletcher, ***Fletcher Corporation Forms Annotated*** (Reference KF1411 .F55 2011 and on Westlaw). This comprehensive set includes federal and state forms covering corporations from pre-incorporation through dissolution. It also addresses other forms of business organizations such as nonprofit corporations, professional corporations, and limited liability companies. Chapters begin with "Practice Considerations," and forms include references to corresponding explanatory material in the ***Fletcher Cyclopedia of the Law of Corporations*** (KF1411 .F544 and on Westlaw).

Alan S. Gutterman, ***Business Transactions Solutions*** (on Westlaw) is a tool for drafting documents throughout "the life cycle of a business," from planning and launching to business transactions, finance, human resources, compliance, going public, acquisitions, and divestitures. Each chapter includes an executive summary, commentary and practice notes, master forms and clauses, specialty forms, and checklists.

Cyrus M. Johnson, Jr. ***North Carolina Limited Liability Company Forms and Practice Manual***, 3d ed. (NC Area KFN7607.5 .A65 J643). This manual is intended to "aid the practitioner with the practical aspects of drafting LLC documents" under the North Carolina Limited Liability Company Act (Chapter 57D of the N.C. General Statutes). Volume 1 provides a detailed discussion of the organization and operation of LLCs, along with miscellaneous related issues including reorganization, foreign LLCs, professional LLCs, compensation strategies, and opinion letters. Volume 2 includes three sample operating agreements, reproductions of relevant statutes and regulations, a 50-state survey identifying each state's code sections governing LLCs, and summaries of key state and federal cases on LLPs and LLCs.

Jacob Rabkin and Mark H. Johnson, ***Current Legal Forms with Tax Analysis*** (on Lexis Advance; also in print, but no longer updated, at KF170 .R33). This well-regarded treatise and collection of forms includes full documents and clauses, checklists, drafting guidance, and commentary on topics such as joint ventures, corporations, and partnerships. As the title suggests, chapters also provide detailed discussion of the tax background of transactions.

For additional forms, checklists, and drafting tools, see ***Transactional Resources: Tools for Doing a Deal*** (<https://law.duke.edu/lib/researchguides/transactional/>).

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10/2018