

Professor Nelson
The Modern Corporation and Society
Spring 2018

Course Description

This course will consider the role of modern business corporations in society. Should corporations be run exclusively in the interests of shareholders? How should boards of directors manage the claims of various groups affected by corporations? By what standards should we judge executive compensation? Should corporations be entitled to claim various constitutional rights, including freedoms of speech, association, and religion? After surveying foundational work in corporate theory, we will address these questions through a close reading of materials in law, economics, political theory, and business ethics.

Office Hours

My office hours are by appointment. Please feel free to call or email so that we can schedule a time to meet. My office is located in TUII 224, my telephone number is 713-743-0526, and my email address is jdnelso3@central.uh.edu.

Class Format and Assessment Methods

The focus of this seminar is on rigorous evaluation of arguments presented in the assigned reading. The first few weeks of the seminar will provide a general overview of basic concepts that we will explore for the remainder of the course. After this introduction, each session will be devoted to an intensive discussion of a single article. For each session, designated students will be required to criticize or defend that article. Grades will be based on a written critique of an assigned article, a final paper, and class participation throughout the semester. The final paper must be at least 10,000 words in length, including footnotes, and will be due on **May 1**. A preliminary draft will be due on **April 17**. Class participation is critical to the success of the seminar and will count toward a large portion of the final grade. Completion of a course in Business Organizations is helpful but not required. The structure of the course will be discussed in more detail during our first session. **Students must attend the first class session to remain enrolled in the course.**

Learning Outcomes

This course will allow students to (1) develop and refine sophisticated arguments about the role of modern business corporations in society and (2) produce a substantial written work on this topic in consultation with the instructor.

Reading Assignments

January 22: Introduction & History

John Armour, Henry Hansmann, & Reinier Kraakman, What is Corporate Law, *in* The Anatomy of Corporate Law: A Comparative and Functional Approach (2d ed. 2009)

Gregory Mark, The Personification of the Business Corporation in American Law, 54 University of Chicago Law Review 1441 (1987)

January 29: Theory I – Economic Foundations

Ronald Coase, The Nature of the Firm, 4 *Economica* 386 (1937)

Frank Easterbrook & Daniel Fischel, The Corporate Contract, 89 *Columbia Law Review* 1416 (1989)

Henry Hansmann & Reinier Kraakman, The Essential Role of Organizational Law, 110 *Yale Law Journal* 387 (2000)

February 5: Theory II – Political Theories

E. Merrick Dodd, Jr., For Whom Are Corporate Managers Trustees?, 45 *Harvard Law Review* 1145 (1932)

Adolf A. Berle, Jr., For Whom Corporate Managers *Are* Trustees: A Note, 45 *Harvard Law Review* 1365 (1932)

Milton Friedman, The Social Responsibility of Business is to Increase Its Profits, *N.Y. Times Magazine*, September 13, 1970

Thomas Donaldson & Lee E. Preston, The Stakeholder Theory of the Corporation: Concepts, Evidence, and Implications, 20 *Academy of Management Review* 65 (1995)

Joseph Heath, Business Ethics without Stakeholders, 16 *Business Ethics Quarterly* 533 (2006)

February 12: The Corporate Form

David Ciepley, Beyond Public and Private: Toward a Political Theory of the Corporation, 107 *American Political Science Review* 139 (2013)

February 19: The Role of Boards

Margaret Blair & Lynn Stout, A Team Production Theory of Corporate Law, 85 *Virginia Law Review* 247 (1999)

February 26: The Role of Shareholders

Lucian Bebchuk, The Case for Increasing Shareholder Power, 118 *Harvard Law Review* 833 (2005)

March 5: The Role of Employees

Kent Greenfield, The Place of Workers in Corporate Law, 39 Boston College Law Review 283 (1998)

March 19: Borderlines I – Corporate Philanthropy

M. Todd Henderson & Anup Malani, Corporate Philanthropy and the Market for Altruism, 109 Columbia Law Review 571 (2009)

March 26: Borderlines II – Social Enterprise

Dana Brakman Reiser, Theorizing Forms for Social Enterprise, 61 Emory Law Journal 681 (2012)

April 2: Corporate Rights I.A – Political Speech

Leo E. Strine, Jr., & Nicholas Walter, Conservative Collision Course: The Tension Between Conservative Corporate Law Theory and *Citizens United*, 100 Cornell Law Review 335 (2014)

April 9: Corporate Rights I.B – Disclosure

Lucian A. Bebchuk & Robert J. Jackson, Jr., Shining Light on Corporate Political Spending, 101 Georgetown Law Journal 923 (2013)

April 16: Corporate Rights II: Religion

Amy Sepinwall, Corporate Piety and Impropriety: *Hobby Lobby's* Extension of RFRA Rights to the For-Profit Corporation, 5 Harvard Business Law Review 173 (2015)

April 23: Corporate Rights III: Privacy

Elizabeth Pollman, A Corporate Right to Privacy, 99 Minnesota Law Review 27 (2014)

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let’s Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html