

Professor Nelson
The Modern Corporation and Society
Fall 2024

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

If you would like to make an appointment to speak outside of class, please feel free to email me at jdnelso3@central.uh.edu so that we can schedule a meeting.

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 **December 3**. A preliminary draft will be due on **November 14**. 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.

Mental Health and Wellness Resources

The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit uh.edu/caps, call 713-743-5454, or visit a Let's Talk location in-

person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed.

The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment.

The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

Need Support Now? - If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat 988lifeline.org.

Title IX/Sexual Misconduct

Per the UHS Sexual Misconduct Policy, your instructor is a "responsible employee" for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

Reasonable Academic Adjustments/Auxiliary Aids

The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website: <https://uh.edu/accessibility/> calling (713) 743-5400, or emailing jdcenter@Central.UH.EDU.

Recording of Class

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart, Jr. Student Accessibility Center. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Honor Code

The UHLC Honor Code applies to all aspects of this course. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please inquire if you have any questions regarding how the Honor Code's provisions apply to specific activities or situations related to this course. Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to comply with the Honor Code in relation to this course and to comply with the instructions in the course syllabus.

AI Generated Text

The software technology known as artificial intelligence has recently expanded its capability to generate text (AI Generated Text). Examples of the technology include what are known as “generative” large language models (LLMs), and a specific implementation that is well known in the general public is ChatGPT. These systems can generate text in response to prompts and/or input of other text/documents/code/images. The output, the AI Generated Text, appears to have human-mimicking “intelligence” and is thus potentially usable as a substitute for written work product one might generate themselves. AI Generated Text can include computer code or programs as well as human language content.

Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to not prompt, generate, obtain, read, or use any AI Generated Text in relation to any activity or assessment in this course. This pledge includes that your assessment work product in the course is without any contribution from AI Generated Text. This specifically extends to the plagiarism policy and unauthorized aid/materials parts of the Honor Code: AI Generated Text will be treated as from another/other in applying the plagiarism policy to this course. The term “assessment” means any work product generated for this course that is submitted to the instructor or presented in a class session, regardless of whether it is graded content or not. The parts of the Honor Code that refer to unauthorized materials or aid are specifically prohibited from any use of AI Generated Text in this course.

Reading Assignments

August 19: 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)

August 26: 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)

September 9: 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)

September 16: The Corporate Form

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

September 23: The Role of Boards

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

September 30: The Role of Shareholders

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

October 14: The Role of Employees

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

October 21: Borderlines I – Corporate Philanthropy

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

October 28: Borderlines II – Social Enterprise

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

November 4: 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)

November 11: Corporate Rights I.B – Disclosure

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

November 18: 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)