

Franklin & Marshall College

BOS 480

LAW, MARKETS, AND THE CORPORATION

Professor Jeffrey Nesteruk
Harris 118
358-3924

Office Hours:

Tuesday 12:30pm – 2:00pm
Thursday 12:30pm – 2:00pm

Texts:

Stephen M. Bainbridge, *Corporate Law*, 3rd edition
Gerald F. Davis, *The Vanishing Corporation*
Lynn Stout, *The Shareholder Value Myth*

Judicial Opinions: *Citizens United v. Federal Election Commission*; *Burwell v. Hobby Lobby*; *Kiobel v. Royal Dutch Petroleum*

Films: *Inside Job*

Supplementary materials will be distributed in class throughout the semester.

Course Description:

This course will introduce students to the concepts, principles, and doctrines of corporate law and then invite students to reflect upon the underlying values and larger significance of these influential legal notions in their personal, professional, and public lives. In seeking to understand and probe the multiple and contested meanings of the corporation in our contemporary culture, we will highlight two central themes. The first, drawing from Michael Sandel's *What Money Can't Buy*, will examine the expansion of market values into traditionally nonmarket spheres. The second, tapping recent Supreme Court cases such as *Citizens United* and *Hobby Lobby*, will explore our growing acceptance of a robust conception of corporate personhood. In highlighting these two central dynamics, we see the paradoxical position the corporation occupies within our contemporary world. It is at once characterized as a legal fiction existing merely to facilitate market mechanisms and a full-fledged moral agent capable of political judgments and religious beliefs. By examining such issues, this course will enrich students' understandings and aspirations as they envision the corporation's future in business and beyond.

Course Collaboration

This course offering is supported by a Teagle Foundation grant aimed at bringing liberal arts content, skills, and pedagogies to the study of business. As part of this grant, the class will be collaborating with Professor Kerry Whiteside's class, GOV 376 "Law, Money, and Meaning," to explore common themes and issues.

Course Goals:

- *To develop in students the skills of legal reasoning
- *To expose students to the legal concepts, principles, and doctrines necessary for understanding the central role the corporation has played in American law
- *To engage students in the critical analysis of the broader contemporary controversies surrounding the corporation
- *To integrate philosophical reflection upon the nature of the corporation into our analysis of legal concepts and contemporary controversies

Grading:

Midterm Examination	40%
Essay Portfolio	40%
Class Contribution	20%

- * All students will take midterm examination and hand in essay portfolio on scheduled dates. The essay portfolio must be in hard copy and handed in directly to me.

Class Attendance:

Class attendance is important. Lectures will contain material not offered in the texts and participation in class exercises and discussions is necessary in order to develop the particular perspectives and analytic skills required for the midterm examination and essay portfolio.

Midterm Examination

The midterm examination will be an essay exam that requires applying legal principles and doctrines to an extended hypothetical fact situation. Success on the exam will require spotting relevant legal issues, an accurate and in-depth knowledge of legal rules, close reading of the facts, and an awareness of public policy considerations. It will also require you to critically evaluate the legal rules and processes at issue.

Essay Portfolio

During the second half of the class, we will examine a number of major legal controversies in which the law is unsettled. Your essay portfolio will consist of three essays. Each essay will focus on a particular legal controversy and will answer a specific assigned question regarding that controversy. The suggested length of your essay portfolio is 15-18 pages.

Class Contribution

The class contribution portion of your grade will reflect your general class attendance, preparation, and participation. It will include throughout the course your performance in a number of specific classroom exercises, some of which may require prior out-of-class preparation. Due to the nature of the class, poor class attendance or preparation will be heavily penalized.

COURSE OUTLINE AND ASSIGNMENTS

Understanding the Corporation

8/30– Introduction

9/6 – The Economist View of the World (Guest lecture by Prof. Whiteside)

The Vanishing Corporation; The Shareholder Value Myth (You should begin reading these two books for the 9/6 class and finish them by the 10/11 class. You will be asked to reread and be prepared to discuss specific chapters in these books as noted in the schedule below.)

9/13 – Corporate Law Chap. 1 (An Introduction to the Corporation)
Chap. 2 (Forming the Corporation)
COMMON CLASS WITH GOV 376

9/20 – Corporate Law Chap. 3 (Financing the Corporation)
Chap. 10 (Shareholder Voting) COMMON CLASS WITH GOV 376
(Includes guest lecture by Prof. Whiteside)

9/27 – Corporate Law Chap. 4 (Limited Liability and Piercing the Corporate Veil)
Chap. 9 (The Limits of Fiduciary Obligation)

10/4 – Corporate Law Chap. 5 (Managing the Corporation)
(Includes guest lecture by Prof. Whiteside)

10/11– Corporate Law Chap. 6 (The Duty of Care and the Business Judgment Rule)
Chap. 7 (The Duty of Loyalty)

10/18 - MIDTERM EXAMINATION

Contemporary Corporate Issues

10/25– Citizens United v. Federal Election Commission
COMMON CLASS WITH GOV 376
(Includes guest lecture by Prof. Whiteside)

11/1 – Burwell v. Hobby Lobby, Kiobel v. Royal Dutch Petroleum

11/8 – Benefit Corporations (For this class, you should reread and be prepared to bring to the discussion pp. 3-47 from The Vanishing Corporation and pp. 13-60 from The Shareholder Value Myth) COMMON CLASS WITH GOV 376

11/15 – Cross-Course Intellectual Exchange (For this class, you should read Walzer, Spheres of Justice, pp. 95-128) COMMON CLASS WITH GOV 376

THANKSGIVING BREAK

11/29 – Common Event (Film, Discussion Panel) (Prior to this class, you should view the film, “Inside Job”. For this class, you should also reread and be prepared to bring to the discussion pp. 115-162 from The Vanishing Corporation and pp. 61-102 from The Shareholder Value Myth) COMMON CLASS WITH GOV 376

12/6 – Conclusion

*** * * Essay Portfolio due at the beginning of class on 12/6/17.**