



National Business Law Scholars Conference

June 23-24, 2016

The University of Chicago Law School
1111 East 60th Street | Chicago, Illinois 60637

THURSDAY, JUNE 23rd

- 8:00-8:45** **Registration & Breakfast** (Classroom Corridor)
- 8:45-9:00** **Opening Remarks** (Room III)
Dean Thomas J. Miles (The University of Chicago Law School)
- 9:00-10:00** **Keynote Address** (Room III)
Steven L. Schwarcz (Duke Law School)
- 10:00-10:15** **Break**
- 10:15-12:15** **Concurrent Panels**
- Panel A** (Room I)
Business Bankruptcy
Moderator and Discussant: Michelle M. Harner (University of Maryland Francis King Carey School of Law)
- Douglas G. Baird (The University of Chicago Law School), *Bankruptcy's Quiet Revolution*
 - Shlomit Azgad-Trome (UC Berkeley School of Law), *Too Important to Fail: Bankruptcy versus Bailout of Socially-Important Non-Financial Institutions*
 - Anthony J. Casey (The University of Chicago Law School), *Bankruptcy on the Side*
 - Laura Napoli Coordes (Arizona State University Sandra Day O'Connor College of Law), *Gatekeepers Gone Wrong: Reforming the Chapter 9 Eligibility Rules*
 - Jared A. Ellias (University of California Hastings College of the Law), *What Drives Bankruptcy Forum Shopping? Evidence from Market Data*
- Panel B** (Room IV)
Business Entities and Social Responsibility
Moderator and Discussant: Felix B. Chang (University of Cincinnati College of Law)
- Matthew T. Bodie (Saint Louis University School of Law) *Faith and the Firm*
 - Eric C. Chaffee (The University of Toledo College of Law), *The Theoretical Foundations of Corporate Social Responsibility*
 - Joan MacLeod Heminway (The University of Tennessee College of Law), *Corporate Purpose and Litigation Risk in Publicly Held U.S. For-Profit Benefit Corporations*
 - Alicia Plerhoples (Georgetown University Law Center), *Rejecting Charity*

Panel C (Room V)

Mergers and Acquisitions

Moderator and Discussant: Megan Wischmeier Shaner (University of Oklahoma College of Law)

- Afra Afsharipour (UC Davis School of Law) *Legal Transplants in the Law of the Deal: M&A Agreements in India*
- Robert Anderson (Pepperdine University School of Law) & Jeffrey Manns (George Washington University Law School), *The Inefficient Evolution of Merger Agreements*
- Cathy Hwang (Stanford Law School), *Preliminary Paper in Deal Design*
- Jay B Kesten (Florida State University College of Law), *Pathologies of the Modern Appraisal Remedy*
- Charles Korsmo (Case Western Reserve University School of Law) & Minor Myers (Brooklyn Law School), *Interest in Appraisal*

12:15-1:00 **Lunch** (South Green Lounge)

1:00-2:45 **Concurrent Panels**

Panel A (Room I)

Lending Regulation

Moderator and Discussant: David Epstein (University of Richmond School of Law)

- Pamela Foohey (Indiana University Maurer School of Law), *The Expressive Power of Bankruptcy*
- David Min (UC Irvine School of Law), *Housing Finance Reform and the Safe Asset Supply*
- Paolo Saguato (London School of Economics), *The Liquidity Dilemma and the Repo Market: A Two-Step Policy Option to Address the Regulatory Void*
- Yueh-Ping (Alex) Yang (Harvard Law School), *Government Ownership of Banks in the U.S.: A Curse or a Blessing?*

Panel B (Room IV)

Investment Fund Regulation

Moderator and Discussant: Jeff Schwartz (University of Utah S.J. Quinney College of Law)

- William A. Birdthistle (Chicago-Kent College of Law), *Empire of the Fund: Mutual Funds, 401(k)s & the Way We Save Now*
- Sung Eun (Summer) Kim (University of California, Irvine, School of Law), *Attractive Nuisances in Finance*
- Anita K. Krug (University of Washington School of Law), *Investor Democracy*

Panel C (Room V)

Business Entities and Political Rights

Moderator and Discussant: Eric C. Chaffee (The University of Toledo College of Law)

- Vince Buccola (The Wharton School, University of Pennsylvania), *States' Rights against Corporate Rights*
- Sarah C. Haan (University of Idaho College of Law), *The Shareholder Proposal Settlement and the Private Ordering of Public Elections*
- Joseph K. Leahy (South Texas College of Law), *Is Management's Decision to Cause the Corporation to Make a Political Contribution a "Business Judgment"?*
- Elizabeth Pollman (Loyola Law School, Los Angeles), *Regulatory Entrepreneurship*

Panel D (Room D)

The Intersection of Business and Criminal Law

Moderator and Discussant: Dorothy Shapiro (The University of Chicago Law School)

- Todd Haugh (Indiana University Kelley School of Business), *The Criminalization of Compliance*
- Lauren A. Newell (Ohio Northern University Pettit College of Law), *Up in Smoke? Unintended Consequences of Retail Marijuana Laws for Partnerships*
- W. Robert Thomas (University of Michigan), *The Ability and Responsibility of Corporate Law to Improve Criminal Punishment*

2:45-3:00 **Break**

3:00-4:45 **Concurrent Panels**

Panel A (Room I)

Financial Market Intermediaries

Moderator and Discussant: Tom C.W. Lin (Temple University Beasley School of Law)

- Benjamin P. Edwards (Barry University Dwayne O. Andreas School of Law), *Conflicts & Capital Allocation*
- Gina-Gail S. Fletcher (Indiana University Maurer School of Law), *Financial Data Intermediaries*
- Veronica Root (Notre Dame Law School), *Monitors as Data Brokers*
- Paolo Saguato (London School of Economics), *The Organization and Governance of Clearinghouses: Mutual Enterprises or For-profit Corporations*

Panel B (Room IV)

Agency Costs and Fiduciary Duties

Moderator and Discussant: René Reich-Graefe (Western New England University School of Law)

- Matthew T. Bodie (Saint Louis University School of Law), *Employment as Fiduciary Relationship*
- Yaron Nili (Harvard Law School) & Kobi Kastiel (Harvard Law School), *“Captured Boards”: The Rise of “Super Directors” and the Case for a Board Suite*
- Justin Sevier (Florida State University College of Law), *Who Cares About Agency Costs in Executive Compensation?*
- Gregory H. Shill (Harvard Law School), *Activist Loyalties*

Panel C (Room V)

Securities Regulation and Disclosure Under the 1933 Act

Moderator and Discussant: Donna M. Nagy (Indiana University Maurer School of Law)

- Brent J. Horton (Fordham University Gabelli School of Business), *What Did Prospectuses Look Like Before 1933? A Review of Pre-Securities Act Offerings*
- Neal Newman (Texas A&M University School of Law), *Regulation A+ – New and Improved After the J.O.B.S. Act or a Failed Revival?*
- Hillary A. Sale (Washington University School of Law), *“We Believe”: Omnicare, Legal Risk Disclosure and Corporate Governance*

4:45-5:00 **Break**

5:00-6:45

Concurrent Panels

Panel A (Room I)

Business Forms and Their Regulation

Moderator and Discussant: Kelli Alces Williams (Florida State University College of Law)

- Gechun Lin (Washington University in St. Louis, School of Law), *Regulating Business Trusts in China*
- Mohsen Manesh (University of Oregon School of Law) *Equity in LLC Law?*
- Peter Molk (Willamette University College of Law), *Contracting Around LLC Default Rules*

Panel B (Room IV)

Understanding Shareholders

Moderator and Discussant: William A. Birdthistle (Chicago-Kent College of Law),

- Shlomit Azgad-Trome (UC Berkeley School of Law), *Corporations and the 99%: Team Production Revisited*
- Kobi Kastiel (Harvard Law School) & Yaron Nili (Harvard Law School), *In Search of the 'Absent' Shareholders: A New Solution to Retail Investors' Apathy*
- Benjamin Means (University of South Carolina School of Law), *Entrepreneurial Action in Family Controlled Companies*
- Megan Wischmeier Shaner (University of Oklahoma College of Law), *The Stockholder Monitor: Plaintiff Stockholders vs. Activist Stockholders*

Panel C (Room V)

Securities Litigation

Moderator and Discussant: Hillary A. Sale (Washington University School of Law)

- Yuliya Guseva (Rutgers School of Law-Newark), *Extraterritoriality Redux: Public Enforcement and Litigation Five Years After Morrison v. NAB*
- Adam C. Pritchard (University of Michigan Law School), *Piling On? An Empirical Study of Parallel Derivative Suits*
- Margaret V. Sachs (University of Georgia School of Law), *Superstatute Theory and Federal Securities Law: Towards A New Understanding of Morrison v. National Australia Bank, Ltd.*
- James C. Spindler (University of Texas School of Law), *We Have a Consensus on Fraud on the Market – And It's Wrong*

Panel D (Room D)

Antitrust and Regulating Anticompetitive Behavior

Moderator and Discussant: Eric C. Chaffee (The University of Toledo College of Law)

- Felix B. Chang (University of Cincinnati College of Law), *Second-Generation Monopolization: Parallel Exclusion in Derivatives Markets*
- Gregory Day (Oklahoma State University Spears School of Business), *Efficient Piracy*
- Vera Korzun (Fordham Law School), *Arbitrating Antitrust Claims: From Suspicion to Trust*
- Samuel N. Weinstein (U.C. Berkeley School of Law), *Rigged Results? Solving the Antitrust Puzzle of Search-Engine Keyword Bid-Rigging Agreements*

6:45-7:45

Reception (North Green Lounge)

FRIDAY, JUNE 24th

7:45-8:45 **Breakfast** (Classroom Corridor)

8:45-9:45 **Concurrent Panels**

Panel A (Room I)

Business Law and Technology

Moderator and Discussant: Joan MacLeod Heminway (The University of Tennessee College of Law)

- Carla L. Reyes (Stetson University College of Law), *Disruptive Regulation: The Blockchain and Standard Setting Using an Endogenous, Technology-Assisted Methodology*
- Wulf A. Kaal (University of St. Thomas School of Law), *Venture Capital as Dynamic Regulation of Disruptive Innovation*

Panel B (Room IV)

Financial Market Regulatory Design

Moderator and Discussant: Benjamin P. Edwards (Barry University Dwayne O. Andreas School of Law)

- John Crawford (University of California Hastings College of the Law), *A Regulatory Design for Market Discipline*
- Minor Myers (Brooklyn Law School), *Profit-Taking in the Market for Corporate Law*

Panel C (Room V)

Securities Market Regulatory Theory

Moderator and Discussant: Lauren A. Newell (Ohio Northern University Pettit College of Law)

- Wendy Gerwick Couture (University of Idaho College of Law), *A Glass-Half-Empty Approach to Securities Regulation*
- Cary Martin Shelby (DePaul University College of Law), *The SEC as the Primary Regulator of Systemic Risk*

9:45-9:55 **Break**

9:55-11:10 **Concurrent Panels**

Panel A (Room I)

The Intersection of Business Law and Cyber Law

Moderator and Discussant: Carla L. Reyes (Stetson University College of Law)

- Kristin N. Johnson (Seton Hall University Law School), *Cyber Risks: Emerging Risk Management Concerns for Financial Institutions*
- Tom C.W. Lin (Temple University Beasley School of Law), *New Market Manipulation*
- Ge Zhang (Washington University School of Law), *The Legal Mechanism for Safeguarding Personal Information of Credit Reporting in the Era of Big Data--The Current Practice in China*

Panel B (Room IV)

Financial Market Regulation

Moderator and Discussant: Gina-Gail S. Fletcher (Indiana University Maurer School of Law)

- Kevin Haeberle (University of South Carolina School of Law), *Information-Dissemination Law: The Regulation of How Market-Moving Information Is Regulated*
- Jeremy R. McClane (University of Connecticut School of Law), *“Boilerplate” and the Impact of Disclosure in Dealmaking*
- Yuliya Guseva (Rutgers School of Law-Newark), *Russian Capital Markets and Shareholder Litigation: Quo Vadis?*

Panel C (Room V)

The Intersection of Business and Tax Law

Moderator and Discussant: Eric C. Chaffee (The University of Toledo College of Law)

- Ilya Beylin (Columbia Law School), *Taxing Fictive Orders: How an Information Forcing Tax Can Reduce Manipulation and Distortion in Financial Product Markets*
- Limor Riza (Carmel Academic Center), *Charitable Contributions and Dependent Care Expenses in a Coherent System*
- Sloan G. Speck (University of Colorado Law School), *Competitiveness as a Rationale for International Tax Reform*

11:10-11:20 **Break**

11:20-12:20 **Concurrent Panels**

Panel A (Room I)

Whistleblowers

Moderator and Discussant: Yaron Nili (Harvard Law School)

- Miriam H. Baer (Brooklyn Law School), *The Whistleblower's Dilemma*
- Benjamin P. Edwards (Barry University Dwayne O. Andreas School of Law), *Regulating Culture: Improving Corporate Governance with Antiarbitration Provisions*

Panel B (Room IV)

Risk Regulation

Moderator and Discussant: Jay B Kesten (Florida State University College of Law)

- Kristin N. Johnson (Seton Hall University Law School), *Diversifying to Mitigate Misconduct Risk*
- Robert F. Weber (Georgia State University College of Law), *Why Don't Financial Regulators Talk About Risk Regulation?*

Panel C (Room V)

Hot Topics in Securities Regulation

Moderator and Discussant: Cathy Hwang (Stanford Law School)

- Jeff Schwartz (University of Utah S.J. Quinney College of Law), *Cost-Benefit Analysis and The Conflict Minerals Rule*
- Victoria Schwartz (Pepperdine University School of Law), *The Celebrity Stock Market*

12:20-12:30 **Break**

- 12:30-1:45** **Lunch and Keynote Address** (South Green Lounge)
The Honorable Diane P. Wood (United States Court of Appeals for the Seventh Circuit)
- 1:45-2:45** **Plenary Panel** (The Courtroom)
Diverse and Inclusive Leadership in Business: What's Happening in the Academy, the C-Suite, and the Boardroom?
Moderator and Discussant: Joan MacLeod Heminway (The University of Tennessee College of Law)
- Afra Afsharipour (UC Davis School of Law)
 - E. Thames Fulton (RSR Partners)
 - Mary Ann Hynes (Archdiocese of Chicago)
 - Cynthia Jamison (Tractor Supply Company)
 - Kristin N. Johnson (Seton Hall University Law School)
 - Steven A. Ramirez (Loyola University Chicago School of Law)
 - Darren Rosenblum (Pace Law School)
 - Hillary A. Sale (Washington University School of Law)
- 2:45-2:55** **Break**
- 2:55-4:10** **Concurrent Panels**
- Panel A** (Room I)
Understanding the Board
Moderator and Discussant: Kobi Kastiel (Harvard Law School)
- René Reich-Graefe (Western New England University School of Law), *Corporate Boards and Calculative Trust: Theory*
 - Darren Rosenblum (Pace Law School), *When Does Board Diversity Benefit Firms?*
- Panel B** (Room IV)
The Intersection of Business and Contract Law
Moderator and Discussant: Pamela Foohey (Indiana University Maurer School of Law)
- Matthew Jennejohn (BYU Law School), *Designing Relational Contracts in Asymmetric Innovation Networks*
 - Frederick Trilling (Boston University), *The Uniform Commercial Code: A View Forward*
 - Kelli Alces Williams (Florida State University College of Law), *Contract Disclosures as Warnings*
- Panel C** (Room V)
Insider Trading
Moderator and Discussant: Afra Afsharipour (UC Davis School of Law)
- Alexander Dill (Chicago-Kent College of Law), *U.S. v. Newman and the Mosaic Theory of Investment Research: An Old Theory Gains New Credence*
 - Michael D. Guttentag (Loyola Law School, Los Angeles), *Selective Disclosure and Insider Trading*
 - Donna M. Nagy (Indiana University Maurer School of Law), *Beyond Dirks: Gratuitous Tipping and Insider Trading*