



# THE FALL AND RISE OF FEDERAL CORPORATION LAW

UNIVERSITY  
*of* MARYLAND  
SCHOOL *of*  
 LAW

## THE FIFTH ANNUAL BUSINESS LAW CONFERENCE

Friday October 13, 2006  
8 a.m. to 5 p.m.

500 West Baltimore Street  
Baltimore, MD 21201

# OVERVIEW

The Fifth Annual Business Law Conference  
**The Rise and Fall of Federal Corporation Law**

University of Maryland School of Law  
500 West Baltimore Street  
Baltimore, MD 21201

Join us as we focus on the interplay of state and federal law in corporate governance. Panel discussions will include evolving rules relating to the board of directors, including method of election, board organization, and board compensation; a general discussion of securities litigation that addresses a variety of topics from the implications of the Supreme Court's decision in *Dura Pharmaceuticals* to evolving state law fiduciary duties relating to disclosure; and developments under SLUSA, including the Supreme Court's decisions in *Dabit* and *Kircher*.

Conference proceedings and papers will be published in the *Journal of Business & Technology Law*.

*Co-sponsored by the Association of Securities and  
Exchange Commission Alumni, Inc.*

# SCHEDULE

**8 a.m.**

## **CONTINENTAL BREAKFAST IN THE ATRIUM**

**9:15 to 10:45 a.m.**

### **PANEL I – CORPORATE GOVERNANCE**

In addition to the 2002 Sarbanes-Oxley Act, which includes significant new federal rules relating to the substance of corporate governance, the SEC has proposed rules that would federalize other areas of governance that have traditionally been left to the states. Although a proposed rule that would effectively require majority voting for directors has been shelved, it appears that the SEC is inclined to use its power here aggressively even though the courts have struck down new rules relating to the governance of mutual funds.

#### **Moderator**

**Frank Balotti**

Director

Richards, Layton & Finger P.A.

#### **Panelists**

##### **Robert Ahdieh**

Associate Professor of Law

Emory University School of Law

*Intersystemic Regulation and Rule 14a-8*

##### **Larry Hamermesh**

Professor of Law and Director, Widener

Institute of Delaware Corporate Law

Widener University (Delaware)

*Delaware Law and Racing to the Top or Bottom  
(or Sideways?)*

##### **Jennifer Johnson**

Professor of Law

Lewis & Clark Law School

*Adopting Federal Standards as Best Practices for  
Private and Nonprofit Firms*

##### **Brett McDonnell**

Associate Professor of Law

University of Minnesota Law School

*Recent Skirmishes in the Battle Over Corporate  
Voting and Governance*

#### **Comment**

**Jennifer O'Hare**

Professor of Law

Villanova University School of Law

**11 a.m. to 12:30 p.m.**

## **PANEL II – CORPORATE FINANCE**

Although proposed reforms in governance and oversight have tended to dominate the news, there has been significant action in the area of finance. The SEC and the accounting profession have adopted new rules relating to executive compensation, and the Supreme Court has rendered a series of important decisions relating to securities fraud class actions. While these developments may have the effect of limiting the applicability and evolution of state law in this area, they also reveal fundamental weaknesses in the federal approach.

### **Moderator**

**John Olson**

Partner

Gibson, Dunn & Crutcher LLP

### **Panelists**

#### **Richard Booth**

Marbury Research Professor of Law

University of Maryland School of Law

*Securities Fraud, Insider Trading, and Derivative Actions*

#### **Jerry Markham**

Professor of Law

Florida International University

College of Law

*Executive Compensation*

#### **Faith Kahn**

Professor of Law and Director, Center on Business Law & Policy

New York Law School

*Federalism, Fraud, and Freeze Out Transactions*

#### **Mark Loewenstein**

Nicholas A. Rosenbaum Professor of Law

University of Colorado School of Law

*The Supreme Court and the Federalization of Corporate Law*

### **Comment**

#### **Charles Elson**

Edgar S. Woolard, Jr., Chair of the John L. Weinberg Center for Corporate Governance  
Lerner College of Business & Economics  
University of Delaware

#### **Julian Velasco**

Associate Professor of Law  
Notre Dame Law School

**12:30–2 p.m.**

## **LUNCH**

### **Speaker**

The Honorable Jack Jacobs, Delaware Supreme Court

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**2:15 to 3:30 p.m.**

### **PANEL III – CORPORATE PRACTICE**

In addition to more direct efforts to affect the direction of corporation law, the SEC and the Justice Department (and other government and quasi-government agencies) have sought to attack perceived problems of corporate governance by pursuing lawyers, accountants, and other professionals in addition to the executive officers of failed companies. Although this tactic may be sensible in cases in which the individual defendants have gained from the transactions in question, it has drawn heavy criticism in other cases. The recent indictment of the class action law firm Milberg Weiss is the latest example of this tactic. Although every case is different, the big question is whether criminal prosecution of corporations and their employees and advisers is ultimately an efficient way to achieve improvements in corporate governance.

#### **Moderator**

##### **Lisa Fairfax**

Professor of Law and Director, Business Law Program

University of Maryland School of Law

#### **Panelists**

##### **Theresa Gabaldon**

Lyle T. Alverson Professor of Law  
The George Washington University  
Law School

##### **Robert Hillman**

Professor of Law  
UC Davis School of Law

##### **Bruce Kobayashi**

Professor of Law  
George Mason University School of Law

##### **Larry Ribstein**

Mildred Van Voorhis Jones Chair in Law  
University of Illinois College of Law

#### **Comment**

##### **Richard Painter**

Professor of Law  
University of Minnesota Law School of Law

##### **Frank Razanno**

Partner, Dickstein Shapiro LLP

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**3:30 to 5 p.m.**

### **RECEPTION IN THE ATRIUM**

# FACULTY

Robert Ahdieh  
Associate Professor of Law  
Emory University School of Law

Frank Balotti  
Director  
Richards, Layton & Finger P.A.

Richard Booth  
Marbury Research Professor of Law  
University of Maryland School of Law

Charles Elson  
Edgar S. Woolard, Jr., Chair  
John L. Weinberg Center for Corporate  
Governance  
Lerner College of Business & Economics  
University of Delaware

Lisa Fairfax  
Professor of Law and  
Director, Business Law Program  
University of Maryland School of Law

Theresa Gabaldon  
Lyle T. Alverson Professor of Law  
The George Washington University Law School

Larry Hamermesh  
Professor of Law and  
Director, Widener Institute of Delaware  
Corporate Law  
Widener University (Delaware)

Robert Hillman  
Professor of Law  
UC Davis School of Law

The Hon. Jack Jacobs  
Delaware Supreme Court

Jennifer Johnson  
Professor of Law  
Lewis & Clark Law School

Faith Kahn  
Professor of Law and  
Director, Center on Business Law & Policy  
New York Law School

Bruce Kobayashi  
Professor of Law  
George Mason University School of Law

Mark Loewenstein  
Nicholas A. Rosenbaum Professor of Law  
University of Colorado School of Law

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University of Illinois College of Law

Julian Velasco  
Associate Professor of Law  
Notre Dame Law School

# BUSINESS LAW AT MARYLAND

## The Business Law Program

The University of Maryland School of Law offers a comprehensive Business Law Program that focuses on innovative teaching, practical experience, research, and scholarship in the fields of business organization law, securities regulation, intellectual property, tax, business transactions, and related areas. Through clinical and externship opportunities as well as extracurricular activities, the Program provides students with the legal, practical, and ethical skills necessary to advise and represent for-profit and not-for-profit businesses, as well as the opportunity to engage in critical and innovative thinking about cutting-edge issues in business law.

## *The Journal of Business and Technology Law (JBTL)*

*The Journal of Business & Technology Law* at the University of Maryland School of Law provides a unique publication venue for the cutting-edge thinking on issues of law and policy arising as a result of the interplay among evolving forms of organization, methods of finance, and innovation in products and services. With the help of a distinguished board of advisers, JBTL is a vital new voice for legal scholars, practicing lawyers, the judiciary, and business people in general. There is no other extant journal that focuses on the intersection of these issues. JBTL publishes twice per year and will feature papers and proceedings from the law school's annual business law conference and periodic roundtable discussions. In addition, JBTL will serve as the national journal of record for case law developments emanating from the increasing number of state business courts.

# ADDITIONAL INFORMATION

## REGISTRATION

To register, please visit  
<http://www.law.umaryland.edu/bizconf>

## DIRECTIONS AND PARKING

From I-95 take route 395 (downtown Baltimore) and exit on Martin Luther King, Jr. Blvd. Turn right at fourth traffic light onto Baltimore St. Turn left at second traffic light onto Paca St. Go 1/4 block and turn right into the Baltimore Grand Garage at 5 N. Paca St. The law school is directly across the street from the garage, at the corner of Paca and Baltimore Streets. Parking fees are the responsibility of the participants.

## FOOD SERVICE

Registration includes a continental breakfast, lunch and light refreshments.

## SPECIAL ACCOMMODATIONS

If you require special accommodations to attend or participate, please provide information about your requirements to Lu Ann Marshall at 410-706-4128 (1-800-735-2258 TTY/Voice) at least five business days in advance.

## QUESTIONS

Please contact Lu Ann Marshall at 410-706-4128 or [lmarshal@law.umaryland.edu](mailto:lmarshal@law.umaryland.edu).

