

Syllabus**Theories of the Business Enterprise**

LGST 299/799

Instructor: Eric Orts  
Classroom: JMHH F-92  
Classes: Tuesdays, 3:00-6:00 p.m.

Office hours: TBA  
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Course description: This course is a doctoral-level seminar designed for Wharton Ph.D. students. Given the broad potential appeal to other students with an interest in the topic, however, enrollment of students in other doctoral programs at Penn is also encouraged. In addition, some MBAs may find the course of interest. Upper-level undergraduate students (juniors and seniors) are invited also to enroll if there is sufficient space. Maximum enrollment is twenty students.

This seminar provides an interdisciplinary approach to understanding the nature of the business enterprise. Readings are drawn from various disciplines in order to encourage students to develop a broad appreciation of different perspectives. Specific selections will track students' interests, but leading perspectives from history, philosophy, economics, law, politics, and sociology are covered. Other perspectives may be added in accordance with student interests.

The overall objective of the course is to explore the business enterprise as an institution from different points of view. The emergence of various legal types of business enterprises are examined, as well as competing economic theories of the firm that have become influential. The relationship between business and politics is considered. And the general question is raised concerning whether business enterprises, such as corporations, can correctly be said to have ethical obligations and legal responsibilities.

Class format, reaction papers, and student participation: Classes will be conducted in seminar style, and students will be expected to come to each class having done the reading in advance and prepared to discuss it. One-page reaction papers will be required twenty-four hours in advance of each class session in order to help structure discussion. Attendance and preparation for class will be expected and included as a component of the final grade for the course.

Grading: Final grades will be determined as follows. The primary requirement is the development of a final paper of between 12 and 15 pages (double-spaced, double-sided, and stapled – 12 point

font for text). If a bibliography is used, then it may exceed the 15-page limit for text. A draft of the paper will be presented in class for discussion at the end of the semester. A final copy should be sent by e-mail in readable electronic form as well as delivered in hard copy to the instructor's mailbox in the .

Class participation: 25%

Weekly reaction papers and draft presentation: 25%

Final paper: 50%

Paper draft and presentation: Students will take responsibility for a portion of a class session to present an initial draft of their final paper for general discussion and critical feedback.

Final paper: As common for doctoral seminars, a final paper is the primary formal class requirement on which the final grade will be based. The topic and its general methodology should be discussed with the professor in advance.

Required texts: The following books are required. It is recommended that students procure either hard copies from the Penn Book Center (which will have copies ordered) or elsewhere. Electronic copies of many of the books are also available, and copies will be placed on library reserve. In addition, some articles will be included in a required coursepack.

John Searle, *Making the Social World: The Structure of Human Civilization* (Oxford University Press 2010) (available in paperback and Kindle).

John Micklethwait and Adrian Wooldridge, *The Company: A Short History of a Revolutionary Idea* (Modern Library 2005) (available in paperback and Kindle).

*The Economic Nature of the Firm: A Reader* (Louis Putterman and Randall S. Kroszner eds.) (Cambridge University Press, 3d ed., 2009) (available in paperback and as e-text).

Eric W. Orts, *Business Persons: A Legal Theory of the Firm* (Oxford University Press 2013) (hardcover only; paperback forthcoming).<sup>1</sup>

Max Weber, *The Protestant Ethic and the Spirit of Capitalism* (Routledge ed. 1992) (trans. Talcott Parsons, 1930) (1904-05) (any edition is sufficient; also available online).

James Gustave Speth, *The Bridge at the Edge of the World: Capitalism, the Environment, and Crossing from Crisis to Sustainability* (Yale University Press 2008) (available in paperback and Kindle).

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<sup>1</sup> Note that in order to prevent any appearance of a conflict of interest, an estimate of royalties received by the professor for student purchases of this book will be donated to a philanthropy decided by class nomination and vote.

Quality feedback/informal lunches/dinners: A series of optional lunches or dinners will be held to get feedback from students about the course as well as to encourage general informal interactions among students and professor. No credit for class participation (and no penalty) will be given for participation in informal lunches or dinners (or not).

Syllabus revisions. This version of the course is subject to possible revision in accordance with students' interests as well as time pressures of coverage or substitutions of course materials.

Credit: I'd like to thank my colleagues Witold Henisz and others in the Management Department, as well as Eric Bradlow, for helpful advice in putting together these materials.

### Course outline

Specific assignments will in general follow the outline provided below. Any changes will be announced in class. Any revised versions of the syllabus will also reflect any changes.

#### **Week 1 – Introduction** [Jan. 20]

In-class exercise, lecture, and discussion: What is a business? What disciplines are relevant for the study of business? Review of the course and mutual expectations

#### **Week 2 – A Philosophical View: Business Firms as Institutions** [Jan. 27]

##### Required reading:

John Searle, *Making the Social World: The Structure of Human Civilization* (Oxford University Press 2010) [available in paperback and Kindle]

Read entire book; may omit last three chapters if pressed for time.

##### Optional further reading:

Michael E. Bratman, *Shared Agency: A Planning Theory of Working Together* (Oxford University Press 2014).

Christian List and Philip Pettit, *Group Agency: The Possibility, Design, and Status of Corporate Agents* (Oxford University Press 2011).

Philip Pettit, *Made with Words: Hobbes on Language, Mind, and Politics* (Princeton University Press 2008).

### **Week 3 – Business History: The Rise of the Corporation [Feb. 3]**

#### Required reading:

Alfred D. Chandler, Jr. “Organizational Capabilities and the Economic History of the Industrial Enterprise,” 6 *Journal of Economic Perspectives* 79 (1992) [coursepack 1].

John Micklethwait and Adrian Wooldridge, *The Company: A Short History of a Revolutionary Idea* (Modern Library 2003) [available in paperback and Kindle].

Read entire book (it’s short!)

#### Optional further reading:

Alfred D. Chandler, Jr., *The Visible Hand: The Managerial Revolution in American Business* (Harvard University Press 1977).

Alfred D. Chandler, Jr., *Scale and Scope: The Dynamics of Industrial Capitalism* (Harvard University Press 1990).

Michael Useem, *Investor Capitalism: How Money Managers Are Rewriting the Rules of Corporate America* (Basic Books 1996).

### **Week 4 – Economic Theories I: Divisions of Labor and the Firm [Feb. 10]**

#### Required reading:

*The Economic Nature of the Firm: A Reader* (Louis Putterman and Randall S. Kroszner eds.) (Cambridge University Press, 3d ed., 2009), Part I, chapters 1 thru 6 (Adam Smith, Marx, Knight, Berle and Means, Hayek, Zingales).

#### Optional further reading:

Adolf A. Berle and Gardiner C. Means, *The Modern Corporation and Private Property* (1968) (Transaction reprint ed. 1991).

Frank Knight, *Risk, Uncertainty, and Profit* (1921) (Signalman reprint ed. 2009).

Raghuram G. Rajan and Luigi Zingales, *Saving Capitalism from the Capitalists: Unleashing the Power of Financial Markets to Create Wealth and Spread Opportunity* (Princeton University Press 2004).

## **Week 5 – Economic Theories II: The Scope of the Firm and Employment [Feb 17]**

### Required reading:

*The Economic Nature of the Firm*, Parts II and III, chapters 7 (Coase), 9 & 10 (Williamson), 11 (Milgrom and Roberts), 12 (Holmstrom and Roberts), 13 (Alchian and Demsetz), 17 (Bewley), and 18 (Pencavel).

### Optional further reading:

*The Economic Nature of Firm*, other chapters in Parts II and III

John Roberts, *The Modern Firm: Organizational Design for Performance and Growth* (Oxford University Press 2004).

## **Week 6 – Economic Theories III: Finance and the Firm [Feb. 24]**

### Required reading:

*The Economic Nature of the Firm*, Part IV, chapters 19 thru 23, 25-26 (Manne; Fama; Jensen and Meckling; Fama and Jensen; Holderness, Kroszner, and Sheehan; Oliver Hart; Putterman).

Jean Tirole, “Corporate Governance,” 61 *Econometrica* 1 (2001) [coursepack 2].

### Optional further reading:

Oliver Hart, *Firms, Contracts, and Financial Structure* (Oxford University Press 1993).

Michael Jensen, *A Theory of the Firm: Governance, Residual Claims, and Organizational Forms* (Harvard University Press 2003).

Jean Tirole, *The Theory of Corporate Finance* (Princeton University Press 2006).

## **Week 7 – Legal Theories I: Foundations of the Firm in Agency, Contracts, and Property [Mar. 3]**

### Required reading:

Eric W. Orts, *Business Persons: A Legal Theory of the Firm* (Oxford University Press 2013), chapters 1 and 2.

G. Mitu Gulati, William A. Klein, and Eric M. Zolt, “Connected Contracts,” 47 *UCLA Law Review* 887 (2000) [coursepack 3].

Optional further reading:

Stephen M. Bainbridge, *Agency, Partnerships, and LLCs* (2d ed. Foundation Press 2014).

Brian R. Cheffins, *Company Law: Theory, Structure, and Operation* (Oxford University Press 2000).

Henry Hansmann, *The Ownership of Enterprise* (Harvard University Press 1996).

Friedrich Hayek, *Law, Legislation, and Liberty, Vol. 1: Rules and Order* (University of Chicago Press 1978).

- Spring Break -

**Week 8 – Legal Theories II: The Public/Private Distinction, Limited Liability, and Various Forms of Business Enterprise [Mar. 17]**

Required reading:

*Business Persons*, chapters 3, 4, and 5.

Optional further reading:

William A. Klein and John C. Coffee, Jr., *Business Organization and Finance: Legal and Economic Principles* (11<sup>th</sup> ed. Foundation Press 2010).

**Week 9 – Policy Applications: Executive Compensation and Politics in Firms [Mar. 24]**

Required reading:

*Business Persons*, chapters 6, 7, and 8, pp. 223-56.

*The Economic Nature of the Firm*, chapter 24 (Bebchuk and Fried).

James G. March, “The Business Firm as a Political Coalition,” 24 *Journal of Politics* 662 (1962) [coursepack 4]

*Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010) [coursepack 5].

Optional further reading:

Lucian Bebchuk and Jesse Fried, *Pay Without Performance: The Unfulfilled Promise of Executive Compensation* (Harvard University Press 2004).

Derek Bok, *The Cost of Talent: How Executives And Professionals Are Paid And How It Affects America* (Free Press 1993).

Robert C. Post, *Citizens Divided: Campaign Finance Reform and the Constitution* (Harvard University Press 2014).

Mark J. Roe, *Political Determinants of Corporate Governance: Political Context, Corporate Impact* (Oxford University Press 2006).

Zephyr Teachout, *Corruption in American: From Benjamin Franklin's Snuff Box to Citizens United* (Harvard University Press 2014).

### **Week 10 – Religion and the Firm [Mar. 31]**

#### Required reading:

Max Weber, *The Protestant Ethic and the Spirit of Capitalism* (Routledge ed. 1992) (trans. Talcott Parsons, 1930) (1904-05).

Tae Wan Kim and Alan Strudler, “Workplace Civility: A Confucian Approach,” *22 Business Ethics Quarterly* 557 (2012) [coursepack 6].

*Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014) [coursepack 7].

#### Optional further reading:

John Gray, *False Dawn: The Delusions of Global Capitalism* (New Press ed. 2000).

Liah Greenfeld, *The Spirit of Capitalism: Nationalism and Economic Growth* (Harvard University Press 2001).

### **Week 11 – Business Ethics: Firms and Moral Responsibility [Apr. 7]**

#### Required reading:

Milton Friedman, “The Social Responsibility of Business is to Increase its Profits,” *N.Y. Times Magazine* (Sept. 13, 1970 [coursepack 8]).

Eric W. Orts and Alan Strudler, “The Ethical and Environmental Limits of Stakeholder Theory,” *12 Business Ethics Quarterly* 215 (2002) [coursepack 9].

Philip Pettit, “Responsibility Incorporated,” *117 Ethics* 171 (2007) [coursepack 10].

Selected chapters from *The Moral Responsibility of Firms* (Eric W. Orts and Craig Smith eds.) (Oxford University Press forthcoming) [handouts].

Optional further reading:

*Ethical Issues in Business: A Philosophical Approach* (Thomas Donaldson and Patricia Werhane eds.) (8<sup>th</sup> ed. Pearson 2009).

Thomas Donaldson and Thomas W. Dunfee, *Ties That Bind: A Social Contracts Approach to Business Ethics* (Harvard Business School Press 1999).

**Week 12 – Business and the Natural Environment** [Apr. 14]

Required reading:

James Gustave Speth, *The Bridge at the Edge of the World: Capitalism, the Environment, and Crossing from Crisis to Sustainability* (Yale University Press 2008).

Read entire book (but may omit Part III if pressed for time).

Optional further reading:

Michael Bruangart and William McDonough, *Cradle to Cradle: Remaking the Way We Make Things* (North Point Press 2002).

John Elkington, *Cannibals with Forks: The Triple Bottom Line of 21st Century Business* (New Society 1998).

Paul Hawken, *The Ecology of Commerce: A Declaration of Sustainability* (HarperBusiness rev. ed. 2013).

Paul Hawken, Amory Lovins, and L. Hunter Lovins, *Natural Capitalism: Creating the Next Industrial Revolution* (Little Brown 1999).

John R. Ehrenfeld and Andrew J. Hoffman, *Flourishing: A Frank Conversation about Sustainability* (Stanford University Press 2013).

Naomi Klein, *This Changes Everything: Capitalism vs. The Climate* (Simon & Schuster 2014).

Thomas P. Lyon and John Maxwell, *Corporate Environmentalism and Public Policy* (Cambridge University Press 2004).

Forest L. Reinhardt, *Down to Earth: Applying Business Principles to Environmental Management* (Harvard Business School Press 2000).

## **Week 13 and Week 14 – Student Drafts and Presentations [Apr. 21 and Apr. 28]**

### **Bio of Instructor**

Eric Orts is the Guardsmark Professor at the Wharton School of the University of Pennsylvania where he has taught since 1991. He is a tenured professor in the Legal Studies and Business Ethics Department with a secondary appointment in the Management Department. He also serves at the faculty director of the Initiative for Global Environmental Leadership and faculty co-director of the FINRA at Wharton Institute's Certified Regulatory Compliance Professional Program. His primary research and teaching interests are in corporate governance, securities regulation, environmental law and management, and professional ethics.

Prior to joining Wharton's faculty, Prof. Orts practiced law as a litigation associate at Paul, Weiss, Rifkind, Wharton & Garrison in New York City and was a Chemical Bank fellow in corporate social responsibility at Columbia Law School. He has also taught and visited at a number of other leading business and law schools, including INSEAD, the University of Pennsylvania Law School, NYU School of Law, Sydney Law School, Tsinghua University School of Economics and Management, the University of Michigan Law School, and UCLA School of Law. He has also been a visiting Fulbright professor in the law department of the University of Leuven, the Eugene P. Beard Faculty Fellow at Harvard University's Center for Ethics and the Professions, and a faculty fellow in the Center for Business and Government at the Kennedy School at Harvard.

Orts is a graduate of Oberlin College (BA with honors in government and minor in philosophy), the New School for Social Research (MA in political science), the University of Michigan (JD), and Columbia University (JSD). He is a member of the bar of New York and the District of Columbia, as well as an elected member of the American Law Institute, and he belongs to several other professional and academic associations. He is a founding board member of the Alliance for Research on Corporate Sustainability and serves on the editorial board of *Business Ethics Quarterly*.