



The *Delaware Journal of Corporate Law*  
of Widener University Delaware Law School

*presents the*

## 35th Annual Francis G. Pileggi Distinguished Lecture in Law

**Purpose, Populism and Markets in  
Delaware Corporate Law: A Conversation  
with Professor Lawrence Hamermesh**

*as interviewed by Paul L. Regan, Associate Professor of Law*

### Lawrence A. Hamermesh

Executive Director,  
Institute for Law and Economics,  
University of Pennsylvania;

Professor Emeritus,  
Widener University Delaware Law School



**Friday, November 8, 2019**

**8:00 a.m. Breakfast; 8:45 a.m. Lecture**

Hotel DuPont, du Barry Room  
11th and Market Streets  
Wilmington, Delaware 19801

*Encore presentation 11 a.m.*

*Widener University Delaware Law School*

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# 35th Annual Francis G. Pileggi Distinguished Lecture in Law



## **Purpose, Populism and Markets in Delaware Corporate Law: A Conversation with Professor Lawrence A. Hamermesh**

### **Biography**

**Lawrence A. Hamermesh** is Emeritus Professor and the former Ruby R. Vale Professor of Corporate and Business Law at Widener's Delaware campus and former Director of the Widener Institute of Delaware Corporate and Business Law. Professor Hamermesh received a B.A. from Haverford College in 1973, and a J.D. from Yale Law School in 1976.

Following graduation from law school, Professor Hamermesh worked as an associate attorney with Morris, Nichols, Arsht & Tunnell in Wilmington, Delaware, from 1976-84, and was a partner at Morris, Nichols, Arsht & Tunnell from 1985-94.

Professor Hamermesh joined the faculty at Widener in 1994 as Associate Professor of Law. Professor Hamermesh is admitted to practice in Delaware, and he teaches and writes in the areas of Corporate Finance, Mergers and Acquisitions, Securities Regulation, Business Organizations, Corporate Takeovers, and Professional Responsibility.

In 2010 and 2011, while on a leave of absence, Professor Hamermesh served as senior special counsel in the Office of Chief Counsel of the Division of Corporation Finance at the Securities and Exchange Commission in Washington, DC.

Since 1995 he has been a member of the Corporation Law Council of the Corporation Law Section of the Delaware State Bar Association, which is responsible for the annual review and modernization of the Delaware General Corporation Law, and was Chair of the Council from 2002-2004.

From 2001 to 2007 Professor Hamermesh was an elected member of the Corporate Laws Committee of the American Bar Association Business Law Section, which supervises the drafting and revision of the Model Business Corporation Act. He has been the Reporter for that committee since 2013. In 2002-2003, Professor Hamermesh served as the Reporter for the American Bar Association Task Force on Corporate Responsibility.

Professor Hamermesh was elected in 1999 as a member of the American Law Institute. Professor Hamermesh is also a member of the Board of Directors of ACLU Delaware, Inc. He was President of that organization from 1996-2003, and served on the national board of directors of the ACLU from 2004 to 2009.

In 2004 Professor Hamermesh received the Daniel L. Herrmann Professional Conduct Award from the Delaware State Bar Association.

Recent publications include: *Finding the Right Balance in Appraisal Litigation: Deal Price, Deal Process, and Synergies*, 73 Bus. Law. 961 (Fall 2018) (with Michael Wachter); *The Importance of Being Dismissive: The Efficiency Role of Pleading Stage Evaluation of Shareholder Litigation*, 42 J. Corp. L. 597 (2017) (with Michael Wachter); *A Most Adequate Response to Excessive Shareholder Litigation*, 45 Hofstra L. Rev. 147 (2016); *Director Nominations*, 39 Del. J. Corp. L. 117 (2014); and *Loyalty's Core Demand: The Defining Role of Good Faith in Corporation Law*, 98 Geo. L. J. 629 (2010) (with Leo E. Strine, Jr., R. Franklin Balotti, and Jeffrey M. Gorriss).

# 35th Annual Francis G. Pileggi Distinguished Lecture in Law



## **The Francis G. Pileggi Distinguished Lecture in Law Series**

### **History**

In 1985, Francis G.X. Pileggi, the then-Volume 11, Internal Managing Editor for the *Delaware Journal of Corporate Law*, envisioned a forum whereby practitioners, judges, and academics, distinguished in the area of corporate law, could speak directly to those most responsible for setting policy on corporate law in the United States, the Delaware bench and bar. Through Pileggi's tireless efforts and the generosity of his father, Francis G. Pileggi, a founding attorney of Pileggi & Pileggi, P.C., the idea quickly turned into reality.

In 1986, the first Pileggi speaker, Robert W. Hamilton, Benno C. Schmidt Professor of Business Law, The University of Texas at Austin School of Law, spoke to a gathering of approximately 70 people at the Rodney Square Club. Mr. Hamilton's topic was "*The State of State Corporation Law: 1986*," which was later published in 11 DEL. J. CORP. L. 3 (1986). Since that first speech in 1986, the Pileggi Lecture Series has attracted many renowned, well-respected speakers and has continued to build on the enormous success of that first lecture. The efforts of many members of the *Delaware Journal of Corporate Law* and the continued generosity of the Pileggi family have contributed to the Pileggi Lecture's continued success.

## Past Speakers

1985–1986	Professor Robert W. Hamilton
1986–1987	The Honorable Ralph K. Winter
1987–1988	Professor Louis Loss
1988–1989	Professor Harvey L. Pitt
1989–1990	A.A. Sommer, Jr., Esquire
1990–1991	Lawrence J. Bugge, Esquire
1991–1992	Professor Richard M. Buxbaum
1992–1993	Professor Deborah A. DeMott
1993–1994	The Honorable Henry R. Horsey
1994–1995	Professor John C. Coffee, Jr.
1995–1996	Professor Donald C. Langevoort
1996–1997	Robert R. Keatinge, Esquire
1997–1998	Dean Joel Seligman
1998–1999	Professor Larry E. Ribstein
1999–2000	Professor Ronald J. Gilson
2000–2001	Professor Charles M. Elson
2001–2002	Professor Lynn A. Stout
2002–2003	Dean Harry J. Haynsworth
2003–2004	Professor Robert B. Thompson
2004–2005	Professor Melvin A. Eisenberg
2005–2006	Professor Stephen M. Bainbridge
2006–2007	Professor Hillary A. Sale
2007–2008	Professor Mark J. Roe
2008–2009	Professor Eric L. Talley
2009–2010	Professor Edward B. Rock
2010–2011	Professor Joseph A. Grundfest
2011–2012	Professor Jill E. Fisch
2012–2013	Professor Lyman P.Q. Johnson
2013–2014	Professor Guhan Subramanian
2014–2015	Professor Brian R. Cheffins
2015–2016	Professor Jeffrey N. Gordon
2016–2017	Ben W. Heineman, Jr., Esquire
2017–2018	Professor Randall S. Thomas
2018–2019	David A. Skeel, Jr.

## Past Lectures

### SEPTEMBER 30, 1985

**Robert W. Hamilton**, Benno C. Schmidt Professor of Business Law, The University of Texas at Austin School of Law, Austin, Texas; Reporter for the Revised Model Business Corporation Act. *The State of State Corporation Law: 1986*, 11 DEL. J. CORP. L. 3 (1986).

### SEPTEMBER 29, 1986

**Ralph K. Winter**, U.S. Circuit Judge, United States Court of Appeals, Second Circuit, New Haven, Connecticut. Lecture title: "The Academic Revolution in Corporate Law." Never printed.

### MARCH 21, 1988

**Louis Loss**, William Nelson Cromwell Professor Emeritus, Harvard University Law School, Cambridge, Massachusetts. Lecture title: "Confluence of Federal and State Securities Regulation." Never printed.

### APRIL 24, 1989

**Harvey L. Pitt**, Esquire, Partner, Fried, Frank, Harris, Shriver & Jacobson, Washington, D.C. *On the Precipice: A Reexamination of Directors' Fiduciary Duties in the Context of Hostile Acquisitions*, 15 DEL. J. CORP. L. 811 (1990).

### APRIL 11, 1990

**A.A. Sommer, Jr.**, Partner, Morgan, Lewis & Bockius, Washington, D.C.; Former Commissioner of Securities and Exchange Commission. *Whom Should the Corporation Serve? The Berle-Dodds Debate Revisited Sixty Years Later*, 16 DEL. J. CORP. L. 33 (1991).

### APRIL 3, 1991

**Lawrence J. Bugge**, Esquire, Foley & Lardner, Madison, Wisconsin; President of the National Conference of Commissioners. *Commercial Law, Federalism, and the Future*, 17 DEL. J. CORP. L. 11 (1992).

### MARCH 3, 1992

**Richard M. Buxbaum**, Ralston Professor of Law, Director of University of California Center for German and European Studies, University of California at Berkeley, Berkeley, California. *New Owners and Old Managers: Lessons from the Socialist Camp*, 18 DEL. J. CORP. L. 867 (1993).

### MARCH 16, 1993

**Deborah A. DeMott**, Professor, Duke University School of Law, Durham, North Carolina. *Do You Have the Right to Remain Silent? Duties of Disclosure in Business Transactions*, 19 DEL. J. CORP. L. 65 (1994).

### MARCH 23, 1994

**The Honorable Henry R. Horsey**, Justice of the Supreme Court of Delaware (Retired), Wilmington, Delaware. *The Duty of Care Component of the Delaware Business Judgment Rule*, 19 DEL. J. CORP. L. 971 (1994).

### OCTOBER 28, 1994

**John C. Coffee, Jr.**, Adolf A. Perle Professor of Law, Columbia University School of Law, New York, New York. *Transfers of Control and the Quest for Efficiency: Can Delaware*



*Law Encourage Efficient Transactions While Chilling Inefficient Ones?*, 21 DEL. J. CORP. L. 359 (1996).

#### **OCTOBER 20, 1995**

**Donald C. Langevoort**, Lee S. and Charles A. Speier Professor, Vanderbilt University School of Law, Nashville, Tennessee. *Words From on High About Rule 10b-5: Chiarella's History, Central Bank's Future*, 20 DEL. J. CORP. L. 865 (1995).

#### **OCTOBER 18, 1996**

**Robert R. Keatinge**, Esquire, Holland & Hart, Denver, Colorado. *Universal Business Organization Legislation: Will it Happen? Why and When?*, 23 DEL. J. CORP. L. 29 (1998).

#### **OCTOBER 10, 1997**

**Joel Seligman**, Dean and Samuel M. Feghtly Professor of Law, The University of Arizona College of Law, Tucson, Arizona. *A Mature Synthesis: O'Hagan Resolves "Insider" Trading's Most Vexing Problems*, 23 DEL. J. CORP. L. 1 (1998).

#### **OCTOBER 16, 1998**

**Larry E. Ribstein**, GMU Foundation Professor of Law, George Mason University School of Law, Arlington, Virginia. *Limited Liability Unlimited*, 24 DEL. J. CORP. L. 407 (1999).

#### **OCTOBER 22, 1999**

**Ronald J. Gilson**, Charles J. Meyers Professor of Law and Business, Stanford Law School, Stanford, California, and Marc and Eva Stern Professor of Law and Business, Columbia University School of Law, New York, New York. *Unocal: Fifteen Years Later*, 26 DEL. J. CORP. L. 491 (2001).

#### **NOVEMBER 10, 2000**

**Charles M. Elson**, Edgar S. Woolard, Jr., Professor of Corporate Governance and Director of the Center for Corporate Governance, University of Delaware, Newark, Delaware. Lecture title: "The Procedural Duty of Care: Advisor Boon, Shareholder Bust." Never published.

#### **OCTOBER 19, 2001**

**Lynn A. Stout**, Professor of Law, University of California, Los Angeles, California. *On the Proper Motives of Corporate Directors (Or, Why You Don't Want to Invite Homo Economicus to Join Your Board)*, 28 DEL. J. CORP. L. 1 (2003).

#### **APRIL 11, 2003**

**Harry J. Haynsworth IV**, President and Dean, William Mitchell College of Law, St. Paul, Minnesota. *The Convergence of Fiduciary Duties in Unincorporated and Incorporated Entities: The Issue, Its Implications, Its Limitations*, 29 DEL. J. CORP. L. 83 (2004).

#### **NOVEMBER 14, 2003**

**Robert B. Thompson**, Professor and New York Alumni Chancellor's Chair, Vanderbilt University Law School, Nashville, Tennessee. *Delaware, the Feds, and the Stock Exchange: Challenges to the First State as First in Corporate Law*, 29 DEL. J. CORP. L. 779 (2004).

#### **NOVEMBER 19, 2004**

**Melvin A. Eisenberg**, Koret Professor of Law, University of California-Berkeley School of Law, Berkeley, California. *The Duty of Good Faith in Corporate Law*, 30 DEL. J. CORP. L. 1 (2005).

**SEPTEMBER 16, 2005**

**Stephen M. Bainbridge**, Professor of Law, University of California, Los Angeles, California. *Unocal at 20: Director Primacy in Corporate Takeovers*, 31 DEL. J. CORP. L. 769 (2006).

**OCTOBER 20, 2006**

**Hillary A. Sale**, Professor of Law, University of Iowa College of Law, Iowa City, Iowa. *Monitoring Caremark's Good Faith*, 32 DEL. J. CORP. L. 719 (2007).

**SEPTEMBER 28, 2007**

**Mark J. Roe**, Professor of Law, Harvard Law School, Cambridge, Massachusetts. *Washington and Delaware*, 34 DEL. J. CORP. L. 1 (2009).

**OCTOBER 10, 2008**

**Eric L. Talley**, Professor of Law, University of California, Berkeley (Boalt Hall) School of Law, Berkeley, CA. *On Uncertainty, Ambiguity, and Contractual Conditions*, 34 DEL. J. CORP. L. 755 (2009).

**OCTOBER 9, 2009**

**Edward B. Rock**, Professor of Law, University of Pennsylvania Law School, Philadelphia, PA. *When the Government is the Controlling Shareholder: Implications for Delaware*, DEL. J. CORP. L. 409 (2010).

**OCTOBER 8, 2010**

**Joseph A. Grundfest**, Professor of Law, Stanford Law School, Stanford, CA. *The History and Evolution of Intra-Corporate Forum Selection Clauses: An Empirical Analysis*, 37 DEL. J. CORP. L. 333 (2012).

**SEPTEMBER 23, 2011**

**Jill E. Fisch**, Professor of Law, University of Pennsylvania Law School, Philadelphia, PA. *Leave it to Delaware: Why Congress Should Stay Out of Corporate Governance*, 37 DEL. J. CORP. L. 371 (2012).

**NOVEMBER 11, 2012**

**Lyman P.Q. Johnson**, Professor of Law, Washington and Lee University School of Law, Lexington, VA. *Unsettledness in Delaware Corporate Law: Business Judgment Rule, Corporate Purpose*, 38 DEL. J. CORP. L. 405 (2013).

**NOVEMBER 24, 2013**

**Guhan Subramanian**, Professor of Law, Harvard Law School, Boston, MA. *Delaware's Choice*, 39 DEL. J. CORP. L. 1 (2014).

**OCTOBER 17, 2014**

**Brian R. Cheffins**, Professor of Law, University of Cambridge, Cambridge, UK. *Delaware and the Development of Corporate Governance*, 40 DEL. J. CORP. L. 1 (2015).



**OCTOBER 16, 2015**

**Jeffrey N. Gordon**, Richard Paul Richman Professor of Law, Columbia Law School; Co-Director, Richman Center for Business, Law & Public Policy; Co-Director, Ira M. Millstein Center for Global Markets and Corporate Ownership; Co-Director, Center for Law and Economic Studies, New York, NY. *Shareholder Activism: the Triumph of Delaware's Board-Centered Model and the New Role for the Board of Directors*. Never printed.

**NOVEMBER 18, 2016**

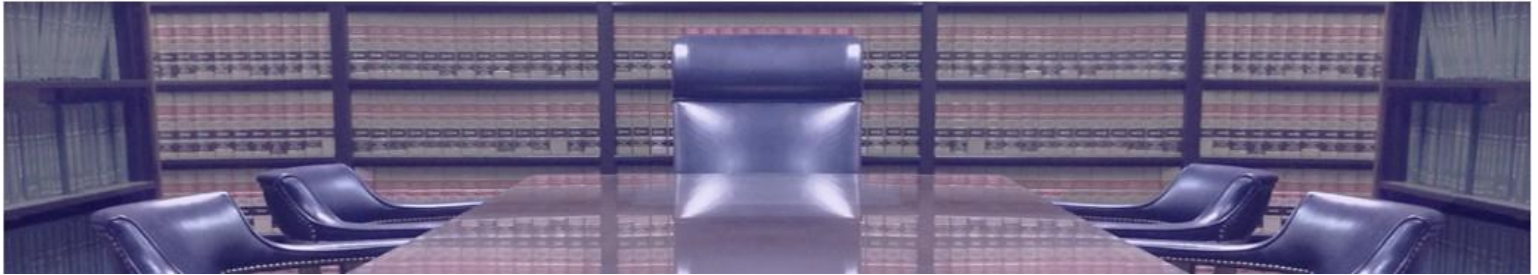
**Ben W. Heineman, Jr.**, Senior Fellow at Harvard Law School's Program on the Legal Profession and its Program on Corporate Governance; Senior Fellow at the Belfer Center for Science and International Affairs at Harvard's Kennedy School of Government and Lecturer in Law at Yale Law School. *Can General Counsels be Independent: Resolving the Partner-Guardian Tension*, 42 DEL. J. CORP. L. 149 (2017).

**OCTOBER 20, 2017**

**Randall S. Thomas**, John S. Beasley II Chair in Law and Business; Director, Law & Business Program; Professor of Management, Owen Graduate School of Management; Vanderbilt Law School. *Delaware's Retreat: Exploring Developing Fissures and Tectonic Shifts in Delaware Corporate Law*, 42 DEL. J. CORP. L. 323 (2018).

**NOVEMBER 2, 2018**

**David A. Skeel, Jr.**, S. Samuel Arsht Professor of Corporate Law, University of Pennsylvania Law School. *Why Should You Care About Puerto Rico? A Bird's Eye View of the Financial Crisis and Restructuring*, 43 DEL. J. CORP. L. 529 (2019).



## History

The *Delaware Journal of Corporate Law* is Widener University Delaware Law School's flagship law review and one of the nation's most prestigious legal specialty journals, with forty-three years of scholarly tradition, respect, and experience. Since 1975, our law review has provided the nation's business law community with a reference source of well-researched and analytical discussions on issues of timely import.

While the *Journal* maintains a corporate law focus, our scope is extremely broad. We seek to publish articles that come within the scope of the American Bar Association's Section of Business Law. Some of the current committees of that section include: Criminal Law; Cyberspace Law; Employee Benefits and Executive Compensation; Environmental, Energy, and Natural Resources Law; Gaming Law; Health and Biotechnology; Intellectual Property; International Business Law; Law Firms; and Professional Conduct. Thus, future members of our law review can expect to develop a range of knowledge extending far beyond corporate law.

Our focus also is most appropriate for scholarly publication in Delaware, the cradle of American corporate activity. Delaware boasts incorporation by the majority of Fortune 500 companies and has consistently maintained its preeminence on cutting-edge corporate law issues. Members of the bench and corporate bar, read the *Journal* for insightful commentary on recent decisions.

We are currently working on completing our forty-fifth volume. Each volume includes three issues. If you are interested in subscribing to the *Journal*, please contact our main office at 302-477-2106 or visit our website, [www.djcl.org](http://www.djcl.org), to view our archived volumes.

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