



TULANE UNIVERSITY LAW SCHOOL

**TWENTY-THIRD ANNUAL  
CORPORATE LAW INSTITUTE**

**March 31 – April 1, 2011**

Roosevelt Waldorf-Astoria

New Orleans

Louisiana

**"... the equivalent of Davos for the rainmaker crowd."**

**—The New York Times**

**"... the industry's main conference... combining fried oyster feasts, spirited debates and late-night crawls down Bourbon Street."**

**— Wall Street Journal**

**" The annual springfest at Tulane ... is the most important gathering of its kind... the preeminent annual conference for M&A lawyers."**

**—The Deal/Corporate Control Alert**

**" Everybody who is anybody is there. You just can't miss New Orleans.**

**—The M&A Journal**

**23**

**Thursday, March 31, 2011**

8:20 - 8:25

## Welcoming Remarks

**Victor Lewkow** and **James Morphy**

8:25 - 9:15

## Banker's View of the M&A Landscape

Every deal lawyer needs to know what is happening and what may happen in the deal market in order to structure deals and counsel clients. Hear an investment banking perspective on the current M&A environment and what may lie ahead for 2011 and beyond.

**Antonio Weiss**, Global Head of Investment Banking, Lazard

9:15 - 10:45

## Activism and Access

Shareholder activism continues to evolve in both focus and approach with an increasing effect not only on proxy contests but on the kinds and number of transactions that are being proposed - by activists and by target boards - and on whether or not proposed transactions are being consummated. This panel will highlight how changes in the nature of proposals being made by activist shareholders are affecting matters being discussed in the board room even for those companies not directly subject to such approaches. The panelists will explore an array of current issues affecting shareholder activism from various perspectives, including the effect of rapid accumulations of target shares on shareholder campaigns and regulatory and structural matters affecting those activities, and the role played by trading in derivatives, shareholder rights plans and Rule 13D. Panel members will also discuss developments in proxy contest "plumbing", including changes in regulations applicable to broker discretionary voting, and will consider the ways in which proxy access rules when effective may change tactics associated with shareholder activism in the future.

**Peter Lyons** and **Eileen Nugent**, *moderators*,  
**Vice Chancellor Leo E. Strine, Jr.**, **Daniel Burch**,  
**Chris Cernich**, **Roy Katzovicz**, **Philip Richter**

10:45 - 11:00 **Break**

11:00 - 12:30

## Executive Compensation/Say on Pay

Executive compensation has been a "hot button" for several years, but Congress turned up the heat in 2010 with Dodd-Frank mandating "say on pay" advisory votes at every U.S. public company,

beginning in 2011. This panel will address the issues around executive compensation from a corporate governance and shareholder perspective: How should Boards approach executive compensation to foster growth and innovation while avoiding unintended consequences? Will hedge fund activists, public pension funds and governance activists use "say on pay" to further other goals? Are Compensation Committee members the only ones at risk for withhold votes, or is it the entire Board? Does the choice on "frequency" matter in practice, and if so, what are the pros and cons? What will be the impact of the "say on parachute" advisory votes in mergers and acquisitions?  
**Faiza Saeed**, *moderator*, **John England**, **Janet Kelly**,  
**Marc Trevino**

12:30 - 2:00 **Lunch** (on your own)

2:00 - 2:50

## M&A and the Media

How lawyers should advise their clients in dealing with the media starts with understanding how the media works. Hear leading commentators from **CNBC**, **The New York Times**, and **The Wall Street Journal** and a **media communications expert** share their views on trends in deal making and reporting on M&A.  
**Robert Kindler**, *moderator*, **Dennis Berman**, **David Faber**, **Thomas Johnson**, **Andrew Ross Sorkin**

2:50 - 4:20

## Public Company M&A: 2011

As "green shoots" emerge on the M&A landscape and many public company defenses have fallen away, this panel will discuss issues and tactics arising out of the recent spate of hostile takeovers, including the use of poison pills against stock accumulators and as part of a "just say no" defense. The panel will also examine no-shops vs. go-shops in the current environment and whether they are they legally interchangeable or if certain types of deals demand one instead of the other for fiduciary reasons; the current financing environment and how parties are now allocating financing risk in public company deals through the use of accelerated deal structures, conditions, obligations to seek specific performance, damage caps and reverse break fees; and what structures are being used to get deals signed and completed--including tenders v. mergers, top-up options, and contingent value rights. The panel will also discuss developments regarding Section 13(d) after Dodd-Frank and other SEC developments of interest.

**Victor Lewkow** and **James Morphy**, *moderators*,  
**Vice Chancellor Leo E. Strine, Jr.**, **David Katz**,  
**Robert Spatt**, **Antonio Weiss**

4:20 - 4:30      **Break**

4:30 - 6:00

### **Crisis Management and Internal Investigations**

Not all crises generate internal investigations, but when they do it is a matter of utmost importance that the corporation and its counsel be well prepared. This distinguished panel will focus on a hypothetical crisis arising out of an internet leak of sensitive corporate information, and the resultant need to (1) obtain accurate information under intense time pressure while (2) balancing the corporation's public disclosure obligations and (3) preparing for likely regulatory and shareholder actions **Simon Lorne** and **Theodore Mirvis**, *moderators*, **Vice Chancellor Donald F. Parsons, Jr.**, **Honorable Stanley Sporkin**, **Joele Frank**, **Andrew Levander**, **David Zornow**

6:30 - 7:30      **Cocktail Reception  
at Audubon Aquarium of the Americas**  
Canal Street at the River  
Sponsored by Delaware Office of the  
Secretary of State

## **Friday, April 1, 2011**

8:30 - 9:00      **Keynote Address**  
**Damon Silvers**  
Director of Policy and Special Counsel, AFL-CIO  
Member of Congressional Oversight Panel

9:00 - 10:30  
**Significant or Controlling Shareholders:  
Rights and Responsibilities**  
This panel will explore various ways for controlling stockholders to freeze out minority stockholders and will attempt to harmonize the standards of judicial review emanating from *CNX*, *Siliconix* and *Lynch*. The panel will also address the challenges in establishing and advising, and alternatives and mechanisms available to, a successful Special Committee. **George Bason** and **Mark Gentile**, *moderators*, **Vice Chancellor J. Travis Laster**, **Andre Bouchard**, **Frederick Lowinger**

10:30 - 10:45      **Break**

10:45 - 12:15  
**Delaware Developments**

This panel will review and comment upon recent case law in Delaware, including decisions addressing the obligations of directors when conducting a sales

process or adopting a poison pill, as well as recent developments affecting classified boards, the rights of preferred stockholders, alternative entity M&A, and choice of venue provisions.

**Bruce Silverstein** and **Frederick Alexander**, *moderators*, **Justice Jack Jacobs**, **Jaculin Aaron**, **Gary Bornstein**

12:15 - 12:30      **Lunch** (Box Lunch pick up)

12:30 - 2:30

### **Enhanced Ethics and Professionalism** (one hour Ethics/one hour Professionalism)

Using a series of hypotheticals, often drawn from recent decisions, this panel will explore a number of the issues facing corporate practitioners and litigators. These issues involve questions of the scope of advance waivers of conflicts of interest, the impact of Rule 502 of the Federal Rules of Evidence on waiver of privilege involving production of documents to federal or state authorities, the impact of the decision in *Akzo Nobel* holding that there is no internal corporate attorney-client privilege in the E.U. for antitrust investigations and the impact of recent decisions in *Textron* and *Comcast* on the degree to which corporations can expect that their internal evaluation of potential litigation risks will remain privileged **Donald Wolfe**, *moderator*, **Justice Jack Jacobs**, **George Kryder**, **Amy Schulman**, **John Villa**

<b>Institute Dates:</b>	March 31- April 1, 2011
<b>Registration:</b>	7:45 am, March 31
<b>Program Time:</b>	8:20 am – 6:00 pm, March 31 8:30 am – 2:30 pm, April 1
<b>Location:</b>	Roosevelt Waldorf-Astoria Hotel 123 Baronne Street New Orleans, LA
<b>CLE Credit:</b>	12.5 CLE credit hours (60 minute states) includes one hour of ethics and one hour of professionalism
<b>Fee:</b>	\$895 (\$750 for additional registrants from same firm) <b>Late Registration fee:</b> \$925 (after March 23)



## A Note of Appreciation

Our Planning Committee and Faculty are volunteers. Without their generous contributions of time, thought and energy, Tulane would not be able to bring you this "most important gathering of its kind." We thank them for their gifts.

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These New Orleans-based firms have supported this Institute throughout its 23 years, many since its conception. We are grateful for the continuing loyalty, enthusiasm and support of these firms:

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The Corporate Law Institute gratefully acknowledges the following firms for their special support in the establishment of a post-Hurricane Katrina development fund for the Institute and Tulane Law School:

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## General Information

### Registration

On-line registration is available at [www.law.tulane.edu/cle](http://www.law.tulane.edu/cle). The **Standard Registration Fee is \$895** for the first person from a firm or organization. A reduced fee of **\$750** is offered **for additional people** from the same firm or organization, government employees, and non-profit organizations. Fee includes course material on CD, refreshment breaks and cocktail reception on Thursday evening. **Registrations received after March 23** will be charged the **Late Registration Fee of \$925**.

Tulane CLE accepts checks, cash, VISA and MasterCard. If you require special needs, meals or services, please contact our office.

### Cancellation and Refund

Tulane CLE offers a full refund, less a \$100 administrative fee, through **Wednesday, March 23**. We ask that your oral cancellation be followed by written notification postmarked, faxed, or e-mailed ([patsmith@tulane.edu](mailto:patsmith@tulane.edu)) no later than March 23.

### Course Material

The Institute faculty always provides excellent course materials covering the program topics. The generally over 1,000 pages of materials will be on a convenient, searchable CD. You may wish to bring your laptop to easily access materials at the conference; however hardcopies of the materials are not necessary to follow the presentations. Hard copies of PowerPoint outlines will be distributed at the Institute.

If you are unable to attend the Institute, you may order the course material CD on the registration form. Please include payment of \$125 with your order.

### CLE Credit

Tulane CLE will assist in your reporting process.

This program is being presented in Louisiana, a mandatory CLE state. Attorneys licensed in 60-minute states will receive a maximum of 12.5 hours for attending the Institute. Attorneys licensed in 50-minute states will receive a maximum of 15.0 hours of credit. The Institute includes one hour of ethics and one hour of professionalism.

### Program Location and Accommodations

The newly renovated, historic Roosevelt Waldorf-Astoria Hotel is the Institute Hotel. A limited block of rooms has been reserved at the Roosevelt at a discounted rate until **March 8** and on a space available basis after this date. Registrants are responsible for their own reservations. The Roosevelt reservation telephone number is 504-648-1200 or 1-800-HILTONS. Be sure to mention that you are with Tulane Law School Corporate Law Institute and make your reservation as soon as possible because the hotel books up quickly.

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- ☐ \$925 Late Registration (after March 23)
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