

**NBA 563 and LAW 649  
“THE IPO PROCESS AND  
DEAL STRUCTURE ALTERNATIVES”**

**FALL 2005**

**MON/WED 8:40-9:55AM**

**SYLLABUS, WEEKLY READINGS  
AND COURSE PACKET INFORMATION**

**SEE NEXT PAGES FOR IMPORTANT INFORMATION**

**In brief:** This course provides an in depth look at initial public offerings and deal structures from a practitioner’s point of view. With respect to initial public offerings, the course covers: the applicable statutory framework, pre-offering corporate preparations (such as the implementation of poison pills and stock option plans), the due diligence process, the implementation of corporate governance policies appropriate for a public company, the offering registration process, liability under federal securities laws, the Securities and Exchange Commission review process, underwriting arrangements, selection of a trading forum (i.e., NYSE, NASDAQ, etc.), and the role of securities analysts. Regarding deal structures, the course explores: choosing an appropriate transaction structure (i.e., stock versus asset sale, merger, etc.), deal financing alternatives, due diligence, public company transaction issues (i.e., anti-takeover matters and directors’ fiduciary duty concerns), and crucial legal and business aspects of the acquisition, such as caps/collars, letters of intent, successor liability, continuity of employees, and non-competition agreements and reacting to hostile bids.

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## PROFESSOR CONTACT INFORMATION AND OFFICE HOURS

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## TEACHING APPROACH

The teaching focus in the class is on practice. Our goal is to impart knowledge that you can use in practice, particularly as an investment banker, CFO or corporate lawyer. Therefore, don't be surprised if the amount of theoretical discussion is minimal.

**THE AMOUNT OF READING THAT WE HAVE ASSIGNED FOR THIS CLASS IS SIGNIFICANT**, which reflects the fact that our goal is to give you broad exposure to the subject matter to enhance your post-graduation work experience. The heavy reading load is offset by minimal problem sets/assignments. **NOTE THAT SOME READINGS ARE OPTIONAL.**

## GRADING POLICY

Letter or S/U grade option. There will be a midterm exam covering IPOs and a final exam covering deal structures -- each are worth 50% of your grade. The final exam is not cumulative (i.e., it does not cover IPOs). Class participation and problem sets can help a grade. Lack of class attendance or being unprepared often can hurt a grade.

## COURSE MATERIALS AND WEEKLY READING ASSIGNMENTS

The course materials are comprised of:

1. A course packet, which contains articles and publications that we compiled. (The course packet is available for purchase in the Store.)
2. Patrick J. Schultheis, Christian E. Montegut, Robert G. O'Connor, Shawn J. Lindquist, and J. Randall Lewis, *The Initial Public Offering: A Guidebook for Executives and Boards of Directors - Second Edition*, Bowne & Co., Inc, June 2004. (Complimentary copies of this text have been provided by Bowne and will be distributed during the first class meeting.)
3. David Harding and Sam Rovit, *Mastering The Merger: Four Critical Decisions That Make Or Break the Deal*, Harvard Business School Press, 2004. (This text is available for purchase in the Store. We will read approximately half of this book during the deal structuring part of the course. The second half of the book, dealing with post-merger integration issues, will likely prove useful for you as well.)

Additionally, we ask that you read a few statutes, forms, and other materials which are available online at designated websites in this syllabus.

You will find below reading lists for each week of the course. Numbered references are to the materials contained in the course packet or the texts. Unnumbered references are to materials which are available online at designated websites.

**THE WEEKLY READING ASSIGNMENTS ARE INTEGRAL TO THE COURSE.  
PLEASE READ ALL THE REQUIRED MATERIALS.**

**WEEK 1 (8/29 and 8/31)    Introduction; What is an IPO; The Parties;  
Corporate Governance**

1.    The Initial Public Offering Process, Practicing Law Institute -- How to Prepare an Initial Public Offering (1994) **and** The Registration Process, Understanding the Securities Law (3rd ed. 2001), Chapter 4. **(NOTE TO STUDENTS: these are detailed overviews that we recommend reading again in subsequent weeks)**
2.    A Guide to the Initial Offering Process, Ellis, Michaely and O'Hara (January 1999) **and** Steps in a Registered Offering, Practicing Law Institute -- Understanding the Securities Law, Section 2.4. **(NOTE TO STUDENTS: simple overviews)**
3.    Model Prospectus, Immunicon (April 16, 2004). **(NOTE TO STUDENTS: copies of the Immunicon prospectus will be distributed during the first class. It will serve as a case study throughout the IPO discussion. You may SKIM it for week 1 and read it more thoroughly in the following weeks)**
4.    Deciding to Go Public, Bowne -- The Initial Public Offering (2d ed. 2004), Chapter 1 **and** Factors to Consider in Making the Decision to Go Public, Practicing Law Institute -- How to Prepare an Initial Public Offering (2002). **(NOTE TO STUDENTS: copies of "The Initial Public Offering" will be distributed during the first class)**
5.    Assembling Your IPO Team, Bowne -- The Initial Public Offering (2d ed. 2004), Chapter 2 **and** The Roles of the Parties in Preparing the Registration Statement, American Law Institute -- ALI-ABA Course of Study (August 24, 2000). **(NOTE TO STUDENTS: detailed overviews of the parties' roles in an IPO)**
6.    Gearing Up and D&O Liability Insurance and Hosting the Organizational Meeting and Management Presentations, Bowne -- The Initial Public Offering (2d ed. 2004), Chapters 3, 4, and 6. **(NOTE TO STUDENTS: Chapter 4 "D&O Liability Insurance" is OPTIONAL reading)**
7.    Sample Timetable and Responsibility Schedule for an Initial Public Offering of Common Stock, Practicing Law Institute -- How to Prepare an Initial Public Offering (2002). **(NOTE TO STUDENTS: this is OPTIONAL reading, but it gives a detailed time line and responsibility review)**
8.    The following articles on the current state of the IPO market:
  - a.    U.S. IPO Value Surges in First Quarter as Larger Companies Enter Market, PricewaterhouseCoopers -- U.S. IPO Watch First Quarter 2005 (June 1, 2005).
  - b.    IPO Outlook: No IPOs Among Jumbo Stock Deals This Year, Dow Jones (June 6, 2005).
  - c.    IPO View -- Directionless quarter gets a spark, Reuters (June 26, 2005).
  - d.    IPOs at risk as hot rally cools, USA Today (June 27, 2005).
9.    The IPO Process: Views from the CFOs, VC Experts Buzz of the Week (June 8, 2004).

**NOTE TO STUDENTS: a good IPO glossary is available on line at <http://www.ipohome.com/newcomer/glossary.asp>**

**WEEK 2 (9/5 and 9/7)**

**Section 5; Due Diligence; The Registration Statement; MD&A; Liabilities**

1. Problem Set 1 (POSTED ON THE COURSE WEBSITE. Problem set 1 is due on Monday, September 12th at the BEGINNING of class)
2. Review readings 1 and 3 from week 1.
3. Managing Publicity During the Offering Process, Bowne -- The Initial Public Offering (2d ed. 2004), Chapter 5 **and** The Pre-Filing and Waiting Period Prohibitions of Section 5 of the Securities Act of 1933 and Public Offering Gun-Jumping, Practising Law Institute -- How to Prepare an Initial Public Offering (2002) (**NOTE TO STUDENTS: these readings provide a good explanation of permissible and impermissible conduct during the pre-filing and waiting periods**)
4. Potential Liability and the Role of Due Diligence and pgs. 133-147 of Preparing the Registration Statement and Going Effective, Bowne -- The Initial Public Offering (2d ed. 2004), Chapters 7 and 8.
5. The Due Diligence Defense under Section 11, Practising Law Institute -- The Securities Law of Public Finance (2001).
6. Registration Statement Drafting and Filing, Practising Law Institute -- Understanding the Securities Law (2001).
7. Staying Out of Trouble: Officer and Director Liability in Connection with Registration Statements; How to Draft Documents to Limit Liability, Andrews Corporate Risk Spectrum (November 1999). (**NOTE TO STUDENTS: these are OPTIONAL readings, but they provide good detailed overviews**)
8. Preparing MD&A: A Practitioner's Checklist, Insights, Volume 17, Number 10 (October 2003).
9. MD&A Trends and Uncertainties - What Should a Company Disclose?, Perkins Coie Corporate Finance Update (April 2, 2004) **and** SEC Urges Management to Pick Up the Drafting Pen: MD&A Drafting Tips Based on New SEC Interpretive Release, Perkins Coie Corporate Finance Update (January 14, 2004) **and** SEC Release No. 33-8350 re: Commissions Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations (December 19, 2003). (**NOTE TO STUDENTS: you may SKIM the SEC Release; it is more useful to corporate lawyers than investment bankers**)
10. A Summary of Sarbanes-Oxley Act of 2002, Covington & Burling (July 26, 2002) **and** The Sarbanes-Oxley Act and IPO Filers, Insights, Vol. 17, No. 10 (October 2003) (**NOTE TO STUDENTS: these are OPTIONAL readings regarding the Sarbanes-Oxley Act and its impact on companies going public**)

11. The following articles on gun-jumping, due diligence, MD&A and liability:
- a. SEC Seeks to Revamp Rules for Gun-jumping, NLJ (May 23, 2005).
  - b. Underwriter Due Diligence in Securities Offerings, NYLJ (May 27, 1999).
  - c. Fifth Circuit Limits Class of Plaintiffs that Can Sue Public Companies under Section 11 of the Securities Act, DLA Piper Rudnick Gray Cary -- Corporate and Securities eAlert (March 4, 2005).
  - d. In re WorldCom, Inc. Securities Litigation: Due Diligence for Underwriters and Directors, Covington & Burling -- Securities Client Advisory (March 7, 2005).
  - e. Preparing Management's Discussion and Analysis of Results of Operation and Financial Consideration in a Post-Sarbanes World, DLA Piper Rudnick Gray Cary (September 2004).

Securities Act of 1933 - Sections 5

*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*

Securities Act of 1933 - Section 11

*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*

Form S-1 Registration Statement -- **SKIM**

*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*

Regulation S-K -- **SKIM** sections referenced in Form S-1

*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*

**WEEK 3 (9/12 and 9/14)    Liability, liability, liability . . . .**

1.     Review reading 1 from week 1 and readings 3 and 7 from week 2.
2.     The Due Diligence Defense under Section 12(2), Practising Law Institute (2001).
3.     Claims Under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5, Robins, Kaplan, Miller & Ciresi L.L.P. (March 9, 2005).

Securities Act of 1933 - Section 12

*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*

Securities Act of 1934 - Section 10(b)

*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*

Securities Act of 1934 - Rule 10b-5

*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*

**WEEK 4 (9/19 and 9/21)    SEC Review; Pricing; Comfort Letters; Road Show**

1. Review reading 1 from week 1.
2. Pgs. 147-158 of Preparing the Registration Statement and Going Effective, Bowne -- The Initial Public Offering (2d ed. 2004), Chapter 8.
3. Pgs. 144-154 of Corporate Finance and the Securities Laws, Aspen Law & Business (2d ed. 1997).
4. Understanding Comfort Letters for Underwriters, The Business Lawyer (Vol. 34, July 1979). **(NOTE TO STUDENTS: provides detailed overview of comfort letter issues; old article, great content)**
5. Pgs. 183-188 of Underwriting Arrangements and Marketing, Bowne -- The Initial Public Offering (2d ed. 2004), Chapter 9.
6. The following articles on pricing and road shows:
  - a. Wall Street Has Big-Small Split In the IPO Game, WSJ (May 31, 2005).
  - b. Why IPOs Still Use the Old Way, WSJ (July 6, 2005).
  - c. IPO Road Shows Should Be Open To All, Silicon Vally.com (June 9, 2003)
  - d. Spinning, Laddering and Shorting (or, What's Wrong With Our IPO System), Techzone.com (February 18, 2004). **(NOTE TO STUDENTS: in addition to giving some insights in spinning and laddering, this article also highlights road show practices)**

Securities Act of 1933 - Rule 430A

*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*

Securities Act of 1933 - Rule 424(b)

*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*

Securities Act of 1933 - Rule 462(b)

*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*

## **WEEK 5 (9/26 and 9/28) Underwriting; Forum Selection**

1. Pgs. 159-176 of Underwriting Arrangements and Marketing, Bowne -- The Initial Public Offering (2d ed. 2004), Chapter 9.
2. Considerations in Selecting the Managing Underwriter(s) for an Initial Public Offering, Practicing Law Institute -- How to Prepare an Initial Public Offering (2002).
3. Offering Economics, Explanation and Analysis, Lazard Client Manual.
4. SEC Issues Guidance on Regulation M and IPO Allocations, Shearman & Sterling LLP (April 14, 2005) **and** The SEC Proposed Amendments to Regulation M: Anti-Manipulation Rules Concerning Securities Offerings, Simpson Thacher & Bartlett LLP (January 14, 2005) **and** SEC, NYSE, and NASD Propose Rules for Allocation and Distribution of Offering Shares, Aspen Publishers, Inc. (February 2005) **and** SEC Release No. 33-8565 re: Commission Guidance Regarding Prohibited Conduct in Connection with IPO Allocations (April 7, 2005) **and** SEC Release No. 33-8511 re: Amendments to Regulation M: Anti-Manipulation Rules Concerning Securities Offerings (December 9, 2003). **(NOTE TO STUDENTS: The SEC releases are OPTIONAL readings)**
5. New NYSE and Nasdaq Corporate Governance Listing Standards, Covington & Burling (February 12, 2004) **and** Listing Requirements and Fees (Nasdaq website) **and** NYSE US Standards and US Fees (NYSE Website). **(NOTE TO STUDENTS: these are OPTIONAL readings, but we recommend reading the Covington & Burling memo)**
6. Underwriting Agreements, Practicing Law Institute -- How to Prepare an Initial Public Offering (2002). **(NOTE TO STUDENTS: this is OPTIONAL reading, but does provide information that the law students in particular may find useful in practice; it also includes a model underwriting agreement)**
7. Indemnification and Contribution in Underwritten Offerings, Insights, Volume 17, Number 1 (January 2003). **(NOTE TO STUDENTS: this is OPTIONAL reading, but does provide a good overview of indemnification and contribution provisions)**
8. The following articles on IPO stock allocation abuses:
  - a. Securities and Corporate Governance Litigation Alert, Perkins Coie Corporate Finance Update (March 24, 2004).
  - b. NASD Penalizes Wall Street Firms For IPO Deals, WSJ (May 19, 2004).
  - c. Fund Probe Broadens to IPO Allocations by Money Managers, WSJ (May 27, 2004).
  - d. SEC Release No. 18385 (October 1, 2003) (regarding laddering).
  - e. Firms Close in on Settlement of IPO Inquiry, WSJ (June 22, 2004).
  - f. NASD Fines Spear, Leeds & Kellogg \$1 Million for Concealing Sales of IPO Shares, NASD News Release (March 22, 2005).
9. Going Dutch: The Google IPO, Berkeley Technology Law Journal (2005). **(OPTIONAL)**

Securities Exchange Act of 1934 – Regulation M. **(OPTIONAL)**  
*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*



**WEEK 6 (10/3 and 10/5)    More on Underwriting; Analysts; Insider Trading;  
Accounting Fraud**

1. Pgs. 176-183 of Underwriting Arrangements and Marketing, Bowne -- The Initial Public Offering (2d ed. 2004), Chapter 9.
2. Investment Banking Conflicts: Research Analysts and IPO Allocations, North Carolina Banking Institute (April 2003).
3. New Rules Force Research Analysts to Stay Home When Investment Bankers Hit the Road, Perkins Coie Update (June 15, 2005) **and** Research Analysts and Research Reports, NASD Notice to Members (May 2005).
4. SEC Release No. 34-51593 re: Self-Regulatory Organizations; Order Approving Proposed Rule Changes by the New York Stock Exchange, Inc. and the National Association of Securities Dealers, Inc. to Prohibit Participation by a Research Analyst in a Road Show Related to an Investment Banking Services Transaction and to Require Certain Communications about an Investment Banking Services Transaction to Be Fair, Balanced and Not Misleading (April 21, 2005) **and** NYSE Rule 472 **and** NASD Rule 2711. **(NOTE TO STUDENTS: these are OPTIONAL readings)**
5. SEC Regulation FD: New Rules for Communicating With Analysts and Investors, Cooley Godward LLP -- Cooley Alerts (October 1, 2000) **and** Analysts Independence, Insights, Volume 17, Number 11 (November 2003).
6. Articles re: Analysts:
  - a. Global Research Analyst Settlement Proving Unsettling for Issuers, Buzz of the Week from VC Experts (June 1, 2004)
  - b. SEC Issues Sanctions for Regulation FD Violation Involving Reaffirmation of Earnings Guidance, Hogan & Hartson LLP -- SEC Update (April 26, 2005).
  - c. Has Wall Street Changed Its Tune?, NYT (June 19, 2005).
  - d. N.Y High Court Imposes Fiduciary Duty on IPO Underwriter Goldman Sachs, NYLJ (June 8, 2005).
7. Primer on Trading on the Basis of Material, Non-Public Information, J. Marston (2004).
8. Articles re: Insider Trading/Accounting Fraud:
  - a. Former S&P Analyst Admits to Insider Trading Charges, WSJ (June 10, 2005).
  - b. Dynergy Ex-Official is Sentenced to 24 Years in Prison for Fraud, WSJ (March 26, 2004)
  - c. The Insiders' Magic Way to Sell, WSJ (March 19, 2004)
  - d. Insider Trading: It's A Good Thing, The Boston Globe (March 14, 2004)

Securities Exchange Act of 1934 – Regulation FD (**OPTIONAL**)  
*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*

Securities Exchange Act of 1934 – Regulation AC (**OPTIONAL**)  
*(all statutes and forms available at <http://www.law.uc.edu/CCL/index.html>)*

**WEEK 7 (10/10 and 10/12)      Fall Break; No Class**

**Law students are on break this entire week. And non-law students are on break Monday and Tuesday. Thus, THERE WILL BE NO REGULAR CLASS the entire week.**

**WEEK 8 (10/17 and 10/19)**

**Securities Offering Reform Proposals;  
The IPO Process--Management's Viewpoint**

1. SEC Adopts Major Securities Offering Reforms, Sidley Austin Brown & Wood LLP (June 29, 2005) *and* SEC Votes To Adopt Securities Act Rule Reform and Shell Company Regulations; Considers Matters Remanded by Court of Appeals, SEC Press Release No. 2005-99 (July 1, 2005).
2. The SEC Proposes Securities Offering Reform, Simpson Thacher & Bartlett LLP (December 10, 2004).
3. Review reading 3 from week 1.

SEC Release No. 33-8501 re: Securities Offering Reform (November 17, 2004), available at <http://www.sec.gov/rules/proposed/33-8501.htm>. (NOTE TO STUDENTS: this is OPTIONAL reading)

1. **GET OFF COURSE HOME PAGE UNDER “COURSE DOCUMENTS”:** Deal Structure Charts.
2. Articles on Current M&A Environment:
  - a. Reverse Mergers Move Into Fashion, WSJ (June 29, 2005).
  - b. Gillette Deal Gets Nicked, CFO Magazine (June 2005).
  - c. IPOs Often Springboard to M&A, The Deal.com (May 24, 2004).
  - d. A Merger? Anyone Tell The Board?, NYT (June 26, 2005).
3. Confidentiality Agreements for the Sale of a Business, The Practical Lawyer (December 2002).
4. Resales of Stock Acquired in Merger Transactions, Insights, Volume 17, Number 2 (February 2003).
5. D. Harding and S. Rovit, *Mastering The Merger: Four Critical Decisions That Make or Break the Deal*, Harvard Business School Press (2004). **Read Chapters 1 and 2.**
6. America’s Growth Capital “Pitch” Materials. **This is for background only. Good coverage of the current state of M&A market.**
7. Wave of Mega Mergers Keeps Rolling On, WSJ (April 1, 2005).
8. Yes, They Can Say No To a Merger, NYT (June 19, 2005).

**WEEK 10 (10/31 and 11/2)**

**Due Diligence; Confidentiality Agreements;  
Asset vs. Stock Deals – Pros and Cons**

1. Structuring a Taxable Conveyance of a Corporate Business, Texas Bar Journal (June 1989).
2. Market Dictates Boardroom Deals, The HCI Group Ltd (undated).
3. Beware the NDA, The VC Buzz, Joseph Bartlett (May 21, 2002).
4. Five Helpful Tips for Getting to the Finish Line, Piper Jaffray M&A Monitor (February 18, 2004).
5. *Mastering the Merger*. **Read Chapter 3.**

1. Another Look at Allocating Market Risk in Stock Acquisitions, Insights, Vol. 17, No. 8 (August 2003).
2. Model Letter of Intent (2 models). **(NOTE TO STUDENTS: skim this material)**.
3. The Letter of Intent: To Bind or Not to Bind, M&A Monitor, published by US Bancorp Piper Jaffray (April 28, 2003).
4. Caution: Earnout Ahead, CFO (June 2002).
5. The Art of Earnouts, Strategic Finance (June 1, 2003).
6. Deal Breakers, Buyers Are Giving Themselves More Outs By Expanding Material Adverse Change Clauses, CFO.com (October 20, 2003).
7. Material Adverse Change/Effect Clauses In Delaware: IBP, Inc. v. Tyson Foods, Inc., Richard Layton & Finger (2003).
8. The State of the Art in No Shops, Fiduciary Outs and Termination Rights, Stephen Glover (undated). **(NOTE TO STUDENTS: this is OPTIONAL reading, but does provide additional analysis that the law students in particular may find useful in practice)**.
9. Holding Out For A Lower bid, CFO.com (June 1, 2005).

**WEEK 12 (11/14 and 11/16)    Key Aspects of M&A Deal Continued**

1.     Pricing Formulations in Stock-for-Stock Mergers, Richard E. Climan (1998).
2.     **GET OFF COURSE HOME PAGE UNDER “COURSE DOCUMENTS”:** Problem Set: Illustration of Caps, Collars and Walk Rights (©2005 John D. Nozell).
3.     Fairness Opinions, A Necessary Evil to Some, the Key Argument for Others (from CBIZ website).
3.     NASD Scrutinizes Conflicts In Bankers’ Fairness Opinions, WSJ (June 11, 2004).
4.     What’s Fair is Fair, Wachtell, Lipton, Rosen & Katz (May 31, 2005).
5.     You Can Call It a Fairness Opinion But That Wouldn’t Be Fair, NYT (July 10, 2005).

**WEEK 13 (11/21 and 11/23)    Takeover-Antitakeover Arena**

1.    Delaware Chancery Court Clarifies When a Board of Directors Must Conduct an Auction, Insights, Vol. 14, No.4 (April 2000).
2.    Advising the Board of Directors in Acquiring a Business, Insights, Vol. 19, No. 13 (March 2005) **and** Advising the Board of Directors in Mergers and Acquisitions, Securities and Commodities Regulation, Vol. 31, No. 7 (April 1, 1998).
3.    ISS Study Finds Companies with Stronger Takeover Defenses Outperform Other Companies, Wachtell Lipton Rosen & Katz (February 24, 2004) **and** Corporate Governance Study Links Bad Boards to Higher Risk and Increased Volatility, ISS Press Release (February 3, 2004).
4.    The Embattled Poison Pill, Insights, Vol. 19, No. 4 (April 2005) **and** Inside Track with Broc: Bill Lawlor on Poison Pill Developments (January 12, 2005) **and** Poison pills are drawing more fire, National Law Journal (November 8, 2004).
5.    Takeover Defenses: Yea or Nay, CFO.com (January 29, 2004) **and** Where Are All the Poison Pills, WSJ (March 2, 2004) **and** Few Refills on Poison-Pill Prescriptions, CFO.com (March 3, 2004) **and** 3M Hangs Tough in Poison-Pill Battle, CFO.com (May 13, 2004) **and** Siebel Strengthens Takeover Defense with Severance, WSJ (May 27, 2005).
6.    Delaware Supreme Court Issues Written Opinion Regarding Its Controversial Lock-Ups Ruling, Faegre & Benson (2003) **and** Delaware Supreme Court on Fiduciary Outs in Merger Agreements, Wachtell, Lipton, Rosen & Katz (2003).
7.    A Merger? Did Anyone Tell The Board?, NYT (June 26, 2005). **(NOTE TO STUDENTS: review this article from week 9)**
8.    The Evolving Judicial Review of Squeeze-Out Transactions by Controlling Shareholders, Insights, Volume 17, Number 4 (April 2003). **(NOTE TO STUDENTS: this is OPTIONAL reading)**
9.    **GET OFF COURSE HOME PAGE UNDER “COURSE DOCUMENTS”:** Anti-Takeover Client Outline (©2004 Zachary J. Shulman)



**WEEK 14 (11/28 and 11/30)    Review of NCS Omnicare Case**

1.    Acquisition of NCS Healthcare, Inc. (**NOTE TO STUDENTS: this is a case study**)