This course is designed to introduce students with a basic understanding of corporation law to the fundamentals and some advanced topics in the law of mergers and acquisitions. Our principal focus will be on the corporation law and securities regulation aspects of these transactions and, to a lesser extent on deal documentation. The course will not deal with tax, antitrust, and accounting issues other than in passing.

Course materials include Mergers and Acquisitions by William Carney (Foundation Press) and the current supplement. Other course materials and external links to reference materials will be posted on the course Blackboard site. VC Lamb will be available after class to answer questions and can be reached via e-mail at spl2@nyu.edu. Assigned readings are to be read in preparation for class.

Mergers and Acquisitions by William Carney = [WC] Internet Research (External Links) = [EL] Course Materials=[CM]

CLASS 1 - 1-12-05
Mechanics of Acquisition
A Primer on Acquisition Techniques ............................................................... pp. 13-20 [WC]
Read Delaware General Corporation Law (“DGCL”) §§ 251-253 ......................... [EL]
Asset Acquisitions: Product Line Liabilities .................................................. pp 753-767 [WC]
DGCL §271 .............................................................................................................. [EL]
Stock Acquisitions
Statutory Mergers
Triangular Mergers ......................................................................................... pp. 714-722 [WC]
Two-step Transactions: Tender Offers ............................................................... p. 778 [WC]

Voting on Mergers
Voting Rules Under Corporate Statutes .......................................................... pp. 700-705 [WC]
DGCL §§ 251(f) & (g) ......................................................................................... [EL]
Revised Model Business Corporation Act (“RMBCA”) §§ 11.04 & 11.05 ............. [EL]

CLASS 2 - 1-19-05
Overview of Deal Mechanics
Letters of Intent ................................................................................................. [CM]
Confidentiality Agreements ............................................................................... [CM]
Due Diligence ....................................................................................................... [WC, App. C]
Acquisition Agreements .................................................................................... [WC, App.D]

Introduction to Fiduciary Duty in Third Party Transaction
Business Judgment Rule in Mergers ............................................................... pp. 141-157 [WC]
Smith v. van Gorkom
Evolution of New Standard of Judicial Review of Defensive Actions - I ............... pp. 68-84 [WC]
Cheff v. Mathes
Johnson v. Trueblood
Unocal
DGCL §102(b)(7) ................................................................................................. [EL]

Suggested Supplemental Reading:
CLASS 3 - 1-26-05
Revlon
Paramount Comm. Inc. v. Time, Inc.
Public Control Transfers in “Friendly” Deals
Paramount v. QVC, 637 A.2d 34 (Del. 1994) ......................................................... [EL]
What triggers Revlon?
In re NCS HealthCare, Inc., 825 A.2d 240, 254-56 (Del. Ch. 2002) ......................... [EL]
Revlon in the Courts I .............................................................................................................. pp. 84-104 [WC]
Mills Acquisition Corp. v. MacMillan

CLASS 4 - 2-2-05
Revlon in the Courts II ................................................................................................. pp. 174-203 [WC]
In re Fort Howard
In re RJR Nabisco
Evolution of Unocal Standard ................................................................................................ pp. 338-344 [WC]

CLASS 5 - 2-9-05
Protections from Hostile Deals ...................................................................................... pp. 253-297; pp. 325-331 [WC]
What are Poison Pills?
Moran
Interco
Moore v. Wallace
“Dead-hand” or “Slow-hand” Pills

CLASS 6 - 2-16-05
Termination fees; “lock-ups”; “no shops”; “no talks”: DGCL §251(c)
Brazen v. Bell Atlantic, 695 A.2d 43 (Del. 1997)
Ace Ltd. v. Capital Re Corp., 747 A.2d 95 (Del. Ch. 1999)
Orman v. Cullman, 2004 WL 2348395 (Del. Ch.) ......................................................... [EL]

CLASS 7-2-23-05
Private Sale of Corporate Control
Duties and Risks of Sellers .............................................................................................. pp. 220-229[WC]
Essex Universal v. Yates
Perlman v. Feldmann, 219 F.2d 173 (2d Cir. 1955)
Mendel v. Carroll, 651 A.2d 297 (Del. Ch. 1994)
Thorpe v. CERBCO, 611 A.2d 5, 9-10 (Del. Ch. 1991)
In re Digix, Inc. Shareholders Litig., 2000 Del. Ch. LEXIS 171
DGCL § 203
In re BHC Comm., Inc. Shareholder Litig., 789 A.2d 1 (Del. Ch. 2001)
CLASS 8 - 3-02-05
Proxy Contests, Staggered Boards and Wounded Birds
Schnell v. Chris Craft, 285 A.2d 437 (Del. 1971)
Blasius Indus., Inc. v. Atlas Corp., 564 A.2d 651 (Del. Ch. 1988)
North Fork Bancorp., Inc. v. Toal, 825 A.2d 860 (Del. Ch. 2000)

CLASS 9 - 3-09-05
Williams Act: Buyer’s Obligations
Takeover Contests ................................................................. pp. 817-862 [WC]
GAF Corp. v. Milstein
Filing Schedule 13D
Regulation 13D-G ................................................................ [EL]
What is a Tender Offer?
Wellman v. Dickinson
Hanson Trust v. SCM Corp.
Regulation 14D-G ................................................................ [EL]

SPRING RECESS – NO CLASS - 3-16-05

CLASS 10 - 3-23-05
Disclosure Obligations and Rights of Action ........................................... pp. 906-964 [WC]
Basic v. Levinson
Starkman v. Marathon Oil
Piper v. Chris-Craft Industries
Liberty National Insurance
Schrieber v. Burlington Northern, Inc.
United States v. O’Hagan (Insider Trading)

Equal Treatment of Shareholders ........................................ pp. 884-886 [WC]
Epstein v. MCA, Inc., 50 F.3d (9th Cir. 1995); rev’d on other grounds sub nom.
Lerro v. Quaker Oats, 84 F.2d 239 (7th Cir. 1996)
Gerber v. Computer Assoc. Int’l, 303 F.3d 126 (2d Cir. 2002)

CLASS 11 - 3-30-05
Back to Corporate Law: Special Case of Parent Sub Mergers ................................ pp. 424-456 [WC]
Weinberger
Rosenblatt
Rabkin

Special Committees ........................................................................ pp. 458-72 [WC]
Kahn v. Lynch Communications
Grace Brothers . Farley
Emergent Communications .......................................................... [EL]

CLASS 12 - 4-06-05
Recent Developments in Parent/Sub Mergers
In re Pure Resources, 808 A.2d 421 (Del. Ch. 2002)
Federal Disclosure Regulation of Second Step Mergers: Rule 13e-3

Takeover Contests ........................................... pp. 886-906 [WC]
Flynn v. Bass Brothers
Howing Co. v. Nationwide Corp.
SEC Rule 13e-3 ........................................ [EL]
SEC Schedule 13e-3 .................................... [EL]

CLASS 13 - 4-13-05
Specific Performance of Merger Agreement

CLASS 14 - 4-20-05
TBA