



## STANFORD ROCK CENTER PROGRAM FOR JOURNALISTS: A PRIMER IN CORPORATE GOVERNANCE

**May 15, 2020**

### ONLINE AGENDA

- 8:45 a.m.** **Welcome Remarks,** *Kristen Savelle, Managing Director of the Rock Center for Corporate Governance*
- 8:50 a.m.** **Introduction to SLS Media Relations,** *Stephanie Ashe, Director of Media Strategy, Stanford Law School*
- 9:00 a.m.** **The Public Interest in Corporate Bankruptcy: The Case of PG&E,** *George Triantis, Charles J. Meyers Professor of Law and Business, Stanford Law School*

Most bankruptcy proceedings come and go with minimal media attention. As we enter into a deep COVID-19-induced recession, this will change very quickly. Corporate bankruptcy (particularly Chapter 11) will be an essential forum for addressing the widespread financial distress in the economy, as well as a wide range of public policy issues. The current bankruptcy of PG&E may provide a model because it is not an average corporate restructuring: it came with public concern over the enormous uncompensated losses of wildfire victims, the disruption of service to millions of consumers and ongoing policy debates about energy. The PG&E bankruptcy has already fueled growing curiosity about the world of bankruptcy. How are tort claims (such as those of the wildfire victims) treated in bankruptcy? How does the market for corporate control play out in bankruptcy, compared to outside it (e.g., the current bidding war for PG&E)? How does government policy-making and regulation work during and through a bankruptcy proceeding (California Governor Newsom has taken on an unprecedented role in the confirmation of a plan)? This session will explore these and other questions raised by the PG&E bankruptcy, as well as anticipate likely developments that will be spurred by the inevitable public interest in business bankruptcies over the next few years.

- 10:00 a.m.** **Break**

- 10:15 a.m.** **Data Privacy and Encryption Issues for Boards,** *Riana Pfefferkorn, Associate Director of Surveillance and Cybersecurity at the Stanford Center for Internet and Society*

In early March, the Senate Judiciary Committee introduced a Justice Department-backed bill called the EARN IT Act that would strip a key immunity from tech companies that do not follow "best practices" for fighting child sex abuse content on their platforms. The bill is widely



believed to be a ploy to stealthily ban end-to-end encryption while letting legislators avoid directly confronting the issue, which has been a topic of heated debate during the last five years. On one side of the fight are privacy advocates and tech companies, who believe people need to be able to communicate privately and securely while online. On the other side are law enforcement and some legislators, who believe strong encryption makes it too difficult to track child predators and other criminals.

Soon after the bill's introduction, the COVID-19 epidemic forced much of America to switch to working remotely from home. Much of the workforce now depends on group chat, videoconference, and other communications and productivity software to protect their data and communications from malicious prying eyes. However, these tools were often not designed for the high volume of users and increased variety of use cases they are now experiencing. Videoconference application Zoom, in particular, has come under fire for privacy and security drawbacks and for making misleading statements about its encryption, even as it has skyrocketed in popularity. This session will examine the debate over encryption technology and explain the role it plays in privacy, data security, and economic and national security. The session will also explore the COVID-19 epidemic's impact on public awareness and discourse around privacy, encryption, and cybersecurity.

**11:15 a.m. Break**

**11:30 a.m. Navigating Accounting,** *Colleen Honigsberg, Associate Professor of Law, Stanford Law School*

This session will provide an introduction to accounting generally, but will focus on current issues likely to generate significant journalistic interest. In particular, we will cover challenges posed by the current COVID crisis (e.g., valuation, CECL, etc). We will also cover the use of non-GAAP accounting measures, and how these might gain greater prominence in the age of COVID. In addition, we will review trends in restatements, implications of the recent changes to revenue recognition standards, the use (or abuse?) of financial footnotes, and the recent lease accounting standard. The discussion of these items will highlight the inherent discretion involved in significant accounting decisions--and how companies can use that discretion to present an arguably misleading image to stakeholders. In addition, the session will highlight reporting trends in Environmental, Social, and Governance disclosures---disclosures that are often highly relevant to investors, but are subject to limited (if any) external audit.

**12:30 p.m. Lunch Break**



**1:30 p.m.**    **Exit Strategy, Mark Lemley, William H. Neukom Professor of Law and Director of the Stanford Program in Law, Science and Technology, Stanford Law School**

The venture capital industry's focus on exit strategy, particularly exit by acquisition, is pathological. It leads to concentration in the tech industry, reinforcing the power of dominant firms. It short-circuits the development of truly disruptive new technologies that have historically displaced incumbents in innovative industries. And because incumbents often buy startups only to shut them down, intentionally or not, it means that the public loses access to many of the most promising new technologies Silicon Valley has developed. This session will explore a number of ways to break the cycle of acquisition by incumbents, including changing the incentives that favor acquisition over continued operation, finding other ways to fund startups or to allow venture capital firms to cash out without an acquisition, and changing the antitrust laws to focus on who is acquiring startups.

**2:30 p.m.**    **Break**

**2:45 p.m.**    **A Review of the Supreme Court's Docket: Implications for US Corporations, Pamela Karlan, Kenneth and Harle Montgomery Professor of Public Interest Law, Co-Director of the Supreme Court Litigation Clinic, Stanford Law School**

This session will address COVID-19's impact on the Supreme Court, including the postponement of oral arguments in Google v. Oracle and lawsuits over election procedure and states' authority to shut down businesses that may eventually reach the Supreme Court. This session will also review closely-watched cases from the Court's current term concerning whether Title VII of the Civil Rights Act prohibits sexual orientation and gender identity discrimination, the constitutionality of DACA, challenges to Obamacare, and mandatory arbitration.

**3:45 p.m.**    **Conclude**