

Sustainability & Business Law

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Edited by

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CAROLINA ACADEMIC PRESS
Durham, North Carolina

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Library of Congress Cataloging-in-Publication Data

Names: Shurtz, Nancy E., editor. | Sneirson, Judd F., editor.
Title: Sustainability & business law / Judd F. Sneirson and Nancy E. Shurtz.
Other titles: Sustainability and business law
Description: Durham, North Carolina : Carolina Academic Press, LLC, 2017. |
Includes bibliographical references and index.
Identifiers: LCCN 2016052149 | ISBN 9781611639193 (alk. paper)
Subjects: LCSH: Environmental law--Economic aspects--United States. |
Sustainable development--Law and legislation--United States. | Social
responsibility of business--Law and legislation--United States. |
Corporate governance--Law and legislation--United States. | LCGFT:
Textbooks.
Classification: LCC KF3775 .S874 2017 | DDC 343.7307--dc23
LC record available at <https://lcn.loc.gov/2016052149>

e-ISBN 978-1-5310-0680-8

Carolina Academic Press, LLC
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

For Elisa and Mira.

—J.E.S.

*For my mother, Pauline Shurtz, who has inspired me to
believe that anything is possible.*

—N.E.S.

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Preface

There is a growing trend in business and business law towards sustainability—doing business with a focus on a firm’s environmental and social as well as financial performance. Some business leaders believe that sustainability is a moral imperative while others feel that, moral or not, there is money to be made in “green business.” Regardless of motives, businesses wishing to act sustainably will face myriad legal questions at the crossroads of business law and sustainability, such as whether a company may legally devote resources to sustainability at the expense of shareholder profits, whether public companies must disclose facts about their environmental and social performance, and whether the tax system and other areas of business law encourage, discourage, or are indifferent to sustainable business.

This book will explore these questions, studying diverse materials on sustainability as it relates to a wide range of business law topics, including corporate and securities law, contracts, commercial law, taxation, work law, torts, criminal law, international law, and intellectual property. Within each topic, we have endeavored to select readings that present a complete picture of the issues and raise varying viewpoints. We have also included discussion questions at the end of each chapter to invite readers to compare and contrast the readings, raise additional issues within each topic, and provoke thoughtful class discussion. We hope the book not only informs and stimulates debate on the role of law in furthering sustainability, but also, where possible, includes and inspires proposals for change.

Before we begin, a short note on editing. For the sake of brevity and focus, we have cut a great deal of fascinating material as well as most citations from each of the selections we have included. We encourage those readers interested in learning more to seek out the original works in their entirety and consult the sources cited therein. To make that process easier, we have retained the authors’ footnote numbering and indicate with ellipses where we have redacted any text. We also took minor liberties with section headings to make our edited excerpts more readable.

This book would not be possible without the help and support of many others. First and foremost, we would like to thank our contributing authors for graciously permitting us to excerpt and reprint their works here, and to Yuken Teruya for generously contributing his “Green Economy” art for the cover. Thanks also to our secretaries—Jill Elizabeth, Pat Hancock, and Sonya Jackson—for their help with this book over the years, and to our research assistants and the students in our sustainable business law classes for their inspiration, comments, and suggestions on earlier drafts. Thanks as well to the folks at Carolina Academic Press for their ed-

itorial work and advice, and, finally, a big thank you to our families for all their support and encouragement.

J.E.S.

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