Contents of Current Legal Periodicals
October 21, 2013, 1406

To view table of contents of all Journals listed below, scroll down
To view table of contents of a specific journal, click on journal title

JOURNALS A – H

ABA JOURNAL, v. 99, no. 9, September, 2013


BOSTON UNIVERSITY LAW REVIEW, v. 93, no. 3, May, 2013

CARDOZO PUBLIC LAW, POLICY, AND ETHICS JOURNAL, v. 11, no. 3, Summer, 2013

COLUMBIA JOURNAL OF TRANSNATIONAL LAW, v. 51, no. 3, 2013

CLEVELAND STATE LAW REVIEW, v. 61, no. 2, 2013

CORPORATE PRACTICE COMMENTATOR, v. 54, May, 2013

DISPUTE RESOLUTION JOURNAL, v. 68, no. 1, 2013


FAMILY COURT REVIEW, v. 51, no. 3, July, 2013

FAMILY LAW, v. 43, August, 2013

GEORGIA LAW REVIEW, v. 47, no. 4, Summer, 2013

HASTINGS LAW JOURNAL, v. 64, no. 6, August, 2013
President's Message
Legal Access Job Corps will be a main priority for the coming year.

Opening Statements
Expressive (mis)conduct? Wisconsin ruling finds that flying the American flag upside down is protected speech.

Justice Sonia Sotomayor presides over a re-enactment of the 1972 case that upheld Major League Baseball's antitrust exemption. As lawyer bands take center stage, a nonprofit is on a charity fundraising roll.

A new antitrust battle may be brewing in Alabama, where a teeth-whitening company has sued the state's dental board. The PTO partners with law schools to provide students with practical experience in a most competitive practice area.

Short takes and fast facts on the law.

STEVEN CHABINSKY
"The bad guys have caught on to the fact that people are using mobile devices ... to store sensitive business information."

Business of Law
SECURITY Mobile devices are the latest point of attack, as hackers continue to see law firms as soft targets.

TECH REVIEWS More product picks to help you make the most of mobility.

LAW BY THE NUMBERS Lawyers (if not jobs for lawyers) are trending upward: stats from the ABA's National Lawyer Population Survey.

TECHNOLOGY New tools are available to help firms begin to track social media.

TECHNOLOGY Passwords alone won't do: Adding an extra layer of protection can help safeguard your data and accounts.
AMERICAN JOURNAL OF LEGAL HISTORY

Volume 53    July 2013    Issue 3

PAGE

Austin in America: The Case of
John Chipman Gray ......................... Wilfred E. Rumble 265

Liberty Like Thunder:
Race, Article XI Enforcement, and
the Odyssey of Guadalupe
Hidalgo (1848) ................................. Robert F. Castro 303

Uncertain Land Titles in Louisiana’s
Formative Years: Colonial Grants,
John Marshall’s Foster Opinion, and
Lauterpachtian Interplays between Private
Law and International Law ................. Markus G. Puder 329

Correcting a Ballerina’s Story: The Truth Behind
Makletzova v. Diaghileff .............. Vanessa Banni-Viñas 353
IN THIS ISSUE:

Youth Migration and Transitions to Adulthood in Developing Countries
Special Editors: FATIMA JUÁREZ, THOMAS LEGRAND, CYNTHIA B. LLOYD, SUSHEELA SINGH, and VÉRONIQUE HERTRICH

Introduction: Youth Migration and Transitions to Adulthood in Developing Countries ................. Fatima Juárez, Thomas LeGrand, Cynthia B. Lloyd, Susheela Singh, and Véronique Hertrich 6

Migration in the Context of Transitions to Adulthood:
Schooling, Employment and Family Formation

Mexican Adolescent Migration to the United States and Transitions to Adulthood .... René Zenteno, Silvia E. Giorguli, and Edith Gutiérrez 18

Migration and the Transition to Adulthood in Contemporary Malawi ...................... Kathleen Beegle and Michelle Poulin 38

Social Exclusion and Young Rural-Urban Migrants’ Integration into a Host Society in China ................. Juhua Yang 52

Female Migrants and the Transition to Adulthood in Greater Jakarta ................. Ariane Utomo, Anna Reimonds, Itwu Dwisetyani Utomo, Peter McDonald, and Terence Hull 70

Transitioning from School to Work as a Mexican 1.5er: Upward Mobility and Glass-Ceiling Assimilation among College Students in California ................. Georgina Rojas-García 87
Consequences of Migration for Health, Reproductive Outcomes, and Childbearing

Dimensions of Rural-to-Urban Migration and Premarital Pregnancy in Kenya
Hongwei Xu, Blessing U. Mberu, Rachel E. Goldberg, and Nancy Luke 104

Exploring Associations between Mobility and Sexual Experiences among Unmarried Young People: Evidence from India
Rajib Acharya, K. G. Santhya, and Shireen J. Jejeebhoy 120

Migration as a Risk Factor for HIV Infection among Youths in Sub-Saharan Africa: Evidence from the DHS
Monica A. Magadi 136

Migration Strategies and Consequences
Youth Mobility in an Isolated Sahelian Population of Mali
Claudine Sauvain-Dugerdil 160

Adolescent Migration in Rural Africa as a Challenge to Gender and Intergenerational Relationships: Evidence from Mali
Véronique Hertrich and Marie Lesclingand 175

Unaccompanied Young Migrants from Africa: The Case of Mauritania
Fabienne Tanon and Abdoulaye Sow 189

Migration and Intergenerational Responsibilities: Implications for Young Senegalese Migrants’ Transition to Adulthood
Nathalie Mondain, Alioune Diagne, and Sara Randall 204

FORTHCOMING

Organizational Challenges to Regulatory Enforcement and Compliance: A New Common Sense about Regulation
Special Editor: SUSAN S. SILBEY

The Effects of the Great Recession
Special Editor: SHELDON DANZIGER
CONTENTS

SYMPOSIUM
EVALUATING CLAIMS ABOUT
THE “END OF MEN”:
LEGAL AND OTHER PERSPECTIVES

Editors’ Foreword................................................................. 663

KEYNOTE ADDRESS

The End of Men and the Rise of Women
—Hanna Rosin ................................................................. 667

COMMENTATORS ON KEYNOTE ADDRESS

Are African Americans Us?
—Ralph Richard Banks .................................................... 681

Is It the End of Men, or Are Men Still in Power? Yes!
—Michael Kimmel ............................................................. 689

ADDRESS

The End of Men?: Gender Flux in the Face of Precarious Masculinity
—Joan C. Williams .......................................................... 699

PANEL I: ONE HUNDRED YEARS OF THE “END OF
MEN”: HISTORICAL PERSPECTIVES

The Rhetoric of Gender Upheaval During the Campaign for the
Nineteenth Amendment
—Lynda G. Dodd ............................................................ 709
Historicizing the "End of Men": The Politics of Reaction(s)
—Serena Mayeri .............................................. 729

—Martin Summers ............................................. 745

PANEL II: EMPLOYMENT

Biological Sex Differences in the Workplace: Reports of the "End of Men" Are Greatly Exaggerated (As Are Claims of Women's Continued Inequality)
—Kingsley R. Browne ........................................ 769

Masculinity, Labor, and Sexual Power
—Ann C. McGinley .............................................. 795

A Labor Economist's Response to Hanna Rosin's "End-of-Men" Hypothesis
—William M. Rodgers III ..................................... 815

Can All Women Be Pharmacists?: A Critique of Hanna Rosin's The End of Men
—Michael Selmi & Sonia Weil ................................ 851

PANEL III: FAMILY

The End of Men or the Rebirth of Class?
—June Carbone & Naomi Cahn ................................ 871

Forgotten Fathers
—Daniel L. Hatcher ............................................. 897

The Other Marriage Equality Problem
—Linda C. McClain ............................................. 921

PANEL IV: EDUCATION

Rights and Wrongs in the Debate over Single-Sex Schooling
—Rosemary Salomone ......................................... 971

Bullying Prevention and Boyhood
—Katharine B. Silbaugh ..................................... 1029
PANEL V: COMPARATIVE AND INTERNATIONAL PERSPECTIVES ON THE “END OF MEN”

No End in Sight: Politics, Paradox, and Gender Policies in Iran
—Shahla Haeri ........................................... 1049

Israel’s Rosit the Riveter: Between Secular Law and Jewish Law
—Pnina Lahav ........................................... 1063

Situating Women in Counterterrorism Discourses: Undulating Masculinities and Luminal Femininities
—Fionnuala Ní Aoláin ........................................... 1085

Gender Quotas After the End of Men
—Julie C. Suk ........................................... 1123

PANEL VI: COULD THESE BOTH BE TRUE?: RECONCILING THE “END OF MEN” WITH WOMEN’S CONTINUING INEQUALITY

TANF and the End (Maybe?) of Poor Men
—Khiara M. Bridges ........................................... 1141

—Philip N. Cohen ........................................... 1159

We Are Always Already Imprisoned: Hyper-Incarceration and Black Male Identity Performance
—Frank Rudy Cooper ........................................... 1185

What Men?: The Essentialist Error of the “End of Men”
—Nancy E. Dowd ........................................... 1205
ARTICLES

Torture Warrants, Self-Defense, and Necessity
Fritz Allhoff ................................................................. 421

The Risky Interplay of Tort and Criminal Law: Punitive Damages
Daniel M. Braun .......................................................... 449

Don’t Give Your Kid That Shot!: The Public Health Threat Posed by Anti-Vaccine Speech and Why Such Speech Is Not Guaranteed Full Protection Under the First Amendment
Amanda Z. Naprawa ...................................................... 473

NOTES

Tylenol and an Ice Pack: An Inadequate Prescription for HIV/AIDS in Immigration Detention Centers
Carl Kenneth Lipscombe .................................................. 529

Managing Fractions: The Role of Local Government in Regulating Unconventional Natural Gas Resources - Recommendations for New York
William Yukstas .......................................................... 563
ARTICLES
The Military as the Guardian of Constitutional Democracy
Ozan O. Varol 547

China’s Human Rights Footprint in Africa
Timothy Webster 626

Beyond China’s Human Rights Exceptionalism in Africa: Leveraging Science, Technology and Engineering for Long-Term Growth
James Thuo Gathii 664

NOTES
A Harmonious Union? The Relationship Between States and the Human Rights Committee on the Same-Sex Marriage Issue
Nathan Crombie 696

Accommodation and Rectification: A Dual Approach to Indigenous Peoples in International Law
Spencer Sloan 739

Regulating a Global Market: The Extraterritorial Challenge of Dodd-Frank’s Margin Requirements for Uncleared OTC Derivatives & A Mutual Recognition Solution
Lucy McKinstry 776

BOOKS RECEIVED 833

INDEX TO VOLUME 51 834
Cleveland State Law Review

Volume 61 2013 Number 2

Contents

Articles

Interpreting Precise Constitutional Text: The Argument for a “New” Interpretation of the Incompatibility Clause, the Removal & Disqualification Clause, and the Religious Test Clause—A Response to Professor Josh Chafetz’s Impeachment & Assassination ............................................................ Seth Barrett Tillman 285

Cyber Bullying and Free Speech: Striking an Age-Appropriate Balance .......................................................... Raul R. Calvoz, Bradley W. Davis, and Mark A. Gooden 357

Plaintiff Control and Domination in Multidistrict Mass Torts .............................................................................. S. Todd Brown 391


Legal Malpractice in a Changing Profession: The Role of Contract Principles ...................................................... Vincent R. Johnson 489

Notes

Striking a Balance: Why Ohio’s Felony-Arrestee DNA Statute Is Unconstitutional and Ripe for Legislative Revision ................................................................. Brendan Heil 529

Table of Contents

Financial Innovation, Leverage, Bubbles and the Distribution of Income................................................................. 1
Margaret M. Blair
Overlitigating Corporate Fraud: An Empirical Examination......................................................................................... 89
Jessica M. Erickson
Private Ordering with Shareholder Bylaws........................................ 147
D. Gordon Smith, Matthew Wright, Marcus Kai Hintze
Investing in Work: Wilkes as an Employment Law Case . 225
Deborah A. DeMott
The Top 10 Corporate and Securities Articles of 2011........... 259
Shareholder Lawsuits, Status Quo Bias, and Adoption of the Exclusive Forum Provision............................................ 261
Brian JM Quinn
An Appraisal Puzzle ............................................................ 317
George S. Geis
Beyond the Board of Directors.................................................. 367
Kelli A. Alces
Japan's Love for Derivative Actions: Irrational Behavior and Non-Economic Motives as Rational Explanations for Shareholder Litigation............................................................... 425
Dan W. Puchniak and Masafumi Nakahigashi
Contractual Freedom Under Delaware Alternative Entity Law: Evidence from Publicly Traded LPs and LLCs................................. 509
Mohsen Manesh
Shareholder Eugenics in the Public Corporation............... 607
Edward B. Rock
Too Many Tiaras: Conflicting Fiduciary Duties in the Family-Owned Business Context........................................... 669
Karen E. Boxx
Form over Substance? The Value of Corporate Process and Management Buy-outs ............................................. 731
Matthew D. Cain and Steven M. Davidoff
Delaware's Balancing Act......................................................... 793
John Armour, Bernard Black, and Brian Cheffins
Business Courts and Interstate Competition................................. 869
John F. Coyle
That Which We Call a Bank: Revisiting the History of Bank Holding Company Regulation in the United States ................................................................. 933
Saule T. Omarova and Margaret E. Tahyar
Nevada and the Market for Corporate Law................................. 1009
Bruce H. Kobayashi and Larry E. Ribstein
# TABLE OF CONTENTS

## FOREWORD

*Richard W. Naimark, ICDR Rules Changes on the Horizon* iii

## ARTICLES

The Stoic Arbitrator vs. the Activist Arbitrator—A Solution  
*Jeffrey Aiken* 1

Timing Is Everything: When Is the Best Time to Resolve a Construction Defect Case?  
*Matthew W. Argue* 11

The Extent (or Limit) of Mediator Influence to Effect Settlement  
*Neil G. Carmichael* 21

Enforceability of Foreign Arbitration Awards in the U.S.  
*Vince Ferrito* 33

Integral Mediation: A Proposal for a Pragmatic, Adaptable, Open-Source Approach to Mediation  
*Brian Jarrett* 59

## CORNELL CORNER

The Arbitration of Employment Discrimination Cases in the Securities Industry  
*J. Ryan Lamare* 97

## SCHEINMAN SCHOLARS

Exploring the Contradictions Inherent in Court-Ordered “Voluntary” Mediation  
*Margaret Schmidt* 103

## THE VIEW FROM EUROPE

What’s New in European Arbitration?  
*Vera van Houtte, Stephan Wilske and Isabelle Michou* 117

## BOOK REVIEW

“Have a Nice Conflict” 127
From the Editor—Patterns

"False-Positives" and the Probability of Discrimination: Why "Two or Three Standard Deviations" May Not Evidence a Pattern or Practice

Staffing Industry Compliance with the Employer Shared Responsibility (aka Pay-or-Play) Provisions of the Affordable Care Act: Five Questions

Using Offers of Judgment to Prevent Class and Collective Actions and the Supreme Court's Decision in *Genesis Healthcare Corp. v. Symczyk*

A Victory for Employers in New York's Acts to Strengthen Employees' Remedies for Wage Violations

Why Employers Shouldn't Rely Too Heavily on the Computer Fraud and Abuse Act to Enforce Violations of Computer Use Policies

NLRB Remains Winless in Recent Rulemaking Litigation: D.C. Circuit Strikes Down NLRB's Notice Posting Rule

*Sun Capital* and Its Implications for Private Equity Funds in the M&A Context

Social Media and Employee Monitoring: New Lessons for Employers

Employers Should Properly Manage Ownership of Social Media Accounts to Avoid Unpleasant Surprises

Employee Benefits

ERISA Litigation

Split Circuits

Employee Relations Law Journal

Steven A. Meyerowitz

Allan G. King

Alden J. Bianchi and Edward A. Lenz

Richard S. Zackin

Nicholas A. Ortiz

Melody B. Lynch

Doreen S. Davis and Willis J. Goldsmith

Kathleen Emberger and Laura Bagarella

Vernon L. Francis, Thomas K. Johnson II, and Kate Ericsson

Kevin D. Kelly

Anne E. Moran

Craig C. Martin and William L. Scogland

Howard S. Lavin and Elizabeth E. DiMichele
FAMILY COURT REVIEW
An Interdisciplinary Journal
Volume 51, Number 3, July 2013

CONTENTS

Editorial Note
ANDREW SCHEPARD 345

Correction to the April 2013 Issue: A Note from the Student Managing Editor
LAUREN WYLIE 350

Special Feature
IAALS' Honoring Families Initiative: Courts and Communities Helping Families in Transition Arising from Separation or Divorce
REBECCA LOVE KOURLIS, MELINDA TAYLOR, ANDREW SCHEPARD, AND MARSHA KLINE PRUETT 351

SPECIAL ISSUE: Reports from the National Leadership Summit on School-Justice Partnerships: Keeping Kids in School and Out of Court

Introduction

Special Issue Editor’s Foreword
HON. JUDITH S. KAYE 377

Special Issue Articles

Reaching a Critical Juncture for Our Kids: The Need to Reassess School-Justice Practices
RUSSELL J. SKIBA 380

Discipline Policies, Successful Schools, Racial Justice, and the Law
DANIEL J. LOSEN 388

Responding to Students Affected by Trauma: Collaboration Across Public Systems
CHERYL SMITHGALL, GRETCHEN CUSICK, AND GENE GRIFFIN 401

Stemming the Tide: Promising Legislation to Reduce School Referrals to the Courts
JESSICA FEIERMAN, RACHEL M. KLEINMAN, DAVID LAPP, MONIQUE N. LUSE, LEN RIESER, AND ROBERT G. SCHWARTZ 409

Collaborative Role of Courts in Promoting Outcomes for Students: The Relationship Between Arrests, Graduation Rates, and School Safety
STEVEN C. TESKE, BRIAN HUFF, AND CORA GRAVES 418
Connecticut's Comprehensive Approach to Reducing In-School Arrests: Changes in Statewide Policy, Systems Coordination and School Practices
JEANA R. BRACEY, CATHERINE FOLEY GEIB, ROBERT PLANT, JULIA R. O'LEARY, ABBY ANDERSON, LARA HERSCOVITCH, MARIA O'CONNELL, AND JEFFREY J. VANDERPLOEG 427

Enhancing Educators' Capacity to Stop the School-to-Prison Pipeline
JANE G. COGGSHALL, DAVID OSHER, AND GREA COLOMBI 435

Improving School-Justice Partnerships: Lessons Learned from the Safe Schools/Healthy Students Initiative
JULIA ROLLISON, DUREN BANKS, ALISON J. MARTIN, CORINA OWENS, NAINAN THOMAS, KELLIE J. DRESSLER, AND MICHAEL WELLS 445

Preventing Disciplinary Exclusions of Students from American Indian/Alaska Native Backgrounds
JEFFREY R. SPRAGUE, CLAUDIA G. VINCENT, TARY J. TOBIN, AND CHI układed (MICHAEL PAVEL) 452

Preventing the School-Justice Connection for Youth in Foster Care
ANNE H. GALLEGOS AND CATHERINE ROLLER WHITE 460

Student Note for the Special Issue
Saving the Nation's Expendable Children: Amending State Education Laws to Encourage Keeping Students in School
COURTNEY MARIE RODRIGUEZ 469

Article
WILLIAM G. AUSTIN, MARSHA KLINE PRUETT, H.D. KIRKPATRICK, JAMES R. FLENS, AND JONATHAN W. GOULD 485

Student Note
Postmajority Child Support for Children with Disabilities
KATHERINE BYRNS 502

For more information on this journal, Please contact us at: fcr@hofstra.edu
Family Law

- View from the President's Chambers: the process of reform: an update 974
- Family finances and the corporate veil: Prest v Petrodel 991
- In defence of the defence of marital coercion 996
- Decisions, decisions: choice of school and the 'judicial reasonable parent' 1003
- Children case update: public law: part I 1007
- The Supreme Court's failure to protect vulnerable children: Re J (Children) 1015
- Coping with the litigant in person: tips for early ancillary relief hearings 1031
- Foreign Lands Part 6: Getting the best from the rest: the immigration system 1033
- Solicitors calling time 1038
- Is there an expert in the house? The future for expert witnesses 1041
- The future of families under the new family justice system 1045
- Decision making within a child's timescale: who decides? 1053
- Children proceedings: Legal Aid Agency authority and the case management decision 1056
- The revised PLO: guidance for Cafcass 1059
- Pre-proceedings protocol for Avon, North Somerset and Gloucestershire 1068
- Local authority pre-proceedings essentials 1076
- Dispute Resolution: Horses for courses? Different concepts of determination in mediation 1077
ARTICLES

A Reliance Approach to Precedent............................ Hillel Y. Levin 1035

Why and when should courts presumptively defer to their own past precedents? The doctrine of precedent lies at the core of American jurisprudence and legal practice, but the source of its normative force remains unclear. Consequently, its application is confused and contested.

In this Article, I argue that precedent matters because and to the extent that it generates reliance interests on the part of the public. Although I am not the first to suggest that reliance is the foundational justification for deference to precedent, this Article represents the first sustained effort to defend the reliance approach in deontological terms and to consider its far-reaching theoretical and practical implications.

In particular, this approach, which has both descriptive and normative aspirations and features, suggests that we must at once limit and expand our traditional notions of what qualifies as precedent. More broadly, it upsets what I call the gravitational account of laws, suggesting that the lived experience of those regulated by the law can and should operate as a constraint on judges.

Jurisdictional Sequencing .................................. Alan M. Trammell 1099

The Supreme Court has begun to grapple with the problems presented by the doctrine of jurisdictional sequencing—the decision of certain issues, and even the dismissal of cases, before a federal court has verified its subject matter jurisdiction. Recent jurisprudence has created confusion as to what, if anything, a federal court may do before it verifies subject matter jurisdiction. Moreover, scholars and courts have struggled to discern an underlying rationale for jurisdictional sequencing, and no theory has been able to explain the case law fully or offer a satisfying normative defense of the doctrine.

This Article develops a theory of jurisdictional sequencing that is the first to accomplish both tasks. Unlike earlier scholarship, it explores jurisdictional sequencing by addressing the underlying question of what precisely subject matter jurisdiction protects. The Article argues that subject matter jurisdiction is a surprisingly narrow structural constraint on federal courts' power. Consequently, a federal court must have jurisdiction in order to adjudicate a conduct rule governing substantive rights. By contrast, subject matter jurisdiction is not absolutely necessary when a court decides a rule that merely allocates decision-making authority. The theory advanced here explains the case law and also grounds jurisdictional sequencing in a novel vision of subject matter jurisdiction that dovetails with scholarly and doctrinal developments in other areas of the law.
State Power To Define Jurisdiction

Samuel P. Jordan

Christopher K. Bader

States should have broader authority to decline jurisdiction over federal claims. The normative considerations supporting this doctrine of “reverse abstention” have been developed in previous work. But what of the Constitution? The traditional reading, reflected in existing precedent, asserts that the Supremacy Clause, Article III, and perhaps Article I operate together to create an inflexible obligation for state courts to hear federal claims. This reading is misguided. The Supremacy Clause contains no jurisdictional obligation of its own force, but only gives supreme effect to other validly enacted federal laws. And no other clause provides the authority to impose such an obligation on the states. Suggestions to the contrary are based on an overly cramped version of originalism that fails to account for the exigencies of constitutional compromise and ratification.

Interagency Litigation and Article III

Joseph W. Mead

Agencies of the United States often find themselves on opposite sides of the “v.” in disputes ranging from alleged unfair labor practices in federal agencies, to competing statutory interpretations, to run-of-the mill squabbles over money. Yet Article III’s case-or-controversy requirement includes—at a minimum—adverse parties and standing. Courts have disagreed with one another over the extent to which litigation between the sovereign and itself meets Article III standards. Despite the volume of scholarship on Article III standing, relatively little attention has been paid to Article III’s requirement of adverse parties in general, or the justiciability of intrabranch litigation in particular.

Looking at both historical practice and modern Article III case law and scholarship, this Article finds meaningful jurisdictional limits on interagency litigation. When the only litigants in a case assert the sovereign prerogatives of the United States, there is no case or controversy within the meaning of Article III. This conclusion is supported by 200 years of case law and follows from what it means when the “United States” invokes its courts.
NOTES
The Problem with the Bureau of Land Management's Delegation of Wildlife Management in Wilderness .................. Lindsay Sain Jones 1281

Congress passed the Wilderness Act of 1964 "to secure for the American people of present and future generations the benefits of an enduring resource of wilderness." When it passed the Act, Congress preserved over 9 million acres of federal lands; and since then, the National Wilderness Preservation System has been expanded by more than 100 million acres. The Act requires the federal agencies to manage the wilderness areas to preserve their wilderness character and to leave the lands unimpaired for future generations.

Wildlife is an integral part of what makes wilderness worth preserving. Despite the vital role wildlife plays in wilderness management, the Bureau of Land Management (BLM) has delegated the primary authority to manage wildlife in wilderness to the states. The BLM's ongoing policy of delegating wildlife management to the states is wrong for four reasons. First, it violates the express mandates of the Wilderness Act that require the BLM to administer the wilderness to preserve wilderness character. Second, it abrogates the federal government's primary authority under the Property Clause over wildlife on federal lands including wilderness. Third, it is inconsistent with lower-court precedent concluding that federal agencies may not delegate their authority to outside entities absent an affirmative showing of congressional intent to allow such delegation. Fourth, this delegation to the states leads to undesirable outcomes that Congress sought to avoid by enacting the Wilderness Act. Therefore, this Note argues that the BLM should modify its regulations to more actively control wildlife management in wilderness thereby fulfilling its mandates under the Wilderness Act and complying with federal precedent.
NOTES

Taking a Toll on the Equities: Governing the
Effect of the PLRA’s Exhaustion Requirement
on State Statutes of Limitations......................... Keri E. McCrary 1321

If prisoners are required by federal law to exhaust institutional remedies before they may file suit in federal court, should a prisoner with a legitimate claim suffer dismissal by the federal court if the statute of limitations lapses during the time the prisoner spends exhausting administrative remedies? The Prisoner Litigation Reform Act (PLRA) of 1996 offers no guidance. Federal courts may choose to apply equitable tolling to a prisoner’s claim should this predicament arise, saving it from dismissal based on tardiness, but nothing requires the court to do so.

The PLRA’s enigmatic exhaustion requirement has engendered much litigation, and the Supreme Court has clarified its operation on several occasions. The Court has not, however, had occasion to rule on whether the PLRA’s mandatory exhaustion requirement also includes a mandatory tolling provision during the period of exhaustion. Several of the circuit courts have addressed the issue, but they are by no means uniform in their treatment of the issue. This Note argues that the PLRA should be amended to provide a tolling provision that accompanies its exhaustion requirement. In the absence of such amendment, this Note argues that for cases arising under Georgia law, the Eleventh Circuit should adopt a per se rule of tolling because Georgia’s tolling doctrine supports the application of tolling to prisoner suits brought under the PLRA.
Enforceability of Choice-of-Law Clauses in the Context of Misclassification Litigation: Bridging the Gap Between Worker and Employer .......................... Koleen Stasia Sullivan 1359

Picture this: a California resident working in California files suit against the employer for allegedly misclassifying the worker as an independent contractor instead of an employee. The employer is headquartered in Georgia and the worker has signed an employment contract including a choice-of-law clause selecting Georgia law. Does Georgia law apply? If the language of the clause is broad enough to include a misclassification claim, perhaps. What if the application of Georgia law violates California public policy? The answer to this is almost assuredly a resounding “no.” But should Georgia law apply?

This Note argues that it should, under the right circumstances. The distinction between an employee and an independent contractor varies from state to state. Companies, both large and small, hiring independent contractors in multiple states struggle to comply with this diverse body of law, leading to costly litigation and penalties due to noncompliance. However, misclassification undeniably poses a significant problem for workers and state and federal treasuries as well. So how can this gap between worker and employer be bridged? This Note argues that if there is a substantial connection between the chosen state and the employer and the language of the contract clearly demonstrates that the worker is foregoing the right to litigate a misclassification claim under the law of the worker’s state of residence, the clause should be enforceable. Enforcing choice-of-law clauses under these circumstances will prevent a race to the bottom on the part of the employers, respect party autonomy, and reduce uncertainty in litigation for the employer.
TABLE OF CONTENTS

SYMPOSIUM ARTICLES

FROM BENCH TO SOCIETY: LAW AND ETHICS AT THE FRONTIER OF GENOMIC TECHNOLOGY
Jamie S. King ................................................................. 1587

WHAT REAL-WORLD CRIMINAL CASES TELL US ABOUT GENETICS EVIDENCE
Deborah W. Denno .......................................................... 1591

MATERNAL SMOKING DURING PREGNANCY AND OFFSPRING HEALTH OUTCOMES: THE ROLE OF EPIGENETIC RESEARCH IN INFORMING LEGAL POLICY AND PRACTICE
Taylor F. Smith, Matthew A. Maccani, and Valerie S. Knopik ..... 1619

SEEKING GENOMIC KNOWLEDGE: THE CASE FOR CLINICAL RESTRAINT
Wylie Burke, Susan Brown Trinidad, and Ellen Wright Clayton.. 1649

ARTICLES

WADING INTO THE DAUBERT TIDE: SARGON ENTERPRISES, INC. v. UNIVERSITY OF SOUTHERN CALIFORNIA
David L. Faigman and Edward J. Imwinkelried ....................... 1665

THE RETURN OF RESULTS IN GENETIC TESTING: WHO OWES WHAT TO WHOM, WHEN, AND WHY?
Stephanie A. Alessi .......................................................... 1697

NOTES

COMPETITIVE REGULATION OF MOBILE SOFTWARE SYSTEMS: PROMOTING INNOVATION THROUGH REFORM OF ANTITRUST AND PATENT LAWS
Josh Baskin ................................................................. 1727

TOWARD EFFECTIVE ACCESS TO JUSTICE IN HAITI: ELIMINATING THE MEDICAL CERTIFICATE REQUIREMENT IN RAPE PROSECUTIONS
Shannon D. Lankenau ....................................................... 1759