Contents of Current Legal Periodicals
September 16, 2013, 1401

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 J-W

JUDICATURE, v. 96, no. 6, May – June, 2013
LAW & PSYCHOLOGY REVIEW, v. 37, 2012-2013
LITIGATION., v. 39, no. 3, Summer, 2013
NOTRE DAME LAW REVIEW, v. 88, no. 4, April, 2013
PHILOSOPHY & PUBLIC AFFAIRS, v. 41, no. 2, Spring, 2013
REAL ESTATE FINANCE, v. 30, no. 1, June, 2013
SAINT LOUIS UNIVERSITY LAW JOURNAL, v. 57, no. 4, Summer, 2013
STANFORD LAW & POLICY REVIEW, v. 24, no. 1, 2013
STANFORD LAWYER, v. 47, no. 2, Spring, 2013
TEXAS TECH LAW REVIEW, v. 45, no. 3, Spring, 2013
UNIVERSITY OF CINCINNATI LAW REVIEW, v. 81, no. 2, Winter, 2012
UNIVERSITY OF SAN FRANCISCO LAW REVIEW, v. 47, no. 3, Winter, 2013
VANDERBILT LAW REVIEW, v. 66, no. 4, May, 2013
WISCONSIN LAW REVIEW, v. 2013, no. 3
ARTICLES

Judicial Review of Student Challenges to Academic Misconduct Sanctions

Barbara A. Lee 511

Studies have concluded that academic misconduct by college students—plagiarism and cheating—has increased since the beginning of the twenty-first century. Because the sanctions for academic misconduct may be severe (suspension, expulsion, or at a minimum, an entry on the student’s transcript of an academic integrity violation), the incentive for students to challenge these sanctions is substantial. This article reviews legal challenges brought by students since the year 2000 to institutional determinations that they have engaged in plagiarism or cheating. It examines the scope and amount of judicial deference in reviewing institutional judgments that a student has violated an academic integrity policy, analyzes the amount of due process and compliance with institutional policies required by courts, and discusses courts’ responses to student claims that their conduct was uninformed or unintentional. The article then provides recommendations for institutional action to minimize student academic misconduct.

CLS v. Martinez and Competing Legal Discourses over the Appropriate Degree of Judicial Deference to the Co-Curricular Realm

Neal H. Hutchens, Kristin Wilson, Jason Block 541

Public colleges and universities have faced legal challenges in recent years from members of student organizations testing the legal permissibility of institutions conditioning official recognition for student groups on adherence to campus nondiscrimination rules. Legal contention over this issue reached a high point when a closely divided Supreme Court, in a five-to-four decision, upheld a law school’s nondiscrimination policy in Christian Legal Society v. Martinez. Guided by discourse analysis methods, the article explores the markedly differing ways that the majority and dissenting justices relied on precedent, their competing interpretations of the facts and legal issues presented in the case, and their conflicting characterizations of colleges and universities in relation to nondiscrimination efforts. The analysis reveals significant legal and ideological differences between the justices regarding higher education. Depending on which view of higher education ultimately prevails, the Supreme Court may demonstrate a greater willingness to extend judicial deference to the co-curricular realm. Alternatively, the lack of trust in colleges and universities displayed by the dissenting justices could indicate, depending on the Court’s membership, the possibility of a contraction of judicial deference to academic decisions in future decisions.
The Chicago Tribune v. The University of Illinois: The Latest Iteration of New Textualist Interpretation of FERPA by the Federal Courts

Sam Schmitt, David Aronofsky

The Chicago Tribune Co. v. The Board of Trustees of the University of Illinois is the most recent iteration of a trend in which the Family Educational Rights Protection Act ("FERPA") is interpreted by the federal circuit courts according to the plain language and original meaning of the text rather than the Congressional intent or other "softer" sources. Responding in part to United States Supreme Court decisions in Gonzaga University v. Doe and Owasso Independent School District v. Falvo, this interpretive trend can be found in all the federal circuit courts that have applied FERPA in the last twenty years. This article first summarizes and explains the current state of FERPA law, twenty years of federal circuit court case law, and the recent Seventh Circuit dismissal of The Chicago Tribune for lack of federal subject matter jurisdiction. The authors argue that if university administrators and state court judges can apply FERPA according to its plain language and original meaning, they will be able to accurately predict the outcomes of FERPA disputes and expect federal courts to reach concurrent conclusions.

NOTES

Open-Records Requests for Professors' Email Exchanges: A Threat to Constitutional Academic Freedom?

William K. Briggs

In March of 2011, an academic freedom controversy arose when the Wisconsin Republican Party filed an open-records request to obtain emails from a University of Wisconsin professor, William Cronon, who had criticized legislation by Wisconsin’s Republican governor eliminating collective bargaining rights for the state’s public employees. While the University of Wisconsin largely complied with the request, it cited academic freedom to justify withholding private emails between Cronon and other professors. Lost in the national media storm which ensued was the question of whether the university could legally rely on constitutional academic freedom to protect such scholarly email exchanges from disclosure under open-records laws. This Article finds that constitutional academic freedom, to the extent it is even recognized by courts, is not implicated by scholarly email exchanges such as those involving Professor Cronon. Moreover, even if constitutional academic freedom was implicated, the Article finds that it would not offer protection in a state court’s adjudication of an open-records dispute because of the fundamental policy interests in favor of open access. Because the importance of academic freedom as a principle makes this answer somewhat unsatisfying, the Article concludes by examining reforms to protect scholarly email exchanges from disclosure under open-records laws. While amendments to open-records statutes are considered, the Article concludes that the best solution is to advance a statutory interpretation argument that scholarly email exchanges should not even be considered "public records" under existing open-records laws.
Student-on-Student Sexual Assault Policy: How a Victim-Centered Approach Harms Men

Alexandra Fries

This note reviews the Office of Civil Right’s April 4, 2011 Dear Colleague letter, in which the OCR mandates that colleges and universities that receive federal funding apply a preponderance of the evidence standard in disciplinary hearings concerning student on student sexual assault. This note considers the negative effects that being found responsible for sexual assault can have on a student’s future, especially in light of the fact that the disciplinary hearing is probably the only opportunity the student will have to clear his name. As a result, this note argues that an amendment to Title IX, which would articulate that the clear and convincing standard of evidence is the minimum evidentiary standard that may be required in this context, would benefit students accused of sexual assault and recognize the precarious position these men are placed in by requiring more than merely 50.1% certainty prior to holding a student responsible for sexual assault.

Boston College’s Defense of the Belfast Project: A Renewed Call for a Researcher’s Privilege to Protect Academia

Frank Murray

Protecting the free exchange of ideas in academia, much like in journalism, has long been considered an American value and a necessary condition for a free and healthy democracy. The importance of academic autonomy, including the processes by which scholars collect, store, and exchange information, is correspondingly of great importance to anyone happily living in a free society. Recent efforts by Boston College to fight the federal government, acting on behalf of the United Kingdom to secure confidential and highly sensitive audio tapes collected and archived as part of an academic study, shed new light on an ailment in American law. The tremendous legal challenge that Boston College has recently endured in its unsuccessful bid to protect academic sources is not only offensive to our social conscience but also, on a more technical level, stands in staunch contrast to cutting edge developments in international human rights law. Ironically, the subpoena request from the United Kingdom asks the United States to perform an act that would be of highly questionable legality under European law to which the United Kingdom is bound—Article 10 of the European Convention on Human Rights. If a researcher’s privilege is to be recognized in the United States, it will require the Supreme Court to recalculate, much like European courts have, the great societal value of scholarly research.
BOOK REVIEW

Fixing Copyright in Three Impossible Steps: Review of How to Fix Copyright by William Patry
Mark P. McKenna 715

ESSAYS

Academic Freedom and Political Indoctrination
Kenneth L. Marcus 725

Advocacy Versus Indoctrination: A Reply to Kenneth Marcus
Cary Nelson 749
# TABLE OF CONTENTS

## CONTRIBUTED ARTICLES

<table>
<thead>
<tr>
<th>Title</th>
<th>Authors</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Empathy for Psychopaths: Using fMRI Brain Scans to Plea for Leniency in Death Penalty Cases</td>
<td>Kimberly D. Phillips</td>
<td>1</td>
</tr>
<tr>
<td>The Propriety of Peremptory Challenges for Perceived Personality Traits</td>
<td>Erik J. Girvan, Robert J. Cramer, Caroline Titcomb, Tess M.S. Neal, Stanley L. Brodsky</td>
<td>49</td>
</tr>
<tr>
<td>Paved with Good Intentions: Sentencing Alternatives from Neuroscience and the Policy of Problem-Solving Courts</td>
<td>Emily R. Murphy</td>
<td>83</td>
</tr>
<tr>
<td>Can the Courts Tell An Ear from an Eye? Legal Approaches to Voice Identification Evidence</td>
<td>Cindy E. Laub, Lindsey E. Wylie, Brian H. Bornstein</td>
<td>119</td>
</tr>
<tr>
<td>Coerced Internalized False Confessions and Police Interrogations: The Power of Coercion</td>
<td>Frances E. Chapman</td>
<td>159</td>
</tr>
</tbody>
</table>

## STUDENT ARTICLES

<table>
<thead>
<tr>
<th>Title</th>
<th>Authors</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Case for Castration: A “Shot” Towards Rehabilitation of Sexual Offenders</td>
<td>Laura S. Chism</td>
<td>193</td>
</tr>
<tr>
<td>Solitary Confinement: The Law Today and the Way Forward</td>
<td>John F. Cockrell</td>
<td>211</td>
</tr>
<tr>
<td>Implicit Bias and the Problem of Certainty in the Criminal Standard of Proof</td>
<td>Casey Reynolds</td>
<td>229</td>
</tr>
<tr>
<td>Behavioral Economics: An Insight Into Antitrust</td>
<td>Matt Tate</td>
<td>249</td>
</tr>
</tbody>
</table>
## The Client

### FEATURES

<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>An Interview with the Most Rehabilitated Prisoner in America</td>
<td>16</td>
</tr>
<tr>
<td>STEPHANIE KANE</td>
<td></td>
</tr>
<tr>
<td>Wilbert Rideau was sentenced to death in 1961, at age 19. He was freed in 2005, after his fourth trial.</td>
<td></td>
</tr>
<tr>
<td>Representing the Anonymous Client</td>
<td>24</td>
</tr>
<tr>
<td>FRANK F. SOMMERS</td>
<td></td>
</tr>
<tr>
<td>A lawsuit over online defamation turns into a case study in how the issue of anonymity applies to social media sites.</td>
<td></td>
</tr>
<tr>
<td>From Death Row to Rehabilitation and Redemption</td>
<td>31</td>
</tr>
<tr>
<td>JEFFREY D. COLMAN</td>
<td></td>
</tr>
<tr>
<td>A man sentenced to life for a crime committed when he was under the age of 18 is finally freed after 27 years following a U.S. Supreme Court ruling.</td>
<td></td>
</tr>
<tr>
<td>Ghostwriting and the Invisible Lawyer</td>
<td>36</td>
</tr>
<tr>
<td>PETER R. BORNESTEIN</td>
<td></td>
</tr>
<tr>
<td>Limited representation of clients, called unbundling, is a growing trend that raises a variety of potential legal and ethical issues.</td>
<td></td>
</tr>
<tr>
<td>Sua Sponte</td>
<td>37</td>
</tr>
<tr>
<td>HON. JOHN L. KANE</td>
<td></td>
</tr>
<tr>
<td>A judge comments on the practice of unbundled legal services.</td>
<td></td>
</tr>
<tr>
<td>Defending Masters of the Universe in White-Collar Cases</td>
<td>42</td>
</tr>
<tr>
<td>ASHISH S. JOSHI AND ANDREW BOSSORY</td>
<td></td>
</tr>
<tr>
<td>It isn't a crime to be rich, but defending the rich often brings its own set of issues.</td>
<td></td>
</tr>
<tr>
<td>Managing Clients in Life-Threatening Litigation</td>
<td>46</td>
</tr>
<tr>
<td>DEMOSTHENES LORANDOS</td>
<td></td>
</tr>
<tr>
<td>High-conflict legal battles can produce stress so intense that it actually threatens the life of clients.</td>
<td></td>
</tr>
</tbody>
</table>
COLUMNS

FROM THE BENCH
Advice for Appellate Litigators
HON. DIANE S. SYKES

ON THE PAPERS
How to Overburden Your Reader
GEORGE D. GOPEN

IWITNESS
How to Conduct a Paperless Trial
DAVID L. MASTERS

ADVANCE SHEET
Natural Rights—Requiescant in Pace
ROBERT E. SHAPIRO

GLOBAL LITIGATOR
Anticorruption Litigation Does Not Stop at the Water’s Edge
GLENN WARE AND KINDRA MOHR

SIDE BAR
A Bug Flew in My Eye
KENNETH P. NOLAN

SCRUPLES
The Lying Client
MICHAEL DOWNEY

HEADNOTES

RULEMAKING
We Need to Do Something about Arbitration
GREGORY P. JOSEPH

LAWYER MARKETING
Decent Exposure
PAMELA SAKOWICZ MENAKER

TRIALS
A Storyteller’s Apprentice
SARAH F. KING

SOCIAL MEDIA
Social Media Sobriety Tests for Employees?
YURI MIKULKA

ETHICS
The Ethics-Procedure Dichotomy
BRUCE A. GREEN

LETTERS TO THE EDITOR


NOTRE DAME LAW REVIEW

Volume 88 Number 4

CONTENTS

ARTICLES

Time-Bars: RICO-Criminal and Civil-Federal and State .......................... G. Robert Blakey 1581

Optimizing English and American Security Interests ............................ Lynn M. LoPucki 1785
Arvin I. Abraham
Bernd P. Delahaye

The Twin Aims of Erie ........................................ Michael Steven Green 1805

NOTES

Sustained Dissent and the Extended Deliberative Process .................... Jon G. Heintz 1939

The Resurrection of the "Single Scheme" Exclusion To RICO's Pattern Requirement ... Kevin J. Murphy 1991

Too Many Cooks in the Kitchen?: The Potential Concerns of Finding More Parents and Fewer Legal Strangers In California's Recently-Proposed Multiple-Parents Bill .... Elizabeth A. Pfenson 2023
2 Identifying Redevelopment and Other Land Use Changes: No Permits Required
By Kiplan S. Womack

7 Tenancy in Common Is Held to Be a Security
By Dr. Mark Lee Levine

14 Equity-Based Housing Finance for Low-Income Households
By Peter Chinloy and Isaac Megbolugbe

18 Real Estate Tax Update
By Jill H. Loftus, Alan Naragon, Edward Herald, Patrick Barrett, and Christopher Jetter
# Table of Contents

**Childress Lecture**

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Nino's Nightmare: Legal Process</strong></td>
<td></td>
<td>865</td>
</tr>
<tr>
<td>Theory as a Jurisprudence of Toggling Between Facts and Norms</td>
<td>William N. Eskridge, Jr.</td>
<td></td>
</tr>
<tr>
<td><strong>Decision Theory and Babbit v. Sweet</strong></td>
<td></td>
<td>909</td>
</tr>
<tr>
<td>Home: Skepticism About Norms, Discretion, and the Virtues of Purposivism</td>
<td>Victoria F. Nourse</td>
<td></td>
</tr>
<tr>
<td><strong>A Harder &quot;Hard Case&quot;</strong></td>
<td>Doug Williams</td>
<td>931</td>
</tr>
<tr>
<td><strong>Faithful Agency Versus Ordinary Meaning Advocacy</strong></td>
<td>James J. Brudney</td>
<td>975</td>
</tr>
<tr>
<td><strong>Steer Clear of the Twilight Zone and Apply Common Sense:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A Few Thoughts on Statutory Interpretation</td>
<td>Richard D. Cudahy</td>
<td>997</td>
</tr>
<tr>
<td><strong>Interpretation and Accessibility</strong></td>
<td>Karen Petroski</td>
<td>1003</td>
</tr>
</tbody>
</table>

**Note**

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Page</th>
</tr>
</thead>
</table>

**Comments**

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Modernizing Underinsured Motorist Coverage in Missouri: Removing the Insurance Paradox Between Uninsured and Underinsured Coverage via Legislative Action</strong></td>
<td>David W. Reynolds</td>
<td>1049</td>
</tr>
<tr>
<td><strong>When, Where and Why the First Amendment Protects the Right to Record Police Communications: A Substantial Interference Guideline for Determining the Scope of the Right to Record and for Revamping Restrictive State Wiretapping Laws</strong></td>
<td>Justin Welply</td>
<td>1085</td>
</tr>
</tbody>
</table>
FEATURES

THE DEFENSELESS MARRIAGE ACT: THE LEGITIMACY OF PRESIDENT OBAMA’S REFUSAL TO DEFEND DOMA § 3
STACY PEPPER.................................................................1

NO SUCH THING AS A FREE LUNCH: PATERNALISM, POVERTY, AND FOOD JUSTICE
REBECCA L. GOLDBERG......................................................35

ELIMINATING REGULATORY RELIANCE ON CREDIT RATINGS: RESTORING THE STRENGTH OF REPUTATIONAL CONCERNs
BIANCA MOSTACATTO..........................................................99

SYMPOSIUM: ROE V. WADE AT 40

PRESERVING ROE V. WADE . . . WHEN YOU WIN ONLY HALF THE LOAF
LINDA J. WHARTON & KATHRYN KOLBERT........................................143

STANDING FOR SOMETHING
CONGRESSWOMAN LOUISE M. SLAUGHTER........................................167

THE UPSIDE OF ABORTION DISCLOSURE LAWS
ERIN BERNSTEIN.................................................................171

ROE’S RAGGED REMNANT: VIABILITY
MARK OSLER.................................................................215

ROE V. WADE’S 40TH ANNIVERSARY: A MOMENT OF TRUTH FOR THE ANTI-ABORTION-RIGHTS MOVEMENT?
CAITLIN E. BORGMAANN......................................................245

CRISTINA’S WORLD: LESSONS FROM EL SALVADOR’S BAN ON ABORTION
MICHELLE OBERMAN...........................................................271
STANFORD LAWYER

Cover Story
12 LAW AND BUSINESS IN EMERGING MARKETS
Law and business come together in emerging economies where the very development of law is often happening as markets mature. In this article we look at lawyers working around the globe in emerging markets to help build companies, while influencing the legal infrastructure for business to thrive.

Feature
18 A POSITIVE DISRUPTION: THE TRANSFORMATION OF LAW THROUGH TECHNOLOGY
Stanford Law School has become a startup hotbed in recent years, with faculty, students, and alumni leading the way. Here we explore legal tech, looking at issues surrounding it and at how innovations begun here are influencing the legal profession.

Legal Matters
26 LESSONS NOT LEARNED
Former CPTC Chair Brookley E. Born, JD ’64 (BA ’61), discusses past and future risks in the derivatives market with former SEC Commissioner Joseph A. Grundfest, JD ’78, W.A. Franke Professor of Law and Business.

In Brief
2 ALUMNI AND SCHOOL NEWS

In Focus
5 REPORTING TO THE GOVERNOR: STUDENTS EXPLORE POLICY IMPLICATIONS OF REALIGNMENT
Students taking the Advanced Seminar on Criminal Law and Public Policy had the opportunity to engage in important research on California’s Public Safety Realignment legislation—and to present their findings directly to Governor Jerry Brown.
6 CLARENCE OTIS: LEADING A CASUAL DINING EMPIRE
Clarence Otis, JD ’80, heads the largest casual dining empire in America. In this profile, we look at the man behind Red Lobster, Olive Garden, Bahama Breeze, and other popular favorites.
8 BEYOND HEALTH: THE INTERPLAY OF LAW AND MEDICINE
An interdisciplinary course, Medical-Legal Issues in Children’s Health, brings law and medical students together to address issues relevant to each, such as obesity, housing, disability, and more.
10 AN INSIDER’S VIEW: STUDYING THE U.S. SENATE WITH SENATOR FEINGOLD
A guest lecturer at Stanford Law School this year, former Senator Russell D. Feingold shares his knowledge and experience with students in a unique class The United States Senate as a Legal Institution.

Clinic News
30 AT THE SUPREME COURT: BOATS AND MARRIAGE
A report on the Stanford Supreme Court Litigation Clinic’s work on two cases—one challenging the Defense of Marriage Act (DOMA) and the other attempting to establish a clear definition of a vessel.

Perspectives
33 FIGHTING DOMA: VETERANS AS AMICI CURIAE
Stanford Law Veterans Organization members Jesse Birbach, JD ’13, Sam Jacobsen, JD ’14, and Jake Klonoski, JD ’13, weigh in on DOMA in this opinion piece.

Scholarship
34 ON THE CONTINGENCY FEE COST PARADOX and GOVERNING SECURITY
Reports on new works by Stanford Law professors Nora Freeman Engstrom, JD ’02, and Mariano-Florentino Cuéllar (MA ’96, PhD ’00).

Faculty News
36 Stanford Law School faculty awards and highlights

Point of View
38 FIXING THREE STRIKES
David W. Mills, professor of the practice of law and senior lecturer, describes his involvement with Stanford Law School’s Three Strikes Project working with clients and efforts to change the three strikes law.

Last Word
84 Faye Deal, the associate dean for admissions and financial aid, shares her thoughts on “First Person,” a student organization introduced as a way of building community.

Departments
FROM THE DEAN
45 CLASSMATES
83 IN MEMORIAM
## Contents

### Columns

**Tax Trends**  
*By Mark A. Luscombe*  

3

**International Tax Watch**  
*By Stewart R. Lipelis, John D. McDonald and Joseph A. Myszka*  

5

**Tax Practice**  
*By William D. Elliott*  

19

**Employee Benefits Corner**  
*By Elizabeth Thomas Dold and David N. Levine*  

25

**The Estate Planner**  
*By Lewis Saret*  

29

### Articles

**Loving: A Case of Overreaching?**  
*By Vincent R. Barrella and Walter Antognini*  

33

**Tax Preparer Penalties for Relying on Incorrect Client Information**  
*By Paul J. Lee*  

49

**Do You Know the Balance in Your ODL or OFL?**  
*By Darren J Mills and Jamison Sites*  

53

**Tax Planning After the American Taxpayer Relief Act of 2012**  
*By David R. Nave*  

59
CONTENTS

FOREWORD
Judge Jerry E. Smith

Survey Articles

BANKRUPTCY
Blake H. Bailey

BUSINESS LITIGATION
Sofia Adrogué, P.C.

CIVIL PROCEDURE
Luke J. Gilman and Richard A. Howell

COMMERCIAL LITIGATION
David S. Coale

CRIMINAL PROCEDURE
William B. Mateja and Albert A. Starkus III

EMPLOYMENT LAW
Dean J. Schaner and A. John Harper III

ENVIRONMENTAL LAW
Kellie E. Billings-Ray, Megan Maddox Neal, and Mary E. Smith

EVIDENCE LAW
Richard A. Howell and Mallory A. Beck

FEDERAL TAXATION
William D. Elliott

i

603

645

671

687

711

727

769

793

811
UNIVERSITY OF CINCINNATI
LAW REVIEW
Volume 81 Winter 2012 No. 2

TABLE OF CONTENTS

TWENTY-FIFTH ANNUAL CORPORATE LAW SYMPOSIUM: IMPLEMENTING DODD–FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

PROPRIETARY TRADING: OF SCOURGES, SCAPEGOATS, AND SCOFFLAWS ......................... Onnig H. Dombalagian 387

THE FAILURE OF INVESTOR PROTECTION BY DISCLOSURE ........................................ Tamar Frankel 421

DESIRE, CONSERVATISM, UNDERFUNDING, CONGRESSIONAL MEDDLING, AND STUDY FATIGUE: INGREDIENTS FOR ONGOING REFORM AT THE SECURITIES AND EXCHANGE COMMISSION? ............... Joan MacLeod Heminway 443

RESOLUTION, ORDERLY AND OTHERWISE: B OF A IN OLA ........................................... Stephen J. Lubben 485

DODD–FRANK’S PROTECTIONS FOR SENIOR CITIZENS: AN IMPORTANT, YET INSUFFICIENT STEP ........................................ Julie Goldsmith Reiser & Michael B. Eisenkraft 521

WILL THE FEDERAL INSURANCE OFFICE IMPROVE INSURANCE REGULATION? ........ Elizabeth F. Brown 551

ARTICLE

RISKY MAIL: CONCERNS IN CONFIDENTIAL ATTORNEY–CLIENT EMAIL ...................... Rebecca Bolin 601
COMMENTS AND CASENOTES

THE ARTFUL DODGERS: SECURITIES FRAUD, ARTFUL PLEADING, AND PREEMPTION OF STATE LAW CAUSES OF ACTION UNDER THE SECURITIES LITIGATION UNIFORM STANDARDS ACT .................... Gregory Kendall 657

TAMING THE WILD WILD WEB: TWENTY-FIRST CENTURY PRIZE LAW AND PRIVATEERS AS A SOLUTION TO COMBATING CYBER-ATTACKS .................. B. Nathaniel Garrett 683

YOU’RE ONLY AS GOOD AS YOUR TAX SOFTWARE: THE TAX COURT’S WRONGFUL APPROVAL OF THE TURBOTAX DEFENSE IN OLSEN V. COMMISSIONER.......................... Kacey Marr 709

HOME FIELD ADVANTAGE? AN ANALYSIS OF WORKERS’ COMPENSATION CHOICE-OF-LAW AND CHOICE-OF-FORUM PROVISIONS IN NFL CONTRACTS.................... Bryan Holbrook 731

DODD-FRANK’S WHISTLEBLOWER PROVISION FAILS TO GO FAR ENOUGH: MAKING THE CASE FOR A QUI TAM PROVISION IN A REVISED FOREIGN CORRUPT PRACTICES ACT .................... B. Nathaniel Garrett 765
UNIVERSITY OF SAN FRANCISCO
LAW REVIEW

VOLUME 47  WINTER 2013  NUMBER 3

CONTENTS

ARTICLES

ENVIRONMENTAL JUSTICE IN THE DEEP SOUTH:
A GOLDEN ANNIVERSARY REFLECTION ON STIMULUS AND
CHANGE
Jonathan C. Augustine ................................. 399

NO MONEY, MO' PROBLEMS: WHY UNPAID LAW FIRM
INTERNSHIPS ARE ILLEGAL AND UNETHICAL
Eric M. Fink .............................................. 435

A CRIME OF ITS OWN? A PROPOSAL FOR ACHIEVING GREATER
SENTENCING CONSISTENCY IN NEONATICIDE AND INFANTICIDE
CASES
Margaret Ryznar ........................................ 459

A CASE FOR GRADE INFLATION IN LEGAL EDUCATION
Joshua M. Silverstein ................................ 487

COMMENTS

PARENTING RIGHTS IN CALIFORNIA: MARRIAGE V. BIOLOGY
Jennifer Bryan ........................................... 571

THE BEHIND CLOSED DOOR POLICY: EXECUTIVE INFLUENCE
IN THE ENVIRONMENTAL PROTECTION AGENCY'S INFORMAL
RULEMAKING
Jaclyn L. Falk ........................................... 593

WHY MANY MERITORIOUS ELDER ABUSE CASES IN CALIFORNIA
ARE NOT LITIGATED
Daniel L. Madow ....................................... 619
Tributes
A Tribute to Professor James E. Jones, Jr.: In Honor of an “Honor Man”
Mario L. Barnes 693

Jim Jones: A Professor’s Professor
Daniel O. Bernstone 699

Keeping up with Jim Jones: Pioneer, Taskmaster, Architect, Trailblazer
Kimberle Williams Crenshaw 703

The Death of Affirmative Action?
Michele Goodwin 715

James E. Jones, Jr.: Paradigm Breaker, Paradigm Maker
Linda Greene 727

Coming Full Circle
Stacy Leeds 733

The Hastie Fellowship Program at Forty: Still Creating Minority Law Professors
Thomas W. Mitchell 737

Jim Jones: A Teacher, a Mentor, and an Inspiration to Law Students
William C. Whitford 747

Articles
Consent Forms and Consent Formalism
Nancy Leong & Kira Suyeishi 751

Patent Law and the Sociology of Innovation
Laura G. Pedraza-Fariña 813

Note
When Does Dual For-Cause Removal Protection Become Unconstitutional? Exploring the Scope of Free Enterprise Fund v. Public Company Accounting Oversight Board
David Moon 875