



SMU | DEDMAN
SCHOOL OF LAW

SMU Law Review

Volume 70

2017

Front Matter

Follow this and additional works at: <http://scholar.smu.edu/smulr>



Part of the [Law Commons](#)

Recommended Citation

Front Matter, 70 SMU L. Rev. i (2017)

<http://scholar.smu.edu/smulr/vol70/iss1/1>

This Front Matter is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in SMU Law Review by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

SMU Law Review

VOLUME 70

WINTER 2017

NUMBER 1

© 2017 by Southern Methodist University

TABLE OF CONTENTS

ARTICLES

- The Shadow of *Free Enterprise*:
the Unconstitutionality of the
Securities & Exchange Commission's
Administrative Law Judges *Linda D. Jellum* 3
and Moses M. Tincher
- Are Validation Notices Valid?
An Empirical Evaluation of
Consumer Understanding of Debt
Collection Validation Notices *Jeff Sovern* 63
and Kate E. Walton
- The Carried Interest Standoff: Reaffirming
Executive Agency Authority *Gregory Crespi* 153
and Dean Galaro

CASENOTES

- Reaching Across the Threshold of the
Fourth Amendment—Why *Payton v.*
New York Should be
Interpreted Broadly *Caroline Hunt* 189
- First Amendment Commercial Speech—
Swipe Fees Mute Texas Merchants *Shelby T. Perry* 197
- From Blockbuster to Mobile Apps—
Video Privacy Protection Act of 1988
Continues to Protect the Digital Citizen *Ann Stehling* 205
- Soggy Debt—The Seventh Circuit Widens
the Split on FDCPA Liability for
Time-Barred Claims in Bankruptcy *Elijah C. Stone* 213

Copyright Ownership—Even Iron Man Couldn't
Protect the Work for Hire Doctrine
from Third-Party Infringers *Elizabeth Vinson* 221

The *SMU Law Review* (ISSN 1066-1271) is published four times a year, (1) Winter, (2) Spring, (3) Summer, and (4) Fall, by the SMU Law Review Association, Storey Hall, Dallas, Texas 75275. Domestic subscription price, \$42.00 per year. Foreign subscription price, \$49.00 per year. Single copies: Regular issues, \$18.00 (add 8.25% tax on single issue orders within the state of Texas. Tax exempt institutions must include copy of exemption certificate with order.) An additional charge will be made for postage and handling of each order of single copies. Prior issues, volumes 1-66, are available from: William S. Hein & Co.; 2350 North Forest Road; Getzville, NY 14068. Volumes 67-68 are available from: *SMU Law Review*; Southern Methodist University; Dedman School of Law; P.O. Box 750116; Dallas, TX 75275-0116.

POSTMASTER: Send address changes to: *SMU Law Review*; Southern Methodist University; Dedman School of Law; P.O. Box 750116; Dallas, TX 75275-0116.

Editorial and business offices: *SMU Law Review*; Southern Methodist University; Dedman School of Law; P.O. Box 750116; Dallas, TX 75275-0116. Office: 214.768.2061 or 214.768.2570. Printed by Joe Christensen, Inc.; Lincoln, Nebraska 68521.

Periodicals postage paid at Dallas, Texas and at additional mailing offices.

Citations conform with *The Bluebook: A Uniform System of Citation* (20th ed. 2015) and *Texas Rules of Form* (13th ed. 2015).

SMU Law Review

VOLUME 70

WINTER 2017

NUMBER 1

Member, National Conference of Law Reviews

THE SMU LAW REVIEW ASSOCIATION 2016 – 2017 BOARD OF EDITORS

President

SARAH ABOUKHAIR

*Journal of Air Law &
Commerce Editor-in-Chief*
ABIGAIL STORM

Texas Survey Editor
JIN S. SHIN

*SMU Law Review
Editor-in-Chief*
ALLISON COOK

*Journal of Air Law &
Commerce Managing Editor*
KATHERINE LOWE

*Associate Texas Survey
Editor*
KAYLA JOHNSON

*SMU Law Review
Managing Editor*
CHASE HILTON

*JALC Associate
Managing Editors*
JESSICA MANNON
BRENNWYN ROMANO

*Lead Articles
Editors*
DAVID LASSETTER
TONYA MAKSIMENKO

*SMU Associate
Managing Editors*
JENNIFER TREJO
HAO WU

BARRET ARMBRUSTER
JONATHAN BASS
ZACHRY BRUCHMILLER
JORDAN BRUNS
HANNAH CLINE
LANDON HANKINS

Articles Editors
RYAN HOLM
RACHEL HURT
MADISON KEEBLE
ASHBEY MORGAN
JORDAN NEWMAN

IAN QUINN
LAURA E. SHAPIRO
OMAR SHARIFF
DANIEL TROIANO
ALEXANDER TURNER
KATHARYN ZAGORIN

JALC Comment Editors
KELLY ALMETER
LACI RESÉNDIZ

Executive Editor
JOHN SAGER

SMU Comment Editors
LAURA CHOI
ANNA OLIN

*Administrative Managing
Editor*
DANA HILZENDAGER

JESSICA SCHAUWECKER

*Air Law Symposium
Editor*
DEAN GOULD

Symposium CLE Editors
JACOB L. NOVAK
SHEILA SALOPEK

*Corporate Counsel
Symposium Editors*
KATHERINE GEDDES
BRETT MOORE

*Air Law
Associate Symposium Editor*
JOSH FULLER

*Symposium Technology
Editor*
AARON PIROUZNA

*Journal of Air Law and
Commerce Faculty Advisor*
GREGORY S. CRESPI

*Alternative Dispute Resolution
Symposium Editors*
TREVOR LAWHORN
SUSAN WHEAT

*SMU Law Review
Faculty Advisor*
THOMAS WM. MAYO
ANTHONY J. COLANGELO

*Journal of Air Law and Commerce
Administrative Assistant*
LISA BROWNING

*SMU Law Review
Administrative Assistant*
TALIBRA FERGUSON

MEMBER, NATIONAL CONFERENCE OF LAW REVIEWS

THE SMU LAW REVIEW ASSOCIATION PUBLISHES BOTH
THE SMU LAW REVIEW AND THE JOURNAL OF AIR LAW AND COMMERCE

SMU Law Review

VOLUME 70

WINTER 2017

NUMBER 1

THE SMU LAW REVIEW ASSOCIATION 2016-2017 STAFF

ERIK ALLISON
CHRISTOPHER BAILEY
ERIN BREWER
SARAH BRIGGS
MATT CALLISON
MICAH CHAMBERS
RAJA CHATTERJEE
CHRISTOPHER COCHRAN
ALEXANDER COHEN
BROOKE DORRIS
AUBREY EDKINS
MICHAEL FECHNER
JOANNA FIRTH
CAIO FORMENTI
MORGAN FRANCY
SHANNON GLEN
TAYLER GREEN
CAROLINE HUNT
ALEXA JEFFUS
TIMOTHY JOHNSTON
TAYLOR KARA
JUSTIN KELLER
HALEY KING
CATHERINE KORDESTANI
EFREN LEMUS
COURTNEY LUSTER

ANNE MCGINNIS
SARAH MCLEROY
KATLYNE MILLER
MASHALL MOMIN
JOE O'CONNELL
CATHERINE PARSLEY
SHELBY PERRY
VICTORIA PETTY
ALEXANDRIA RAHN
LINDSEY RATTIKIN
CHRISTOPHER ROSS
RICHARD SALIBA
CORY A. SCANLON
MICHAEL SCHLINKERT
BRANDI SCHROEDER
STACI SCHWARTZ
PENELOPE SHUMWAY
MARY SOMMERS
PHILIP SPENCER
ANN STEHLING
ELIJAH STONE
JORDAN TANOURY
ROBERT UHL
ANDREW UPTON
ELIZABETH VINSON
BOBBY RYAN WEGER

SOUTHERN METHODIST UNIVERSITY DEDMAN SCHOOL OF LAW

OFFICERS OF THE UNIVERSITY

R. Gerald Turner, *President*
Steven C. Currall, *Provost and Vice President for Academic Affairs*
Harold W. Stanley, *Vice President for Executive Affairs*
Brad E. Cheves, *Vice President for Development and External Affairs*
Christine C. Regis, *Vice President for Business and Finance*
Paul J. Ward, *Vice President for Legal Affairs and Government Relations, General Counsel, and Secretary*
Dr. Pamela D. Anthony, *Vice President for Student Affairs*
Rakesh Dahiya, *University Treasurer*

DEDMAN SCHOOL OF LAW

FACULTY AND ADMINISTRATIVE STAFF

Jennifer Collins, *Judge James Noel Dean and Professor of Law*
Elizabeth G. Thornburg, B.A., J.D., *Senior Associate Dean for Academic Affairs and Richard R. Lee Endowed Professor of Law*
Nathan Cortez, B.A., J.D., *Associate Dean for Research and Adelfa Botello Callejo Endowed Professor of Law in Leadership and Latino Studies*
Mary B. Spector, B.A., J.D., *Associate Dean for Clinics and Professor of Law, Director of Consumer Advocacy Project, and Co-Director of the Civil Clinic*
Greg Ivy, B.B.A., M.A., J.D., *Associate Dean for Library & Technology Underwood Law Library*
Martin L. Camp, B.A., J.D., *Assistant Dean for Graduate and International Programs*
Becca Henley, B.A., J.D., *Assistant Dean for Administration*
Jill Nikirk, B.A., J.D., *Assistant Dean for Admissions*
Karen C. Sargent, B.B.A., J.D., *Assistant Dean and Executive Director for Career Services*
Stephen B. Yeager, B.B.A., J.D., *Assistant Dean for Student Affairs*
Laura G. Burstein, B.A., J.D., *Director of Public Service and Director of Academic Support*
Anne Beard, *Director of Development*
Lynn McVicker Dempsey, B.B.A., *Director of External Relations*
Linda A. Hale, B.A., J.D., *Director of Career Services*
Kristy Offenburger, *Director of Communications and Marketing*
Abby N. Ruth, B.S., J.D., *Director of Alumni Relations*
Rey Rodriguez, B.B.A., J.D., *Director of Career Services and Diversity and Inclusion Initiatives*
Roland C. Webb, B.S., M.B.A., *Director of Financial Services*
Laura Amberson, B.S., *Registrar*

FACULTY

Roy R. Anderson, B.A., J.D., LL.M., *Vinson & Elkins Distinguished Teaching Fellow and Professor of Law*
Maureen N. Armour, B.A., M.S.W., J.D., *Co-Director of Civil Clinic and Associate Professor of Law*
Misty Birdsong, B.A., J.D., *Adjunct Professor of Legal Research, Writing and Advocacy*
Lackland H. Bloom, Jr., B.A., J.D., *Professor of Law*
William J. Bridge, B.S.F.S., J.D., *Associate Professor of Law*
Cheryl Nelson Butler, B.A., J.D., *Assistant Professor of Law*
Regis W. Campfield, B.B.A., LL.B., *Professor Emeritus of Law and Marilyn Jeanne Johnson Distinguished Law Faculty Fellow Emeritus*
Beverly M. Carl, B.S.L., J.D., LL.M., *Professor Emerita of Law*
Dale Carpenter, B.A., J.D., *Judge William Hawley Atwell Chair of Constitutional Law and Professor of Law*
Michaela E. Cashen, B.A., J.D., *Senior Lecturer in Law*
Eric Cedillo, B.S., J.D., *Adjunct Clinical Professor of Law, Coordinator of Consumer Advocacy Project, Supervisor of Summer Civil Clinic*
Anthony J. Colangelo, B.A., J.D., LL.M., J.S.D., *Gerald J. Ford Research Fellow and Professor of Law*

James W. Coleman, B.A., J.D., *Assistant Professor of Law*
Nathan Cortez, B.A., J.D., *Associate Dean for Research and Adelfa Botello Callejo
Endowed Professor of Law in Leadership and Latino Studies*
Gregory S. Crespi, B.S., M.S., Ph.D., J.D., *Professor of Law*
Ruth A. Cross, B.A., J.D., *Director of Legal Research, Writing, and Advocacy
Program and Senior Lecturer in Law*
Greg Ivy, B.B.A., M.A., J.D., *Associate Dean for Library & Technology Underwood
Law Library*
David E. DePianto, B.A., J.D., Ph.D., *Assistant Professor of Law*
William V. Dorsaneo III, B.A., J.D., *Chief Justice John and Lena Hickman
Distinguished Faculty Fellow and Professor of Law*
Beverly C. Duréus, B.A., J.D., Th.M., *Senior Lecturer in Law*
Linda S. Eads, B.A., J.D., *Associate Provost and Associate Professor of Law*
Julia P. Forrester, B.S.E.E., J.D., *Associate Provost, Former Dean ad interim, and
Professor of Law*
Jeffrey M. Gaba, B.A., J.D., M.P.H., *M.D. Anderson Foundation Endowed Professor
in Health Law*
Joanna L. Grossman, B.A., J.D., *Ellen K. Solender Endowed Chair in Women and the
Law and Professor of Law*
Christopher H. Hanna, B.S., J.D., LL.M. (in Taxation), *Alan D. Feld Endowed
Professor of Law and Altshuler University Distinguished Teaching Professor*
Grant M. Hayden, B.A., M.A., J.D., *Professor of Law*
Patricia S. Heard, B.A., J.D., *Senior Lecturer in Law*
Marc A. Hubbard, B.S., J.D., *Adjunct Clinical Professor of Law, Patent Law Clinic*
JoAnn A. Hubbard, B.S., J.D., *Senior Lecturer in Law*
Christopher M. Jenks, B.S., J.D., LL.M., LL.M., Ph.D. Candidate, *Director of the
Criminal Justice Clinic and Assistant Professor of Law*
Larry Jones, B.B.A., J.D., LL.M. (Taxation), *Adjunct Clinical Professor of Law,
Federal Tax Clinic*
Jeffrey Kahn, B.A., M.Phil., D.Phil., J.D., *Professor of Law*
Ndiva Kofele-Kale, B.A., M.A., Ph.D., J.D., *University Distinguished Professor and
Professor of Law*
Henry J. Lischer Jr., B.B.A., J.D., LL.M. (Taxation), *Professor Emeritus of Law*
John S. Lowe, B.A., LL.B., *George W. Hutchison Professor of Energy Law*
George A. Martinez, B.A., M.A., J.D., *Professor of Law*
Thomas Wm. Mayo, B.A., J.D., *Altshuler University Distinguished Teaching Professor
and Associate Professor of Law*
Orly Sulami Mazur, B.B.A., M.P.A., J.D., LL.M. (Taxation), *Assistant Professor of
Law*
Mike McCollum, B.A., J.D., *Adjunct Clinical Professor of Law, Criminal Justice Clinic*
Charles J. Morris, B.A., LL.B., *Professor Emeritus of Law*
Frederick C. Moss, A.B., J.D., LL.M., *Professor Emeritus of Law*
John J. Mylan, B.S., J.D., LL.M. (in Taxation), *Professor Emeritus of Law*
Natalie Nanasi, B.A., J.D., *Director of the Judge Elmo B. Hunter Legal Center for
Victims of Crimes Against Women and Lecturer in Law*
Joseph Jude Norton, A.B., LL.B., LL.M, S.J.D., D.Phil., LL.D., LL.D., *James L.
Walsh Distinguished Faculty Fellow and Professor in Financial Institutions Law*
Victoria Palacios, J.D., *Associate Professor of Law*
Kenneth L. Penegar, A.B., J.D., LL.M., *Professor Emeritus of Law*
Chante Prox, B.S., M.S., J.D., *Director of the VanSickle Family Law Clinic and
Lecturer of Law*
W. Keith Robinson, B.S., J.D., *Co-Director of the Tsai Center for Law, Science and
Innovation and Associate Professor of Law*
C. Paul Rogers III, B.A., J.D., LL.M., *Professor of Law and Former Dean*
Meghan Ryan, A.B., J.D., *Associate Professor of Law*
Eliot Shavin, B.A., J.D., *Adjunct Clinical Professor of Law, Civil Clinic*
Mary B. Spector, B.A., J.D., *Associate Dean for Clinics and Professor of Law,
Director of Consumer Advocacy Project, and Co-Director of the Civil Clinic*
Walter W. Steele Jr., LL.B., *Professor Emeritus of Law*
Marc I. Steinberg, A.B., J.D., LL.M., *Rupert and Lillian Radford Chair in Law*
Heather L. Stobaugh, B.A., M.A., J.D., *Senior Lecturer in Law*
Diane M. Sumoski, B.A., J.D., *Director of the W.W. Caruth, Jr. Child Advocacy Clinic
and Lecturer in Law*
Joshua C. Tate, B.A., M.A., M.Phil. J.D., Ph.D., *Associate Professor of Law*

David O. Taylor, B.S., J.D., *Co-Director of the Tsai Center for Law, Science and Innovation and Associate Professor of Law*
Walter Theiss, M.B.A., J.D., *Adjunct Clinical Professor of Law, Small Business & Trademark Clinic*
Elizabeth G. Thornburg, B.A., J.D., *Senior Associate Dean for Academic Affairs and Richard R. Lee Endowed Professor of Law*
Jenia Iontcheva Turner, B.A., J.D., *Professor of Law*
Jonni Walls, B.A., J.D., *Senior Lecturer in Law*
Jessica Dixon Weaver, B.A., J.D., *Associate Professor of Law*
Harvey Wingo, B.A., M.A., J.D., *Vinson & Elkins Distinguished Teaching Fellow Emeritus and Professor Emeritus of Law*
Peter Winship, B.A., LL.B., LL.M., J.S.D., *Candidate, James Cleo Thompson, Sr., Trustee Professor of Law*

ADVISORY BOARD

Harvie Branscomb, Jr.
Branscomb P.C.
Corpus Christi, Texas

Deborah G. Hankinson
Hankinson Levinger LLP
Dallas, Texas

The Honorable Nathan L. Hecht
Supreme Court of Texas
Austin, Texas

Gregory S. Crespi
Professor of Law
Southern Methodist University
Dedman School of Law

The Honorable Patrick E. Higginbotham
United States Court of Appeals
Fifth Judicial Circuit

Craig T. Enoch
Winstead P.C.
Austin, Texas

Thomas Wm. Mayo
Associate Professor of Law
Southern Methodist University
Dedman School of Law

Ernest E. Figari, Jr.
Figari & Davenport
Dallas, Texas

R. Gerald Turner
President
Southern Methodist University