SMU Annual Texas Survey

Volume 9

Article 1

2023

Front Matter

Recommended Citation

Front Matter, 9 SMU ANN. TEX. SURV. i (2023)

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 Annual Texas Survey by an authorized administrator of SMU Scholar. For more information, please visit http://digitalrepository.smu.edu.

SMU ANNUAL TEXAS SURVEY

VOLUME	9
VOLUME	

2023

© 2023 by Southern Methodist University

TABLE OF CONTENTS

ARTICLES

Bankruptcy & Commercial Law Sally McDonald Henry	1
Civil Procedure: Pre-Trial & Trial	23
Criminal Procedure: Confessions, Searches, Seizures &	
Suppression Issues Honorable Barbara Parker Hervey, Carson R. Guy	45
Family Law Joanna L. Grossman, Christine P. Leatherberry	65
Franchise Law Deborah S. Coldwell, Kristina Pierre-Louis, Wes Dutton, Sam Mallick, Alexander Clark, Wilson Miller, Joe Pinto	119
Insurance LawJ. Price Collins, Janet Tolbert, Ashley F. Gilmore	149
Survey of Recent Mandamus	
Decisions of the Texas Supreme Court	173
• 0 0	
Oil, Gas & Mineral Law Austin W. Brister, Logan Jones	211
Partnership Law Troy Christensen, Jeff Dorrill, Matthew Schindel, Madeline Ballard, James Barnett	279

Professional LiabilityJosh Sherman, Abbie Blaker, Tayler Gray	315
Real PropertyJ. Richard White, Amanda R. Grainger	335
Wills & Trusts	393

The *SMU Annual Texas Survey*, ISSN 2833-1826, is published annually by the SMU Law Review Association, Underwood Law Library, Dallas, Texas 75275. The Survey is posted online at https://scholar.smu.edu/smuatxs/. Prior issues were included in volumes of the *SMU Law Review* (before 2014), and are available from William S. Hein & Co., 2350 North Forest Road, Getzville, NY 14068.

Editorial and business offices: *SMU Annual Texas Survey*, Southern Methodist University, Dedman School of Law, P.O. Box 750116, Dallas, TX 75275-0116. Office: 214.768.2570. Printed by Sheridan CJK Group, Sheridan PA, Hanover, PA 17331.

Citations conform with *The Bluebook: A Uniform System of Citation* (20th ed. 2015) and *Texas Rules of Form* (14th ed. 2018).

[©] Copyright 2023 by the Southern Methodist University Dedman School of Law.

SMU Law Review

Volume 9

THE SMU LAW REVIEW ASSOCIATION 2023-2024 BOARD OF EDITORS

President Ellie Johnson

Texas Survey

Executive Editor

SYDNEY HARPER

Forum Executive Editor

RACHEL BRACHMAN

Associate Managing Editors

ZACHARY TIRITILLI

Tyler LaPorte

RILEY GESLING

Chief Comment Editor

SMU Law Review Editor-in-Chief Elan Wilson

SMU Law Review Managing Editor Colin Hickl

Mackenzie Arnold Hannah Foote Matthew Mussalli

Lead Articles Editors Sophie Price Jackson Overton Miranda Cassidy Jace Breedlove Luke Nguyen

Alena Khan Christopher Van Slyke Daniel Varon Emil Meintjes Jacob DeSelms Kara Anderson Sarah Lengyel Tatum Holdaway

Corporate Counsel Symposium Editors Serene Zidan Olivia Mae Vrielink

Faculty Advisor Thomas Wm. Mayo ZACHERY A. GRIGG Forum Assistant Executive Editor

DEBORAH CLAIRE MANSON

Administrative Managing Editor ELIZABETH KIRKLAND

> Articles Editors Andrew Price Cole Weiss Darren Chen Emma Creedon Jillian Doughty Megan Thomas Shahin Zangeneh Victoria Gregory

Symposia CLE Editor GRAYSON FELNER

> Library Advisor Cassie Walker

Journal Coordinator LISA PONCE Journal of Air Law & Commerce Editor-in-Chief Bryce Pilawski

Journal of Air Law & Commerce Managing Editor GRACE WOOTEN

> Emily Daigle Rachel Gillespie Terrence Wicks

Comment Editors Caroline Riley Robertson Emmy Edwards Julia Turner Suzi Goebel Emaan Bangash

> BAILEY HOOKER COREY RACKLER DREW RAYMOND JACE ZETT JULIAN KHAIRA NATALIE DARGENE SPENCER CHAIKEN ZACHARY ANDERSON

Air Law Symposium Editors Samuel Rosenbloom Olivia Cahill Altaf Samnani

Administrative Assistant TALIBRA FERGUSON

Member, National Conference of Law Reviews

THE SMU LAW REVIEW ASSOCIATION PUBLISHES THE SMU LAW REVIEW, THE JOURNAL OF AIR LAW AND COMMERCE, THE SMU ANNUAL TEXAS SURVEY, AND THE SMU LAW REVIEW FORUM

SMU Law Review

THE SMU LAW REVIEW ASSOCIATION PROUDLY ANNOUNCES ITS 2023–2024 STAFF EDITORS

NOOR AIN MATTHEW BEHAN CAMERON BONK WILLIAM CAGNINA MATTHEW CARDONE DAVID CARL COLE CONNOR ABIGAIL CRAVENS HOPE DAWSON BRIDGETTE DWYER MADISON GEIGER MADELYN GERRALD REESE GLUSING MADISON HUCKABY JENNY HULSE ALEX JACOVETTY AYESHA JAIN HARRISON JENKINS **ABBEY JENNINGS** KACI KATUSAK CAMERON KING BRADLEY KUCERA RACHEL KUP MORGAN LAING DAVID LANFORD BROOKE SUTTER KELLIE MAGUINNESS Elena Mak

JACLYN MARSH CRISTINA MAULDIN LAUREL MCCABE MORGAN MCGREGOR ZACHARY MILLER **IBRAHIM NASIR** CHIARA NATALE TAREK NATSHEH CLAIRE NAYLOR MADELEINE NELSON EVAN OSCHERWITZ JOHANNA PANG BARCLAY PROCTOR RYAN PUENTE Rom Reiderman BEN SAMWAY MICHAEL SANDERS MASON SARVER LINDSEY SHAW JILLIAN SMOORENBURG SIERRA STONE LAWSON SUMLER ANDREA VILLALPANDO JONATHAN VIVAT EASTON WILSON RINA WONG ARIANA WU

SOUTHERN METHODIST UNIVERSITY DEDMAN SCHOOL OF LAW

OFFICERS OF THE UNIVERSITY

R. Gerald Turner, President Elizabeth Loboa, Provost and Vice President for Academic Affairs Brad E. Cheves, Vice President for Development and External Affairs Christine C. Regis, Vice President and Treasurer, Business and Finance Harold W. Stanley, Vice President for Executive Affairs Paul J. Ward, Vice President for Legal Affairs and Government Relations, General Counsel, and Secretary to the Board of Trustees Kenechukwu (K.C.) Mmeje, Vice President for Student Affairs Dr. Maria Dixon Hall, Chief Diversity Officer and Senior Advisor to the President for Cultural Intelligence Michael H. Hites, Chief Information Officer Rakesh Dahiya, Chief Investment Officer Rick Hart, Director for Athletics Chandra McQueen, Director of Internal Audit and Consulting Services Samantha Thomas, Executive Director for Institutional Access and Equity, Executive Assistant to the President DEDMAN SCHOOL OF LAW Administrative Staff and Faculty Jason P. Nance, B.A., Ph.D., J.D., Judge James Noel Dean, and Professor of Law Thomas Wm. Mayo, B.A., J.D., Senior Associate Dean for Academic Affairs, Altshuler Distinguished Teaching Professor, and Professor of Law Jessica Dixon Weaver, B.A., J.D., Associate Dean for Research, and Professor of Law Greg Ivy, B.B.A., M.A., J.D., Associate Dean for Library & Technology, Underwood Law Library, and Senior Lecturer Mary B. Spector, B.A., J.D., Associate Dean for Experiential Learning, Director of the Civil/Consumer Clinic, and Professor of Law Martin L. Camp, B.A., J.D., Assistant Dean for Graduate and International Programs and Professor of Practice Christine Leatherberry, B.J., J.D., Assistant Dean for Administration and Chief of Staff Erika Fadel, B.A., M.Div., J.D., Assistant Dean for Diversity, Equity, and Inclusion Jill Nikirk, B.A., J.D., Assistant Dean for Admissions Marcie Davis, 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 Misty Birdsong, B.A., J.D., Director of Academic Success and Clinical Professor of Legal Research, Writing, and Advocacy Chanté Brantley, B.S., M.S.S.W., J.D., Director of the VanSickle Family Law Clinic and Associate Clinical Professor Laura G. Burstein, B.A., J.D., Director of Public Service Ruth A. Cross, B.A., J.D., Director and Clinical Professor of Legal Research, Writing, and Advocacy Lynn McVicker Dempsey, B.B.A., Director of External Relations Ashley Ellis, B.A., J.D., Director of Alumni Relations Clayton Ellis, B.A., Director of Development Natalie Thompson Greco, Director of Programs and Operations, Tsai Center for Law, Science, and Innovation Robert B. (Bob) Weathersby, Esq., B.S., J.D., Director Large Firms and Local Government -Office of Career Services Beth D. Lee, B.B.A., Director, Corporate and Private Sector Development - Office of Career Services Smitha Mathews, B.S., J.D., Director Mid-size, Small and Boutique Firms - Office of Career Service Mary Beth Nielsen, B.A., M.A., Director Judicial Internships, Externships and Post-Graduate Clerkships – Office of Career Services Diane M. Sumoski, B.A., J.D., Director of the W.W. Caruth, Jr. Child Advocacy Clinic,

Diane M. Sumoski, B.A., J.D., Director of the W.W. Caruth, Jr. Child Advocacy Clinic, Director of the W.W. Caruth, Jr. Institute for Children's Rights, and Clinical Professor of Law

- Cassie Walker, M.L.I.S., J.D., Director of Advocacy Programs and Assistant Director for Scholarly Initiatives
- Kandace Walter, B.S., J.D., Director and Associate Clinical Professor of Law, Small Business and Trademark Clinic
- Moira Cary, B.A., Associate Director of Recruiting and Events Office of Career Services
- Courtney Cowan, B.B.A., J.D., Associate Director of Admissions
- Tom Kimbrough, M.L.I.S., J.D., Associate Director for Collection Development Underwood Law Library
- Donna Wolff, M.L.S., J.D., Associate Director Underwood Law Library
- Bobbye Heine, Assistant Director for Graduate Legal Programs
- Laura Amberson, B.S., Registrar
- Timothy Gallina, M.L.I.S., J.D., Research and Faculty Services Librarian
- Melissa Lara, B.B.A., Financial Business Manager

FACULTY

- Roy R. Anderson, B.A., J.D., LL.M., A.M., Professor Emeritus of Law
- Maureen N. Armour, B.A., M.S.W., J.D., Professor Emeritus of Law
- Hillel J. Bavli, B.A., J.D., LL.M., A.M., Ph.D., Associate Professor of Law
- Lackland H. Bloom, Jr., B.A., J.D., Larry and Jane Harlan Senior Research Fellow and Professor of Law
- William J. Bridge, B.S.F.S., J.D., Professor Emeritus of Law
- Dale Carpenter, B.A., J.D., Judge William Hawley Atwell Chair of Constitutional Law and Professor of Law
- Carliss Chatman, B.A., J.D., Associate Professor of Law
- Anthony J. Colangelo, B.A., J.D., LL.M., J.S.D., Robert G. Storey Distinguished Faculty Fellow and Professor of Law
- James W. Coleman, B.A., J.D., Professor of Law
- Nathan Cortez, B.A., J.D., Adelfa Botello Callejo Endowed Professor of Law in Leadership and Latino Studies, and Gerald J. Ford Research Fellow
- Gregory S. Crespi, B.S., M.S., Ph.D., J.D., Homer R. Mitchell Endowed Professorship in Commercial and Insurance Law, and Professor of Law
- Gail Daly, B.A., M.A., J.D., Professor Emeritus of Law
- William V. Dorsaneo III, B.A., J.D., Professor Emeritus of Law
- Beverly C. Duréus, B.A., J.D., Th.M., D. Min., Clinical Professor of Legal Research, Writing, and Advocacy
- Linda S. Eads, B.A., J.D., Professor Emeritus of Law
- Monika Ehrman, B.Sc., J.D., LL.M., Professor of Law
- Jeffrey M. Gaba, B.A., J.D., M.P.H., Professor Emeritus of 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, Altshuler University Distinguished Teaching Professor, and Professor of Law
- Grant M. Hayden, B.A., M.A., J.D., Professor of Law
- Patricia S. Heard, B.A., J.D., Clinical Professor of Legal Research, Writing and Advocacy
- Christine Hurt, B.A., J.D., Alan R. Bromberg Centennial Chair in Corporate, Partnership, Business, and Securities Law and Professor of Law
- Christopher M. Jenks, B.S., J.D., LL.M., LL.M., Ph.D. Candidate, Director of the Criminal Clinic and Professor of Law
- Jeffrey Kahn, B.A., M.Phil., D.Phil., J.D., University Distinguished Professor, Altshuler Distinguished Teaching Professor, and Professor of Law
- Ndiva Kofele-Kale, B.A., M.A., J.D., Ph.D., Professor Emeritus of Law
- Henry J. Lischer, Jr., B.B.A., J.D., LL.M. (in Taxation), Professor Emeritus of Law
- John S. Lowe, B.A., LL.B., Professor Emeritus of Law
- Anna A. Mance, B.A., M.S.-MDP, J.D., Assistant Professor of Law
- George A. Martinez, B.A., M.A., J.D., Professor of Law
- Orly Sulami Mazur, B.B.A., M.P.A., J.D., LL.M. (in Taxation), Associate Professor of Law Sari Mazzurco, B.A., J.D., Ph.D., Assistant Professor of Law
- Pamela R. Metzger, B.A., J.D., Director of the Deason Criminal Justice Reform Center and
- Professor of Law
- Charles J. Morris, B.A., LL.B., Professor Emeritus of Law
- Frederick C. Moss, A.B., J.D., LL.M., 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 Associate Professor of Law
- Joseph J. 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
- Anna Offit, A.B., M.Phil, J.D., Ph.D, Assistant Professor of Law
- Victoria Palacios, J.D., Professor Emeritus of Law
- Kenneth L. Penegar, A.B., J.D., LL.M., Professor Emeritus of Law Carla L. Reyes, B.A., J.D., LL.M., M.P.P., Associate Professor of Law
- C. Paul Rogers III, B.A., J.D., LL.M., Marilyn Jeanne Johnson Distinguished Faculty Fellow, Professor of Law, and Former Dean
- Julia P. Rogers, B.S.E.E., J.D., Professor of Law
- Eric M. Ruben, B.A., J.D., Associate Professor of Law
- Meghan Ryan, A.B., J.D., Co-Director of the Tsai Center for Law, Science and Innovation, Altshuler Distinguished Teaching Professor, and Professor of Law
- Christina Sautter, B.A., J.D., Professor of Law
- Jennifer Rangel Stagen, B.A., J.D., Clinical Professor of Legal Research, Writing and Advocacy
- 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 and Professor of Law
- Heather L. Stobaugh, B.A., M.A., J.D., Clinical Professor of Legal Research, Writing and Advocacy
- Joshua C. Tate, B.A., M.Phil. J.D., Ph.D., Professor of Law
- David O. Taylor, B.S., J.D., Robert G. Storey Distinguished Faculty Fellow, Co-Director of the Tsai Center for Law, Science and Innovation, and Professor of Law
- Elizabeth Lee Thompson, B.A., J.D., M.A., Ph.D., Clinical Assistant Professor of Legal Research, Writing and Advocacy
- Elizabeth G. Thornburg, B.A., J.D., Professor Emeritus of Law
- Jenia Iontcheva Turner, B.A., J.D., Amy Abboud Ware Centennial Professor in Criminal 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. Professor Emeritus of Law
- Leo Yu, LL.B., LL.M., J.D., Clinical Professor of Legal Research, Writing, and Advocacy