



January 2016

Front Matter

Recommended Citation

Front Matter, 69 SMU L. REV. i (2016)

<https://scholar.smu.edu/smulr/vol69/iss2/1>

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 69

SPRING 2016

NUMBER 2

© 2016 by Southern Methodist University

TABLE OF CONTENTS

ESSAY

- Finding a Balance Between Securing
Confidentiality and Preserving
Court Transparency: A Re-Visit
of Rule 76a and Its Application
to Unfiled Discovery *The Honorable Craig Smith,
Grant Schmidt
and Austin Smith* 309

ARTICLES

- Reconciling the Premium Tax Credit:
Painful Complications for Lower
and Middle-Income Taxpayers *Francine J. Lipman 351
and James E. Williamson*
- The New Affirmative Action after *Fisher v.
University of Texas*: Defining Educational
Diversity Through the Sixth Amendment's
Cross-Section Requirement *Adam Lamparello 387
and Cynthia Swann*
- Are Hedge Funds Still Private? Exploring
Publicness in the Face of Incoherency..... *Cary Martin Shelby 405*
- Irrational Investors and the Corporate
Inversion Puzzle..... *Gregory Day 453*

COMMENTS

- Flushed from the Pocket: Daily Fantasy
Sports Businesses Scramble Amidst
Growing Legal Concern *Jonathan Bass 501*
- Law for "Aliens and Strangers": Examining the
Foreign Commerce Clause through the
Lens of Indian Commerce Clause Law *Laura Choi 533*
- Extraordinary Results in Extraordinary
Rendition *Alexander Turner 559*

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 69

SPRING 2016

2

Member, National Conference of Law Reviews

THE SMU LAW REVIEW ASSOCIATION 2015 – 2016 BOARD OF EDITORS

President

MICHAEL WALRAVEN

*Journal of Air Law &
Commerce Editor-in-Chief*
CHASE COBERN

Texas Survey Editor
RACHEL FREEMAN

*SMU Law Review
Managing Editor*
CRISTINA MARTINEZ-SQUIERS

*Journal of Air Law &
Commerce Managing Editor*
LINDSEY ALTMeyer

Associate Texas Survey Editors
BRAXTON ADAMSON
MICHAEL ANDREWS

*SMU Law Review
Managing Editor*
TROY L. HALES II

*JALC Associate
Managing Editors*
SAMANTHA MONK
HALEY POMROY

*Lead Articles
Editors*
DEAN GALARO
ANGELA OLIVER

*SMU Associate Managing
Editors*
LUCAS HENRY
COURTNEY CLAY

UANNA MILENA FALCAO ALVES
KATHERINE BAILEY
BRITTANY BENDITZ
WILLIAM H. BETTS III
MEREDITH BREWSTER
LESLIE BROCKHOEFT
BRYANT BUECHELE

Articles Editors
LAURA CHOI
GARY ENIS
AMY ESTES
CHASE HILTON
ALEXANDRA HUNT
JACLYN KALINOSKI
KENT LOVE

JESSICA MANNON
JEFFREY NANSON
HARRISON PAPAILA
GRANT ROBINSON
BRENNWYN ROMANO
CALLUM ROSS
DEVANSHI SOMAYA

JALC Comment Editors
ALLISON STEWART
ELIZABETH LYLES

Executive Editor
WENDY WILKINS

SMU Comment Editors
RYAN JONES
TAYLOR ANTHONY
KATIE WRIGHT

*Administrative Managing
Editor*
ALICE K. PARKER

*Air Law Symposium
Editor*
BETHANIE LIVERNOIS

Symposium CLE Editors
SARAH-MICHELLE STEARNS
HANNAH MASON

*Corporate Counsel
Symposium Editors*
CHRISTIE LATIMER
JORDAN SAWYER

*Air Law
Associate Symposium Editor*
LAUREN LIEBERMAN

Symposium Technology Editors
W. GREG WILLIAMSON
KAYLA MCDANIEL

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

*Corporate Directors
Institute Editor*
JESSICA KIRK

*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 69

SPRING 2016

2

THE SMU LAW REVIEW ASSOCIATION 2015-2016 STAFF

SARAH ABOUKHAIR
KELLY ALMETER
BARRET ARMBRUSTER
JONATHAN BASS
ZACH BRUCHMILLER
JORDAN BRUNS
LAURA CHOI
HANNAH CLINE
ALLISON COOK
NICHOLAS DYER
JOSHUA FULLER
KATHERINE GEDDES
DEAN M. GOULD
LANDON HANKINS
CHASE HILTON
DANA HILZENDAGER
RYAN HOLM
RACHEL HURT
KAYLA JOHNSON
MADISON KEEBLE
WILLIAM KNISLEY
DAVID LASSETTER
TREVOR LAWHORN
KATHERINE LOWE
JESSICA MANNON

TONYA MAKSIMENKO
BRETT MOORE
ASHBEY MORGAN
JORDAN NEWMAN
JACOB L. NOVAK
ANNA OLIN
AARON PIROUZANIA
STEPHANIE PRESTRIDGE
IAN QUINN
LACI RESÉNDIZ
BRENNWYN ROMANO
JOHN SAGER
SHEILA SALOPEK
JESSICA SCHAUWECKER
LAURA E. SHAPIRO
OMAR SHARIFF
JIN S. SHIN
ABIGAIL STORM
JENNIFER TREJO
DANIEL TROIANO
ALEXANDER TURNER
SUSAN WHEAT
HAO WU
KATHARYN ZAGORIN

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*
Michael A. Condon, *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*
Lynn Switzer Bozalis, B.A., J.D., *Associate Dean for Development and Alumni Affairs*
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*
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*
 Joseph W. McKnight, B.A., B.A., B.C.L., M.A., LL.M., *Larry and Jane Harlan
 Faculty Fellow Emeritus and Professor Emeritus 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*
 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*
 Roark M. Reed, B.S., B.A., J.D., *Professor Emeritus of Law*
 W. Keith Robinson, B.S., J.D., *Co-Director of the Tsai Center for Law, Science and
 Innovation and Assistant 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*

* *d. Nov. 30, 2015*

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 Assistant 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

Essay

