Recommended Citation

Front Matter, 69 SMU L. Rev. i (2016)
https://scholar.smu.edu/smulr/vol69/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

### Table of Contents

**Essay**

"He Said, She Said": With a Twist .................... *Ronen Perry, Oren Gazal-Ayal, and Chen Toubul* 3

**Articles**


The Family Office Exclusion Under the Investment Advisers Act of 1940 ............ *Nathan Crow* and *Gregory S. Crespi* 97

Timing Isn't Everything: Establishing a Title VII Retaliation Prima Facie Case After *University of Texas Southwestern Medical Center v. Nassar* ............ *Lawrence D. Rosenthal* 143

Reconstructing Pregnancy ................. *Saru M. Matambanadzo* 187

**Case Notes**

Securities Regulation—Ninth Circuit Declines to Follow Narrow Presentation of Novel Insider Trading Interpretation Issued by Second Circuit Securities Law “Experts” ........ *Jordan Bruns* 267

First Amendment—Student Speech—Why *Bell* Tolls a Review of *Tinker’s* Application to Off-Campus Online Student Speech ......................... *Katherine E. Geddes* 275

Defamation: Environmental Allegations Against Fracking Companies are Defamatory Per Se in Texas ............. *Jessica Schauwecker* 283
In the Eyes of the President—
Supreme Court Holds Executive
Branch Has Exclusive Power to
Recognize Foreign Sovereignties ............... Jennifer Trejo  291

Patentable Subject Matter:
Alice Does Not Permit the
Dead to Frolic in a 3D Wonderland .............. Hao J. Wu  299

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).
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-SOUJERS

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
COURTNEY CLAY
LUCAS HENRY

Articles Editors

UANNA MILENA FALÇÂO ALVES
KATHERINE BAILEY
BRITTANY BENEDITZ
WILLIAM H. BETTS III
MEREDITH BREWSTER
LESLEY BROCKHOFT
BRYANT BUECHELE

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
SARAH JORDAN
CHRISTIE LATIMER
JORDAN SAWYER

Air Law
Associate Symposium Editor
LAUREN LIEBERMAN

Symposium Technology Editors
KAYLA McDaniel
W. GREG WILLIAMSON

Journal of Air Law and
Commerce Faculty Advisor
GREGORY S. CREPSI

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
TA LIBRA FERGUSON
SMU Law Review

VOLUME 69 WINTER 2016 1

THE SMU LAW REVIEW ASSOCIATION 2015-2016 STAFF

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

BRETT MOORE
ASHBEY MORGAN
JORDAN NEWMAN
JACOB L. NOVAK
ANNA OLIN
AARON PIROUZNA
STEPHANIE PRESTRIDGE
IAN QUINN
LACI RESÉNDIZ
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.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., Professor Emerita 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
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
Jula 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
Christopher H. Hanna, B.S., J.D., LL.M. (in Taxation), Alan D. Feld Endowed
Professor of Law and Alshuler University Distinguished Teaching Professor
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. Jenkins, 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., Alshuler 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.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
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
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

*d. Nov. 30, 2015
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 Ioncheva 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

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

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

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

Deborah G. Hankinson  
Hankinson Levinger LLP  
Dallas, Texas

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

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

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

R. Gerald Turner  
President  
Southern Methodist University
Essay