Front Matter

Recommended Citation
Front Matter, 65 SMU L. Rev. i (2012)
https://scholar.smu.edu/smulr/vol65/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.
ANNUAL SURVEY OF TEXAS LAW

TABLE OF CONTENTS

FOREWORD ...................................... Justice Kerry P. Fitzgerald xi

ARTICLES

Alternative Dispute Resolution ..................... Will Pryor 247
Antitrust and Consumer Protection .............. Michael Ferrill, Leslie Sara Hyman, and Soledad Valenciano 261

Bankruptcy ..................................... Joseph J. Wielebinski and Davor Rukavina 279

Business Torts ................................. Charles M. Hosch, Lauren T. Becker, and Kimberly E. Hodgman 315

Civil Procedure: Pre-Trial and Trial .......... Donald Colleluori, Gary D. Eisenstat and Bill E. Davidoff 341

Commercial Transactions ........................ John Krahmer 361

Conflict of Laws ................................ James P. George, Stephanie K. Marshall, and Lisa A. Goodman 391

Criminal Procedure: Confessions, Searches, and Seizures ....... Honorable Michael E. Keasler and Michael J. Ritter 423

Environmental Law .............................. Scott D. Deatherage and James Voelker 447

Franchise Law .................................... Deborah S. Coldwell, Iris Gibson, William D. White, and Laura Warrick 471
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, *Survey* issue, $24.00. 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 (vols. 1–60) available from William S. Hein & Co., 1285 Main St., Buffalo, New York 14209. Volumes 61–64 are available from **SMU Law Review**, Southern Methodist University Dedman School of Law, Dallas, Texas 75275.

**POSTMASTER:** Send address changes to **SMU Law Review**, Dedman School of Law, Southern Methodist University, Dallas, Texas 75275.

Editorial and business offices: **SMU Law Review**, Southern Methodist University Dedman School of Law, 3315 Daniel, Room 4, PO Box 750116, Dallas, Texas 75275. Telephone: (214) 768-2594. 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* (19th ed. 2010) and the *Texas Rules of Form* (12th ed. 2010).
SMU Law Review

Volume 65  Spring 2012  Number 2

SMU Law Review Association
2012–2013 Board of Editors

President
JORDAN CAMPBELL

Journal of Air Law & Commerce
SMU Law Review
Editor-in-Chief
Editor-in-Chief
DALE FRESCH
KELLY KLINGSEISEN

Journal of Air Law & Commerce
Managing Editor
SMU Law Review
Managing Editor
JANE CHERRY
JAMES BOOKHOUT

President
JORDAN CAMPBELL

Journal of Air Law & Commerce
SMU Law Review
Editor-in-Chief
Editor-in-Chief
DALE FRESCH
KELLY KLINGSEISEN

Journal of Air Law & Commerce
Managing Editor
SMU Law Review
Managing Editor
JANE CHERRY
JAMES BOOKHOUT

Texas Survey Editor
JUSTIN WHEELER

Associate Texas Survey Editors
LAUREL BREWER
JOHN CARSE

JALC Assoc.
Managing Editors
Ann Fritsche
Jennifer Staton

Lead Articles Editors
Mike Buschner
Cole Davis
Roxanne Jett

Articles Editors
Andrea Fitzgerald
Parker Graham
Olga Gurtovaya
Matthew Heape

Salman Bhojani
Pete Dale
Lorelee Dodge
J. Brooks Durham
Phillip Field

SMU Assoc.
Managing Editors
Neil Stockbridge
Molly Whitman

JALC Comment Editors
Tim Bergquist
Heidi Willers

SMU Comment Editors
Erin Crosby
Damien Reynolds

Air Law Symposium Editor
JARRATT WATKINS

Administrative
Managing Editors
FAWAZ BHAM
MORGAN GRISUM
LINDSEY MARSH

Corporate Counsel
Symposium Editors
Colby McKenzie

Associate Symposium Editor
TARYN DUSEK

Executive Editor
ANDREW LAIRD

Symposium CLE Editors
AMANDA KELLEY
CASEY MARCHBANKS

Technology Editors
SCOTT COURTNEY
ADRIENNE LEWIS

JALC Faculty Advisor
GREGORY S. CREPSI

JALC Faculty Advisors
THOMAS WM. MAYO
ANTHONY J. COLANGELO
JOSHUA C. TATE

JALC Administrative Assistant
LISA BROWNING

SMU Administrative Assistant
DONNAISE BALDWIN

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.
### The SMU Law Review Association
#### 2012-2013 Staff Editors

<table>
<thead>
<tr>
<th>Laura Arbeiter</th>
<th>Zunny Losoya</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elizabeth Griffin</td>
<td>Nicholas Low</td>
</tr>
<tr>
<td>Bryan Parrish</td>
<td>Sean McBeath</td>
</tr>
<tr>
<td>Ashton Barrineau</td>
<td>Matt Moran</td>
</tr>
<tr>
<td>James Bedotto</td>
<td>Seth I. Muse</td>
</tr>
<tr>
<td>Brandon Bellows</td>
<td>Rouziena Nayeri</td>
</tr>
<tr>
<td>Jacqui Bogucki</td>
<td>Michelle Northcutt</td>
</tr>
<tr>
<td>Lauren K. Christy</td>
<td>Brooke Panno</td>
</tr>
<tr>
<td>Chelsea Clark</td>
<td>Kyle M. Park</td>
</tr>
<tr>
<td>Heather Coghlan</td>
<td>Samuel Pinkston</td>
</tr>
<tr>
<td>Katie Cristina</td>
<td>Phillip Sanders</td>
</tr>
<tr>
<td>Kimberly Falgout</td>
<td>Baine Sellers</td>
</tr>
<tr>
<td>Blake Feikema</td>
<td>Joshua Tyler Shelton</td>
</tr>
<tr>
<td>Ryan Frye</td>
<td>Ross Staine</td>
</tr>
<tr>
<td>Christina Gigliotti</td>
<td>Clarke Welch Stavinoha</td>
</tr>
<tr>
<td>Jason Glennon</td>
<td>Donald M. Steadman</td>
</tr>
<tr>
<td>Blair M. Green</td>
<td>Chad Stoker</td>
</tr>
<tr>
<td>Jessica W. Greenwald</td>
<td>Nathaniel Thompson</td>
</tr>
<tr>
<td>Sarah Honeycutt</td>
<td>Jerry Tice</td>
</tr>
<tr>
<td>Lindsey Hovland</td>
<td>Phong Tran</td>
</tr>
<tr>
<td>Renee Hunter</td>
<td>William Tran</td>
</tr>
<tr>
<td>Chris Lambert</td>
<td>Cynthia Weber</td>
</tr>
<tr>
<td>Nathaniel Lee</td>
<td>Lance Wyatt</td>
</tr>
<tr>
<td>Jun Li</td>
<td></td>
</tr>
</tbody>
</table>
Southern Methodist University Dedman School of Law

OFFICERS OF THE UNIVERSITY

R. Gerald Turner, President
Thomas E. Baity, Vice President for Executive Affairs
Paul Ward, Vice President for Legal Affairs and Government Relations, and Secretary to the Board of Trustees
Christine Casey, Vice President for Business and Finance
Brad E. Cheves, Vice President for Development and External Affairs
Paul W. Ludden, Provost and Vice President for Academic Affairs
Lori S. White, Vice President for Student Affairs
Mike A. Condon, Chief Investment Officer

DEDMAN SCHOOL OF LAW

FACULTY AND ADMINISTRATIVE STAFF

ADMINISTRATIVE STAFF

John B. Attanasio, B.A., J.D., LL.M., Dipl. in Law, Judge James Noel Dean, Professor of Law and Judge William Hawley Atwell Chair of Constitutional Law
Roy Ryden Anderson, B.A., J.D., LL.M., Senior Associate Dean for Academic Affairs and Vinson & Elkins Distinguished Teaching Fellow and Professor of Law
Marc I. Steinberg, A.B., J.D., LL.M., Senior Associate Dean for Research and Rupert and Lillian Radford Professor of Law
Gail M. Daly, B.A., M.A., J.D., Associate Dean for Library and Technology and Associate Professor of Law
Roark M. Reed, B.S., B.A., J.D., Director of Clinical Education, Director of Criminal Justice Clinic, and Professor of Law
Ruth A. Cross, B.A., J.D., Associate Dean for Administration, Director of Legal Research, Writing and Advocacy Program and Senior Lecturer
Lynn Switzer Bozalis, B.A., J.D., Associate Dean for Development and Alumni Affairs
Martin L. Camp, B.A., J.D., Assistant Dean for Student Affairs
Virginia M. Keehan, B.B.A., J.D., Assistant Dean for Admissions
Karen C. Sargent, B.B.A., J.D., Assistant Dean for Career Services
Rebecca Garza Greenan, B.S., B.A., M.Ed., J.D., Director of Public Service Program and Director of Academic Skills Assistance Program
Roland C. Webb, B.S., M.B.A., Director of Financial Services
Douglas Yeager, A.B., J.D., Director of Alumni Relations
Jennifer H. Pope, B.A., J.D., Associate Director for Career Services
Tennessee Nielsen, A.B., J.D., Associate Director for Career Services
Laura Amberson, B.S., Registrar
Kimalee Grace, B.S., Assistant Registrar

FACULTY

John B. Attanasio, B.A., J.D., LL.M., Dipl. in Law, Judge James Noel Dean, Professor of Law and Judge William Hawley Atwell Chair of Constitutional Law
Roy R. Anderson, B.A., J.D., LL.M., Senior Associate Dean for Academic Affairs, Vinson & Elkins Distinguished Teaching Fellow and Professor of Law
Maureen N. Armour, B.A., M.S.W., J.D., Associate Professor of Law
Misty Birdsong, B.A., J.D., Lecturer
Lackland H. Bloom, Jr., B.A., J.D., Professor of Law
Earl C. Borjeson, B.S.L., LL.B., B.A. in Law Librarianship, Professor Emeritus of Law
William J. Bridge, B.S.F.S., J.D., Associate Professor of Law
Alan R. Bromberg, B.A., J.D., University Distinguished Professor of Law
Regis W. Campfield, B.B.A., LL.B., Marilyn Jeanne Johnson Distinguished Law Faculty Fellow and Professor of Law
Beverly M. Carl, B.S.L., J.D., LL.M., Professor Emerita of Law
Michaela E. Cashen, B.A., J.D., Senior Lecturer
Eric Cedillo, B.S., J.D., Supervising Attorney, Program Coordinator - Consumer Advocacy Project
Anthony J. Colangelo, B.A., J.D., LL.M., Assistant Professor of Law
Nathan Cortez, B.A., J.D., Assistant Professor of Law
Gregory S. Crespi, B.S., M.S., Ph.D., J.D., Professor of Law
Ruth A. Cross, B.A., J.D., Associate Dean for Administration, Director of Legal Research, Writing and Advocacy Program and Senior Lecturer

Gail M. Daly, B.A., M.A., J.D., Associate Dean for Library and Technology and Associate 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. Dureus, B.A., J.D., Th.M., Senior Lecturer

Linda S. Eads, B.A., J.D., Associate Professor of Law

David G. Epstein, B.A., J.D., LL.M., Professor of Law

Julia P. Forrester, B.S.E.E., J.D., Professor of Law

Jeffrey M. Gaba, B.A., J.D., M.P.H., Professor of Law

Charles O. Galvin, B.S.C., M.B.A., J.D., S.J.D., LL.D., Distinguished Professor Emeritus of Law

Christopher H. Hanna, B.S., J.D., LL.M. (in Taxation), Altshuler University Distinguished Teaching Professor and Professor of Law

Patricia S. Heard, B.A., J.D., Senior Lecturer

JoAnn A. Hubbard, B.S., J.D., Senior Lecturer

Larry Jones, B.B.A., J.D., LL.M., Director, Tax Clinic and Small Business Clinic

Jeffrey Kahn, B.A., M.Phil., D.Phil., J.D., Assistant Professor of Law

Ndida Kotele-Kale, B.A., M.A., Ph.D., J.D., Professor of Law, University Distinguished Professor

D. Aaron Lacy, B.S., J.D., LL.M., Associate Professor of Law

Henry J. Lischer Jr., B.B.A., J.D., LL.M. (in Taxation), Professor 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., Associate Professor of Law

Joseph W. McKnight, B.A., B.C.L., M.A., LL.M., Larry and Jane Harlan Faculty Fellow and Professor of Law

Charles J. Morris, B.A., LL.B., Professor Emeritus of Law

Frederick C. Moss, A.B., J.D., LL.M., Associate Professor of Law

John J. Mylan, B.S., J.D., LL.M. (in Taxation), Professor Emeritus of Law

Xuan-Thao Nguyen, B.A., J.D., Professor of Law

Joseph Jude Norton, A.B., LL.B., LL.M, S.J.D., Diplôme (droit privé), D.Phil., James L. Walsh Distinguished Faculty Fellow in Financial Institutions and Professor of Law

Victoria Palacios, J.D., Associate Professor of Law

Kenneth L. Penegar, A.B., J.D., LL.M., Professor Emeritus of Law

Ellen Smith Pryor, B.A., J.D., Associate Provost and University Distinguished Teaching Professor, Homer R. Mitchell Professor of Insurance and Commercial Law

Roark M. Reed, B.S., B.A., J.D., Director of Clinical Education, Director of Criminal Justice Clinic and Professor of Law

C. Paul Rogers III, B.A., J.D., LL.M., Professor of Law and former Dean

Eliot Shavin, B.A., J.D., Supervising Attorney, Civil Clinic

Daniel W. Shuman, B.S., J.D., M.D. Anderson Foundation Endowed Professor of Civil Clinic

Ellen K. Solender, A.B., J.D., Professor Emerita of Law

Mary B. Spector, B.A., J.D., Co-Director of Civil Clinic, Director of Consumer Law Project, and Associate Professor of Law

Walter W. Steele Jr., LL.B., Professor Emeritus of Law

Marc I. Steinberg, A.B., J.D., LL.M., Senior Associate Dean for Research, Rupert & Lillian Radford Professor of Law

Joshua C. Tate, B.A., M.A., M.Phil. J.D., Assistant Professor of Law

Elizabeth G. Thornburg, B.A., J.D., Professor of Law

Jenia Iontcheva Turner, B.A., J.D., Associate Professor of Law

Rose Cuison Villazor, B.A., J.D., LL.M., Assistant Professor of Law

Jessica Dixon Weaver, B.A., J.D., Assistant 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., 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

Alan R. Bromberg
Professor of Law
Southern Methodist University
Dedman School of Law

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

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

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

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

Ellen Smith Pryor
Associate Provost and 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

Deborah G. Hankinson
Hankinson Levinger LLP
Dallas, Texas