Lead Articles—Authors

Commenting on “Purpose” in the Uniform Commercial Code
Peter A. Alces
David Frisch .......................................................... 419

Giving the Audience What It Wants
C. Edwin Baker .................................................... 311

“Let’s Call It a Draw”: Striker Replacements and the Mackay Doctrine
Leonard Bielman
Rafael Gely .......................................................... 1003

Investment Management Arrangements and the Federal Securities Law
Harvey Bines
Steve Thel ............................................................ 459

Popularizing Ballot Access: The Front Door to Election Reform
Mark R. Brown ...................................................... 1281

Reframing Child Custody Decisionmaking
Naomi R. Cahn ...................................................... 1

Title VII and the First Amendment: Content-Neutral Regulation, Disparate Impact, and the “Reasonable Person”
Charles R. Calleros .................................................. 1217

Pregnancy, Parenting, and Capitalism
Ruth Colker .......................................................... 61

The Sweet Reasonableness of Federal Judges
The Honorable Richard D. Cudahy ................................ 519

Two Wrongs Mock a Right: Overcoming the Cohen Maledicta
That Bar First Amendment Protection for Newsgathering
Eric B. Easton ...................................................... 1135

The Ninth Circuit—Most Maligned Circuit in the Country—Fact or Fiction?
The Honorable Jerome Farris ...................................... 1465
Developing a Positive Theory of Decisionmaking on U.S. Courts of Appeals
Tracey E. George ................................................................. 1635

Reopening the Public Forum—From Sidewalks to Cyberspace
Steven G. Gey ...................................................................... 1535

Taking First Amendment Procedure Seriously: An Analysis of Process in Libel Litigation
Susan M. Gilles .................................................................. 1753

Mark A. Graber .................................................................. 731

Analogizing Race and Sex in Workplace Harassment Claims
L. Camille Hebert ................................................................. 819

Discretion and the Rule of Law in Federal Guidelines Sentencing:
Developing Departure Jurisprudence in the Wake of Koon v. United States
Barry L. Johnson .................................................................. 1697

Questioning the Question-Proof Inmate: Defining Miranda Custody for Incarcerated Suspects
Laurie Magid ....................................................................... 883

Re-making Distinctions on the Basis of Sex: Must Gay Women Be Admitted to the Military Even If Gay Men Are Not?
Diane H. Mazur .................................................................... 953

2020—A Cybercourt Odyssey: A Look at the U.S. Courts in the 21st Century
The Honorable Richard L. Nygaard .......................................... 525

Conceiving the Inconceivable and Judicially Implementing the Preposterous: The Premature Demise of Respondeat Superior Liability Under Section 10(b)
Robert A. Prentice ................................................................ 1325

Turning the Microscope on Ourselves: Self-Assessment by Bankruptcy Lawyers of Potential Conflicts of Interest in Columbus, Ohio
Nancy B. Rapoport ............................................................... 1421

Labors Amiss
The Honorable Thomas M. Reavley ............................................. 535
Privatization and Punitives: Should Government Contractors Share the Sovereign’s Immunities from Exemplary Damages
Jack M. Sabatino ......................................................... 175

Mark Seidenfeld .......................................................... 85

Can Civility Return to the Courtroom? Will American Jurors Like It?
Dennis Turner
Solomon Fulero .......................................................... 131

Lead Articles—Titles

Analogizing Race and Sex in Workplace Harassment Claims
L. Camille Hébert ......................................................... 819

Can Civility Return to the Courtroom? Will American Jurors Like It?
Dennis Turner
Solomon Fulero .......................................................... 131

Mark A. Graber ......................................................... 731

Commenting on “Purpose” in the Uniform Commercial Code
Peter A. Alces
David Frisch ............................................................. 419

Conceiving the Inconceivable and Judicially Implementing the Preposterous: The Premature Demise of Respondeat Superior Liability Under Section 10(b)
Robert A. Prentice ..................................................... 1325

Developing a Positive Theory of Decisionmaking on U.S. Courts of Appeals
Tracey E. George ....................................................... 1635

Discretion and the Rule of Law in Federal Guidelines Sentencing: Developing Departure Jurisprudence in the Wake of Koon v. United States
Barry L. Johnson ......................................................... 1697

Giving the Audience What It Wants
C. Edwin Baker ......................................................... 311
Investment Management Arrangements and the Federal Securities Law
Harvey Bines
Steve Thel

Labors Amiss
The Honorable Thomas M. Reavley

“Let’s Call It a Draw”: Striker Replacements and the Mackay Doctrine
Leonard Bierman
Rafael Gely

The Ninth Circuit—Most Maligned Circuit in the Country—Fact or Fiction?
The Honorable Jerome Farris

Mark Seidenfeld

Pregnancy, Parenting, and Capitalism
Ruth Colker

Questioning the Question-Proof Inmate: Defining Miranda Custody for Incarcerated Suspects
Laurie Magid

Reframing Child Custody Decisionmaking
Naomi R. Cahn

Re-making Distinctions on the Basis of Sex: Must Gay Women Be Admitted to the Military Even If Gay Men Are Not?
Diane H. Mazur

Reopening the Public Forum—From Sidewalks to Cyberspace
Steven G. Gey

Popularizing Ballot Access: The Front Door to Election Reform
Mark R. Brown

Privatization and Punitives: Should Government Contractors Share the Sovereign’s Immunities from Exemplary Damages
Jack M. Sabatino

The Sweet Reasonableness of Federal Judges
The Honorable Richard D. Cudahy
Taking First Amendment Procedure Seriously: An Analysis of Process in Libel Litigation
Susan M. Gilles ............................................................................................................ 1753

Title VII and the First Amendment: Content-Neutral Regulation, Disparate Impact, and the “Reasonable Person”
Charles R. Calleros .................................................................................................... 1217

Turning the Microscope on Ourselves: Self-Assessment by Bankruptcy Lawyers of Potential Conflicts of Interest in Columbus, Ohio
Nancy B. Rapoport .................................................................................................... 1421

Two Wrongs Mock a Right: Overcoming the Cohen Maledicta That Bar First Amendment Protection for Newsgathering
Eric B. Easton ........................................................................................................ 1135

2020—A Cybercourt Odyssey: A Look at the U.S. Courts in the 21st Century
The Honorable Richard L. Nygaard ........................................................................ 525

Case Comments

The Cleveland Scholarship and Tutoring Program: Why Voucher Programs Do Not Violate the Establishment Clause
Margaret A. Nero ........................................................................................................ 1103

Markman v. Westview: Juries and Patent Infringement Suits (or Why Is that Jury in the Courtroom, Anyway?)
Dane C. Butzer .......................................................................................................... 271

Why Congress Should Eliminate the Multiple Performance Doctrine
David M. Lilenfeld ....................................................................................................... 695

Comments

Justin Schwartz .......................................................................................................... 1055

Sympathy for the Devil: How the Ohio Tort Reform Act Creates a Flawed System of Punitive Damages
Brett McComb Wall .................................................................................................. 1023
Notes

A Guide to Narrow the Derivatives’ Understanding Gap and Reduce Losses: How to Increase Knowledge, Controls, and Reporting
Suzanne E. Bish .................................................................................................................. 539

Beyond Jaffee v. Redmond: Should the Federal Courts Recognize a Right to Physician-Patient Confidentiality?
Stephen Aaron Silver ................................................................................................. 1809

Capital or Ordinary Expense? The Proper Tax Treatment of a Target Corporation’s Expenditures in an Acquisitive Reorganization
Kevin J. Coenen .......................................................................................................... 583

Educated in the Classroom or on the Streets: The Fate of Illegal Immigrant Children in the United States
Halle L Butler ............................................................................................................... 1473

The Impact of Computerized Medical Literature Databases on Medical Malpractice Litigation: Time for Another Helling v. Carey Wake-Up Call?
Donald E. Kacmar ....................................................................................................... 617

Labor-Management Teams: A Panacea for American Businesses or the Rebirth of a Laborer’s Nightmare?
Shannon Browne ........................................................................................................... 241

The Media’s Presence During the Execution of a Search Warrant: A Per Se Violation of the Fourth Amendment
Brad M. Johnston ........................................................................................................... 1499

Turning the Camera on Court TV: Does Televising Trials Teach Us Anything About the Real Law?
Angelique M. Paul .......................................................................................................... 655

The Turning Tide: The Emerging Fourth Wave of School Finance Reform Litigation and the Courts’ Lingering Institutional Concerns
Kevin Randall McMillan ............................................................................................... 1867
Subject Index

Bankruptcy

Turning the Microscope on Ourselves: Self-Assessment by Bankruptcy Lawyers of Potential Conflicts of Interest in Columbus, Ohio
*Nancy B. Rapoport* ................................................................. 1421

Commercial Law

Commenting on “Purpose” in the Uniform Commercial Code
*Peter A. Alces*
*David Frisch* .............................................................................. 419

Constitutional Law

Title VII and the First Amendment: Content-Neutral Regulation, Disparate Impact, and the “Reasonable Person”
*Charles R. Calleros* ..................................................................... 1217

Two Wrongs Mock a Right: Overcoming the *Cohen* Maledicta That Bar First Amendment Protection for Newsgathering
*Eric B. Easton* ............................................................................ 1135

Reopening the Public Forum—From Sidewalks to Cyberspace
*Steven G. Gey* ............................................................................. 1535

Taking First Amendment Procedure Seriously: An Analysis of Process in Libel Litigation
*Susan M. Gilles* ........................................................................... 1753

*Mark A. Graber* .......................................................................... 731

The Cleveland Scholarship and Tutoring Program: Why Voucher Programs Do Not Violate the Establishment Clause
*Margaret A. Nero* ....................................................................... 1103

*Justin Schwartz* ........................................................................ 1055
Criminal Procedure

The Media’s Presence During the Execution of a Search Warrant: A Per Se Violation of the Fourth Amendment
Brad M. Johnston................................................................. 1499

Questioning the Question-Proof Inmate: Defining Miranda Custody for Incarcerated Suspects
Laurie Magid................................................................. 883

Damages and Liability

Privatization and Punitives: Should Government Contractors Share the Sovereign’s Immunities from Exemplary Damages
Jack M. Sabatino................................................................. 175

Education Law

Educated in the Classroom or on the Streets: The Fate of Illegal Immigrant Children in the United States
Halle I. Butler ................................................................. 1473

The Turning Tide: The Emerging Fourth Wave of School Finance Reform Litigation and the Courts’ Lingering Institutional Concerns
Kevin Randall McMillan................................................................. 1867

Election Reform

Popularizing Ballot Access: The Front Door to Election Reform
Mark R. Brown................................................................. 1281

Evidence

Beyond Jaffee v. Redmond: Should the Federal Courts Recognize a Right to Physician-Patient Confidentiality?
Stephen Aaron Silver ................................................................. 1809

Family Law

Reframing Child Custody Decisionmaking
Naomi R. Cahn................................................................. 1

Pregnancy, Parenting, and Capitalism
Ruth Colker................................................................. 61
Federal Courts and the Judiciary

Developing a Positive Theory of Decisionmaking on U.S. Courts of Appeals
*Tracey E. George* ................................................................. 1635

Discretion and the Rule of Law in Federal Guidelines Sentencing: Developing Departure Jurisprudence in the Wake of *Koon v. United States*
*Barry L. Johnson* ............................................................... 1697

*Mark Seidenfeld* ................................................................. 85

Feminist Legal Studies

Analogizing Race and Sex in Workplace Harassment Claims
*L. Camille Hébert* ............................................................... 819

Gay Legal Studies

Re-making Distinctions on the Basis of Sex: Must Gay Women Be Admitted to the Military Even If Gay Men Are Not?
*Diane H. Mazur* ................................................................. 953

Intellectual Property

*Markman v. Westview*: Juries and Patent Infringement Suits (or Why Is that Jury in the Courtroom, Anyway?)
*Dane C. Butzer* ................................................................. 271

Why Congress Should Eliminate the Multiple Performance Doctrine
*David M. Lilenfeld* ............................................................... 695

Judges on Judging

The Sweet Reasonableness of Federal Judges
*The Honorable Richard D. Cudahy* ........................................ 519

The Ninth Circuit—Most Maligned Circuit in the Country—Fact or Fiction?
*The Honorable Jerome Farris* ................................................ 1465
2020—A Cybercourt Odyssey: A Look at the U.S. Courts in the 21st Century
The Honorable Richard L. Nygaard ........................................ 525

Labors Amiss
The Honorable Thomas M. Reavley ........................................ 535

Labor Law

“Let's Call It a Draw”: Striker Replacements and the Mackay Doctrine
Leonard Biernan
Rafael Gey ........................................................................ 1003

Labor-Management Teams: A Panacea for American Businesses or the Rebirth of a Laborer’s Nightmare?
Shannon Browne ................................................................. 241

Lawyering

Can Civility Return to the Courtroom? Will American Jurors Like It?
Dennis Turner
Solomon Fulero ................................................................ 131

Media Law

Giving the Audience What It Wants
C. Edwin Baker .................................................................. 311

Turning the Camera on Court TV: Does Televising Trials Teach Us Anything About the Real Law?
Angelique M. Paul .............................................................. 655

Medical Malpractice

The Impact of Computerized Medical Literature Databases on Medical Malpractice Litigation: Time for Another Helling v. Carey Wake-Up Call?
Donald E. Kacmar ............................................................. 617

Securities Law

Investment Management Arrangements and the Federal Securities Law
Harvey Bines
Steve Thel ......................................................................... 459
INDEX

A Guide to Narrow the Derivatives' Understanding Gap and Reduce Losses: How to Increase Knowledge, Controls, and Reporting
Suzanne E. Bish ........................................................................... 539

Conceiving the Inconceivable and Judicially Implementing the Preposterous: The Premature Demise of Respondeat Superior Liability Under Section 10(b)
Robert A. Prentice ...................................................................... 1325

Tax

Capital or Ordinary Expense? The Proper Tax Treatment of a Target Corporation's Expenditures in an Acquisitive Reorganization
Kevin J. Coenen ........................................................................... 583

Tort

Sympathy for the Devil: How the Ohio Tort Reform Act Creates a Flawed System of Punitive Damages
Brett McComb Wall .................................................................. 1023