

# TRANSACTIONS

The Tennessee Journal of Business Law

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NUMBER 1

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# TRANSACTIONS

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## BUSINESS FACULTY NOTES

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**Professor Eric Franklin Amarante** was quoted in the Washington Post article “Why the IRS puts white-nationalist groups in the same category as orchestras, planetariums and zoos,” and the Business Insider article “People who donate to white supremacist groups can get a tax break because the IRS considers many of them ‘educational.’” These articles cite to Professor Amarante’s

upcoming essay in the Emory Law Review Online, in which he proposes to eliminate the overly broad tax-exempt category that provides the basis for many white-supremacist groups to qualify as educational. Additionally, the Legal Skills Prof Blog recently praised Professor Amarante’s article with Professors Lori D. Johnson and Jeanne Frazier Price titled *Research Instruction and Resources in the Transactional Skills Classroom: Approaches to Incorporating Research Instruction into Transactional Skills Courses* as “an excellent article about teaching research in transactional courses. In fact, it has a lot of good advice about teaching transactional classes in general.” This article was also TaxProf Blog’s Article of the Week for the first week of September. According to the blog post, “Everyone who teaches transactional courses should read this article.”



**Professor Brad Areheart** co-chaired and coordinated the annual Prospective Law Teachers Workshop at the Southeastern Association of Law Schools Conference. He also organized, moderated, and spoke on a panel entitled “Navigating the Hiring Market.” In addition, Professor Areheart was a commentator on a paper about pregnancy discrimination for the “New and Existing Voices in Labor and

Employment Law.”

In September, Professor Areheart was awarded the second annual Michael J. Zimmer Memorial Award at the 12th annual Colloquium on Scholarship in Employment and Labor Law at Texas A&M University School of Law. Labor and employment law professors selected Professor Areheart for the award, which recognizes “a rising scholar who values workplace justice and community, and who has made significant contributions to the field of labor and employment law scholarship.”

Finally, Professor Areheart held the second spot on the SSRN list of Top Downloads for his paper *The Top 100 Law Reviews: A Reference Guide Based on Historical USNWR Data*. In addition, his article *The Symmetry Principle* will be published in Volume 58 of the Boston College Law Review.

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**Associate Dean Teri Baxter's** article, *Employer-Mandated Vaccination Policies: Different Employers, New Vaccines, and Hidden Risks*, will be published in the Fall 2017 issue of the Utah Law Review. In September, Professor Baxter participated in the “Teachers Law School,” a program co-sponsored by the Tennessee Chapter of the American Board of Trial Advocacy (ABOTA) Foundation and the Federal

Bar Association. Tennessee middle and high school teachers traveled to United States District Courthouse in Chattanooga to learn about the federal court system and state and federal law from lawyers, professors, and federal district court judges. Professor Baxter spoke about State Rights v. Federal Rights.

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**Professor Zack Buck** presented *The Chronic Challenge of Cost Control* in March as part of the Journal of Law and Public Policy Symposium at the University of St. Thomas School of Law in Minneapolis, Minnesota. In April, Professor Buck participated in a panel titled, *Taking the Vitals of the Medicaid Managed Care Marketplace* at the Saint Louis University



Health Law Symposium in St. Louis, Missouri. Related to his presentation, his newest article, *Managing Medicaid*, is forthcoming in the SAINT LOUIS JOURNAL OF HEALTH LAW AND POLICY 2017-18 symposium issue.

In May, the Knoxville News-Sentinel published an Op-Ed by Professor Buck examining the American Health Care Act (AHCA), which had just passed the U.S. House of Representatives. In the article, titled, *American Health Care Act will reduce number of citizens with insurance*, Professor Buck noted that the bill had “a radically different focus” than the Affordable Care Act. The AHCA sought “to limit health insurance costs for healthier, younger and more affluent Americans. . . . At the expense of cutting costs for healthier Americans,” he wrote, it limited “coverage for older, sicker and lower-income Americans.” Professor Buck warned that the changes would likely have a profoundly negative impact on Tennessee.

In July, Professor Buck was interviewed and participated in “This Week in Health Law: Back to School Special,” hosted by Professors Nic Terry and Frank Pasquale. Professor Buck, along with fellow “TWIHL All-Stars” Erin Fuse Brown and Jessica Roberts, discussed topics including state laws, price and cost issues, development in employer-based insurance, Medicare’s new incentive-based payment system, a fraud and abuse case to watch, and genetic “property” statutes. In the same month, he was also a Panelist on a panel entitled, *Health Reform After the 2016 Presidential Election*, and a Discussant for the Discussion Group, *Recent Developments in Health Law and Public Health Ethics*. In August, Professor Buck spoke to the Tennessee Bar Association Health Law Section on *The ABCs of Healthcare*. The program was “designed for new lawyers – offering an introduction to health law as a practice area and career.” Finally, Professor Buck spoke in October at “The Next Steps in Health Reform 2017” Conference in Washington, D.C., where he presented *Medicaid Cost Concerns: Managed Care and Challenges at the State Level*.



**Professor Iris Goodwin's** article, *Access to Justice: What to Do about the Law of Wills*, was published in the *Wisconsin Law Review*. She is also working with West Academic Publishers to assemble an editorial board and otherwise develop a 25th edition of the iconic casebook, originally edited by Campfield, Turnier & Dickenson, *TAXATION OF ESTATES, GIFTS, & TRUSTS*. She continues her

involvement as a Fellow of the American College of Trust and Estates Counsel, serving on both the Legal Education Committee and the Digital Property Committee. Finally, she completed a one-year term as Chair of the Trusts and Estates Section of the Association of American Law Schools. She is now Chair Emeritus.

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**Professor Joan M. Heminway** presented on social entrepreneurship at several different forums in the spring. In Kansas City, Missouri, she participated in both a policy session and a panel on legal issues in social entrepreneurship at the fifth annual “Midwest Symposium on Social Entrepreneurship,” an event co-sponsored by the Ewing Marion Kauffman Foundation and the University of

Missouri-Kansas City, in collaboration with the United States Association for Small Business and Entrepreneurship. The following week, Professor Heminway traveled to New York City to comment on crowdfunding social entrepreneurial ventures as part of a panel discussion at a conference entitled “Legal Issues in Social Entrepreneurship and Impact Investing—In the U.S. and Beyond” co-sponsored by the Impact Investing Legal Working Group and the Grunin Center for Law and Social Entrepreneurship at the N.Y.U. School of Law. Professor Heminway also participated in a lunch

discussion session focused on choosing the right entity for social enterprise businesses and related financing firms and a workshop exploring ways that legal education can be “reimagined” to address global social entrepreneurship and impact investing.

During the summer months, Professor Heminway attended the annual meetings/conferences of the Law and Society Association, the National Business Law Scholars, and the Southeastern Association of Law Schools (“SEALS”). At the Law and Society Association annual meeting in June, she presented a paper entitled “Entrepreneurship in Poor and Low-Income Communities: Fortune or Folly?” as part of a social enterprise roundtable. Later in June, Professor Heminway gave, moderated, and attended presentations at the 2018 National Business Law Scholars Conference, held in Salt Lake City, Utah. Her presentation, entitled “With Friends (and Family) Like This . . . : Tipping and Misappropriation in Personal Networks,” focused on an ongoing project relating to insider trading misappropriation and tipping cases involving friends and family—people in close personal relationships. Professor Heminway also serves on the planning committee for the conference. In August, Professor Heminway’s activities at the SEALS conference included participation on a panel as part of the New Scholars Workshop entitled “Inside the Mind of the Outside Reviewer,” service as a moderator for the discussion group “Three Felonies a Day?: Is There a Problem of White-Collar Overcriminalization?,” and participation as a discussant in four additional discussion groups: “Environmental Protection and the Green Economy;” “Sustainability Cross-Disciplinarity: Collaborating Across Colleges and Campuses;” “Corporate and Financial Reform in the Trump Administration;” and “Entrepreneurship Initiatives in Poor Communities: Economic Inclusion or Exclusion?”

In October, Professor Heminway gave a presentation on the use of for-profit corporations in the Green Economy at the Bryan Cave/Edward A. Smith Symposium: The Green Economy at the UMKC School of Law. The presentation was part of a panel covering federal income tax and state entity law entitled “Forms of Doing Business in the Green Economy.” She also participated in a panel discussion on “Internet Offerings, Crowdfunding, Peer-to-Peer Lending and Other Current Topics in Securities Offerings” at the Ohio Securities Conference in Columbus, Ohio. In this forum, she principally offered information

about the current state of securities crowdfunding under the federal CROWDFUND Act.

In November, Professor Heminway served in a panel at the American Bar Association's LLC Institute in Washington DC. That panel focused on fiduciary duties in the limited liability company context. For her part of the presentation, Professor Heminway reflected on fiduciary duty questions applicable to both limited partnerships and limited liability companies raised in the course of Tennessee's recent experience in amending its limited partnership law. She reprised that topic as part of a program for the Hamilton Burnett Inns of Court on William Morris's book, *News from Nowhere, or, an Epoch Of Rest: being some chapters from a utopian romance*. Finally, Professor Heminway was an instructor on crowdfunding for the FINRA Institute at Wharton Certified Regulatory and Compliance Professional (CRCP) program.

Professor Heminway also participated in campus speaking activities this fall. She moderated a panel as part of the campus Faculty Senate retreat on Tennessee's new Campus Free Speech Protection Act. She also provided commentary at an event sponsored by the College of Law's chapter of The Federalist Society featuring Karin Agness Lips. The program focused on how colleges and universities have failed students with respect to safe spaces, sexual assault, and student debt.

Professor Heminway's recent published works include a comment posted in May in the *Washington and Lee Law Review Online* on a recent article, "Diversifying to Mitigate Risk: Can Dodd–Frank Section 342 Help Stabilize the Financial Sector?" The comment agrees with the thesis of the article but offers two critiques of the work that are designed to provide additional support for that thesis. Professor Heminway also published the following since the last volume of this journal was published: *Selling Crowdfunded Equity: A New Frontier*, 70 OKLA. L. REV. 189 (2017); *Safe Haven Conundrum: The Use of Special Bailments to Keep Pets Out of Violent Households* (with Patricia Graves Lenaghan), 12 TENN. J. L. & POL. 79 (2017); and *Why Can't We Be Friends? A Business Finance Lawyer's Plaintive Plea to Entrepreneurs*, 95 N.C. L. REV. 1459 (2017). In addition, Professor Heminway co-authored a U.S. Supreme Court amicus brief filed in *Leidos, Inc. v. Indiana Public Retirement System*. The case addresses a very technical—but critical—matter: whether a public company's noncompliance with a mandatory disclosure rule adopted under the federal securities laws is actionable as securities fraud.

Finally, Professor Heminway was quoted in a July *American Lawyer* article, “Linklaters Associate Denies Wrongdoing in Insider Trading Case,” about an attorney who was suspended from her law firm after her husband was prosecuted for allegedly profiting from trades involving his wife’s clients. Professor Heminway recalled her time as an M&A lawyer at Skadden, Arps and “her own fear of being caught up in such a scenario while working on big deals in New York.” Professor Heminway noted that she was careful to exclude her husband from confidential client communications and wondered whether the Linklaters associate “just wasn’t as vigilant with this information.”

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**Professor Emerita Amy Morris Hess**

spoke at a Trust and Estates Workshop entitled “Beyond the Socratic Method” during the 2017 Southeastern Association of Law Schools Conference in August. She discussed the differences between using in-class simulations and the live client experience of students in the Wills Clinic. Professor Hess also moderated one of the New Scholars Workshops entitled “Getting Out There” at the Conference. The panel discussed how to define one’s research agenda, the pro and cons of going to conferences, how to become known to seasoned scholars in one’s field, blogging, cyber-security, and other issues facing new scholars. In September, she spoke on a panel at the Joint Fall CLE meeting of the ABA Sections of Taxation and Real Property, Trust & Estate Law in Austin, TX. Her topic there was “Document Construction Issues Raised by Changing Concepts of Family, Gender, and Race.” Professor Hess’s 2017 annual supplements to the multi-volume treatise, *BOGERT & HESS, THE LAW OF TRUSTS AND TRUSTEES* were published in July.

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**Professor Becky Jacobs** recently published *Gendered Lived Experiences in Urban Cape Town: Urban Infrastructure as Equal Opportunity, Social Justice, and Crime Prevention*, 1 J. of Com. Urban L. & Pol’y 131 (2017) and *Mandatory ADR Notice Requirements: Gender Themes and Intentionality in Policy Discourse*, 22 Harv. Neg. L. Rev. 1 (Fall 2016). In addition, her article, *Title IX’s Field of (Unrealistic?)*

*Dreams: If You Build It, Will They Come?*, will be published in the Tennessee Journal of Race, Gender, and Social Justice. An article that she co-authored with Brad Finney, a UT law student graduating in 2018, *Mexico’s Energy Regime Reforms: Rescission Risk, Mitigation, and Dispute Resolution*, will appear in Volume VI of the LSU Journal of Energy Law and Resources. Professor Jacobs’ essay, *Milton Friedman Has A Lot to Answer for: A Response to Joshua Fersbee’s “Long Live Director Primacy: Social Benefit Entities and the Downfall of Social Responsibility”*, is part of an upcoming Transaction symposium edition.

In addition, Professor Jacobs recently participated in the “Title IX: History, Legacy, and Controversy” conference at the University of Tennessee College of Law. She discussed Title IX in the context of event attendance, public viewing preferences, sport reporting, and revenues. She also was part of the College of Law’s “Connecting the Threads” business law conference held in September. Professor Jacobs also organized a panel of experts for the 25th Annual Conference of the Tennessee Section of the American Water Resources Association. The focus of the panel was the impact of growth on Tennessee’s aquatic resources, and it consisted of a number of water scientists and federal, state, county, and city regulators from across Tennessee. She continues as an organizing member of the Baker Center Energy and Environment Forum at the University of Tennessee. The Forum is an opportunity for academics to share their research findings with a broad set of academics, researchers, and students from outside their own discipline who have a common interest in environment and energy issues.

Finally, Professor Jacobs was the Discussion Group Co-Organizer and Co-Moderator for “Sustainability Cross-Disciplinarity: Collaborating Across Colleges and Campuses” and the a participant in the Prospective Law Teacher Workshop at the 2017 Southeastern Association of Law Schools Conference (SEALS). She was also a participant in the Discussion Groups: “Environmental Protection and the Green Economy” and the “Workshop on Alternative Dispute Resolution – Mediation” at SEALS.

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**Professor Brian Krumm’s** article *Fostering Innovation and Entrepreneurship: Shark Tank Shouldn’t Be the Model* will be published in an upcoming volume of the *Arkansas Law Review*.

Professor Krumm also recently facilitated the Business Transactional Law breakout sessions at the Association of American Law Schools Clinical Conference. He served as a discussant on the trademark and consumer protection panels. In addition, Professor Krumm was a moderator for the panel “Establishing and Evaluating Core Skills and Competencies for Transactional Clinics” at the Transactional Clinical Conference held at the University of Pennsylvania Law School.

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**Professor George W. Kuney’s** article *Should the Trustee in Bankruptcy Succeed to the “Equal Guilt” of the Debtor? Putting the Burden of Imputation on Wrongdoing Third Parties for In Pari Delicto Purposes* was published as the lead article in the 2017 NORTON ANNUAL SURVEY OF BANKRUPTCY LAW. The article reviews the origins and development of the *in pari delicto* defense in bankruptcy and related

fields of law, and urges the adoption of a federal rule of decision creating a rebuttable presumption against its application in cases brought by a bankruptcy trustee, especially in Ponzi scheme and similar contexts.

Earlier this year, Professor Kuney was awarded the Chancellor's Excellence in Graduate Mentoring and Advising Award at the University of Tennessee Chancellor's Honors Banquet. The Office of the Chancellor and the Teaching Council of the Faculty Senate selected Professor Kuney for the award in recognition of his outstanding work in mentoring law students at the University of Tennessee College of Law.

More recently, Professor Kuney provided commentary at an event sponsored by the University of Tennessee College of Law chapter of The Federalist Society featuring Karin Agness Lips. The program focused on how colleges and universities have failed students with respect to safe spaces, sexual assault, and student debt.

This fall, he has presented a training CLE regarding contract and transactional drafting for the Jones Day law firm and gave a talk on *Drafting Elegant Contracts* for the Texas Bar's 27<sup>th</sup> Annual Entertainment Law Institute. He also produced and moderated a series of three webinars dealing with legal ethics topics including ethical issues involving technology and avoiding malpractice and disciplinary actions in association with Financial Poise and West/Thompson Reuters.



**Professor Michelle Kwon's** article *Easing Regulatory Bottlenecks with Collaborative Rulemaking*, will be published in the *Administrative Law Review*.

Professor Kwon also recently moderated a panel at the "Title IX: History, Legacy, and Controversy" conference at the University of Tennessee College of Law. The conference addressed issues regarding athletics and education, sexual

harassment and assault on campus, racial inequality in schools and athletics, inclusion of LGBTQ students, pay equity and compensation, and media coverage of Title IX issues.

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**Professor Don Leatherman** recently spoke at several different forums. In early 2017, he moderated and participated in a panel at the American Bar Association (“ABA”) January meeting entitled “Consolidated Corporation Regulations: Validity Challenges and Interpretive Patterns.” In August, Professor Leatherman moderated a panel at the 2017

Southeastern Association of Law Schools Conference on administrative tax issues as well as moderated and participated in a webinar for the ABA entitled “The Nuts and Bolts of the Consolidated Return Regulations.” In September, Professor Leatherman moderated and participated in a panel at the ABA meeting entitled “Current Developments for Consolidated Groups.” Most recently, Professor Leatherman spoke at the Practising Law Institute’s Los Angeles meeting on Mergers, Acquisitions, and Joint Ventures, discussing current developments for consolidated groups.

Professor Leatherman is also finishing an article analyzing proposed regulations (Prop. Treas. Reg. section 1.1502-11(b)) relating to the circular basis rule. In addition, he plans to write a comment for the ABA proposing that wholly owned subsidiaries in a consolidated group can elect to be treated as disregarded entities. Finally, Professor Leatherman is planning to rewrite his textbook and treatise in spring 2018.



**Dean Alex Long’s** article *Retaliation Backlash* will appear in volume 93 of the Washington Law Review. Dean Long also recently participated in the Workshop on Labor and Employment Law, Discussion Group: “Trends and Developments in Anti-Retaliation Law” at the 2017 Southeastern Association of Law Schools

Conference. In addition, an ABA Journal article titled “*Decision Dylan: Our most-cited songwriter in judicial rulings brings complex poetry to court opinions*” cited Dean Long’s article *The Freenheelin’ Judiciary: A Bob Dylan Legal Anthology*. Finally, Dean Long recently gave an interview to Nashville’s News Channel 5 about whether Nashville General Session Judge Casey Moreland (who has since resigned) engaged in conduct that violated the Tennessee Code of Judicial Ethics.

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**Professor Thomas Plank** published his article, *Security Interests in Deposit Accounts, Securities Accounts and Commodity Accounts: Correcting Article 9’s Confusion of Contract and Property*, 69 Oklahoma Law Review 337 (Spring 2017). This article analyzes a deficiency in the way Article 9 of the UCC, which governs security interests in 24 different categories of personal

property, defines four of these categories—deposit accounts, securities accounts, commodity accounts, and commodity contracts—as contractual relationships instead of the rights of the applicable contracting party. These conceptually confused definitions have caused difficulties in interpreting and applying the related provisions of Article 9 as well as drafting errors in a few provisions of Article 9. This article analyzes how the relevant provisions of Article 9 need to be revised and, pending revision, interpreted, to fix the problems.

On Friday and Saturday, October 13-14, 2017, Professor Plank participated in a drafting session of the Drafting Committee of the Uniform Law Commission (ULC) on Revised Articles 1, 3, and 9 of the Uniform Commercial Code in Philadelphia, Pa., as a member of the American Law Institute (ALI) Consultative Group on this revision. The project has two purposes: (1) to comment on a proposed federal National Mortgage Note Repository Act being drafted by the Federal Reserve Bank of New York to establish a federal registration system for electronic promissory notes secured by single family mortgages; and (2)

to draft revisions to Article 1, Article 3 (Negotiable Instruments) and Article 9 (Secured Transactions) of the UCC that would give these electronic promissory notes the same attributes and benefits currently provided for written negotiable promissory notes, which evidence more than \$10 trillion of single family mortgage loans.

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**Professor Gary Pulsinelli** recently presented his paper, *Geographicide*, at the 2017 Intellectual Property Scholar's Conference, held at Cardozo School of Law. Additionally, a recent opinion issued by Judge John Tharpe, Jr. in the Northern District of Illinois cited Professor Pulsinelli's article *Happy Together? The Uneasy Coexistence of Federal and State Protection for Sound Recordings*, 82 Tenn. L. Rev. 167, 200-

204 (2014). Judge Tharpe identified Professor Pulsinelli as one of the scholars who has "noted the potentially devastating consequences of a regime in which national broadcasts generate liability in some states and not in others."

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**Professor Jonathon Rohr** recently spoke at the September 2017 symposium titled "Business Law: Connecting the Threads" hosted by *Transactions: The Tennessee Journal of Business Law* at the University of Tennessee College of Law.

Professor Rohr's article *Corporate Governance, Collective Action, and Contractual Freedom: Justifying Delaware's New Restrictions on Private Ordering* was published in volume 41

of the Delaware Journal of Corporate Law. In addition, his article *Freedom of Contract and the Publicly Traded Uncorporation* will be published in the upcoming issue of the NYU Journal of Law and Business. Finally, Professor Rohr currently holds the top spot on the SSRN list of Top Downloads for his article *Blockchain-Based Token Sales, Initial Coin Offerings, and the Democratization of Public Capital Markets*.

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**Professor Paula Schaefer's** article *Attorneys, Document Discovery, and Discipline* has been published in volume 30 of the Georgetown Journal of Legal Ethics. In addition, her article *In Pari Delicto Deconstructed: Dismantling the Doctrine that Protects the Business Entity's Lawyer from Malpractice Liability* has been published in volume 90 of the St. John's Law Review.

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**Professor Greg Stein's** article, *What Will China Do When Land Use Rights Begin to Expire?*, has been published in the VANDERBILT JOURNAL OF TRANSNATIONAL LAW. His article, *Reverse Exactions*, has been accepted for publication in the WILLIAM & MARY BILL OF RIGHTS JOURNAL and is scheduled to appear in the December 2017 issue. In addition, Professor Stein's review article, *The Sticks in the Chinese Property Rights Bundle*, has been published in JOTWELL. The article reviews Professor Shitong Qiao's chapter, *The Evolution of Chinese Property Law: Stick by Stick?*, which appears in PRIVATE

LAW IN CHINA AND TAIWAN: LEGAL AND ECONOMIC ANALYSES (Cambridge University Press 2016).

Professor Stein's article, *Chinese Real Estate Law and the Law and Development Theory: A Comparison of Law and Practice*, was reviewed favorably in the July issue of the journal *PROBATE & PROPERTY*. The review noted that the article "provides readers with an important understanding of the law and practice of real estate law in China." Stein's article originally appeared in the *FLORIDA STATE JOURNAL OF TRANSNATIONAL LAW & POLICY* in 2016.

Professor Stein presented at this year's annual meeting of the Association for Law, Property, and Society, held at the University of Michigan. His presentation, entitled "Reverse Exactions," was part of a panel on "New Perspectives on Takings." Panelists from the United States, England, and Israel offered different views on when governmental regulations require compensation to property owners.

In addition, Professor Stein continues to serve as a member of the Board of Governors of the American College of Real Estate Lawyers, the only law professor on its 21-member Board. He participated in ACREL's Annual Meeting and Board Meeting in October in Los Angeles. He also serves on ACREL's Charitable Foundation Task Force and its Innovation and Evolution Committee.



**Professor Maurice Stucke** presented his book, coauthored by Ariel Ezrachi, *VIRTUAL COMPETITION: THE PROMISE AND PERILS OF THE ALGORITHM-DRIVEN ECONOMY*, in several venues earlier this year. On March 28, he participated in the European Commission's "High Level Policy Hearing: Building a European Data Economy." The European Political

Strategy Centre gathered a select group of leading international experts to provide input to the ongoing public consultation on "Building a European Data Economy." Later that afternoon, he presented the book at Harvard University's Berkman Klein Center for Internet & Society.

The event was co-sponsored by the Harvard Law Entrepreneurship Project at Harvard Law School, the Journal of Law and Technology at Harvard Law School, and the Berkman Klein Center for Internet & Society at Harvard University. On March 29, Professor Stucke also presented his research at the University of Chicago Booth School of Business's conference, "Is There a Concentration Problem in America?" The event attracted policymakers, economists, business and legal scholars, historians, and Judge Richard Posner. On March 30, he presented at the American Bar Association Section of Antitrust Law's 65<sup>th</sup> Spring Meeting, on the panel "Competition and Consumer Law Issues with Customer Profiling." That afternoon, he gave an interview to Capitol Forum.

Additionally, Professor Stucke authored several recently published works. The Author's Guild published Professor Stucke's blog post with co-author Ariel Ezrachi titled "Law Profs to Antitrust Enforcers: To Rein in Super-Platforms, Look Upstream." Another blog post, "Who Wouldn't Want a Digital Butler?" was published in the Berkeley Technology Law Journal. The Competition Policy International Newsletter also featured a paper by Professor Stucke and Ariel Ezrachi titled *How Your Digital Helper May Undermine Your Welfare, and Our Democracy*. Finally, the AIA News published "The Networks of Control" by Professors Stucke and Ariel Ezrachi.

Professor Stucke was also recently quoted in numerous articles. The first, "Stucke: US should follow Europe's lead on privacy," appeared in the Global Competition Review online. Professor Stucke argued that "[t]he US should look to the evolution of thought and practice in Europe regarding the intersection of privacy and competition laws." Professor Stucke was next quoted in the article "A Mark Zuckerberg Presidency Isn't Ridiculous—It's Terrifying," published by The Nation. The article notes that Zuckerberg is CEO of Facebook, which the author says is "responsible for the largest and most brazen data-collection project in human history." Professor Stucke explained that "[s]imply by using the site, people bolster Facebook's behavioral algorithms and thereby further expose themselves to targeting by advertisers and other entities." Stucke says that as it collected this data, Facebook became first too big to compete with and then too big to avoid, so that socially connected people have little choice but to use the site. And by checking the box at

the bottom of Facebook's byzantine terms-of-service agreement, they 'consent' to give away huge amounts of information about themselves.

Additionally, the article "John McLellan: How can we shape the future of digital news?" in the Scottish newspaper, *The Scotsman*, quoted a paper written by Professor Stucke and Ariel Ezrachi. The article addressed the problem of social media sites using content generated by news media publishers to attract viewers without sharing the revenue with those publishers. In addition, it warns that social media can spread "fake news" by showing content targeting the views and biases of users using harvested data. The article quotes Professor Stucke and Ariel Ezrachi's statement that: "The super-platforms can squeeze millions of sellers, including photographers, photojournalists, writers, journalists and musicians . . . . The super-platforms' economic power can translate into political power: [they] can shape our political views and the public debate."

Professor Stucke was also quoted in the Politico article "Margrethe Vestager's growing American fan club." The article discusses the growing popularity of Margrethe Vestager, Europe's competition commissioner, who has taken on and levied hefty fines against Silicon Valley tech giants Google and Apple. "There is an awareness among practitioners and academics that the U.S. has lost its intellectual leadership on monopolization," said Maurice Stucke, a lawyer, professor and author of 'Virtual Competition,' a smash-hit on the antitrust conference circuit that explores how companies' use of big data and algorithms will challenge antitrust enforcers."

Additionally, Professor Stucke was quoted in an article on Wired.com titled "Google's Search Changes My Not Level Playing Field." In the article, Professor Stucke expresses doubt about whether Google's decision to allow rivals to "bid on coveted advertising spots that it previously reserved for itself at the top of product search results in Europe" will curb monopolistic behavior. "Merely telling them 'You can't do this in the future,'" may not be sufficient, Stucke says. "Now they have such an inherent advantage that even if they don't engage in this behavior, they still win." Finally, Professor Stucke was also quoted in the Canada's Lawyer's Daily article "Competition Bureau's approach to antitrust law needs to catch up with the times."



**Professor Kris Tobin's** book **ADMIRALTY AND MARITIME LAW: A LEGAL RESEARCH GUIDE** was published in 2016. From the publisher: "With approximately seventy percent of the earth's surface covered by water, it could be argued that legal issues concerning admiralty do not receive their due in the greater spectrum of the law. Nevertheless, this lack of public

recognition is by no means mirrored in the law itself. . . . The goal of this guide is to help the novice and expert alike in finding an appropriate place to begin research; it contains definitions, information and sources on major subtopics, primary and secondary sources of U.S. law, and also sources of international, intranational, and transnational maritime law."