

TRANSACTIONS

THE TENNESSEE JOURNAL OF BUSINESS LAW

VOLUME 20

FALL 2018

SPECIAL REPORT

TO TEACH IS TO LEARN TWICE: FOSTERING EXCELLENCE IN TRANSACTIONAL LAW AND SKILLS EDUCATION

SIXTH BIENNIAL CONFERENCE ON THE TEACHING OF TRANSACTIONAL LAW AND SKILLS
EMORY UNIVERSITY SCHOOL OF LAW; JUNE 1-2, 2018

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BUSINESS FACULTY NOTES



Professor Eric Franklin Amarante recently presented at the 2018 SALT Teaching Conference, held at State College, Pennsylvania in a panel entitled *Breaking Down Walls: Harnessing the Collective Capacity of Clinics, Pro Bono, Alumni, and Our Rural Communities*. Professor Amarante discussed the Community Economic Development Clinic's work in representing rural entrepreneurs, as well as the University of Tennessee College of

Law's collective response to the U.S. Immigration and Customs Enforcement's raid of a meat processing plant in Bean Station, Tennessee.

Additionally, the Immigration Prof Blog recently named Professor Amarante's article, *The Unsung Latino Entrepreneur of Appalachia*, 120 W. VA. L. REV 773 (2018), as the Immigration Article of the Day for July 26, 2018.

Finally, Professor Amarante's article *The Perils of Philanthrocapitalism* will appear in Volume 78 of the Maryland Law Review and his article *Unregulated Charity* will appear in a future volume of the University of Washington Law Review.



Professor Brad Areheart's latest article, *GINA, Big Data, and the Future of Employee Privacy*, is forthcoming (2019) in the Yale Law Journal. He 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 in the fall of 2017. Labor and employment law professors from across the country 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."

Professor Areheart's article *The Symmetry Principle* was published in Volume 58 of the Boston College Law Review. He also presented his paper, *The Headwinds and Tailwinds of Workplace Equality*, at the 12th Annual Colloquium on Scholarship in Employment and Labor Law, and at an AALS Works-in-Progress panel. Professor Areheart was also an invited speaker at the Feminist Judgments Rewritten Conference in which he provided commentary on the *Young v. UPS* decision. Finally, Professor

Areheart presented another paper, *The Future of the Genetic Information Nondiscrimination Act*, at the AALS Annual Conference.

Professor Areheart continued to co-chair and coordinate the annual Prospective Law Teachers Workshop at the 2018 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 racial bias for the “New and Existing Voices in Labor and Employment Law.”



Associate Dean Teri Baxter’s article, *Employer-Mandated Vaccination Policies: Different Employers, New Vaccines, and Hidden Risks*, was published in the Fall 2017 issue of the *Utah Law Review*. In September 2017, 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*.

In November 2017, Professor Baxter participated in the 8th Annual Constitutional Law Colloquium at Loyola University Chicago. The colloquium brought together senior and junior constitutional law scholars to discuss current projects, doctrinal developments in constitutional law, and future goals.

Additionally, Professor Baxter’s article *Child Marriage as Child Abuse and Constitutional Violation* will be published in Volume 19 of the *Nevada Law Journal*. Professor Baxter presented her article as part of a panel on Parental Rights at the 8th Annual Constitutional Law Colloquium and at the Saint Louis University School of Law as part of their Faculty Workshop Series. The article was also featured on the Family Law Prof Blog.

Most recently, in August 2018, Professor Baxter was the Organizer and Moderator for the Associate Deans for Research Discussion Group at the Southeastern Association of Law Schools (SEALS) Annual Meeting.



Professor Zack Buck participated in a panel title “Taking the Vitals of the Medicaid Managed Care Marketplace” at the Saint Louis University Health Law Symposium in St. Louis, Missouri in April 2017. Related to his presentation, his article, *Managing Medicaid*, was published in the Saint Louis Journal of Health Law and Policy’s 2017-18 symposium issue.

In May 2017, 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 2017, 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 fall 2017, 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.” He also spoke 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.” He also gave a lecture and led a discussion at the University of Tennessee Department of Public Health, on the “Basics of Public Health Law,” for doctoral public health students.

Early this year, Professor Zack Buck was the guest of This Week in Health Law (TWIHL) podcast episode. The conversation included some compelling “lightning” stories, including wellness plans, Maryland’s potential state mandate, the Health Affairs retirement of Tim Jost, and

Medicaid work requirements. According to TWIHL.com, Professor Buck “demonstrated his true mettle, answering questions about MACRA/MIPS, value bundle reimbursement models, and state law attempts to reel in drug costs.” Professor Buck was also part of a panel titled “The Opioid Epidemic: Regulation, Responsibility, and Remedies,” as part of the Tennessee Journal of Law and Policy Symposium “Healing Appalachia: The Role of Professionals in Solving the Opioid Crisis.” The Symposium was held at the University of Tennessee College of Law.

More recently, Professor Zack Buck presented his paper *States of Emergency: Illegal Pharmaceutical Pricing*, at the University of Kentucky College of Law as part of the Faculty Exchange Program. He also published *Preeminent Work on Health Reform and Preemption*, Review of Elizabeth Y. McCuskey, *Agency Imprimatur & Health Reform Preemption*, on Jotwell. Finally, Professor Buck’s invited symposium article, *The Affordable Care Act and the Chronic Challenge of Cost Control*, was recently published in Volume 11 of the University of St. Thomas Journal of Law and Public Policy.



Professor Iris Goodwin published *Access to Justice: What to do about the Law Of Wills?* in the Wisconsin Law Review in 2017. She is currently occupied with two research projects. The first has the working title, *Dating in Tennessee*, and examines the statutory attempt with respect to the the Tennessee Wills Act to provide limited relief from the heretofore rigorous requirements for due execution. Courtesy of the amended statute, wills can now be admitted to probate even

where witnesses have failed to sign the instrument. As per the statute, however, relief is available for wills executed before July 1, 2016 only. Historically, in this area of the law, statutes that gain or lose effect on a certain date take as their point of reference the testator's date of death. The article examines the myriad consequences, many unintended, resulting from the amended statute and the attempt to circumscribe its effect by reliance upon the date of execution.

She also has a second article in process, an ambitious piece with the working title, *The Constitution of Civil Society*. This article begins with the Trump Administration's proposed repeal of the Johnson Amendment, a rule that prohibits public charities from engaging in political activities such as the endorsement of candidates for public office. The article recognizes the essential and indeed salubrious proto-political character of much

citizen activity in civil society and the importance of such activity in a democracy. The partisan is quite another matter. To preserve a healthy democracy, partisan activity is necessarily located and constrained, and the Johnson Amendment does heavy lifting to establish and secure this boundary.



Professor Joan M. Heminway has recently published two works in law journals. The most recent article, *Tipper/Tippee Insider Trading as Unlawful Deceptive Conduct: Insider Gifts of Material Nonpublic Information to Strangers*, was published in a symposium issue of the Washington University Journal of Law and Policy. The earlier piece is entitled *Let's Not Give Up on Traditional For-Profit Corporations for Sustainable Social Enterprise*. It was published in a symposium issue of the UMKC Law

Review.

Professor Heminway has given numerous academic presentations since the spring. Earlier this fall, she spoke on current federal business deregulatory initiatives at a symposium sponsored by the Mercer Law Review and on “Lawyering for Social Enterprise” at the second annual Business Law Prof Blog symposium hosted by Transactions: The Tennessee Journal of Business Law. In June, she presented her overall 2018 project on business deregulation at the National Business Law Scholars Conference and spoke on the promise that securities crowdfunding might hold in contributing to U.S. microfinance at the Law and Society Association annual meeting and conference. Earlier that month, she participated in two teaching forums at the Emory University School of Law’s Sixth Biennial Conference. She was part of a panel forwarding “An Agenda for Advocates of Transactional Skills Instruction” and also spoke on “The Value of Document ‘Treasure Hunts’ in Teaching Transactional Law and Skills.”

Professor Heminway served as the U.S. Reporter for an international and comparative law project on *The Legal Regulation of Crowdfunding*. In that capacity, she participated in The 20th Congress of the International Academy of Comparative Law in Fukuoka, Japan in July. Her report has been chosen for publication in a volume dedicated to the crowdfunding work of scholars from a variety of countries around the world.

At other academic events over the past six months, Professor Heminway has organized or coordinated additional academic programs involving

business law topics. This fall, she moderated three panels: one on “Women as Counsel and Gatekeepers” at George Washington Law Review’s Women and Corporate Governance symposium; one on “Reclaiming Corporations” at UT Law’s recent symposium on The Urgency of Poverty; and one on “The Coming Second Wave of Digital and other Electronic Signatures in Commerce” at a symposium on Law and Business Tech: Cybersecurity, Blockchain and Electronic Transactions co-sponsored by Transactions: The Tennessee Journal of Business Law. In addition, she moderated and participated in several business law discussion groups at the Southeastern Association of Law Schools annual conference over the summer.

Professor Heminway also was a frequent continuing legal education speaker in the spring. In May alone, she spoke on “Legal Issues in Social Entrepreneurship” at the Sixth Annual Midwest Symposium On Social Entrepreneurship hosted by the Ewing Marion Kauffman Foundation and the University of Missouri-Kansas City and on “Technology and YOU: What you need to know to stay ethical” as part of the Tennessee Bar Association’s 2018 Business Law Forum. The Tennessee Bar Association also invited Professor Heminway to speak at its annual forum for the Animal Law Section in May. Her topic at that event was “Pot-Bellied Pigs, Dyed Rabbits, and Other Such Stuff.”

Finally, the Southeastern Academy of Legal Studies in Business hosted Professor Heminway as the keynote speaker for its 64th annual conference in Chattanooga in October. The topic of her talk was “Valuing and Visioning Collaboration.” It focused on inspiring and increasing joint efforts between law faculty teaching and writing in business school settings and those doing the same work in law schools.



Professor Emerita Amy Morris Hess

spoke on a panel at the Spring Symposia of the ABA’s Section of Real Property, Trust & Estate Law in Boston in May. The panel’s topic was “Drafting for the Twenty-First Century Family.” It was so well-received that the panelists have been invited to do an expanded version for a national webinar in February 2019. Professor Hess is completing a four-year term as Co-Chair of the Section’s Standing Committee on Diversity and Inclusion this

year. Her 2018 annual supplements to the multi-volume treatise, Bogert & Hess, *The Law of Trusts and Trustees* were published in July.



Professor Becky Jacobs recently published *A Rot in Heaven: A Powerful Investigative Partnership, The Opioid Crisis, Pill Profits, and a Pulitzer Prize* in the Summer 2018 Special Edition of the Tennessee Journal of Law & Policy. Her paper *Sisters in Sustainability: Gender-Driven Agricultural Initiatives Promoting Socioeconomic, Environmental, and Cultural Sustainability*, was published in the official conference proceedings for the European Conference on Sustainability, Energy &

the Environment. She very proudly co-authored this paper with her daughter, Chelsea, who is a graduate student at the UT Institute of Agriculture. Professor Jacobs also co-authored an article with College of Law graduate Brad Finney, on sustainable business entitled, *Defining Sustainable Business - Beyond Greenwashing*. It will be published in the Virginia Environmental law Journal's Spring 2019 edition.

Professor Jacobs also attended and presented at several conferences. She moderated a dialogue with the keynote speakers at the College of Law's symposium "Healing Appalachia: The Role of Professionals in Solving the Opioid Crisis" in the Spring of 2018. Professor Jacob also took part in the European Conference on Sustainability, Energy & the Environment in Brighton, England in July.

At the 2018 Southeastern Association of Law Schools Conference (SEALS) in August, she was a participant in the "Connecting to the Future: What's in Store for Writing and Law" Discussion Group and moderated the "Perspectives on the Future of Gender Equality in the Legal Profession" panel. At the College of Law, the Professor participated in the second annual "Connecting the Threads" business law conference held in October 2018, at which she commented on Professor Marcia Weldon's blockchain research.

Professor Jacobs remains 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 with a broad set of academics, researchers, and students from outside their own discipline who have a common interest in environmental- and energy-related issues. She was instrumental in bringing leading environmental law

scholar Robin Kundis Craig to UT as part of the Forum in Spring 2018. Professor Craig has written important works on water and ocean and coastal issues.



Professor Brian Krumm is the coauthor of *The Entrepreneurial Law Handbook*, St. Paul, MN: Thompson Reuters (2013) and *A Transactional Matter: A Guide to Business Lawyering*, St. Paul, MN: Thompson Reuters (2016). His most recently published article is *Fostering Innovation and Entrepreneurship: Shark Tank Shouldn't Be the Model*, 70:3 ARK. L. REV. 553 (2017). Professor Krumm moderated a panel at the 2018 Transactional Clinical Conference entitled "The Art of

Counseling Entrepreneurs". He presented "Integrating Learning Through Teaching" at the Sixth Biennial Conference, at Emory Law School. Krumm also participated in the 2018-2019 Mercer Law Review Symposium entitled "Corporate Law in the Trump Era". His article, *Regulatory Policy in the Trump Era and its Impact on Innovation*, will be published in volume 70 of the Mercer Law Review, in the fall of 2018.



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.

In early 2017, 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.

Professor Kuney also 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.

In fall 2017, Professor Kuney 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 27th 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. The three-part series, Best Practices regarding Technology, Recent Cases and Decisions, and How to Avoid Malpractice and Disciplinary Actions, debuted at the close of the months of September, October, and November.

More recently, Professor Kuney gave a talk on “Bankruptcy Fundamentals” for the 2018 American Bar Association Construction Law Forum in New Orleans. The talk centered on key bankruptcy concepts in the context of construction, including issues that arise when construction project participants go bankrupt or a construction project becomes entangled in a bankruptcy proceeding.

He continues to update his single volume treatise titled California Law of Contracts (CEB) with his wife and co-author Donna C. Looper, who also teaches Legal Process I & II at the College of Law.



Professor Michelle Kwon’s article *Easing Regulatory Bottlenecks with Collaborative Rulemaking* was published in Volume 69 of 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.



Professor Don Leatherman recently spoke at several different forums. In early 2017, he moderated and participated in a panel at the American Bar Association’s January meeting entitled “Consolidated Corporation Regulations: Validity Challenges and Interpretive Patterns.” In August 2017, 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 2017, Professor Leatherman moderated and participated in a panel at the ABA meeting entitled “Current Developments for Consolidated Groups.” Additionally, Professor Leatherman moderated and participated in a panel at the ABA September tax section meeting entitled “Current Developemtns for Consolidated Groups.” Late 2017, Professor Leatherman spoke at the Practising Law Institute’s Los Angeles meeting on Mergers, Acquisitions, and Joint Ventures, discussing current developments for consolidated groups. Most recently, in August 2018, Professor Leatherman moderated a panel at SEALS on various tax issues. In October 2018, Professor Leatherman also moderated and participated in a panel at the ABA October tax section meeting entitled “Current Developments – Consolidated Aspects of the TCJA.”

Professor Leatherman’s article *The Treatment of Corporations and Partnerships under the TCJA* is published in this volume of Transactions: The Tennessee Journal of Business Law. 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 publish a textbook, with a teacher’s manual, and a student treatise, both with Howard Abrams as a co-author.



Dean Alex Long's article *Retaliation Backlash* has been published in the *Washington Law Review*, 93 WASH. L. REV. 715 (2018). Dean Long's article, "Abolishing the Suicide Rule" will be published in volume 113 of the *Northwestern Law Review*. He also 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. He also has presented a CLE entitled "The Legal Ethics of Better Call Saul: Professional Responsibility According to Saul Goodman" for the Knoxville Bar Associations Barriesters and the National Nuclear Security Administration General Counsel's annual Training Session at the Y-12 National Security Complex. Finally, Dean Long recently presented "Legal Ethics Issues Involving Technology and the Practice of Law" at the Law & Business Tech Conference here at the University of Tennessee College of Law this past September 2018.



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 OKLA. L. REV. 337 (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.

In September 2017, Professor Plank participated in a symposium titled "Business Law: Connecting the Threads" hosted by Transactions: The Tennessee Journal of Business Law at the University of Tennessee College of Law. He presented and then published a law review article, *Judicial*

Dissolution of LLCs and the Bankruptcy Code, 19 TENN. J. BUS. L. 151–64 (2017).

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. At the drafting session, Professor Plank presented comments on the language of the draft revisions to the UCC. Additionally, he later reviewed and submitted comments on subsequent drafts to the drafting committee.



Professor Gary Pulsinelli 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.”



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*.

In fall 2017, Professor Schaefer was an invited speaker at the Midwest Clinical Legal Education Conference in Lawrence, Kansas in October. She spoke in a plenary session titled "Building on Best Practices: Professional Identity, Role Assumption, and Other Professional Skills Across Learning Experiences." The session highlighted material from the 2015 book *Building on Best Practice: Transforming Legal Education in a Changing World* and discussed new suggestions for integrating "public citizen lawyering" into the law school curriculum.

More recently, Professor Schaefer has presented at a number of legal conferences. In March, she and Judge Kelvin Jones co-presented a two-hour, interactive CLE program titled "Judicial Ethics Update" at the 2018 Tennessee Judicial Conference. She also participated in a meeting of the Consortium on Teaching E-Discovery at the Sixth Annual University of Florida Law E-Discovery Conference. This consortium consists of professors from eight U.S. law schools who are working together to develop a model curriculum for teaching e-discovery in law school. Finally, Professor Schaefer was invited to participate in the Akron Law Review's Civil Discovery Symposium. She presented "Attorney Negligence and Negligent Spoliation" at the April 2018 symposium. Her article, *Attorney Negligence and Negligent Spoliation: The Need for New Tools to Prompt Attorney Competence in Preservation*, will be published in Volume 51 of the *Akron Law Review*.



Professor Greg Stein's article, *Reverse Exactions*, has been published as the lead article in Volume 26 of the William & Mary Bill of Rights Journal. His article, *What Will China Do When Land Use Rights Begin to Expire?*, was published in the Vanderbilt Journal of Transnational Law. 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, *Five Miles in an Elevator*, was published in ACREL NEWS, the quarterly newsletter of the American College of Real Estate Lawyers. His Op-Ed article, *Neverending Nightmare: Covering the Latest School Shooting? Here's a Model Story for Journalists*, appeared in the Baltimore Sun on March 4, 2018. Finally, his article, *Professors of Real Estate Law: Different Types, Different Needs*, will appear in the December 2018 issue of the Wake Forest Law Review.

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 2017 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. In addition, Professor Stein's recent article, *Reverse Exactions*, was reviewed favorably in Jotwell, by Professor Sarah Schindler. Jotwell reviews "the best works of recent scholarship" in various subject matter areas. Schindler concludes that "Professor Stein joins the ranks of other creative scholars such as Professors Chris Serkin and Tim Mulvaney, who have suggested that we should not always be so defensive when it comes to takings law, and might instead find ways to use it to reach more progressive ends. Stein does that here."

Professor Stein presented at the 2017 annual meeting of the Association for Law, Property, and Society (ALPS), 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. He presented "Will the Sharing Economy Increase Inequality?" at the 2018 ALPS meeting

held at Maastricht University in the Netherlands and served as the moderator for another panel at that conference, on “Private and Compulsory Takings of Land: Singapore and International Perspectives.” Professor Stein also presented a webinar on “Development, Permitting, and Exactions” sponsored by the Legal Education Committee of the ABA’s Section of Real Property, Trust and Estate Law.

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 2017 in Los Angeles and in March 2018 in Orlando. At the Orlando meeting, he gave a presentation to ACREL’s Land Use and Environmental Committee on “Recent Developments in Regulatory Takings Law.” In addition to serving on that committee, he also serves on ACREL’s Land Use and Environmental Committee, Law Professors’ Committee, Amicus Briefs Committee, Charitable Foundation Task Force, Innovation and Evolution Committee, and Homelessness Task Force, and as a Mentor for new Fellows.



Professor Maurice Stucke recently published *Competition Overdose: How the Market Ethos Can Both Cure and Poison Us* (HarperCollins forthcoming 2019) with Ariel Ezrachi. He also presented his book, coauthored by Ariel Ezrachi, *Virtual Competition: The Promise and Perils of the Algorithm-Driven Economy*, in several venues in 2017. In September 2018, Professor Stucke presented at the Carnegie Corporation, American Academy of Arts and Sciences, & Center for Advanced

Studies in the Behavioral Sciences, Workshop on Understanding the Relation of Technology to the Self in the World of the Digital Economy, spoke at the University of Tennessee, Law and Business Tech: Cybersecurity, Blockchain and Electronic Transactions, and presented at the 25th CLSA Investors’ Forum in Hong Kong. In March of 2017, he participated in the European Commission’s “High Level Policy Hearing: Building a European Data Economy.” He also 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. He also presented his research at the University of Chicago Booth School of Business’s conference, “Is There

a Concentration Problem in America?” and at the American Bar Association Section of Antitrust Law’s 65th Spring Meeting, on the panel “Competition and Consumer Law Issues with Customer Profiling.” In May 2017, he presented at the University of Oxford Centre for Competition Law and Policy’s conference titled “Online Markets and Offline Welfare Effects - The Internet, Competition, Society and Democracy.” In June 2017, Professor Stucke presented at a number of venues, including the 2nd Annual Berlin Center for Consumer Policies Conference titled “Regulatory Challenges in Digital Markets: Algorithms and Platform Competition;” the 22nd Annual EU Competition Law and Policy Workshop, “Disruptive Innovation and Implications for Competition Policy,” hosted by the European University Institute; the OECD Forum 2017; the “IT and Competition Law Workshop” hosted by the University of Edinburgh; the Scottish Competition Forum; and the 12th Annual ASCOLA Conference hosted by Stockholm University. Finally, in August 2017, Professor Stucke presented at the American Bar Association’s 2017 Annual Meeting, on the panel “Does Antitrust Law Need to Innovate to Stay Relevant in the 21st Century?”

Professor Stucke’s recently published articles include *Should We Be Concerned About Data-opolies?* in Volume 2 of Georgetown Law Technology Review, *Alexa et al., What Are You Doing With My Data?* in Volume 5 of Critical Analysis of Law (with Ariel Ezrachi), *How Digital Assistants Can Harm Our Economy, Privacy, and Democracy* in Volume 32 of Berkeley Technology Law Journal (with Ariel Ezrachi), *Emerging Antitrust Threats and Enforcement Actions in the Online World* (with Ariel Ezrachi) in Volume 13 of Competition Law International; *Artificial Intelligence & Collusion: When Computers Inhibit Competition* (with Ariel Ezrachi) in Volume 2017 of the Illinois Law Review; *Data-opolies* (with Allen Grunes) in N° 2-2017 of Concurrences; and *Tacit Collusion on Steroids – The Tale of Online Price Transparency, Advanced Monitoring and Collusion* (with Ariel Ezrachi) in Volume 3 of Competition Law & Policy Debate. Finally, Professor Stucke has published two book chapters: *Antitrust Enforcement and Market Power in the Digital Age: Is Your Digital Assistant Devious?* (with Ariel Ezrachi) in *Reconciling Efficiency and Equity: A Global Challenge for Competition Policy?* and *Antitrust, Algorithmic Pricing and Tacit Collusion* (with Ariel Ezrachi) in *Research Handbook on the Law of Artificial Intelligence*.

Professor Stucke has also published a number of other works. Professor Stucke’s blog post with co-author Ariel Ezrachi titled *Law Profs to Antitrust Enforcers: To Rein in Super-Platforms, Look Upstream* was published by The Author’s Guild. Another blog post, *Who Wouldn’t Want a Digital Butler??* was published in the Berkeley Technology Law Journal. The AIA News published *The Networks of Control* by Professors Stucke and Ariel Ezrachi.

Finally, the Harvard Business Review published Professor Stucke and Professor Ariel Ezrachi's article *The Rise, Fall, and Rebirth of the U.S. Antitrust Movement* in addition to Professor Stucke's article *Here Are All the Reasons It's a Bad Idea to Let a Few Tech Companies Monopolize Our Data*.

In addition, numerous recent articles quote Professor Stucke. They include the following: *Stucke: US should follow Europe's lead on privacy*, published in the Global Competition Review online; *A Mark Zuckerberg Presidency Isn't Ridiculous—It's Terrifying*, published by The Nation; the newspaper article *John McLellan: How can we shape the future of digital news?* in The Scotsman; the Politico article *Margrethe Vestager's growing American fan club*; and *Google's Search Changes My Not Level Playing Field* on Wired.com. Further, two articles discussing the Department of Justice challenge to the AT&T-Time Warner merger likewise quote Professor Stucke—the NY Times article *With AT&T and Time Warner, Battle Lines Form for an Epic Antitrust Case* and the France 24 article *With AT&T case, US may chart new antitrust path*.

Lastly, Professor Stucke addressed a United Nations committee about antitrust regulation enforcement. In his presentation, Professor Stucke addressed the implications of a data-driven economy. At the heart of his concerns are companies like Facebook, Google, Apple, and Amazon – or data-opolies – as Stucke calls them, whose collection of data can pose a number of risks to individuals and the economy. Professor Stucke addressed the dangers of failing to enforce antitrust regulations against these data-opolies, noting that “[t]he potential harms from these data-opolies can affect not only our wallets, but also our privacy, autonomy, well-being, and democracy.” Stucke further stated: “Anti-trust enforcement is necessary, but not sufficient, to promote privacy competition. Competition officials have to coordinate with the privacy and consumer protection officials globally.”