
BUSINESS FACULTY NOTES



Professor Eric Franklin Amarante's article, *Unregulated Charity*, will appear in Volume 94 of the University of Washington Law Review and his article *Criminalizing Immigrant Entrepreneurs (and Their Lawyers)* will appear in Volume 61 of the Boston College Law Review. In addition, Professor Amarante recently published an opinion piece in the Los Angeles Times entitled *Your Tax Dollars Are Subsidizing White Supremacy*, which discusses the current

charitable regulatory regime's inability to distinguish hate groups from educational organizations. This opinion piece follows up on his essay, entitled *Why Don't Some White Supremacist Groups Pay Taxes?*, which appeared in the the Emory Law Journal Online in 2018.

Professor Amarante also served as a member of the planning committee for the 2019 Southern Clinical Conference, held in New Orleans, LA. He also led a discussion group entitled *Social Justice and Transactional Clinical Work* at the 2019 Southeastern Association of Law Schools Conference. This discussion explored the responsibility of transactional clinicians to incorporate a social justice component into their clinics. He served as a panelist at the 2019 Transactional Clinical Conference on a panel entitled *Representing Undocumented Entrepreneurs* in Berkeley, California. Along with colleagues from Harvard, Michigan, and Western New England, Professor Amarante discussed the ethical, criminal, and transactional issues that arise when representing entrepreneurs without citizenship status. He participated in a presentation entitled *Harnessing the Collective Capacity of Clinics, Pro Bono, Alumni, Courts and Our Rural Communities*, which focused on the UT clinic's efforts to bring legal services to rural areas in Tennessee that have virtually no affordable legal services, and he presented a session, *Stimulating Simulations: Framing and Debriefing Provocative In-Class Roleplays*, that engaged participants in how to add content to simulations to bring out controversial issues and how best to frame, prepare students for, and debrief simulations to maximize constructive student learning. Finally, as a Bellow Fellow, Professor Amarante presented an empirical study of the organizational documents of Streamlined Application filers.



Professor Brad Areheart's article, *Organizational Justice and Antidiscrimination*, will appear in Volume 104 of the *Minnesota Law Review*. In it, he argues that Organizational Justice—a theory empirically grounded in behavioral science—provides novel guidance for how to proactively restructure workplace policies around the principles of fairness and equity. The article further claims, based upon empirical evidence,

that Organizational Justice can do the work of antidiscrimination: by decreasing discrimination in the first place, moderating the effects of discrimination, decreasing sexual harassment, and increasing internal reporting of these negative behaviors. **Professor Areheart** presented his article on April 2 at the University of Louisville School of Law, as part of its 2019 Speaker Series. In addition, **Professor Brad Areheart** had a variety of other speaking engagements at SEALS 2019. He co-chaired and coordinated the annual Prospective Law Teachers Workshop, and participated in panels “What’s in a Job Talk?” and “Crafting your Scholarship Goals.”



Associate Dean Teri Dobbins Baxter was part of the new perspectives on research and scholar-activism panel: *Critical Race Theory and the Law* during the UT Critical Race Collective Community of Scholars Critical Race Symposium. Additionally, her article *Dying for Equal Protection* will be published in volume 71 of the *Hastings Law Journal* (2020). At the second annual Women’s Leadership in Legal

Academia conference at the University of Virginia, Associate Dean Teri Baxter presented the workshop “Effective Individual and Institutional Responses to Bias.” **Professor Teri Dobbins Baxter** served as a panelist at the SEALS 2019 panel discussing the book “Shortlisted: Women, Diversity, the Supreme Court and Beyond,” by Professors Hannah Brenner and Renee Knake.



Professor Zack Buck's article *Affording Obamacare* will be published in volume 71 of the *Hastings Law Journal* (2020). Professor Zack Buck presented his article *Affording Obamacare* (forthcoming in *Hastings Law Journal*) at the June 6, 2019 American Society of Law, Medicine & Ethics Health Law Professors Conference at Loyola University Chicago School of Law. **Professor Zack Buck** presented a work-in-progress, "A Regulatory Remedy," at the Ohio State University Moritz College of Law on July 24 as part of its Faculty Summer Workshop Series. **Professor Zack Buck** moderated a SEALS panel titled "Health Law Year in Review: Health Care Finance."



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 Heminway presented preliminary data from her insider trading study at two recent academic conferences—the Law and Society Association Annual Meeting and the National Business Law Scholars Conference. She also spoke on the use of traditional for-profit corporations for social enterprise at the Annual Conference on Legal Issues in Social Entrepreneurship and Impact Investing (co-organized by the Impact Investing Legal Working Group and the Grunin Center for Law and Social Entrepreneurship) and shared information and observations about bar association section work at the Tennessee Bar Association Annual Convention. **Professor Joan Heminway** presented the data from her insider trading research this semester at the National Business Law Scholars Conference in June in at Berkeley Law. **Professor Heminway** presented her draft paper “U.S. Microfinance through the Sharing Economy: U.S. Securities Crowdfunding as a Means of Promoting Capital Formation, Encouraging Investment, and Addressing Poverty” in June at the annual conference of the European Academy of Management in Lisbon, Portugal. **Professor Heminway** moderated the workshop “Leading from Where We Are” at the Women’s Leadership in Legal Academia conference at the University of Virginia School of Law. **Professors Joan Heminway** and Joy Radice have both been named finalists for the 35th annual Tribute to Women Awards sponsored by the YWCA of Knoxville and the Tennessee Valley. At the SEALS annual meeting, Professor Heminway was a panelist on recent U.S. Supreme Court business law cases, a mentor to a SEALS “new scholar,” a co-moderator in a discussion group on insider trading, the moderator of a discussion group on the value of benefit corporations, and a discussant in a variety of sessions tailored to aspiring law faculty. Professor Heminway presented “Neither Here nor There: Tennessee’s Laws Protecting Animals” at the 2019 Tennessee Animal Care and Control Conference. **Professor Heminway** published *Lawyering for Social Enterprise*, 20 Tenn. J. Bus. L. 797 (2019).



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 published *A Cyber-Skeptic's Concerns About the State of Lex Cryptographia*, 20 Tenn. J. Bus. L. 911 (2019).



West Academic recently published *Entrepreneurial Law*, written by **Professors Brian Krumm** and **George Kuney**. The book is being translated into Mandarin by Renmin University of China College of Law, for publication in China. **Professor Krumm's** article *Regulatory Policy in the Trump Era and its Impact on Innovation* was published in 70 Mercer Law Review 685 (2019). At SEALS, **Professor Krumm** was a discussant in four panels including

"Benefit Corporation (or Not)? Establishing and Maintaining Social Impact Business Firms," "Clinicians and Librarians: Improving Status in the Legal Academy," "Autonomous Corporate Personhood," and "Social Justice & Transactional Clinical Work."



West Academic recently published *Entrepreneurial Law*, written by **Professors Brian Krumm** and **George Kuney**. The book is being translated into Mandarin by Renmin University of China College of Law, for publication in China. **Professor George Kuney** published *From Colonies to Corporations*, 20 Tenn. J. Bus. L. 1043 (2019). **Professor George Kuney** and **Adjunct Professor Donna Looper** just finished updating their one volume CEB

treatise *California Law of Contracts*. The new edition and updates will be available in print early in 2020.



Two of **Professor Michelle Kwon's** works have been published recently: *To Tax or Not To Tax Social Enterprises* appears in 20 Tenn. J. Bus. L. 815 (2019) and Custom-Tailored Law: When Statutory Interpretation Meets the Internal Revenue Code has been published in the Nebraska Law Review. Professor Kwon has been appointed to the University of Tennessee Chancellor's working group on preventing sexual harassment of students.



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 TJCA.”

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.



Professor Alex Long’s article *Abolishing the Suicide Rule* has been identified by Mark Geistfeld as one of the best works of recent scholarship relating to Tort Law in a review published in Jotwell: The Journal of Things We Like (Lots). The article was published at 113 Northwestern University Law Review 767 (2019). **Professor Alex Long’s** recent Northwestern Law Review article *Abolishing the Suicide Rule* was cited by the majority (page 27, FN 23) and dissenting

(page 11) opinions in a case before the Tennessee Supreme Court involving the issue of liability for suicide. **Professor Alex Long’s** article, *Abolishing the Suicide Rule*, 113 NW. U. L. REV. 767 (2019), was cited by the Supreme Court of South Carolina in *Wickersham v. Ford Motor Company*. **Professor Long** presented a CLE in July (along with alumnus Jared Garceau) for the Knoxville Bar Association Barristers entitled “Don’t Sin Like Vin: The Ethics and Professionalism of My Cousin Vinny.” Professor Long also served as panelists on the “Professional Responsibility Discussion Group” at SEALS. **Professor Alex Long** was quoted in a news report by News Channel 9 in Chattanooga concerning the ethical responsibilities of a Bradley County attorney accused of creating fictitious social media accounts and berating clients.



Professor Tom Plank published *Valuing the Duty of Loyalty in a Limited Liability Company*, 20 Tenn. J. Bus. L. 993 (2019).



Professor Gary Pulsinelli joined a group of other law professors on a Supreme Court *amicus* brief in the case of *Allen v. Cooper*, which involves the issue of state sovereign immunity against copyright infringement suits. Professor Pulsinelli was invited to join because the group cited his article *Freedom to Explore: Using the 11th Amendment to Liberate Researchers at State Universities from Liability for Intellectual Property Infringements*.



At the second annual Women's Leadership in Legal Academia conference at the University of Virginia, **Associate Dean Paula Schaefer** presented the workshop "Effective Individual and Institutional Responses to Bias." **Associate Dean Paula Schaefer's** article *Behavioral Legal Ethics Lessons for Corporate Counsel* was published in volume 69 of the Case Western Reserve Law Review. The article has been discussed by Law360, Behavioral

Legal Ethics Blog, and Conflict of Interest Blog.

Associate Dean Schaefer presented a CLE in July titled *Gender Bias and Professional Conduct Obligations: A Practical Approach*. The program was sponsored by the East Tennessee Lawyer's Association for Women.

Associate Dean Schaefer was one of thirty legal educators invited to participate in the Leading Edge Conference that brings together “legal education thought leaders to discuss key issues facing legal education and to brainstorm actionable strategies.”



Prof. Greg Stein's article, *Reverse Exactions*, has been selected by the editors of the LAND USE AND ENVIRONMENT LAW REVIEW as one of the four best land use articles published during the 2017–18 academic year. The article has been reprinted in that journal, having originally appeared in the WILLIAM & MARY BILL OF RIGHTS JOURNAL.

Professor Stein's paper, *Inequality in the Sharing Economy*, was selected by the Southeastern Association of Law Schools to be presented at this year's SEALS Annual Meeting, one of only two papers so honored in response to its “Call for Papers.” In addition, **Professor Stein** was honored by the UT Athletics Department and the UT Faculty Senate, which have been shining a spotlight on UT's “faculty all-stars,” those who “go above and beyond to support, teach, and inspire our students.” Fans at Thompson-Boling Arena took a moment to cheer him on at the men's basketball game on February 19.

Professor Stein's article, *Professors of Real Estate Law: Different Types, Different Needs*, was published at 53 WAKE FOREST LAW REVIEW 961 (2018). His article, *Inequality in the Sharing Economy*, has been accepted for May 2020 publication by the BROOKLYN LAW REVIEW. And his review article, *Should Owner Motivation Limit the Exercise of Property Rights?*, was published in JOTWELL in 2019.

Professor Stein gave a presentation at the Annual Meeting of the Association for Law, Property, and Society, held at Syracuse University College of Law in Syracuse, NY, in May. His topic was “The Impact of Autonomous Vehicles on the Urban Environment.” **Professor Stein** was a presenter as part of a plenary panel before more than 250 members of the American College of Real Estate Lawyers at its Annual Meeting in Montreal, Canada, in October 2019. His panel, “Where Will They Come From? Challenges and Opportunities in Training Tomorrow's Real Estate Attorneys,” focused on the reduction in training in real estate in today's law schools. He and his co-presenters also led two breakout sessions following the panel. Stein's related article was published in THE ACREL PAPERS. **Professor Stein** gave a presentation to the American College of Real Estate Lawyers Law Professors' Committee in March in La Quinta,

CA. The talk was entitled, “Adult Learners in the Law School Classroom.” And he was one of several College of Law faculty members to serve as a commentator during the recent “Business Transactions: Connecting the Threads III” conference. In addition, **Professor Stein** serves as a member of the Spenser F. Powell Memorial Law Scholarship selection committee.



Professor Maurice Stucke was quoted in an article in *The Guardian* titled “Uber and Lyft drivers say apps are short-changing wages while raising fares.” He is quoted about the market power of rideshare companies and their ability to profit from a lack of transparency. “They can create the rules of the game, they can design the competitive process and they can ensure whichever driver makes more or less, whoever wins in the competition among drivers, they can be assured they’re always going to profit.” **Professor Stucke** was cited as an antitrust expert in the CBC news article “The case against Facebook: A ‘dataopoly’ with too much market power.” **Professor Stucke** was quoted in New Zealand’s weekly current affairs magazine *The Listener*. The article, “How Germany’s anti-trust watchdog could change the way Facebook works,” covered the Berlin conference hosted by Germany’s competition authority. **Professor Maurice Stucke** was quoted in the Congressional Quarterly article “Tech Baron on Trial: Pressure is mounting to use antitrust laws against perceived monopolies in Silicon Valley.” **Professor Maurice Stucke** appeared on CNBC on July 24 to discuss the Federal Trade Commission’s \$5 billion settlement with Facebook over privacy policies. **Professor Maurice Stucke** was quoted in an article titled “Desintegrando Facebook” in *Forbes España*. **Professor Maurice Stucke** was featured on *Briefly*, a production of the University of Chicago Law Review, where he debated antitrust’s consumer welfare standard, and why we would be better served with an effective competition standard. **Professor Maurice Stucke’s** chapter with his co-author Professor Ariel Ezrachi, *Antitrust Enforcement and Market Power in the Digital Age: Is Your Digital Assistant Devious?*, was recently published in *Reconciling Efficiency and Equity: a Global Challenge for Competition Policy* (Damien Gerard & Ioannis Lianos eds., Cambridge University Press, 2019). **Professor Maurice Stucke** was quoted in a news article by the Canadian news agency, *La Presse*.